

**Tuesday, October 20, 2020**

The Board met at 10:01 a.m., via teleconference (Governor's Exec. Order No. N 29-20 (March 17, 2020)), with Mr. Vazquez, Chairman, Mr. Schaefer, Vice Chair, and Mr. Gaines present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mr. Vazquez.

### **ANNOUNCEMENTS**

Mr. Vazquez provided guidelines for teleconference Member participation. Henry D. Nanjo, Chief Counsel and Acting Chief of Board Proceedings, provided guidelines for teleconference invited speakers and public participation.

### **PUBLIC HEARING**

#### **Proposed Amendments to Property Tax Rule 202**

Lawrence Lin, Tax Counsel, Legal Department, made introductory remarks regarding adoption of proposed amendments to Property Tax Rule 202, *Allocation of Aircraft of Certificated Air Carriers and Scheduled Air Taxi Operators*, to certify emergency Rule 202, which establishes a new allocation formula and the "lead county" system, and requires an audit and the issue of "California Standard Flight Times" ([Exhibit 10.1](#)).

Speakers were invited to address the Board, but there were none.

Action: Upon motion of Mr. Gaines, seconded by Ms. Stowers and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board adopted the amendments to Rule 202 as published.

Exhibits to these minutes are incorporated by reference.

### **PROPERTY TAX MATTERS, CONSENT**

With respect to the Property Taxes Matters, Consent Agenda, upon a single motion of Mr. Gaines, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer and Mr. Gaines voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, Ms. Cohen absent, the Board made the following orders:

#### **Petitions for Penalty Abatement on Unitary Value**

Trans Bay Cable LLC (0119), 1064085

2020, \$20,000,000.00 Penalty

Action: Approve the penalty abatement on 2020 unitary value as recommended by staff. Ms. Stowers not participating in accordance with Government Code section 7.9.

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Horizon West Transmission, LLC (0161), 1064091  
2020, \$5,530,000.00 Penalty

Action: Approve the penalty abatement on 2020 unitary value as recommended by staff.  
Ms. Stowers not participating in accordance with Government Code section 7.9.

China Unicom (Americas) Operations, Ltd. (2807), 1064119  
2020, \$599,000.00 Penalty

Action: Approve the penalty abatement on 2020 unitary value as recommended by staff.  
Ms. Stowers not participating in accordance with Government Code section 7.9.

GoDaddy.com, LLC (8113), 1064084  
2020, \$682,000.00 Penalty

Action: Approve the penalty abatement on 2020 unitary value as recommended by staff.  
Ms. Stowers not participating in accordance with Government Code section 7.9.

LCB Communications, LLC (8214), 1064086  
2020, \$51,600.00 Penalty

Action: Approve the penalty abatement on 2020 unitary value as recommended by staff.  
Ms. Stowers not participating in accordance with Government Code section 7.9.

## **LEGAL APPEALS PROPERTY TAX MATTERS, ADJUDICATORY**

### **Petition for Reassessment and Penalty Abatement on Audit Escaped Assessment**

U.S. TelePacific dba TPx Communications (7757), 1064083, 1064104, 1064105,  
1064106  
2015-2018, \$167,000,000.00 Escaped Assessment, \$16,700,000.00 Penalty, \$48,162,000.00  
In-Lieu Interest

Considered by the Board: Presented for Separate Discussion  
Contribution Disclosures pursuant to Government Code section 15626: A disqualifying contribution was disclosed to Ms. Cohen. No other disqualifying contributions were disclosed.  
Action: Upon motion of Mr. Gaines, seconded by Mr. Schaefer and unanimously carried, Mr. Vazquez, Mr. Schaefer and Mr. Gaines voting yes, Ms. Stowers not participating in accordance with Government Code section 7.9, Ms. Cohen absent, the Board ordered that the petitions be granted in part, and the total escaped assessment value, inclusive of penalty and assessment in lieu of interest, be reduced to \$61,889,000.00 for 2015-2018 as recommended by the Appeals Attorney.

