



Date: March 28, 2007

Committee Meeting Date: April 12, 2007

Board Meeting Date: N/A

**BOARD MEMORANDUM**

ACTION X DISCUSSION        INFO       

**TO:** Policy Advisory Committee  
Santa Clara Valley Transportation Authority  
Board of Directors

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

**FROM:** Jim Lawson *Jim Lawson*  
Government Affairs Manager

**SUBJECT:** Amendments to Policy Advisory Committee Bylaws Proposed  
By Chairperson Chris Moylan

**RECOMMENDATION:**

Consider amendments to the Policy Advisory Committee (PAC) bylaws proposed by Chairperson Chris Moylan, including modifying the number of affirmative votes required to pass an item.

**BACKGROUND:**

The PAC is a sixteen-member committee representing the member agencies that comprise VTA. It consists of one elected official from each of the county's 15 cities and one County Supervisor and advises the VTA Board of Directors on policy issues. Its mission is to ensure that all jurisdictions within the county have input to the development of VTA's policies. The PAC bylaws provide for the appointing authority to appoint an alternate member, which serves when the PAC member cannot attend.

The PAC bylaws govern the proceedings of the committee and its meetings. All advisory committee bylaws must be consistent with the VTA Administrative Code. All amendments to the bylaws must be approved by the VTA Board and those requested by an advisory committee must be approved a majority of the committee's authorized membership.

At its January 5, 2005 meeting, the VTA Board considered amendments to the PAC bylaws requested by that committee and staff. Included were expanding PAC's duties and responsibilities to include advising the Board on development of the countywide transportation plan (Valley Transportation Plan), the Short-Range Transit Plan (SRTP), the annual or biennial budget, and tariff and service modifications. Another item considered at this meeting was

instituting the PAC Chairperson report to the VTA Board. The purpose of this proposal was to provide to the Board direct, personal communication on behalf of the PAC at each monthly Board meeting and to promote the timely exchange of information between the two bodies.

During consideration of the proposed amendments, the VTA Board expressed concern with Section 5.4 of the PAC bylaws that allowed for a majority of a quorum, rather than a majority of the total membership, to pass an item. This provision was approved in December 2002 in response to a PAC request in an attempt to allow PAC to address low attendance.

In light of its desire to increase PAC's role and responsibilities in advising the Board, the Board felt the majority of quorum voting provision was not appropriate, assuming any matter was voted on when only nine PAC members (a quorum) were present, for the matter to carry on a 5-4 vote. This was consistent with the VTA enabling act, which requires all acts of the Board to be approved by a majority of the entire VTA Board. The VTA Board also indicated its desire that voting requirements for all advisory committees be uniform.

At its March 30, 2005 meeting, the Board adopted the PAC bylaw modifications previously proposed by the Committee and staff at the January 5, 2005 meeting. It also voted to change PAC's voting requirements back to majority of total membership required to pass an item. PAC did not support this change and the PAC Chairperson expressed the Committee's view to the Board during the PAC Chairperson Report given at that meeting. At prior meetings, the Board had changed the voting requirement for all other advisory committees to require a majority of total membership to pass an item.

### **DISCUSSION:**

The changes to the PAC bylaws proposed by Chairperson Moylan are now presented for Committee consideration (see Attachment A). What is proposed is that the current voting and quorum provisions, which is majority of total membership for both, be changed to majority of "existing membership" (filled positions). This assumes that "existing membership" consists of either an appointed PAC member or alternate from one Member Agency.

Staff cannot support these changes and would advise the Board of Directors against approving them for the following reasons:

- The revised voting provision would be inconsistent with the VTA enabling act, which requires all acts of the Board to be approved by a majority of the entire VTA Board.
- It would not be consistent with the other advisory committees, which require a majority of total membership required to pass an item.
- The core issue is attendance, not voting requirements. Given that the PAC bylaws provide for alternates, PAC has 32 elected officials available to represent 16 seats at each meeting, of which only 9 are required for the Committee to conduct official business. Therefore, there should only be rare occasions when a quorum is not present. Modifying the voting requirement does not address the responsibility of each jurisdiction to make timely appointments and to ensure their PAC members or alternate regularly attends meetings. It

also does not address the fiduciary responsibility of the individual appointee to attend meetings.

- It is the responsibility of each Member Agency to appoint its PAC member and alternate in a timely manner and ensure that one of them attends regularly. In effect, each Member Agency indicates its opinion on the relative importance of PAC and its purpose to the VTA Board by how it ensures the consistent attendance of its PAC representative.
- PAC members need to be encouraged and provided every opportunity to regularly attend meetings. Recent efforts by Chairperson Moylan to contact Member Agency mayors or city managers to encourage them to make appointments and to emphasize the need and value for regular attendance by their representatives has proven to be very effective.
- PAC was created to provide all local jurisdictions within the county the opportunity to have input on the development of VTA policies. With the current voting requirements, to pass an item requires the support of a majority of the jurisdictions within the county. Alternatively, if the PAC voting requirements are changed as proposed to majority of filled positions, in theory an item could be passed with less than nine affirmative votes. At its logical extreme, if at a meeting only three positions are filled, an item could be passed by two votes (the majority of filled positions). The same problem existed with the majority of quorum voting provision, where the support of the majority of jurisdictions within the county was no longer required and PAC could have, for example, passed an item on the affirmative vote of only 5 of 16 members.
- During the last three years, there have been only a few instances where a quorum was not present during a PAC meeting:

