

**CITIZENS ADVISORY COMMITTEE
and
2000 MEASURE A CITIZENS WATCHDOG COMMITTEE**

Wednesday, June 10, 2009

MINUTES

Call to Order

The Regular Meeting of the Citizens Advisory Committee (CAC) was called to order at 5:35 p.m. by Chairperson Tebo in Conference Room 157, Santa Clara County Government Center, 70 West Hedding Street, San José, California.

1. ROLL CALL

Attendee Name	Title	Status
Stephen Blaylock	CAC Member	Absent
Chris Elias	CAC Member	Present
Ray Hashimoto	CAC Member	Present
Roberta Hughan	CAC Member	Present
Robert Jacobvitz	CAC Vice Chair	Absent
Erik Larsen	CAC Member	Present
Gaye Morando	CAC Member	Present
Charlotte Powers	CAC Member	Absent
Sally Probst	CAC Member	Present
Connie Rogers	CAC Member	Present
Martin Schulter	CAC Member	Absent
Peter Skinner	CAC Member	Present
Noel Tebo	CAC Chair	Present

A quorum was not present and a Committee of the Whole was declared.

2. ORDERS OF THE DAY

Greta Helm, Chief External Affairs Officer and Staff Liaison, deferred **Agenda Item #11**, Citizens Watchdog Committee's (CWC) Annual Report for Fiscal Year 2008, review, revise as needed, and approve, to the July 8, 2009, meeting.

Ms. Helm noted **Agenda Item #14**, Receive a verbal update from the Committee's Advisory Committee Enhancement (ACE) Subcommittee, will not be heard due to the absence of the ACE subcommittee members.

On order of Chairperson Tebo and there being no objection, the Committee accepted the Orders of the Day.

3. PUBLIC PRESENTATIONS

There were no Public Presentations.

4. Committee Staff Report

Greta Helm, Chief External Affairs Officer and Staff Liaison, reminded the CAC of the BART tour scheduled for August 12, 2009, the same day as the regularly scheduled August CAC meeting. Those taking the tour will meet at VTA's River Oaks Campus at 2:00 p.m. A detailed memo will be sent to the CAC.

Member Elias took his seat at 5:37 p.m. and a quorum was declared.

- **Quarterly Report from the General Manager**

Michael T. Burns, General Manager, noted his purpose in attending the meeting was to provide an update on both recent and upcoming events and to answer any questions the committee members might have.

Mr. Burns reported: 1) The Board approved a two-year budget at its meeting on June 4, 2009; 2) The budget effectively closes a \$70 million shortfall anticipated for the two-year period. 3) Budgets are based upon assumptions, with the understanding things change, unfortunately things are not changing in the right direction; 4) The Board has approved an across-the-board fare increase effective January 1, 2010; 5) The price of the EcoPass has been increased for the first time in five years by 20 percent; 6) Staff will be working with EcoPass customers in hopes of retaining them; 7) The geographic paratransit eligibility has changed; 8) VTA has worked closely with Outreach, its paratransit vendor/broker, and with concerned individuals and to date everyone who presented an issue has been accommodated; 9) There are other services available to those individuals VTA will be unable to accommodate in the future; 10) VTA proposed elimination of some premium services; 11) Due to community input premium services have been retained, but are priced at one consistent fare; 12) Cost saving efficiencies, listed within the budget, have already been implemented; 13) Labor savings is being discussed with our unions; 14) Agreements or tentative agreements that equate to an approximate five-percent reduction in pay over the two year budget period have been reached with four of the units: Non-Represented, TAEA, AFSCME and SEIU; 15) ATU is the only unit under contract and management is currently awaiting their proposal; 16) Service reductions will be implemented should a savings agreement not be reached with ATU; 17) Reserves are being used to balance the budget, reducing reserves from the current 15 percent to 13 percent in 2010 and to 6 percent in 2011; and 18) VTA has an expectation of economic improvements by 2012.

Mr. Burns noted when preparing the two-year budget VTA believed the sales-tax projection for an eight-percent reduction was conservative. VTA learned on June 10 the third quarter sales tax revenue for Santa Clara County was down 20 percent. Statewide, the sales tax revenues are down approximately 18.8 percent. This will not only affect VTA, but every jurisdiction that receives and relies upon State sales tax revenues. There is also the potential for the State to divert other funds, such as the

transportation bond gas tax, which will have an impact on the cities, counties and VTA as a result.