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**ADMINISTRATIVE SESSION****Administrative Matters, Consent**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Schaefer, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board made the following order:

Action: Approve the Board Meeting Minutes of August 18-19, 2020.

**Executive Director's Report**

Brenda Fleming, Executive Director, provided a report regarding the status of pending and upcoming organizational issues.

Lisa Renati, Chief Deputy Director, provided a report on the status of operational priorities and agency projects. Ms. Renati announced the appointments of Peter Kim to the position of Chief Communications Officer; and, Catherine P. Taylor to the position of Chief, Board Proceedings and Support Services Division.

**Chief Counsel's Report**

Henry D. Nanjo, Chief Counsel, provided a 2020 Property Tax Appeals Report, which included a brief general status of the 2020 state-assessed property appeals.

**Property Tax Deputy Director's Report**

David Yeung, Deputy Director, Property Tax Department, provided a report on the status of pending and upcoming projects, activities, and departmental issues.

**Legislative, Research & Statistics Division Chief's Report**

Mark Durham, Chief, Legislative, Research & Statistics Division, provided an update on legislative bills impacting the BOE, both administrative and program related ([Exhibit 10.2](#)).

**Taxpayers' Rights Advocate Office's Report**

Lisa Thompson, Taxpayers' Rights Advocate, provided an update on activities of the Taxpayers' Rights Advocate Office.

**PUBLIC COMMENT ON MATTERS NOT ON THE AGENDA**

Mr. Vazquez invited public comment regarding items not on the agenda, but none provided public comment.

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**ANNUAL BOARD MEETING WITH COUNTY ASSESSORS**

Mr. Vazquez opened the annual meeting of the Board and County Assessors required under section 15607 of the Government Code to discuss administrative issues related to assessment and taxation laws and to promote uniformity in tax procedural matters throughout the State of California. Mr. Vazquez welcomed the County Assessors to the meeting on behalf of the Board.

**County Assessors Address Conferees— Recap of 2020 and Priorities for 2021**

Panelist: Hon. Don H. Gaekle, President, California Assessors' Association (CAA), and Stanislaus County Assessor

**Greetings and Introductory Remarks by each Board Member**

At the invitation of Mr. Vazquez, Members provided greetings and introductory remarks, and thanked their colleagues and County Assessors for their good work.

**County Assessors Address Conferees— Recap of 2020 and Priorities for 2021 (Continued)**

Panelist: Hon. Ernest J. Dronenburg, Jr., President-Elect, CAA, and San Diego County Assessor-Recorder-Clerk

Speaker: Pat Tubs

**CLOSING**

The Board recessed at 12:10 p.m.

*The foregoing minutes are adopted by the Board on December 16, 2020.*

**Wednesday, October 21, 2020**

The Board met at 10:07 a.m., via teleconference (Governor's Exec. Order No. N 29-20 (March 17, 2020)), with Mr. Vazquez, Chairman, Mr. Schaefer, Vice Chair, and Mr. Gaines present, Ms. Stowers present on behalf of Ms. Yee in accordance with Government Code section 7.9.

## **ANNOUNCEMENTS**

Mr. Vazquez provided guidelines for teleconference Member participation. Henry D. Nanjo, Chief Counsel and Acting Chief of Board Proceedings, provided guidelines for teleconference invited speakers and public participation.

## **COVID-19 COUNTY BOARDS OF EQUALIZATION / ASSESSMENT APPEALS BOARDS (AAB) COLLABORATIVE WORKGROUP: CONSENSUS GUIDANCE/LETTERS TO ASSESSORS**

### **AAB Remote Hearings: Consensus Guidance (Mr. Vazquez/Ms. Cohen)**

Mr. Vazquez made introductory remarks regarding the update on the impact of COVID-19 on Property Tax Administration: County Boards of Equalization / Assessment Appeals Boards Remote Hearings, and presentation of the Workgroup's findings and recommendations for discussion and possible Board action on consensus items for guidance on procedural and due process issues in remote hearings, the submission of evidence, technical steps to ensure audio/visual continuity and equal access, the protection of the rights of all parties, and the potential issuance of a Letter to Assessors (LTA) ([Exhibit 10.3](#)).

