



**Santa Clara Valley Transportation Authority
Board of Directors Committee of the Whole Meeting
(In Lieu of Administration and Finance Committee Meeting)**

Thursday, July 17, 2003

City of San Jose
801 North First Street – Room 204
San Jose, California

MEETING RECORD

1. CALL TO ORDER

The Santa Clara Valley Transportation Authority Board of Directors Committee of the Whole (COW) Meeting (In Lieu of Administration and Finance (A&F) Committee Meeting) was called to order by Board Member Williams at 12:04 p.m., San Jose City Hall, 801 North First Street – Room 204, San Jose, California.

ROLL CALL

Members Present:

Patricia Dixon
Don Gage (Vice Chairperson)
Dena Mossar
John McLemore
Joe Pirzynski
Thomas Springer
Forrest Williams
Ken Yeager

Members Absent:

Blanca Alvarado
Jim Beall (Ex-Officio)
Cindy Chavez
David Cortese
Pat Dando
Ron Gonzales
Jane P. Kennedy (Chairperson)
Francis LaPoll
Pete McHugh
Manny Valerio

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

2. PUBLIC PRESENTATIONS

Bob Blanchet, Member of Teamsters Local 287, expressed his concern and requested clarification from VTA staff regarding budget cuts to the ATC Vancom

paratransit service. Mr. Blanchet noted the impact of the budget cuts on the drivers and paratransit customers.

Board Member Yeager took his seat at 12:05 p.m. and a quorum of the Committee of the Whole was declared.

3. ORDERS OF THE DAY

Board Member Williams requested that Agenda Item 27.X., Amend Section 2-76 of the VTA Administrative Code pertaining to post employment restrictions to permit former employees to work for VTA consultants and contractors under certain conditions be added and placed on the Regular Agenda.

Board Member Williams requested that Agenda Item 27.X.X., Adopt a support position for AB 839 (Salinas), which deals with public transit security recordings be added and placed on the Regular Agenda.

M/S/C (Gage/McLemore) to accept the Orders of the Day.

CONSENT AGENDA

4. Report on Santa Clara Valley Transportation Authority Investments for the Month of April and May 2003

M/S/C (Gage/McLemore) to receive and file the Report on Santa Clara Valley Transportation Authority Investments for the Month of April and May 2003.

5. Quarterly Purchasing Report

M/S/C (Gage/McLemore) to receive and file the Quarterly Purchasing Report.

6. Contractor Pre-qualification Pilot Program Monthly Report

M/S/C (Gage/McLemore) to receive and file the Contractor Pre-Qualification Pilot Program Monthly Report.

7. Monthly Legislative Reports

M/S/C (Gage/McLemore) to receive and file the Monthly Legislative Reports.

8. Annual Renewal of Property and Casualty Insurance Coverage

M/S/C (Gage/McLemore) to receive and file the Annual Renewal of Property and Casualty Insurance Coverage Report.

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

9. Report on the Capitol Light Rail Project for the Months of May and June 2003

M/S/C (Gage/McLemore) to receive and file the Report on the Capitol Light Rail Project for the Months of May and June 2003.

10. Report on the Tasman East Light Rail Project for the Months of May and June 2003

M/S/C (Gage/McLemore) to receive and file the Tasman East Light Rail Project for the Months of May and June 2003.

11. Report on the Vasona Light Rail Project for the Months of May and June 2003

M/S/C (Gage/McLemore) to receive and file the Vasona Light Rail Project for the Months of May and June 2003.

12. Joint Powers Board Monthly Status Report

M/S/C (Gage/McLemore) to receive and file the Joint Powers Board Monthly Status Report.

13. Committee for Transit Accessibility Reports

M/S/C (Gage/McLemore) to receive and file the Committee for Transit Accessibility Reports.

14. Community Oriented Design Enhancements (CODE) Program Update - May – June 2003

M/S/C (Gage/McLemore) to receive and file Community Oriented Design Enhancements (CODE) Program Update May – June 2003.