Mr. Burns reported: 1) The Measure A Budget was approved as part of VTA's overall budget; 2) VTA will proceed with the Measure A program, including the BART project, on a pay-as-you-go basis; 3) The freight rail relocation work, as part of the BART project, is continuing; 4) Efforts are on track to reenter the Federal program in the fall and to receive the Federal environmental clearance in January 2010; 5) VTA will be using existing funds and monies collected and will not assume any additional borrowing; 6) VTA hopes to award approximately \$20 million in safety projects this fall; 7) The South County double-tracking is still funded and going forward; 8) Improvements to the Santa Clara and Diridon Stations are going forward; 9) The Board has adopted a phased approach to the Capitol Expressway project, the extension of the Light Rail to Eastridge; 10) VTA will be implementing the Light Rail Project's pedestrian and safety improvements as part of the highly-anticipated Bus Rapid Transit (BRT) Project; 11) VTA is in the process of completing the BRT environmental work; and 12) The Federal environmental work for the Eastridge and Vasona Light Rail Extensions should be completed in early 2010.

The Mountain View parking structure, de-funded due to an unknown impact from the High Speed Rail (HSR), has now been re-funded for development and design at approximately \$500,000. Mountain View expects to receive the HSR impact report by year end.

Funding appropriations for the City of San José airport efforts have been increased by \$2 million. The City of San José is looking at a different approach to an Airport People Mover involving the surrounding business area and more of a design/build existing technology approach.

VTA will receive \$50 million in Federal Stimulus Funds: \$47 million will be used to purchase hybrid electric buses to replace older buses; \$3 million will be used for preventative maintenance.

Mr. Burns referenced his role as the Chairperson for the California Transit Association (CTA) and noted: 1) VTA is continuing to work with the CTA to secure State transit funding; 2) CTA is working with the legislature to identify opportunities for transit funding; 3) The State has de-funded public transportation operating funds for the next four years; 4) CTA has filed a lawsuit against Governor Schwarzenegger and his Finance Department for using transit funds on items other than transit; 5) The appeal on that lawsuit is being heard in late fall; and 6) CTA is exploring a voter initiative to protect future transportation funds.

Mr. Burns reported Caltrain and VTA are partnered on the HSR Project, with Caltrain taking the lead on the peninsula portion. He noted: 1) Caltrain has a Memorandum of Understanding (MOU) with the HSR Association; 2) Caltrain and VTA have been working with the Metropolitan Transportation Commission (MTC) and HSR cities along the corridor to prepare a regionally-coordinated request for stimulus funds; 3) The HSR Project is still in the environmental process, reviewing the environmental impact statement and going through the environmental impact report preparation;

4) The environmental impact process will not be completed until the end of 2011, beginning of 2012 timeframe; and 5) In order to not prejudice the environmental process and further delay the project, questions posed by the HSR corridor cities have been left unanswered.

CAC has received the 2008-2009 Santa Clara County Civil Grand Jury Report for discussion and for input to VTA's response. Concern was expressed by many who were interviewed that: 1) The Civil Grand Jury had a specific focus and questioned accordingly; 2) The report sounded very similar to the No on B, C and D Campaign; and 3) The report sounded very similar to the State Audit, repeating or sensationalizing items without providing a balance of information.

Mr. Burns referenced the negative comments the Civil Grand Jury made in reference to the CWC and expressed his appreciation to the CWC for their efforts. He stated the Board also appreciates the efforts of the CWC. Mr. Burns expressed his apologies to the Committee, acknowledging the Committee should have been fully involved in the discussion before the Board made the decision to place Measure D on the ballot.

Mr. Burns referenced potential committee enhancements for the CAC/CWC as a result of the Advisory Committee Enhancement process.

Mr. Burns discussed the timeframe for the response to the Santa Clara County Civil Grand Jury Report.

Chairperson Tebo questioned funding for the Mountain View parking garage. Mr. Burns stated contributions include \$400,000 from the City of Mountain View and \$100,000 from Measure A funds. He noted work will not begin on the garage until after the HSR provides a potential impact report.

Member Larsen encouraged staff to take the Civil Grand Jury Report seriously. Mr. Burns noted VTA's response will be factual and respectful. He stated in the past VTA has encouraged independent reviews, valuing constructive input received.

Member Skinner noted this was the second Grand Jury report on VTA issues within the past five years. He stated it was clear the Grand Jury takes to heart the issues of a few people who are always critical of VTA. He noted this is not the opinion of most individuals.