Exhibits to these minutes are incorporated by reference.

### ***Issue a. Clarification on the Rights of the Hearing Participants***

#### ***1) Right to the type of hearing (physical in-person or remote) for both procedural and evidentiary matters***

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Speakers Breann E. Robowski, Chair, California Alliance of Taxpayer Advocates (CATA) Ad Hoc Committee on Remote Hearings; and Partner, Pillsbury Winthrop Shaw Pittman LLP ([Exhibit 10.4](#))  
 Marcy L. Berkman, Deputy County Counsel, Santa Clara County  
 Hon. Ernest J. Dronenburg, Jr., President-Elect, California Assessors' Association (CAA), and San Diego County Assessor-Recorder-Clerk  
 John McKibben, Committee Chair, California Association of Clerks and Election Officials (CACEO)  
 Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office, on behalf of the Los Angeles County Assessment Appeals Board  
 Marvice Mazyck, Chief Deputy Clerk, San Diego County Board of Supervisors

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Jennifer Tran, Chief, Assessment Appeals Division, Executive Office of the  
Los Angeles County Board of Supervisors  
Marc A. Aprea, Principal, Aprea & Micheli, on behalf of CATA  
Hon. Don H. Gaekle, President, CAA, and Stanislaus County Assessor

Action: Upon motion of Mr. Vazquez, seconded by Ms. Stowers and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board ordered that the last sentence of the proposed consensus language be removed, and that the language otherwise be approved as recommended by Mr. Vazquez.

**2) Short term right for emergencies or long-term option**

Brenda Fleming, Executive Director, stated the recommendation of Mr. Vazquez for the record.

Speakers Breann E. Robowski, Chair, CATA Ad Hoc Committee on Remote Hearings;  
and Partner, Pillsbury Winthrop Shaw Pittman LLP ([see Exhibit 10.4](#))  
Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office,  
on behalf of the Los Angeles County Assessment Appeals Board  
John McKibben, Committee Chair, CACEO  
Hon. Don H. Gaekle, President, CAA, and Stanislaus County Assessor

Action: Upon motion of Ms. Stowers, seconded by Mr. Gaines and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board accepted the language as recommended by Mr. Vazquez.

**3) Equal access in remote hearings; ensuring all parties and AAB members can view/hear each other during hearings**

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated for the record the recommendation of Mr. Vazquez relative to the first part only. Mr. Vazquez deferred the second part to the working group.

Speakers Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office,  
on behalf of the Los Angeles County Assessment Appeals Board  
Breann E. Robowski, Chair, CATA Ad Hoc Committee on Remote Hearings;  
and Partner, Pillsbury Winthrop Shaw Pittman LLP ([see Exhibit 10.4](#))

Action: Upon motion of Mr. Schaefer, seconded by Mr. Gaines and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board accepted the language, relative to the first part only, as recommended by Mr. Vazquez.

**4) In-person hearing safety standards, continuances, other options if a remote hearing is not possible or refused**

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

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Speakers            Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office,  
                               on behalf of the Los Angeles County Assessment Appeals Board  
John McKibben, Committee Chair, CACEO  
Marcy L. Berkman, Deputy County Counsel, Santa Clara County  
Breann E. Robowski, Chair, CATA Ad Hoc Committee on Remote Hearings;  
                               and Partner, Pillsbury Winthrop Shaw Pittman LLP ([see Exhibit 10.4](#))  
Hon. Don H. Gaekle, President, CAA, and Stanislaus County Assessor

Action:                Upon motion of Mr. Schaefer, seconded by Mr. Vazquez and unanimously  
carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent,  
the Board accepted the language as recommended by Mr. Vazquez.