15. Citizens Advisory Committee Re-appointments

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to approve the following re-appointments to the Citizens Advisory Committee with a term expiration of June 30, 2005: Ellen Fletcher representing the Bicycle Group (Community Interests), Mas Minami representing Senior Citizens (Community Interests), Connie Rogers representing South County Cities (City/County Grouping), Patricia Sausedo representing National Association of Industrial & Office Properties (Business and Labor), Martin B. Schulter representing Disabled Community (Community Interests), Diane Tripousis

representing City of San Jose (City/County Grouping) and Sarah Zimmerman representing South Bay Labor Council (Business and Labor).

16. Mercer Investment Consulting, Inc. Contract Extension

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to extend the existing contract with Mercer Investment Consulting, Incorporated to monitor Investment Managers' performance, provide asset allocation studies and assist in Investment Manager searches for a period of three years for an amount not to exceed \$225,000 with an option to extend for 2 years (one year at a time) at a negotiated amount.

17. Extension of Contract with Union Bank of California

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to extend the existing contract with Union Bank of California for Commercial Banking and Custodial Safekeeping Services for a period of five years for an amount not to exceed \$815,000.

18. North Division Construction Completion Design Services During Construction and Settlement Agreement

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to execute an amendment to the contract with Jacobs Engineering, Inc. for Design Services During Construction in the amount of \$99,900 for the North Division Construction Completion Project and authorize payment of \$212,000 for additional final design services for a total augmentation of \$311,900 bringing the Board authorized Jacobs Engineering Inc. contract total to \$2,645,937.

19. Contract Amendment with URS Corporation (URS) for Final Design and Design Support During Construction of I-880/Coleman Avenue Interchange Project

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to amend the contract with URS Corporation for final design and design support during construction of the I-880/Coleman Avenue Interchange Project, increasing the approved contract by \$800,000 for a new total contract value not to exceed \$8,539,322.

20. Contract Amendment with Brian Kangas Foulk (BKF) for Final Design of the Route 87 South HOV Lane Widening Project

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to approve submitting a recommendation to the Board of Directors to authorize the General Manager to amend the contract with Brian Kangas Foulk to include additional project scope for the final design of the Route 87 South HOV Lane Widening Project, increasing the existing contract by \$651,800 for a new contract value not to exceed \$8,570,743.

21. Memorandum of Understanding Relating to Participation in the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP)

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to execute a Memorandum of Understanding (MOU) with the County of Santa Clara, the City of San Jose, and the Santa Clara Valley Water District establishing the organizational framework for the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan.

22. Increase Value for On-Call Biological Resources Services Contracts

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to increase the authorization for the two task-order contracts for On-Call Biological Services by a total of \$300,000 for a new combined value of \$875,000.

23. Community Oriented Design Enhancements (CODE) Program Artist Service Agreement

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to execute a service agreement with San Jose artist Diana Pumpelly Bates in the amount of \$584,000 for design, fabrication, and installation of CODE projects for the Vasona Light Rail Project.

24. Bus Towing and Recovery Services Contract

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to approve submitting a recommendation to the Board of Directors to execute a contract with Sunnyvale Towing and Transportation, the lowest responsive and responsible bidder, for bus towing and recovery services. The term of the contract is for one year with four one-year options at an estimated cost of \$82,500 for the first year. Options years two, three, four, and five are estimated at \$85,000, \$90,000 and \$93,000 respectively.

REGULAR AGENDA

25. Valley Transportation Authority (VTA) Permit Fee Schedule

Jack J. Collins, Chief Construction Officer, provided a brief overview on the Valley Transportation Authority (VTA) Permit Fee Schedule. Mr. Collins noted that it has been five years since VTA visited its fees and charges to the private sector contractors who work around light rail or bus facilities. Mr. Collins noted the cost to VTA and added that the fees are required to locate utility or underground lines when other entities want to place their lines under VTA tracks. Mr. Collins noted that the fees suggested have doubled since what was charged five years ago. Mr. Collins noted that VTA is required to examine the bases of the costs and determine if the fees are reasonable.

Mr. Collins noted at this time VTA is losing money because VTA is not recouping the cost for permit fees at the existing fee schedules. Mr. Collins noted that minimal fees are being charged for the permits to contractors working within VTA properties and facilities or within transit related improvements. Mr. Collins noted that the recommended action will modify the existing fee schedule so that VTA can fully recover the actual permit processing cost expended. Mr. Collins noted that the State does not allow any money to be made and that VTA is only trying to recoup permit fee costs.