Member Probst questioned VTA applying for additional Federal Stimulus Funds. Mr. Burns noted talk regarding a second round of stimulus funds. He reported on agencies who positioned themselves as being able to meet all of the requirements for the stimulus funds, but who have not yet completed the environmental process. The Federal environmental review is being performed on the Eastridge and Vasona Light Rail Extensions to ensure VTA is prepared to move forward should funding become available.

Member Rogers concurred with the comments of Members Larsen and Skinner. She noted having reviewed the report and discovered truths, untruths, and partial truths. It is important VTA respond in a serious manner to assure the voters the report is not being dismissed.

5. Chairperson's Report

Chairperson Tebo read to the Committee from his June 4, 2009, report to the Board, which included: 1) information on the recently completed independent auditor's report; 2) the upcoming CWC public hearing and the advertising thereof; and 3) CAC's scheduled discussion of the Civil Grand Jury Report at its June meeting.

The Agenda was taken out of order.

2000 MEASURE A CITIZENS WATCHDOG COMMITTEE REGULAR AGENDA

10. Public Hearing of the Citizens Watchdog Committee (CWC)

Chairperson Tebo opened and called the Public Hearing of the Citizens Watchdog Committee (CWC) for the 2000 Measure A Program Expenditures to order to allow members of the public an opportunity to provide their comments.

Chairperson Tebo stated the CWC is conducting a Public Hearing in accordance with the 2000 Measure A ballot. The purpose of the Hearing is to provide the community the opportunity to express its views, opinions, and concerns on 2000 Measure A Program Expenditures, the results of the Annual Independent Audit, and on 2000 Measure A Program Reports for the period of Fiscal Year 2008 (July 1, 2007 – June 30, 2008).

Chairperson Tebo continued by noting the input, combined with other information and data received, will be used by the CWC to form its conclusion on whether 2000 Measure A tax dollars for the period were spent in accordance with the intent of the Measure. Once the CWC has developed its conclusion, it will be published in local newspapers, and placed on VTA's website to inform the citizens of the County of the CWC's finding. The CWC's finding will also be contained in the CWC's Annual Report on Fiscal Year 2008, which will be placed on VTA's website.

Chairperson Tebo reported in November 2000 the voters in Santa Clara County approved Measure A, a 30-year half cent sales tax devoted to specified transit projects.

Among the projects specified in the ballot are:

- Extend BART to Silicon Valley;
- Provide connections from Mineta San José International Airport to BART, Caltrain, and VTA light rail;
- Extend Light Rail from Downtown San José to the East Valley;
- Increase Caltrain service and electrify from Palo Alto to Gilroy;
- Construct a new Palo Alto Intermodal Transit Center;
- Improve bus service in major bus corridors;
- Upgrade Altamont Commuter Express (ACE); and

- Purchase Zero Emission Buses (ZEB) and construct service facilities.

Chairperson Tebo reported the 2000 Measure A ballot mandated the Citizens Watchdog Committee (CWC) to:

- 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 the measure;
- Hold public hearings and issue reports at least annually to inform the Santa Clara County residents how the funds are being spent; and
- Publish the results of the independent audit and the annual report in local newspapers.

Chairperson Tebo stated the importance of noting policy-related decisions for the 2000 Measure A Program, including the composition, implementation and funding level of projects, are the responsibility of the VTA Board of Directors. The Citizens Watchdog Committee's responsibility is limited to reviewing 2000 Measure A Expenditures to ensure funds are being spent in accordance with the intent of the ballot.

Chairperson Tebo stated because the purpose of the Public Hearing is to receive input exclusively on the 2000 Measure A Program, members of the public wishing to speak will be required to limit their comments to 2000 Measure A Program related issues only.

Chairperson Tebo noted the purpose of the Public Hearing is to receive community input. During the hearing, the CWC does not debate or engage in extended discussion with speakers or other CWC members. CWC members may, however, ask brief questions to clarify a statement or issue. If readily available or easily answered, the CWC or staff may provide very brief answers to a speaker's questions. All other questions will be referred to staff to formulate a written response from the CWC.

Chairperson Tebo asked staff if any written comments had been received from the public, either via e-mail or US mail. Those comments received will be provided to the CWC and audience and be entered into the official Public Hearing record. Greta Helm, Chief of Internal Affairs and Staff Liaison, responded staff did not receive any written comments from members of the public desiring to speak at the Public Hearing.

Chairperson Tebo asked members of the audience to indicate, by a show of hands, those who wished to speak at the Public Hearing. Chairperson Tebo noted there were two members of the audience desiring to speak at the Public Hearing. He requested each person who wished to speak complete a communications card.

