



Date: May 31, 2007
 Committee Meeting Date: June 13, 2007
 Board Meeting Date: N/A
 ACTION X DISCUSSION INFO

COMMITTEE MEMORANDUM

TO: Bicycle and Pedestrian Advisory Committee
 Santa Clara Valley Transportation Authority
 Board of Directors

FROM: Herman Wadler *Michelle Roberts for Herman Wadler*
 Chair BPAC

SUBJECT: California Vehicle Code §21960: Bicycle Access to Expressways

RECOMMENDATION:

The BPAC will discuss and formulate a response to the letter received from the County on the BPAC's letter of February 2007 that recommend that the Santa Clara County Board of Supervisors pass a resolution supporting the restoration of the 2003 language of California Vehicle Code §21960 pertaining to bicycles on expressways and that this effort be included in its 2007 State Legislative Program.

BACKGROUND:

On September 21, 2004, the state legislature passed Senate Bill 1233, the omnibus transportation bill to address minor, non-controversial issues that would make non-substantive changes to state law. This bill included changes to California Vehicle Code (CVC) §21960, which were initiated and sponsored by the County of Santa Clara. This bill amended CVC §21960 to allow local jurisdictions to prohibit pedestrians and bicycles on any roadway designated as an "expressway."

These changes to the CVC were made without any public input, or that of outside agency staff, which might have revealed the unintentional effect of the amendment on bicycles. As it stands now, CVC §21960 has raised concerns within the local bicycling community since the amendment would permit a significant departure from existing County policy. In addition, it has raised statewide concern since the definition of "expressway" as defined in Streets and Highways Code §941.4(h) is ambiguous. Therefore, there is concern that the amendment opens the door for any county to designate one or more of their roadways as an expressway and therefore be able to restrict or prohibit bicycles from using that roadway(s) or some portions thereof.

Since Spring 2005, the VTA Bicycle and Pedestrian Advisory Committee (BPAC) has discussed this issue at its meetings both with and without County staff present. The issues and concerns generated by the legislative change remain unresolved, and the concern expressed by the members of the bicycle community are still present two years after CVC §21960 was enacted.

A subcommittee of the BPAC, formed at the December 13, 2006 meeting, met on January 16, 2007 to discuss options to help resolve the issue. The subcommittee recommended that the BPAC, in its capacity as the countywide Bicycle and Pedestrian Advisory Committee for the County of Santa Clara, send a letter to the County Board of Supervisors recommending restoration of the 2003 language of California Vehicle Code §21960 pertaining to bicycles on expressways. Attachment B includes a draft letter and a draft resolution. At the February 2007 BPAC meeting, the full committee passed a motion that the chair send a letter to the County as recommended by the subcommittee.

DISCUSSION:

The BPAC Chair sent a letter to the County on February 16, 2007 (see Attachment A). At the May Committee meeting, the Chair announced that he received a response from the County (see Attachment B). At that time, Mr. Wadler requested that this item be placed on the next BPAC agenda as an action item.

ALTERNATIVES:

The committee may take no action.

FISCAL IMPACT:

There is no impact to the VTA Enterprise fund as a result of this action.

February 16, 2007

Board of Supervisors
County of Santa Clara
County Government Center
Tenth Floor - East Wing
70 West Hedding Street
San Jose, CA. 95110

Dear Santa Clara County Board of Supervisors,

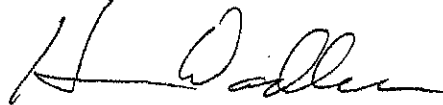
The County Bicycle and Pedestrian Advisory Committee (BPAC) has prepared a resolution for your consideration and adoption regarding the 2005 changes to the California Vehicle Code (CVC) affecting County Expressways in response to the Board's request that the CVC changes be reversed. These changes were originated by the County Roads and Airports Department (RAD) and implemented by the omnibus Transportation Bill SB1233 of the State Legislature in 2004 and permit local agencies to prohibit bicycles from expressways. Needless to say, this is a reversal of established Santa Clara County policy.

The County Expressway System is used for key cross-county bicycle routes in the Countywide Bicycle Network. Santa Clara County expressways have been engineered to serve bicycles and represent a key resource in our County for its transportation needs. Restoring the 2003 CVC language will enable the expressways to continue to serve in this capacity into the future.

It is incumbent upon the originator of the CVC changes, Santa Clara County in this case, to take the lead on including the corrections in future legislation. We encourage you to adopt the enclosed resolution.

We thank the Board of Supervisors for its past support of bicycles as transportation.

