



Date: July 30, 2008  
 Current Meeting: August 7, 2008  
 Board Meeting: August 7, 2008

## BOARD MEMORANDUM

**TO:** Santa Clara Valley Transportation Authority  
 Board of Directors

**THROUGH:** General Manager, Michael T. Burns

**FROM:** Senior Policy Advisor, Jim Lawson

**SUBJECT:** Proposed BART Extension Sales Tax

**Policy-Related Action:** Yes

**Government Code Section 84308 Applies:** No

## ACTION ITEM

### **RECOMMENDATION:**

Adopt a resolution calling for a special election, to be consolidated with the statewide election to be held on November 4<sup>th</sup>, 2008, to authorize the Santa Clara Valley Transportation Authority (VTA) to enact a one-eighth cent (1/8 cent) sales and use tax limited to thirty years to provide the operating and maintenance expenses and capital reserve contribution for the Silicon Valley Rapid Transit Project Extension to Milpitas, San Jose and Santa Clara to take effect upon the receipt of appropriate funding assurances from the state and federal governments as outlined below.

### **BACKGROUND:**

At the request of a coalition of business, labor, environmental, academic and civic leaders, VTA was asked to consider placing before the voters of Santa Clara County a proposal that VTA would enact a one-eighth cent sales and use tax to finance the VTA's obligation to pay the Bay Area Rapid Transit District (BART) to operate and maintain the 16.1 mile extension of the BART system to be constructed from Warm Springs in Alameda County through the City of Milpitas and the City of San Jose to the City of Santa Clara. Such a sales and use tax would provide the operating funding necessary for a Full Funding Grant Agreement (or its equivalent) from the Federal Transit Administration (FTA) and provide the necessary revenue stream to BART for the operation and maintenance of the system in Santa Clara County.

### **DISCUSSION:**

VTA has statutory authority to enact sales and use taxes if so authorized by the voters. Because this is a special tax for transportation purposes, the voters must approve the tax by a two thirds majority. The revenue from this anticipated tax could be used only to fund the operation,

maintenance and future capital reserve for the BART Extension to Santa Clara County. The tax may not be imposed until VTA secures state and federal funds to match local funds for the construction of the project. Since the passage of Measure A in 2000 VTA has advanced work on the projects listed in that ballot measure including the BART Extension. VTA has purchased right of way for the project, properties necessary for the construction of the project and advanced environmental and engineering work to a significant extent. However, without the ability to demonstrate a dedicated source of revenue to operate and maintain the BART Extension once it is built that does not negatively impact VTA's existing service, the FTA will not execute a Full Funding Grant Agreement that would secure \$750 million in federal funds necessary to construct this project. While this action would solve a significant shortfall in the financial plan for the project, the project would still need to satisfy all necessary requirements before a Full Funding Grant Agreement is secured.

The proposed one-eighth cent sales tax would also generate a dedicated revenue stream sufficient to fulfill VTA's obligation to BART for the operation, maintenance and future capital reserve of the system without impacting existing and planned service levels for bus and light rail service.

The attached resolution indicates that the 1/8 Cent Sales Tax will only be collected at the time federal and state funds are secured. Federal funds will be considered secured and matched at the time VTA receives a Full Funding Grant Agreement or its equivalent of at least \$750 million from the FTA. The federal government has never reneged on a Full Funding Grant Agreement.

State funding has been secured and matched through state statute, administered by the California Transportation Commission (CTC). The CTC has already disbursed \$409 million of the \$649 million guaranteed to the project to date. State funding will be considered matched and secured when the CTC approves an Allocation Request (which makes the funding available for the project), Letter of No Prejudice or equivalent document. The CTC has never reneged on similar agreements.

**ALTERNATIVES:**

The Board of Directors could chose not to place this matter before the voters.

**FISCAL IMPACT:**

There is no direct impact on VTA's operating funds. The revenues generated would be utilized solely to provide BART service to Santa Clara County. In the event the Board chooses not to place this matter before the voters, the BART Extension will have to be reevaluated without federal capital support and without operating funds.

Prepared by: Jim Lawson

July 29, 2008

Dear Valley Transportation Authority Board of Directors:

It is with a sense of excitement and purpose that we come together as business, labor, environmental, academic and civic leaders to offer our support for a potential modest increase in the county sales tax to fund the operations and maintenance of the future 16.1-mile BART extension to serve Santa Clara County residents, with stations in Milpitas, San Jose and Santa Clara; linking with CalTrain commuter rail service from Gilroy to San Francisco, with a platform-to-platform transfer at the Santa Clara Station and the future People Mover to serve the Norman Y. Mineta San Jose International Airport. This one-eighth of one cent sales tax should be limited to 30 years, and contingent on securing State and Federal funds to leverage local construction dollars.

For several years, each of our organizations and constituencies have been working on initiatives to reduce our overdependence on foreign oil, provide viable alternatives to high gas prices and reduce greenhouse gases that contribute to global climate change. We know we must “think globally and act locally” with regional responses to these global challenges. With 51 percent of the region’s greenhouse gases emanating from our transportation choices, a regional rail system like BART, linking with CalTrain, Light Rail, numerous bus lines and express bus lines, Amtrak and the Altamont Commuter Express – as well as the future high-speed rail line serving California – provides the type of regional solution our commuters and taxpayers deserve in Santa Clara County.

Our commitment to the BART extension is part of a larger vision for more transit options that link sound land use planning with more affordable homes and jobs located close to transit stations. Today, the popular and efficient BART system carries 370,000 trips each weekday throughout its 104-mile system. The future 16.1 mile extension from Fremont is expected to add nearly 100,000 additional weekday riders by 2030, according to modeling approved by the Federal Transit Administration. To put that number in perspective, it is more than the combined total on today’s ridership for CalTrain, ACE, express bus and Amtrak service to Santa Clara County – *combined*.