Ross Signorino, Interested Citizen, expressed his concern with bringing BART to Downtown San José via an underground tunnel. Mr. Signorino referenced a San José Mercury News article on the recently discovered Silver Creek fault line underneath Downtown San José.

Mr. Signorino questioned Measure A requirements with regard to San José BART station locations. He noted an alternative to the proposed Downtown San José BART station would be the site of the former FMC plant, near the San José Airport, whose current

proposed site plans include a BART service yard. He asked if Measure A could be taken back to the voters to determine how specifically BART would enter the region.

Chairperson Tebo ensured Mr. Signorino provided his address so staff could respond to his comments.

James P. Wightman, Interested Citizen, questioned when BART would be operational in San José. Ms. Helm noted approximately 2018.

Mr. Wightman questioned the expected timeframe for the Light Rail project to Eastridge and Vasona. Chairperson Tebo noted funds for these projects were included in the 2010/11 Capital Budget.

Mr. Wightman questioned whether BART would go to Milpitas. Chairperson Tebo noted BART and the Light Rail will both have stations at the Great Mall in Milpitas.

Tim L. Ranz, Interested Citizen, reading from the 2008-2009 Santa Clara County Civil Grand Jury Report, noted in response to Mr. Wightman's inquiry, "All Measure A tax revenue is being reserved for the shortened BART extension project, the light rail to Eastridge project has been put on hold until other funding sources can be identified."

Chairperson Tebo reported the status for these projects were changed in the final budget adopted by the Board.

Ms. Helm stated the Civil Grand Jury Report was issued prior to the Board finalizing budget decisions.

Chairperson Tebo questioned whether there were any additional members of the public who wished to speak. Hearing no further requests to address the CWC, Chairperson Tebo closed the Public Hearing at 6:29 p.m.

BUSINESS REFERRED TO COMMITTEE BY THE BOARD OF DIRECTORS/ GENERAL MANAGER

COMBINED CITIZENS ADVISORY COMMITTEE AND CITIZENS WATCHDOG COMMITTEE CONSENT AGENDAS

6. Minutes of May 13, 2009

Member Rogers noted her absence at the May 13, 2009, CAC meeting. She referenced **Agenda Item #13**, Draft Recommended Fiscal Years 2010 and 2011 Biennial Budget Review, from the May 13, 2009, Minutes and noted the comment attributed to her should be amended to read "A member inquired on the possibility of receiving additional stimulus funds."

M/S/C (Larsen/Rogers) to approve the Minutes of May 13, 2009, with the amendment to **Agenda Item #13**, Draft Recommended Fiscal Years 2010 and 2011 Biennial Budget Review, "A member inquired on the possibility of receiving additional stimulus funds."

NOTE: M/S/C MEANS MOTION SECONDED AND CARRIED AND, UNLESS OTHERWISE INDICATED, THE MOTION PASSED UNANIMOUSLY.

7. **Transit Operations Performance Report: 2009 Third Quarter (July 1, 2008-March 31, 2009)**

M/S/C (Larsen/Rogers) to receive the Transit Operations Performance Report: 2009 Third Quarter (July 1, 2008 - March 31, 2009).

8. **Silicon Valley Express Lanes Program Update**

M/S/C (Larsen/Rogers) to receive information on the Silicon Valley Express Lanes Program.

CITIZENS ADVISORY COMMITTEE REGULAR AGENDA

9. **Proactive Development Review Program Enhancements and Quarterly Report**

Robert Swierk, Senior Transportation Planner, provided a handout entitled “Development Review Program Enhancement - May 2009,” which highlighted: 1) VTA’s Development Review Program; 2) Program Purpose and Objectives; 3) Development Review Program Enhancement; 4) Enhancement Approach; 5) Improve Internal Process and Reporting; 6) Expand Outreach and Influence; 7) Conduct Targeted Research; 8) Proactive CMP Report; 9) Proactive CMP Report Enhancements; 10) New Proactive CMP Report - Sample; and 11) Schedule.

Member Probst praised VTA’s Community Design & Transportation (CDT) Manual as an excellent manual that has been very helpful to local agencies. Member Probst: 1) Suggested VTA include information about progressive parking policies in the manual; 2) Expressed interest in research showing a car is not needed for every member of the family; and 3) Requested VTA provide CAC with a draft copy of the manual for comments.

Member Hashimoto noted it would be good to have a factual-based report to provide to local neighborhoods and not just tell them parking will “meet city standards.”