***Issue c. Technology Options***

***1) Visual or auditory interruptions (freezing or dropped links) during hearings; remedies to ensure all parties have access / alternative options***

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Speakers            John McKibben, Committee Chair, CACEO  
Breann E. Robowski, Chair, CATA Ad Hoc Committee on Remote Hearings;  
                               and Partner, Pillsbury Winthrop Shaw Pittman LLP ([see Exhibit 10.4](#))  
Hon. Don H. Gaekle, President, CAA, and Stanislaus County Assessor  
Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office,  
                               on behalf of the Los Angeles County Assessment Appeals Board

Action:                Upon motion of Mr. Vazquez, seconded by Ms. Stowers and unanimously  
carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent,  
the Board accepted the language as recommended by Mr. Vazquez, and agreed to allow Legal  
staff to adjust the language as needed.

***2) Reliable platforms for remote hearings (Zoom, WebEx, etc.); addressing bandwidth; other solutions to consider***

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Speakers            Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office,  
                               on behalf of the Los Angeles County Assessment Appeals Board  
John McKibben, Committee Chair, CACEO  
Breann E. Robowski, Chair, CATA Ad Hoc Committee on Remote Hearings;  
                               and Partner, Pillsbury Winthrop Shaw Pittman LLP ([see Exhibit 10.4](#))

Action:                Upon motion of Mr. Gaines, seconded by Mr. Vazquez and unanimously carried,  
Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the  
Board accepted the language as recommended by Mr. Vazquez.

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*3) Notice requirements to parties – access instructions, coaching/training videos and accommodations for special needs*

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Speakers        Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office,  
                         on behalf of the Los Angeles County Assessment Appeals Board  
                         John McKibben, Committee Chair, CACEO  
                         Breann E. Robowski, Chair, CATA Ad Hoc Committee on Remote Hearings;  
                         and Partner, Pillsbury Winthrop Shaw Pittman LLP ([see Exhibit 10.4](#))  
                         Hon. Don H. Gaekle, President, CAA, and Stanislaus County Assessor

Action:            Upon motion of Mr. Schaefer, seconded by Mr. Gaines and unanimously carried,  
Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the  
Board accepted the language as recommended by Mr. Vazquez.

***Issue d. BOE Role***

*1) Possible modifications needed to Property Tax Rules 301 through 326 to facilitate remote hearings*

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Speakers        Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office,  
                         on behalf of the Los Angeles County Assessment Appeals Board  
                         Breann E. Robowski, Chair, CATA Ad Hoc Committee on Remote Hearings;  
                         and Partner, Pillsbury Winthrop Shaw Pittman LLP ([see Exhibit 10.4](#))  
                         Hon. Don H. Gaekle, President, CAA, and Stanislaus County Assessor

Action:            Upon motion of Mr. Schaefer, seconded by Mr. Gaines and unanimously carried,  
Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the  
Board accepted the language as recommended by Mr. Vazquez.

*2) Details on guidance needed to ensure uniformity on resolved remote hearing issues via Letters to Assessors and Assessment Appeals Manual*

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Speaker         Thomas R. Parker, Deputy County Counsel, Los Angeles County Counsel Office,  
                         on behalf of the Los Angeles County Assessment Appeals Board

Action:            Upon motion of Mr. Gaines, seconded by Mr. Schaefer and unanimously carried,  
Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the  
Board accepted the language as recommended by Mr. Vazquez.



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*3) Provide training for AAB members and staff, Assessors and staff, taxpayers, and other participants including but not limited to the use of technology and equipment required for remote hearings*

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Action: Upon motion of Mr. Schaefer, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board accepted the language as recommended by Mr. Vazquez.

*4) Clearinghouse function, ensuring information and communications among all counties, Assessors, taxpayers is received and shared*

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Action: Upon motion of Mr. Schaefer, seconded by Mr. Gaines and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board accepted the language as recommended by Mr. Vazquez.

*5) Publish Letters to Assessors to County Board / AAB Clerks, County Counsels, Interested Parties providing guidance on resolved issues and remaining concerns*

Kristine Cazadd, Senior Tax Counsel, BOE District 3, stated the recommendation of Mr. Vazquez for the record.

Action: Upon motion of Mr. Gaines, seconded by Ms. Stowers and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board accepted the language as recommended by Mr. Vazquez.