We encourage the Valley Transportation Authority Board of Directors to place the BART Initiative on the November 4 ballot, and pledge our support for this effort should you decide to move forward.

Sincerely,

**Father Paul Locatelli,**  
President  
Santa Clara University

**Phaedra Ellis-Lamkin,**  
Executive Officer  
Central Labor Council

**Rod Diridon, Sr.,**  
Chair  
League of Conservation  
Voters, Santa Clara Co.

**Carl Guardino**  
CEO  
Silicon Valley Leadership Group

**Mike Honda**  
15<sup>th</sup> Congressional District  
Member of Congress

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA) CALLING AND PROVIDING FOR A SPECIAL ELECTION ON NOVEMBER 4, 2008 TO SUBMIT TO THE VOTERS A MEASURE SEEKING AUTHORIZATION FOR ADOPTION BY THE BOARD OF DIRECTORS OF A RETAIL TRANSACTIONS AND USE TAX ORDINANCE, AND REQUESTING THE CONSOLIDATION OF SUCH SPECIAL VTA ELECTION WITH THE STATEWIDE ELECTION TO BE HELD ON NOVEMBER 4, 2008

WHEREAS, the Board of Directors of the Santa Clara Valley Transportation Authority (VTA) deems it advisable to submit a measure to the voters within the territory of the Authority at a special election to be held on November 4, 2008, to authorize the VTA Board of Directors to adopt a retail transactions and use tax ordinance pursuant to Public Utilities Code section 100250 et seq.,

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY that the measure hereinafter set forth in full be submitted to the voters within the territory of VTA at a special election to be held and conducted on November 4, 2008, and that the Registrar of Voters be, and thereby is, directed to publish such notice as may be required by law for the time and in the manner so required, and to place the same on the ballot at an election to be held throughout the territory of VTA on November 4, 2008. The full text of the proposed measure is set forth as follows:

To reduce dependence on foreign oil, help relieve soaring gas prices and combat climate change, shall the Board of Directors of the Santa Clara Valley Transportation Authority (VTA) enact a retail transactions and use tax ordinance imposing (a) a tax for the privilege of selling tangible personal property at retail upon every retailer in Santa Clara County, the territory of VTA, such tax to be at the rate of one-eighth of one percent of the gross receipts of the retailer from the sale of tangible personal property sold by him at retail in the territory of VTA; and (b) a complimentary tax upon the storage, use, or other consumption in Santa Clara County, the territory of VTA, such tax to be at the rate of one-eighth of one percent of the sales price of the property whose storage, use, or other consumption is subject to the tax; such tax to be limited to thirty years; such tax to be used by the Bay Area Rapid Transit District (BART) to operate, maintain and improve the 16.1 mile BART extension to Santa Clara County, with stations in Milpitas, San Jose, Santa Clara, connecting with Caltrain from Gilroy to San Francisco and a People Mover to San Jose International Airport, and to be collected only if sufficient state and federal funds are secured to match local construction dollars?

Federal funds shall be considered secured and matched when the federal government executes a Full Funding Grant Agreement or its equivalent for the project in an amount of at least \$750 million. State funds shall be secured and

matched pursuant to Government Code Section 14556.40, when the California Transportation Commission approves an Allocation Request, Letter of No Prejudice or equivalent document for the project in an amount of at least \$240 million.

Collection of the tax for a thirty year period will commence with the fulfillment of the two match requirements described above.

Such measure will appear in summarized form upon the ballot as follows:

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**Santa Clara Valley Transportation Authority Measure**

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**Measure \_\_\_\_\_**

To reduce dependence on foreign oil, help relieve soaring gas prices and combat climate change, shall the Santa Clara Valley Transportation Authority enact a 1/8 cent sales tax limited to thirty years for BART to operate/ maintain/ improve the 16.1 mile Santa Clara County BART extension, with stations in Milpitas, San Jose, and Santa Clara, connecting with Caltrain from Gilroy to San Francisco and an Airport People Mover, to be collected *only if* sufficient state/federal funds are secured to match local construction dollars?

YES \_\_\_\_\_

NO \_\_\_\_\_

BE IT FURTHER RESOLVED that the Board of Supervisors is hereby requested to consolidate this election with the statewide general election and any other elections to be held within the County of Santa Clara on November 4, 2008, and that it include in its proclamation or notice of the special election that Article 3 of Chapter 2 of Division 9 of the Elections Code relating to arguments concerning county measure applies, and that the County Counsel is directed to prepare an impartial analysis.

BE IT FURTHER RESOLVED that the Santa Clara County Board of Supervisors is requested to permit the Registrar of Voters to render all services specified by Elections Code section 10418 relating to the election, for which services VTA agrees to reimburse the County.

BE IT FURTHER RESOLVED that pursuant to Elections Code section 10418, all proceedings related to, connected with, and incidental to the election shall be regulated and performed in accordance with the provisions of law regulating the statewide election.

PASSED AND ADOPTED by the Santa Clara Valley Transportation Authority Board of Directors on August 7, 2008 by the following vote:

AYES: DIRECTORS

NOES: DIRECTORS

ABSENT: DIRECTORS

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Liz Kniss, Chairperson  
Board of Directors

ATTEST:

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Yolanda L. Cruz, Assistant Board Secretary

APPROVED AS TO FORM:

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KEVIN D. ALLMAND  
Acting General Counsel