

Date: \_\_\_\_\_ March 21, 2008

Committee Meeting Date: \_\_\_\_\_ April 9, 2008

Board Meeting Date: \_\_\_\_\_ N/A

**BOARD MEMORANDUM**

**INFORMATION ITEM**

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

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

**FROM:** Jim Lawson  
Senior Policy Advisor

**SUBJECT:** Information On and Requirements for Public Hearing Process

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**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.

On April 1, 2006 the Citizens Advisory Committee assumed its duties as the Citizens Watchdog Committee (CWC) for the 2000 Measure A program.

**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, the results of the annual independent audit, and on the annual report for 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.

### **Meeting Schedule and Location**

- Member Chris Elias previously recommended that the public hearings be held at a central location conveniently served by mass transit, preferably Civic Center or downtown San Jose. Keeping this in mind, staff has reserved a room at the County of Santa Clara Board Government Center.
- Past Chairperson Marty Schulter previously recommended that the starting time for the public hearings be set as close to 6:00 PM as possible, to allow working members of the public more opportunity to attend.
- Since it is anticipated that the CWC will complete the process of the independent audit for Fiscal Year 2006-07 at its April meeting, the next scheduled CWC meeting that the public hearing can be held is May 7, 2008.
- Given these factors, at its March 12<sup>th</sup> meeting the Committee approved: (1) conducting the required public hearing for FY 2006-07 at its scheduled May 7, 2008 meeting; (2) having the May CAC meeting start at 5:30 PM and the CWC public hearing commence at 6:00 PM; and (3) holding the May CAC meeting/CWC public hearing at the County of Santa Clara Government Center (70 West Hedding Street) in Room 157.

### **Noticing the Hearing**

- If the Committee completes at its April 2008 meeting the independent audit process for Fiscal Year 2006-07, it will be asked to authorize staff to publish the results of the audit and make the audit document available to the public. The Committee will also be requested to approve a publication strategy for placing in local newspapers a notice that combines the required announcement for the 2008 public hearing and the required notice indicating the results of the independent audit.
- VTA's Office of the General Counsel previously determined there is no specific requirement on how far in advance the public notice must be publicly 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 21-day convention was utilized for the first CWC public hearing held in April

- 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.). It will also indicate that translator services will be available.
- 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 publication strategy that the Committee will be asked to approve will determine in which general circulation newspapers in VTA's service area and on approximately which dates the public notice should be published. For the CWC's 2007 public hearing, the notice was published in the *San Jose Mercury News* and two non-English newspapers (*El Observador*, a Spanish-language newspaper and *Thoi Bao*, a Vietnamese-language newspaper). The public notice 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 are 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 meeting who causes a disturbance or interferes with the conduct of the meeting.

### **Other Factors and Considerations**

- 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 during the period in question 2000 Measure A tax dollars were spent in accordance with the intent of the measure. This may be accomplished, if time allows, at the conclusion of the public hearing and may continue through subsequent regular meetings if needed.

Once the Committee has developed its conclusion, notification that its annual report is completed and available to the public will be published in local newspapers. It is currently projected that a draft of the CWC's Annual Report for FY 2006-07 will be submitted for Committee consideration at its June meeting.

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