Member Hashimoto encouraged VTA to focus its comments, especially regarding transportation demand management, and to provide the cities with a menu of a few specific improvements rather than a lengthy, un-prioritized list.

Member Probst expressed interest in seeing research on elevator parking.

Member Larsen suggested VTA pursue funding from the Silicon Valley Community Foundation for targeted research, such as trip generation and parking rates at transit-oriented developments, tying into their current smart growth emphasis.

Member Elias expressed interest in VTA tracking key conditions of approval related to transit, congestion management, bicycles, and pedestrians, both to see how they are being implemented and, if possible, how effective they have been.

On order of Chairperson Tebo and there being no objection, the Committee received a presentation on the Proactive Development Review Program Enhancements and the Quarterly Report.

2000 MEASURE A CITIZENS WATCHDOG COMMITTEE REGULAR AGENDA (continued)

11. (Deferred to July 8, 2009, Citizens Advisory Committee (CAC) Meeting)

Citizens Watchdog Committee's (CWC) Annual Report for Fiscal Year 2008, review, revise as needed, and approve.

On order of Chairperson Tebo and there being no objection, the Committee deferred review of the Citizens Watchdog Committee's Annual Report for Fiscal Year 2008.

12. Santa Clara County Civil Grand Jury (CGJ) Report

Greta Helm, Chief Internal Affairs Officer and Staff Liaison, provided a handout including copies of recent news articles on the CGJ Report at the request of Vice Chairperson Jacobvitz.

Member Elias questioned the lack of an appendix to the CGJ Report. Ms. Helm noted the VTA Board Secretary contacted the CGJ regarding the appendix and was told this was something the CGJ opted not to provide with this report.

Chairperson Tebo asked for volunteers to form a CWC subcommittee to review and prepare for VTA CWC's point-by-point response to the CGJ Report. The subcommittee will report back to the CWC at its July meeting.

Members of the CWC Subcommittee are Members Schuler, Probst and Larsen.

Member Probst noted she had reviewed the report and found it to be disingenuous and poorly organized. She stated much reported was not factual.

Member Probst noted a suggestion in the report, regarding BART, stating no sales tax should be collected until all State and Federal funds are received. She noted such a method would stop the project.

Member Probst expressed strong support for regional transportation and for the BART to Berryessa project. She noted living in Palo Alto BART is not of particular importance to her, but stated it is important to the community as a whole.

Ms. Helm stated the penal code requires VTA to state whether they agree or disagree on an item and if VTA disagrees to provide a factual basis for the disagreement.

Member Skinner suggested the subcommittee review the report and bring point-by-point findings back to the Committee, rather than review the report at the committee level.

Chairperson Tebo noted the subcommittee will review these items. He then asked the Committee if they had any specific comments on any of the findings or recommendations.

Finding 1a

“The term “watchdog” is a misnomer. The structure and composition of the CWC called for in 2000 Measure A, as well as how the CWC responsibilities are interpreted by VTA staff and the Board, prevents the CWC from performing its duties effectively.”

Members of the Committee discussed Finding 1a and expressed general disagreement with the Finding.

Finding 1b

“Although arguably the CWC may have technically complied with the minimum functions specified in Measure A, the CWC is failing the public by not providing reliable information to make intelligent decisions regarding transit in the county.”

Members of the Committee discussed Finding 1b and expressed general disagreement with the Finding.

Recommendation 1a

“The CWC should reevaluate its scope and expand its functions beyond the minimum standards stated in 2000 Measure A and operate as a true “watchdog” committee.”

Members of the Committee referenced the Advisory Committee Enhancement (ACE) process as a method the Committee is using to reevaluate its role.

Members of the Committee discussed Recommendation 1a and expressed general disagreement with the Recommendation.

Recommendation 1b

“The Board should provide the CWC with independent advisors, including legal counsel, to assist them in this effort.”

Members of the Committee expressed their disagreement with Recommendation 1b, stating staff does a good job of providing information when requested.

Members of the Committee discussed Recommendation 1b and expressed general disagreement with the Recommendation.

Finding 2

“The CWC is not independent. CWC members are appointed or have their appointment approved by the VTA board, the very people they are charged with overseeing. In other transportation agencies in California, citizen oversight bodies are appointed and/or approved by independent third parties (See Appendix A).”

Members of the Committee discussed Finding 2 and expressed general disagreement with the Finding.