M/S/C (McLemore/Pirzynski) to approve submitting a recommendation to the Board of Directors to adopt a resolution modifying the existing VTA Permit Fee Schedule effective September 1, 2003, to fully recover VTA costs for issuing access and inspection permits to contractors working within VTA properties and facilities or within transit related improvements.

26. Contract Amendment with Santa Clara Valley Highway Associates (VHA) for Program Management and Construction Management Services for the 1996 Measure B Transportation Improvement Program (MBTIP)

Michael P. Evanhoe, Chief Development Officer, provided a brief overview on the Contract Amendment with Santa Clara Valley Highway Associates (VHA) for Program Management and Construction Management Services for the 1996 Measure B Transportation Improvement Program (MBTIP). Mr. Evanhoe noted that this is the contract that amends and wraps up the final efforts to move towards the December 26, 2003 wrap up of the 1996 Measure B Highway Program.

Board Member Springer queried on the cost increase from the original contract to close out the 1996 Measure B Highway Program.

Mr. Evanhoe noted that as the 1996 Measure B Highway Program has moved forward subsequent revisions have been made within the program budget. Mr. Evanhoe noted that this is the final phase of carrying the 1996 Measure B Highway Program to completion.

Board Member Springer noted funding shortages within the 1996 Measure B Highway Program and added that important projects were not being done due to the funding shortages. Board Member Springer queried on the true costs of the 1996 Measure B Program budget.

Peter M. Cipolla, General Manager, noted that VTA negotiates the rates and agreements with the contractors. Mr. Cipolla noted that the funding is already set-aside in the program budget and added that the funding is now being allocated and implemented into the program budget. Mr. Collins noted that this funding is the balance of the Construction Management Support on the 1996 Measure B Highway Program.

Board Member Springer queried on the funding amount allocated to projects. Mr. Collins noted that problems associated with the sales tax caused some projects to be deferred.

M/S/C (Pirzynski/McLemore) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to amend the contract with Santa Clara Valley Highway Associates for Program Management and Construction Management services for the 1996 Measure B Transportation Improvement Program (MBTIP) increasing the contract value by \$19,280,244 for a new total contract value not to exceed \$74,657,723 and extending the contract term through December 2006.

Board Member Dixon took her seat at 12:14 p.m.

Board Member Mossar requested that project budget status reports be brought back to Board Members for review.

27. TransLink ® Interagency Participation Agreement

George Barlow, Chief Technology Officer, provided a brief overview on the TransLink ® Interagency Participation Agreement. Mr. Barlow noted the TransLink ® is a regional transit fare payment system (smart card) for the nine County Bay Area Region. Mr. Barlow noted that the smart card will be accepted for fare payment on every participating transit vehicle at every participating transit station in the region. He noted a six-month pilot program of the TransLink ® system from February through July 2002. Mr. Barlow noted that VTA, BART, MTA, Golden Gate, AC Transit, and SamTrans are the six Charter Members of the TransLink ® Consortium. Mr. Barlow noted that other transit properties may join

as General Members and added that MTC is a member. Mr. Barlow noted that the Consortium will be managed by the TransLink ® Consortium Management Group (TMG) comprised of General Managers of the six Charter Member agencies, the Executive Director of MTC, and a representative for the General Member agencies. Mr. Barlow noted that VTA will have a voting seat on the TMG and noted VTA's cost share is estimated from \$450,000 to \$550,000 in the first year of operation.

Board Member Mossar requested an on going status report on VTA's operating cost share for the TransLink ® system.

Board Member Springer requested that staff work on the security measure issues on the monthly pass of the TransLink ® system card. Mr. Barlow noted that the security measure issues will be addressed and implemented. Mr. Barlow noted that the card will have pertinent information and a photo identification on the card.

Mr. Cipolla requested that action be deferred to the September 4, 2003 Board of Directors Regular Meeting. He noted that staff would like to wait until BART and Caltrain both approve their interaction within the Interagency Participation Agreement.

Board Member Williams noted the opportunity of future benefits in technology and noted that VTA is in an invested position that will payoff in the future.

