



Date: February 27, 2007

Committee Meeting Date: March 7 2007

Board Meeting Date: N/A

BOARD MEMORANDUM

ACTION DISCUSSION INFO

TO: 2000 Measure A Watchdog Committee (Citizens Advisory Committee)
 Santa Clara Valley Transportation Authority
 Board of Directors

THROUGH: Michael T. Burns
 General Manager

FROM: Jim Lawson
 Government Affairs Manager

SUBJECT: Information On and Requirements for Public Hearing Process

FOR INFORMATION ONLY

BACKGROUND:

In November 2000, the voters in Santa Clara County approved Measure A, a 30-year half cent sales tax devoted to transit projects. The Measure A ballot mandated that an independent citizens watchdog committee, consisting of VTA's Citizens Advisory Committee (CAC), must:

- Review all 2000 Measure A expenditures.
- Have an audit conducted each fiscal year by an independent auditor to ensure tax dollars are being spent in accordance with the intent of this measure.
- Hold public hearings and issue reports "on at least an annual basis to inform Santa Clara County residents how the funds are being spent."
- Publish the results of the independent audit and the annual report in local newspapers.

In April 2006, the Citizens Advisory Committee assumed its duties as the Citizens Watchdog Committee for the 2000 Measure A program.

It is anticipated that at its March 2007 meeting, having completed the process of the independent audit for Fiscal Year 2005-06, the Citizens Watchdog Committee will authorize staff to publish the results of the audit and make the audit document available to the public.

DISCUSSION

Purpose

The purpose of the public hearing the Citizens Watchdog Committee is required to hold is to provide a forum for the community to give input to the Committee on the 2000 Measure A Program, and the annual independent audit and annual report on the 2000 Measure A Program. It is also the opportunity for the Committee to hear the views, opinions and concerns, if any, of the community. These comments, combined with other information and data supplied to it, will be used by the Citizens Watchdog Committee to form its conclusion on whether 2000 Measure A tax dollars are being spent in accordance with the intent of the measure.

At the public hearing, the Committee receives input from the public. During the hearing, the Committee should take the viewpoints and questions from the public under advisement but not debate nor engage in extended discussion with speakers or other Committee members. After the hearing is closed, the Committee will have opportunity to discuss the input received.

However, Committee members may, during the hearing, ask brief questions of the speakers for the purpose of clarifying a statement or issue. If readily available or easily answered, the Committee or staff may also provide very brief answers to speaker's questions. All other questions should be referred to staff to formulate a response from the Committee.

Noticing the Hearing

- VTA's Office of the General Counsel has determined there is no specific requirement on how far in advance the public notice must be posted and published other than the 72 hours prior to the hearing required by the Brown Act. However, to provide every reasonable opportunity for the public to attend and provide input, staff recommends that the notice be publicly posted and published in local newspapers at least 21 days prior to the hearing.
- The public notice will prominently indicate the purpose of the public hearing and briefly describe the 2000 Measure A Program and its history. It will also indicate where the public can access detailed information on the program (for example, online at VTA's website, at specified VTA facilities, public libraries, etc.).
- For the benefit of members of the public unable to attend, the public notice will specify the process and timeframe for submitting written comments to the Committee.
- The public notice will be published in general circulation newspapers in the service area of VTA, including non-English publications (for example, Spanish, Vietnamese, etc.). It will also be prominently posted on VTA's website.

Conducting the Hearing

- At the start of the hearing, the Committee chairperson will formally announce the opening of the hearing and describe its purpose. At its conclusion, the chairperson will formally announce the closing of the hearing. At that time, normal Committee business and protocol resumes.

- Although the Committee will be conducting a public hearing and receiving testimony, there is no compelling reason to require members of the public requesting to speak to be sworn in. However, since testimony is being received a court reporter will transcribe the testimony.
- Although speakers will not be sworn in, they will be asked to both fill out a blue speaker's card and to verbally state their name for the record. The speaker's cards will be used to establish the order that speakers present.
- To determine if a reasonable time limit for all speakers needs to be established, at the start of the hearing the Committee chairperson will ask the audience for a show of hands of those intending to speak. Given that the target duration of the hearing is between 60 and 90 minutes, if it is determined there will be few speakers, no time limit needs to be imposed. However, if there many speakers, the chairperson may impose a reasonable time limit applicable to all speakers, typically ranging from one to five minutes.
- Because the purpose of the hearing is to receive input exclusively on the 2000 Measure A Program, it is the chairperson's prerogative to limit or prohibit testimony from a speaker on a subject not directly related to the 2000 Measure A Program. It is also the chairperson's prerogative, if time limits have not previously been established, to encourage a speaker to finish their comments when they are an undue or unproductive length or to enforce the cessation of that speaker's remarks.
- As provided in the CAC bylaws, any person making personal, impertinent or indecorous remarks while addressing the Committee may be barred by the chairperson from further appearance before the Committee at that meeting, unless permission to continue is granted by an affirmative vote of the Committee. The chairperson may order any person removed from the Committee meeting who causes a disturbance or interferes with the conduct of the meeting.

Other Factors and Considerations

- Member Chris Elias recommended that the public hearing be held at a central location, preferably Civic Center or downtown San Jose. For the 2007 hearing, if the Committee chooses to hold it during the scheduled time of its April meeting (April 11th, starting at 4:30 pm), neither the County of Santa Clara Board Chambers, the County's Isaac Newton Senter Auditorium, nor San Jose City Hall are available.
- The transcript of the proceedings prepared by the court reporter and an audio recording of the hearing will be available to the public within a reasonable timeframe following the hearing.

Steps Following the Hearing

The Citizens Watchdog Committee will evaluate the information and comments received at the hearing and will combine it with other information and data supplied to the Committee from the independent audit and other sources to render a conclusion on whether 2000 Measure A tax dollars are being spent in accordance with the intent of the measure. This will be accomplished, in part, at the conclusion of the public hearing, if time allows, and may continue through subsequent regular meetings.

Once the Committee has developed its conclusion, its annual report will be published in local newspapers. An example of a similar report was provided to the Committee at its June 2006 workshop. A draft format of the Citizens Watchdog Committee annual report for FY 2005-06 is currently being developed and will be provided for Committee consideration at a future meeting.

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