Recommendation 2a

“The Grand Jury recognizes that the assignment of members of the CAC as the CWC is part of existing law and cannot be changed without a new ballot measure. However, the Board is at liberty to change the CAC bylaws and hence change who approves membership in this combined committee. The Grand Jury recommends that the Board change the bylaws so that the selection process is conducted by, and selections approved by an independent third party.”

Member Tebo noted the CAC/CWC members were each nominated by different organization. Committee members noted the approval process by the Board.

Members of the Committee discussed Recommendation 2a and expressed general disagreement with the Recommendation.

Recommendation 2b

“Former elected officials should not be allowed to sit on the Citizens Advisory Committee to eliminate the possibility of bias from prior responsibilities.”

Members of the Committee noted former elected officials can be very valuable and provide an interest and depth of knowledge.

Members of the Committee discussed Recommendation 2b and expressed general disagreement with the Recommendation.

Recommendation 2c

“The CWC should have its own staff, independent of VTA staff, to set meeting agendas, coordinate project investigations, write reports and do other tasks assigned to the CWC.”

Members of the Committee noted the cost would be prohibitive and would create another layer of bureaucracy. The Committee can utilize staff to meet committee needs.

Members of the Committee discussed Recommendation 2c and expressed general disagreement with the Recommendation

Finding 3

“The CWC is not in control of its own agenda. CWC bylaws do not explicitly allow members to participate in setting the agenda for their own meeting. Other VTA committees such as the Policy Advisory Committee have this explicit right. The CWC chairperson reviews the staff-proposed agenda in advance and can suggest changes. Other members only view the agenda when formally published.”

The Committee noted every advisory body relies upon staff for research and agenda content. The Committee has the ability to bring items to the attention of the Board and has requested specific items be placed on the agenda.

Ms. Helm noted, as part of the ACE Task Force, all bylaws are being recommended for update.

Members of the Committee discussed Finding 3 and expressed general disagreement with the Finding.

Recommendation 3

“The bylaws should be amended to allow the CWC to prepare and set their own agenda without involvement of VTA Staff. If VTA Staff wishes to place an agenda item, they should consult with the CWC Chairperson, not the other way around.”

Chairperson Tebo noted the Committee requests staff to put specific items on the agenda.

Stephen Flynn, Senior Management Analyst, noted the current agenda item was placed on the CWC Agenda at the request of Chairperson Tebo.

Ms. Helm noted, as a result of the ACE Task Force, the Committee will now have a six-month work plan listing all items for each committee going before the Board.

Member Probst noted an improvement in items coming before the Committee earlier in the process.

Members of the Committee discussed Recommendation 3 and expressed general disagreement with the Recommendation.

Member Elias left the meeting at 7:30 p.m.,
the quorum was lost, and a Committee of the Whole was declared.

Finding 4a

“While meeting the minimum requirements, CWC reports to the public have not been comprehensive, timely, or complete. The CWC has published only two three-page status reports since its inception in July 2006. The financial audit for FY 2007 (June 2007) was conducted by an independent auditor retained by VTA staff, not an independent auditor retained by the CWC. In FY 2008, audits of 2000 Measure A expenditures will be conducted by BOTH an independent auditor retained by VTA and an independent auditor retained by the CWC.

The CWC has failed to take the opportunity to file more frequent reports on Measure A 2000 expenditures, such as monthly or quarterly reports.”

The Committee acknowledged the use of a staff-retained auditor for the first year, but noted the auditor was an “independent” auditor. A subcommittee was formed to choose an independent CWC-retained auditor for subsequent years.

Members of the Committee discussed Finding 4a and expressed general disagreement with the Finding.

Finding 4b

“The CWC has failed to inform the public that the 2000 Measure A sales tax revenue is not sufficient to complete all of the Measure A programs, and federal and state funding has not been identified to fill the gap. This has been clear to VTA management for some time.”

Chairperson Tebo noted this is the third year of a 30-year tax; changes are to be expected.

Member Rogers noted a need to provide the public with a better explanation with regard to the funding.

Members of the Committee discussed Finding 4b and expressed general disagreement with the Finding.

Recommendation 4a

“CWC should independently decide on report frequency and content without VTA Staff involvement and supervision.”

Member Probst noted, as a matter of cost, her belief the public is not interested in monthly reports. Member Larsen noted monthly reports would be excessive.

Members of the Committee discussed Recommendation 4a and expressed general disagreement with the Recommendation.

Recommendation 4b

“No Recommendation.”