M/S/C (McLemore/Mossar) to defer submitting a recommendation to the Board of Directors to authorize the General Manager to execute an Interagency Participation Agreement with the City and County of San Francisco, acting by and through its Municipal Transportation Agency (MTA), Bay Area Rapid Transit (BART), Golden Gate Bridge Highway and Transportation District (GGBHTD), Alameda-Contra Costa County Transit District (AC Transit), San Mateo County Transit District (SamTrans), and the Metropolitan Transportation Commission (MTC) to form a Translink ® Consortium until the September 4, 2003 Regular Board of Directors Meeting.

27.X. Amend Section 2-76 of Administrative Code pertaining to post employment restrictions

Suzanne Gifford, General Counsel, provided a brief overview on Section 2-76 of Administrative Code pertaining to post employment restrictions. Ms. Gifford noted that currently the Administrative Code prohibits former employees from working for consultants or contractors for a period of two years after leaving VTA. Ms. Gifford noted that this prohibition was a standard prevision and its intent was to prevent a conflict of interest and competitive advantage on the part of the consultants or contractors. Ms. Gifford noted that with current layoffs VTA

may have inadvertently made the restriction too restrict for former employees. Ms. Gifford noted that staff recommends that the Board of Directors amend the Administrative Code to allow former VTA employees to work for consultants or contractors within the two year prohibition window provided that the former employee does not hold a key position on a VTA project, has not previously participated in any way with developing or managing the contract, and has not held a position of substantial responsibility in the area of service to be performed under the contract.

Board Member Springer requested that “meaningful” be included and placed between any and way in Section 2-76 of the VTA Administrative Code pertaining to post employment restrictions in section b. # (2).

Ms. Gifford noted that “VTA determines” will be included and placed between where and the in Section 2-76 of the VTA Administrative Code pertaining to post employment restrictions in section b. # (1).

M/S/C (Gage/McLemore) to approve submitting a recommendation to the Board of Directors to amend Section 2-76 of the VTA Administrative Code pertaining to post employment restrictions to permit former employees to work for VTA consultants and contractors under certain conditions.

27.X.X. Legislation Positions: AB 839 (Salinas)

Kurt Evans, Government Affairs Manager, provided a brief overview on the Legislation Position: AB 839 (Salinas), which is being sponsored by the California Transit Association, called for exempting videotapes or recordings made by security cameras operated as part of a public transit system from the requirement in current law that recordings of routine video monitoring must be kept for one year before they can be destroyed. As such, AB 839 (Salinas) was identical to a measure that was approved by the Legislature last year, but vetoed by Governor Gray Davis (AB 2048). Mr. Evans noted that the amended bill does the following: 1) it requires routine videotapes or recordings made by a security camera system operated by a public transit agency to be retained for four days and 2) any security camera system purchased or installed on or after January 1, 2009, by a public transit operator must be capable of storing videotapes or recordings for at least 30 days. Mr. Evans noted that the intent of the amended bill is to establish a retention requirement in the short term for public transit operators that match the storage capabilities of the most advanced technology that is currently available in the marketplace. Mr. Evans noted that with the four day retention requirement transit agencies would not have to incur the additional costs of physically removing the data storage unit from the vehicles after each shift and downloading the information onto a central hard drive. Mr. Evans added that the amended bill encourages development of equipment with the capacity to retain recordings for longer periods of time.

Board Member Springer requested that the data storage unit be removed from each vehicle at the end of its shift and the information downloaded onto a central hard drive.

M/S/C (Gage/Pirzynski) to approve submitting a recommendation to the Board of Directors to approve submitting a recommendation to the Board of Directors to adopt a support position for AB 839 (Salinas), which deals with public transit security recordings.

28. Committee Staff Report

There was no Committee Staff Report.

29. Chairperson's Report

Board Member Williams acknowledged and thanked Board Members for their attendance and participation within the meeting.

Board Member Springer requested that the restructure of the VTA Board of Directors issue be placed on the August 7, 2003 Board of Directors Regular Meeting. Vice Chairperson Gage noted that the restructure issue will be on the August 7, 2003 Board of Directors Regular Meeting as a discussion item. Vice Chairperson Gage noted that the restructure issue will be forwarded to the Board Members for consideration at the November 6, 2003 Board of Directors Regular Meeting. Vice Chairperson Gage noted that a committee is being developed by Chairperson Kennedy to review the restructure of the VTA Board of Directors. Board Member Mossar requested that the restructure committee membership be geographically diverse.