Sincerely,



Herman Wadler, Chair

VTA County Bicycle and Pedestrian Advisory Committee for Santa Clara County

Cc: VTA Board of Directors
VTA Transportation and Congestion Management Planning Staff
County Roads and Airports Staff
County Roads Commission
SVBC
CABO

DRAFT

Resolution No. _____

A RESOLUTION OF THE COUNTY OF SANTA CLARA IN SUPPORT OF BICYCLE ACCESS TO COUNTY EXPRESSWAYS

Whereas, SB 1233 (Chapter 615, Statutes 2004) amended the California Vehicle Code (CVC) §21960 to allow counties and cities to prohibit or restrict the use of expressways or any portion thereof by bicycles and pedestrians; and

Whereas, the County of Santa Clara sponsored the revisions to CVC §21960 that were included in SB 1233; and

Whereas, the staff of the County Roads and Airports Department has communicated to VTA staff and the VTA Bicycle Pedestrian Advisory Committee (BPAC) that they were only concerned with clarifying the law regarding the authority of local jurisdictions' to prohibit pedestrians on expressways, and did not intend to change the law regarding bicycles; and

Whereas, bicyclists have had the right to use all public roadways since the enactment of California traffic laws, except for freeways unless otherwise posted and toll bridges; and

Whereas, prohibiting bicycles on expressways is counter to the policy adopted by the County on August 13, 1991 and set forth as *A Policy for Bicycle and Pedestrian Usage of the Expressways*; and reaffirmed again by the *Bicycle Element of the County Expressway Planning Study* in 2003 that states: "Bicycle travel will be accommodated on all expressways;" and further affirmed by the Valley Transportation Authority (VTA) Countywide Bicycle Plan, Policy B4 stating that "no existing bicycle access should be deleted;"

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA, THAT:

1. The County of Santa Clara supports bicycle access to all roadways including expressways consistent with California law;
2. The County of Santa Clara supports revising the language of CVC §21960 to read as it did prior to enactment of SB 1233 with respect to the right of bicyclists to access and use county expressways;
3. The County of Santa Clara supports the inclusion of this change in the 2007 legislative priorities.

County of Santa Clara

Office of the County Executive

County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-5105



April 13, 2007

Mr. Herman Wadler, Chair
VTA Countywide Bicycle and Pedestrian Advisory Committee (BPAC)
c/o VTA Congestion Management Program
3331 North First Street, Bldg. B
San Jose, California 95134

Subject: Bicycle Access to County Expressways

Dear Mr. Wadler:

Supervisor Ken Yeager referred your February 16, 2007 letter regarding bicycle access to the County expressway system and the changes to California Vehicle Code (CVC) section 21960 that were enacted by Senate Bill (SB) 1233.

Apparently, the SB 1233 revisions to the arcane language of CVC 21960 – specifically the addition of the word “expressways” – have been misinterpreted as giving the County of Santa Clara broad new authority to restrict bicycle access to the expressways compared to its pre-SB 1233 authority and that these revisions constitute a reversal of established County policy. It is important to note that even prior to SB 1233 local agencies were empowered by CVC 21960 to prohibit or restrict pedestrians, bicycles or other nonmotorized traffic “on freeways or designated portions thereof” under specified conditions. Since virtually all expressway segments had long ago been designated as freeways by resolution of the Board of Supervisors, the addition of the word “expressways” did not expand the County’s authority but simply acknowledged the fact that the existing authority conferred by CVC 21960 applied to the County expressways.

Moreover, nothing in SB 1233 changed the county’s and cities’ police powers with respect to traffic regulation on the expressways. Since only cities are vested with the police power to enforce traffic regulations within their boundaries - including regulations related to bicycles - any County ordinance related to bicycles would require a similar city ordinance in order to take effect. In other words, the County cannot unilaterally regulate bicycles on expressways within city limits.

The primary reason the County pursued changes to CVC 21960 was to change the basis for pedestrian prohibitions from criteria based on access rights to criteria based on safety.

Mr. Herman Wadler
April 13, 2007
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Although the current CVC 21960 language applies to bicycles as well, as a practical matter it has absolutely no effect on bicycle access to the expressways since it does not expand the County's statutory ability to restrict or prohibit bicycles nor does it expand the County's police powers as discussed above. Most important of all, longstanding County policy – affirmed by the recent Expressway Study – promotes bicycle access to the entire expressway system. The best proof I can offer of the County's ongoing commitment in this regard is the diverse array of projects that the Roads & Airports Department has undertaken to enhance the expressway bicycle experience, including the award-winning adaptive bicycle signal timing project, the bicycle delineation project, and the Almaden Expressway bicycle project currently underway, just to name a few.

SB681 (Simitian), the bill that sought to repeal the changes to CVC 21960, was not successful and we do not believe there is any reason to expect a different outcome this year. Therefore, the County did not include further action on CVC 21960 in its calendar year 2007 legislative priorities. We urge the BPAC to focus its efforts on partnering with the County to secure additional funding for bicycle projects on the County road and expressway system as the ultimate solution to the issue.

I hope this letter is responsive to your concerns. We sincerely thank the BPAC for its continued advocacy on behalf of bicyclists and pedestrians and look forward to working closely with the Committee in the future.

Sincerely,



Jane Decker
Deputy County Executive
County of Santa Clara

cc: Santa Clara County Board of Supervisors
Peter Kutras, Jr., County Executive
Michael Murdter, Director of Roads and Airports
VTA Congestion Management Agency
Silicon Valley Bicycle Coalition
CABO