Finding 5

“The VTA staff has forced its own perspective on the CWC regarding committee roles and responsibilities. VTA staff dictates have stifled independent thinking on the part of CWC members.”

Members of the Committee discussed Finding 5 and expressed general disagreement with the Finding.

Recommendation 5

“The Board should direct VTA staff to revise its training materials and memoranda to include best practices of other transit agency watchdog committees and encourage the CWC to establish its own priorities and responsibilities. See Appendix A.”

Member Larsen noted as the most recent member to join the Committee, the orientation did a good job of introducing him to the various committees and the workings of the VTA. No changes are needed.

Members of the Committee discussed Recommendation 5 and expressed general disagreement with the Recommendation.

Finding 6

“Board workplans and meeting agendas are developed primarily by VTA staff.”

Recommendation 6

“The VTA Board should prepare its own agendas and workplans. The Chairperson of the Board should consult with Board members, standing and advisory committees and VTA staff to formulate the agenda.”

Members of the Committee noted this was a Board matter and declined to comment.

Finding 7

“With the exception of members from San Jose and the County, Board members have inadequate staff support to fully participate in Board activities. The volume of information supplied to Board members can serve to obscure key issues that deserve focus.”

Recommendation 7

“The VTA Board should have its own staff, independent of VTA staff, to set meeting agendas, do project investigations, write reports, publish minutes and do other tasks required by the Board.”

Members of the Committee noted this was a Board matter and declined to comment.

Finding 8

“Both the Hay Report and the State Auditor Report recommended that the VTA Board make every effort to insure that new board members have transportation experience by appointing new members with previous transportation experience and reappointing members for multiple terms. Nevertheless the Mayor of San Jose recently appointed two new board members to represent San Jose who have no previous transportation experience.”

Recommendation 8

“New VTA Board members must have transit knowledge. The VTA Board should require at least one full year on the PAC or another VTA advisory committee prior to being appointed to the Board.”

Members of the Committee noted it is up to the cities to ensure those appointed are appropriate.

Members of the Committee noted this was a Board matter and declined to comment further.

Finding 9

“VTA failed to provide an updated Measure A Revenue and Expenditure Plan per their published schedule. As a result, voters were deprived of critical information necessary to make an informed decision regarding 2008 Measure B, an additional 1/8 cent sales tax to fund operating costs for a BART extension to San Jose / Santa Clara. The VTA had sufficient time and information to complete this update and made a deliberate decision not to publish it prior to the election. As a result, voters were never told that full funding for the BART extension would jeopardize the completion of the other Measure A projects.

Recommendation 9a

“The VTA Board should explain why these facts were withheld from the public.”

Members of the Committee noted this was a Board matter and declined to comment.

Recommendation 9b

“In future elections, the VTA Board should ensure that VTA staff provides the public with a comprehensive explanation of the ramifications of each measure, including the impact on both capital and operating funds, projections and budgets, as well as the effect on other projects.”

Members of the Committee noted this was a Board matter and declined to comment.

Finding 10

“VTA effectively suspended the shovel-ready light rail extension to Eastridge, without informing the VTA Board or the CWC in advance. Additionally, they used evasive language to prevent the Board and the public from understanding the true status (“reaffirming” support) of the project. The people of East Valley deserve better from the representatives of San Jose on the VTA Board.”

Members of the Committee noted the project was still in the planning stage and not shovel-ready.

Recommendation 10a

“The Board should amend the CAC/CWC bylaws to provide the CWC with the authority to review and make recommendations regarding any changes to the priority and status of all 2000 Measure A programs. This is a specific request over and above the responsibilities assigned by the 2000 Measure A ballot wording.”

Members of the Committee discussed Recommendation 10a and expressed general disagreement with the Recommendation.

Recommendation 10b

“The staff should not make unilateral changes regarding Measure A projects without prior CWC review and Board approval. Specific procedures should be put into place to assure that the VTA Board has reviewed and approved all changes to the scope, funding and schedule of Measure A projects before VTA staff proceeds.”

Members of the Committee discussed Recommendation 10b and expressed general **disagreement** with the Recommendation.

Finding 11

“The VTA Board approved Measure C and D to be placed on the November 2008 ballot as part of the consent agenda and without prior review by advisory committees. This occurred on the day prior to the deadline for the submittal of ballot measures for the November 2008 election.”

Members of the Committee discussed Finding 11.

Recommendation 11

“The Board should ensure that ballot measures are submitted for Board approval on the regular agenda (never the consent agenda) after thorough review and discussion at both advisory and standing committee meetings.”