Board Member Mossar acknowledged and thanked staff for the 2000 Measure A Ballot information provided to the Board Members for their reference.

30. Determined Consent Agenda for the August 7, 2003 Board Meeting.

CONSENT: Agenda Item #15. Approve the following re-appointments to the Citizens Advisory Committee with a term expiration of June 30, 2005: Ellen Fletcher representing the Bicycle Group (Community Interests), Mas Minami representing Senior Citizens (Community Interests), Connie Rogers representing South County Cities (City/County Grouping), Patricia Sausedo representing National Association of Industrial & Office Properties (Business and Labor), Martin B. Schulter representing Disabled Community (Community Interests), Diane Tripousis representing City of San Jose (City/County Grouping) and Sarah Zimmerman representing South Bay Labor Council (Business and Labor); **Agenda Item #16.** Authorize the General Manager to extend the existing contract with Mercer Investment Consulting, Incorporated to monitor Investment Managers' performance, provide asset allocation studies and assist in Investment Manager searches for a period of three years for an amount not to exceed \$225,000 with an option to extend for 2 years (one year at a time) at a negotiated amount; **Agenda Item # 17.** Authorize the General Manager to extend the existing contract with Union Bank of California for Commercial Banking and Custodial Safekeeping Services for a period of five years for an amount not to exceed \$815,000; **Agenda Item # 18.** Authorize the General Manager to execute an amendment to the contract with Jacobs Engineering, Inc. for Design Services During Construction in the amount of \$99,900 for the North Division Construction Completion Project and authorize payment of \$212,000 for additional final design services for a total augmentation of \$311,900 bringing the Board authorized Jacobs Engineering Inc. contract total to \$2,645,937; **Agenda Item # 19.** Authorize the General Manager to amend the contract with URS Corporation for final design and design support during construction of the I-880/Coleman Avenue Interchange Project, increasing the approved contract by \$800,000 for a new total contract value not to exceed \$8,539,322; **Agenda Item # 20.** Authorize the General Manager to amend the contract with Brian Kangas Foulk to include additional project scope for the final design of the Route 87 South HOV Lane Widening Project, increasing the existing contract by \$651,800 for a new contract value not to exceed \$8,570,743; **Agenda Item # 21.** Authorize the General Manager to execute a Memorandum of Understanding (MOU) with the County of Santa Clara, the City of San Jose, and the Santa Clara Valley Water District establishing the organizational framework for the Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan; **Agenda Item # 22.** Authorize the General Manager to increase the authorization for the two task-order contracts for On-Call Biological Services by a total of \$300,000 for a new combined value of \$875,000; **Agenda Item # 23.** Authorize the General Manager to execute a service agreement with San Jose artist Diana Pumpelly Bates in the amount of \$584,000 for design, fabrication and installation of CODE projects for the Vasona Light Rail Project; **Agenda Item # 24.** Authorize the General Manager to execute a contract with Sunnyvale Towing and Transportation, the lowest responsive and responsible bidder, for bus towing and recovery services. The term of the contract is for one year with four one-year options at an estimated cost of \$82,500 for the first year. Options years two,

three, four and five are estimated at \$85,000, \$90,000 and \$93,000 respectively; **Agenda Item # 25.** Adopt a resolution modifying the existing VTA Permit Fee Schedule effective September 1, 2003 to fully recover VTA costs for issuing access and inspection permits to contractors working within VTA properties and facilities or within transit related improvements; **Agenda Item # 26.** Authorize the General Manager to amend the contract with Santa Clara Valley Highway Associates for Program Management and Construction Management services for the 1996 Measure B Transportation Improvement Program (MBTIP) increasing the contract value by \$19,280,244 for a new total contract value not to exceed \$74,657,723 and extending the contract term through December 2006; **Agenda Item # 27.X.** Amend Section 2-76 of the VTA Administrative Code pertaining to post employment restrictions to permit former employees to work for VTA consultants and contractors under certain conditions and **Agenda Item # 27.X.X.** Adopt a support position for AB 839 (Salinas), which deals with public transit security recordings.

REGULAR: None

31. Announcements

There were no Announcements.

32. ADJOURNMENT

On order of Board Member Williams, there being no objection, the meeting was adjourned at 1:12 p.m.

Respectfully submitted,

Michelle Garza, Board Assistant
VTA Board of Directors