<b>PAC Meetings</b>	<b><u>2006</u></b>	<b><u>2005</u></b>	<b><u>2004</u></b>
Number of meetings held	11	11	10
Number <b>without</b> quorums	2	0	1
Percentage <b>with</b> quorums	<b>82%</b>	<b>100%</b>	<b>90%</b>

- Tracking the number of filled positions is cumbersome and increases the potential for error. Since the number could change for each meeting, for the Committee and the public to know the number of filled positions and thus the number of affirmative votes required to pass an item for each meeting, the number of filled positions would have to be announced at the start of each meeting.
- Even though a quorum may not be present or the Committee does not take formal action on an item, the Committee can still provide meaningful input. While participation from representatives from all localities is optimum, it is important to note that on those infrequent occasions when a quorum is not present, PAC still provides a great deal of policy direction even though a formal motion cannot be made. Recent examples where a quorum was not present but the Committee still provided staff and the Board with significant policy direction include:

- **Community Bus Implementation:** After staff presented a recommended implementation plan to PAC at its August 2006 meeting, Committee members requested staff reconsider the plan and develop a more community-based implementation plan and strategy. Following their direction, staff is now implementing a community bus program based on the recommendations made by PAC members. The first new community bus routes are scheduled to begin in July 2007.
- **Caltrain Capital Needs Study Subcommittee:** Comprised of seven members of the PAC, the subcommittee developed weighted criteria for evaluating potential Caltrain improvement projects. Based on the criteria, members developed a list of Caltrain projects. Although it did not have a quorum, PAC, at its January 2007 meeting reviewed the criteria as well as the list and offered valuable feedback, which was taken into consideration for the final list presented to the Board at its February 2007 meeting. The scoring criteria and prioritized project list will be a valuable tool for staff and the Board in evaluating future Caltrain investments.

While these items still require Board approval, PAC's advice helped shape staff's final recommendations to the Board.

To facilitate and promote PAC attendance, staff will proactively undertake two actions. First, it will investigate ways to alleviate any structural issues inhibiting consistent PAC attendance, such as standing conflicts with the PAC meeting time. To that end, staff will look into alternate days and times to hold PAC meetings that best meet the needs of the majority of PAC members. The second action will be to remind each municipality earlier in the process of the need to make its PAC appointment and also follow-up on outstanding appointments. This will be done in an effort to have all PAC members appointed in a timely manner.

All amendments to advisory committee bylaws must be approved by the VTA Board. Those requested by the Committee must be approved a majority of the committee's authorized membership. Those proposed by Chairperson Moylan may require amending the VTA Administrative Code. If the Committee approves the proposed amendments, the changes will be submitted for Board of Directors' consideration at a future meeting, most likely June.

**ALTERNATIVES:**

The Committee may choose to adopt, reject or modify the proposed amendments.

**FISCAL IMPACT:**

There is no fiscal impact associated with amending the PAC bylaws.

Prepared by: Stephen Flynn, Sr. Management Analyst  
Reviewed by: Suzanne Gifford, General Counsel

# ATTACHMENT A

## Possible Policy Advisory Committee Bylaws Revisions

March 8, 2007

C.R. Moylan

The PAC bylaws were amended by the VTA Board in 2005 (on a 7-5 vote) in response to a 5-4 vote by the PAC endorsing the findings of a grand jury report. It was perceived by the Board, rightly or wrongly, that a view held by five cities and opposed by four cities ended up being misrepresented in the press as the view of the majority of cities in the county. Three of the Board members who voted to amend the PAC bylaws remain on the Board, as do three of those who were opposed to the revision. I believe that we can allay the Board's concern on that point without hamstringing the Committee. That is the intent of the modifications proposed here. As per Section 7.1, any changes the Committee does decide to make must be approved by the Board.

### **Section 2.2 Limitations on Authority**

#### Existing text

none (on this particular subject)

#### Proposed text

The Committee shall not represent to the public that any of its actions correspond to the views of a majority of the jurisdictions in Santa Clara County unless such action is supported by the affirmative vote of a majority of the total authorized membership.

### **Section 5.4 Quorum; Vote; Committee of the Whole**

#### Existing text

The presence of 9 members shall constitute a quorum for the transaction of business. All acts of the Committee shall require the presence of a quorum and the affirmative vote of a majority of the total authorized membership.

#### Proposed text

All acts of the Committee shall require the presence of a quorum. A quorum consists of a majority of the existing membership of the Committee (as opposed to the total authorized membership). At any regularly called meeting, any motion may be passed by a majority of those present, as long as those present constitute a quorum.

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## **Section 6.1 Agenda Format and Content**

### Existing text

Items may be referred for inclusion on an agenda by: ... and (4) the Committee, upon the affirmative vote of a majority of the authorized membership.

### *Proposed text*

Items may be referred for inclusion on an agenda by: ... and (4) a majority of those in attendance at any Committee meeting that has been able to declare a quorum.