Members of the Committee discussed Recommendation 11.

Finding 12

“The Board put 2008 Measure D on the ballot, assigning the responsibility for citizen review of future VTA long-range strategic plans to the CWC, without notifying the CWC of its intent to do so. In addition, the CWC will cease to exist on June 30, 2036, leaving the subsequent responsibility for review of the long-range plan in limbo.”

Members of the Committee discussed Finding 12.

Recommendation 12

“The hastily implemented Measure D needs to be rethought before 2036. The Board should assign the responsibility for reviewing the long-range strategic plan to an organization that will remain in existence permanently.”

Members of the Committee discussed Recommendation 12.

Finding 13

“The Board allowed Measure C to be placed on the November 2008 ballot asking voter approval of the VTP2035 plan when neither the Board nor the public had seen a draft of the full plan.”

Recommendation 13

“The Board should ensure that VTA’s long range strategic plans are thoroughly reviewed and vetted by the public prior to being offered for approval by whatever body is deemed responsible.”

Members of the Committee noted this was a Board matter and declined to comment.

Finding 14

“Measure A funds were used on non-Measure A projects. The Measure A fund exchange violates the 2000 Measure A ballot requirement that 2000 Measure A revenue was to be spent only on 2000 Measure A programs. But VTA believes it is entitled to use these funds for other programs as long as repayment is certain. It appears that there is in fact repayment uncertainty. Even though the initial \$50M swap was approved in February 2007, the CWC certified (over the chairperson’s signature) in the FY 2007 2000 Measure A Status Report that all Measure A revenue was spent only on Measure A programs. It is clear that the CWC does not fully understand its responsibility with respect to this requirement.”

Recommendation 14

“The Board should give the CWC the opportunity to review all 2000 Measure A fund transfers. The CWC should point out such usage of funds to the public in their reports. The CWC should make a public decision whether this usage of funds is consistent with the intention of the voters with respect to 2000 Measure A.”

Members of the Committee discussed Recommendation 14 and expressed general agreement with the Recommendation.

Finding 15

“Measure B on the 2008 Ballot approved a 1/8 cent sales tax for BART operations. Tax collection is slated to start when the BART project receives full federal and state funding. However, VTA intends to start collecting this tax when only the first 2.2 miles of the BART project are funded, not the complete project.”

Members of the Committee noted such a method would stop the project.

Members of the Committee discussed Finding 15 and expressed general disagreement with the Finding.

Recommendation 15

“The Board should consider the intention of the voters as well as the specifics of the ballot measure when considering this issue. This tax should only be collected when funding for the full 16.1 mile BART extension is obtained from the state and federal government.”

Members of the Committee discussed Recommendation 15 and expressed general disagreement with the Recommendation.

On order of Chairperson Tebo and there being no objection, the Committee received the 2008/2009 Santa Clara County Civil Grand Jury Report.

CITIZENS ADVISORY COMMITTEE REGULAR AGENDA (continued)

13. Advisory Committee Enhancement (ACE) Update: June

Greta Helm, Chief of Internal Affairs and Staff Liaison, provided a brief update on the Advisory Committee Enhancement Process highlighting: 1) a review of items agreed upon to date; 2) a discussion of the Task Force’s willingness to look at a consolidated work plan; 3) a consolidated work plan will go to each committee in the month of July; and 4) a discussion on the potential restructuring of the advisory committees.

Ms. Helm noted the next ACE Task Force meeting would be June 24, 2009.

On order of Chairperson Tebo and there being no objection, the Committee received a brief update on the status and progress of the Advisory Committee Enhancement process to date.

14. (Deferred to July 8, 2009, Citizens Advisory Committee (CAC) Meeting)

Advisory Committee Enhancement (ACE) Subcommittee Report.

On order of Chairperson Tebo and there being no objection, the Committee deferred receiving the ACE Subcommittee Report.

**COMBINED CITIZENS ADVISORY COMMITTEE (CAC) AND
CITIZENS WATCHDOG COMMITTEE (CWC) ITEMS**

15. Citizens Advisory Committee and Citizens Watchdog Committee Work Plans

On order of Chairperson Tebo and there being no objection, the Committee reviewed the CAC and CWC Work Plans.

OTHER

16. ANNOUNCEMENTS

There were no Announcements.

17. ADJOURN

On order of Chairperson Tebo and there being no objection, the meeting was adjourned at 8:10 p.m.

Respectfully Submitted,

Susan E. Garcia, Board Assistant
VTA Board of Directors