### **Summary**

Mr. Vazquez requested that each workgroup member submit options for the matters where no consensus was reached and for new sub-issues to be considered at the next Board meeting.

Members made brief closing remarks, and thanked the workgroup members, stakeholders, and staff for their hard work and dedication to these matters.

Speakers Breann E. Robowski, Chair, CATA Ad Hoc Committee on Remote Hearings; and Partner, Pillsbury Winthrop Shaw Pittman LLP ([see Exhibit 10.4](#))  
Marcy L. Berkman, Deputy County Counsel, Santa Clara County

The Board recessed at 12:00 p.m. and reconvened at 12:35 p.m. with Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers present.

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**Public Comment on AAB Remote Hearings**

Mr. Vazquez invited public comment regarding this item, but none provided public comment.

**WORKFORCE PLANNING WORKGROUP STAKEHOLDER MEETING****Workgroup's Findings and Recommendations (Mr. Vazquez)**

Mr. Vazquez presented the Workforce Planning Workgroup's findings and recommendations for discussion and possible action ([Exhibit 10.5](#)).

At the invitation of Mr. Vazquez, Members made brief opening remarks.

Action: Upon motion of Ms. Stowers, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board approved the draft outline as to *Workforce Assessment – Recruitment and Retention Capacity and Needs*, as recommended by Mr. Vazquez and Mr. Gaines.

Speaker: Hon. Don H. Gaekle, President, CAA, and Stanislaus County Assessor

The Board recessed at 1:02 p.m. and reconvened at 1:08 p.m. with Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers present.

Action: Upon motion of Ms. Stowers, seconded by Mr. Gaines and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board approved the draft outline as to *Compensation / Classification Plan*, as recommended by Mr. Vazquez and Mr. Gaines, except changed the reference for additional information as recommended by Ms. Stowers.

Upon motion of Ms. Stowers, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board approved the draft outline as to *Appraiser and Auditor-Appraiser Certification and Training Plan*, as recommended by Mr. Vazquez and Mr. Gaines.

Upon motion of Mr. Schaefer, seconded by Ms. Stowers and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board approved the draft outline as to *Community Colleges: Curriculum and Partnership Opportunities*, as recommended by Mr. Vazquez and Mr. Gaines.

Upon motion of Mr. Vazquez, seconded by Mr. Schaefer and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board directed the Executive Director to prepare the report in accordance with the approved outline for the Board's consideration at its December meeting.

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## CHIEF COUNSEL MATTERS: OTHER CHIEF COUNSEL MATTERS

### Board Governance, Part 2

Henry D. Nanjo, Chief Counsel, made introductory remarks regarding proposed amendments of the Board Members' Governance Policy, Mission Statement, and commitment to strong governance, based on last month's annual review ([Exhibit 10.6](#)).

Action: The Board deferred consideration of Paragraph A. Bagley-Keene Open Meeting Act to a later date.

Upon motion of Ms. Stowers, seconded by Mr. Vazquez and unanimously carried, Mr. Vazquez, Mr. Schaefer, Mr. Gaines and Ms. Stowers voting yes, Ms. Cohen absent, the Board directed the Executive Director to develop a communications protocol as recommended by Mr. Vazquez.

Mr. Schaefer moved to adopt a policy for the Chair and Vice Chair to serve a one-year term from January to December and each position will rotate on an annual basis in order of equalization districts (current policy). The motion was seconded by Mr. Gaines but failed to carry, Mr. Schaefer and Mr. Gaines voting yes, Mr. Vazquez and Ms. Stowers voting no, Ms. Cohen absent.

The Board deferred consideration of the election/rotation of the Chair and Vice Chair to its November meeting.

### CLOSING

The Board adjourned at 2:38 p.m. in memory of the late Carrie Fisher and her mother Debbie Reynolds; and, in memory of those whose lives were lost to the COVID-19 pandemic and to their families and loved ones.

*The foregoing minutes are adopted by the Board on December 16, 2020.*