



ADMINISTRATION & FINANCE COMMITTEE

Thursday, September 16, 2004

MINUTES

1. CALL TO ORDER

The Regular Meeting of the Administration and Finance Committee (A&F) was called to order at 12:08 p.m. by Chairperson Williams in Room 106 E, City of San Jose, 801 North First Street, San Jose, California.

ROLL CALL

Members Present

David Casas, Vice Chairperson
Patricia Dixon
Don Gage
Forrest Williams, Chairperson

Members Absent

None

Alternates Present

None

Alternates Absent

Dennis Kennedy
Breene Kerr

* Alternates do not serve unless participating as a Member.

A quorum was present.

2. PUBLIC PRESENTATIONS

There were no Public Presentations.

3. ORDERS OF THE DAY

Chairperson Williams noted the exchange of order with Agenda Item #16 and Agenda Item #17 in the Administration and Finance Committee Meeting Agenda Packet. Chairperson Williams noted Agenda Item #16., Reaffirm the Santa Clara Valley Transportation Authority ("VTA") Investment Policy on Unrestricted and Restricted Funds and the delegation of authority (Contreras) and Agenda Item #17., Adopt an

amended permit fee schedule and policy adding charges for Restricted Area Access Permits, allowing the General Manager to enter into mutual fee waiver agreements with other public entities, and exempting projects undertaken pursuant to VTA cooperative agreements from fee collection requirements (Collins).

Vice Chairperson Casas requested that Agenda Item # 11., Authorize the General Manager to execute a contract with AT & T Wireless (AT&T) for one year to provide cellular telephone service, with an option to extend the contract on an annual basis for four additional years. This contract will not exceed \$230,000 for the first year with an escalation rate of 2 percent for each of the next four years, for a total contract amount not to exceed \$1,196,930 over the five-year period be removed from the Consent Agenda and placed on the Regular Agenda.

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

CONSENT AGENDA

4. Regular Meeting Minutes of August 19, 2004

M/S/C (Gage/Dixon) to approve the Regular Meeting Minutes of August 19, 2004.

5. Report on Santa Clara Valley Transportation Authority Investments for the Month of July 2004

M/S/C (Gage/Dixon) to receive and file the Report on Santa Clara Valley Transportation Authority Investments for the Month of July 2004.

6. Monthly Legislative Reports

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

7. 2004 Quarterly Attendance Report

M/S/C (Gage/Dixon) to receive and file the 2004 Quarterly Attendance Report.

8. Citizens Advisory Committee Appointment

M/S/C (Gage/Dixon) to approve submitting a recommendation to the Board of Directors to ratify the appointment of Margaret Okuzumi to the Citizens Advisory Committee position representing the North County Cities.

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

9. Reimbursement Resolution

M/S/C (Gage/Dixon) to approve submitting a recommendation to the Board of Directors to adopt a resolution to preserve the right to use tax-exempt bond proceeds to reimburse the Santa Clara Valley Transportation Authority (VTA) for costs incurred for capital projects and equipment purchases, if VTA, at a future date, decides to issue bonds.

10. Contract Award for Substance Abuse Professional (SAP) Services

M/S/C (Gage/Dixon) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to approve the award of a contract to Free Life Enterprises for Substance Abuse Professional Services for five years. The contract value for the five-year period is \$400,000.

11. (Removed from the Consent Agenda and placed on the Regular Agenda.)

Authorize the General Manager to execute a contract with AT & T Wireless (AT&T) for one year to provide cellular telephone service, with an option to extend the contract on an annual basis for four additional years. This contract will not exceed \$230,000 for the first year with an escalation rate of two percent for each of the next four years, for a total contract amount not to exceed \$1,196,930 over the five-year period.

12. Renewal of Benefit Contracts

M/S/C (Gage/Dixon) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to renew benefit contracts with Kaiser, PacifiCare, Valley Health Plan, Delta Dental, Pacific Union Dental for VTA employees and retirees for calendar year 2005. Authorize the General Manager to execute a contract with Custom Benefits Administrators for one year for flexible spending account plan administration and Metropolitan Life Insurance Company for life, accidental death and dismemberment, and long-term disability insurance for three years.

13. Preparation of Environmental Compliance Documents for Highway, Transit and Facility Projects

M/S/C (Gage/Dixon) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to execute task order contracts for the preparation of environmental compliance documents and other environmental support services for highway, transit and related facility projects with the following firms as funds become available for each project. Each contract will be for a maximum three-year period with an option for two additional years with a total value not to exceed \$2,400,000 for all agreements.

14. Contract Amendment with Mark Thomas & Co. (MTCO) for Final Design and Design Support During Construction of the River Oaks Bicycle and Pedestrian Bridge Project

M/S/C (Gage/Dixon) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to amend the contract with Mark Thomas & Co. for final design and design support during construction of the River Oaks Bicycle and Pedestrian Bridge, increasing the approved contract value by \$52,500 for a new total contract value not to exceed \$570,000.

The Agenda was taken out of order.

REGULAR AGENDA

11. Cellular Telephone Service Contract Award

Vice Chairperson Casas queried about the contract and whether staff had discussions with AT&T Wireless to allow them to locate some of their cellular sites on VTA property. Vice Chairperson Casas noted that cellular sites generate about \$.5 million per site; therefore, revenue generation per antennae site is significant and noted if staff could forestall the costs of a contract of having to pay for services with the agreement for the location, is a reasonable solution. George Barlow, Chief Technology Officer, responded VTA has a process established regarding cellular sites and added that VTA has AT&T and other cellular companies operating cellular sites on VTA properties. Mr. Barlow noted that VTA has a process and does receive some income from cellular sites located on VTA property.

Vice Chairperson Casas noted that generally cellular site payments are substantially low; therefore, he wanted to ensure that staff is moving forward and keeping an eye on potential revenue generation that VTA can receive from the cellular antennae sites. Vice Chairperson Casas noted his involvement in a cellular taskforce in the City of Los Altos and offered to provide information from that experience. Vice Chairperson Casas added there are many opportunities to partner with AT&T Wireless to reduce some of the contractual costs and services. Mr. Barlow responded that staff is working with AT&T as well as with other cellular companies to ensure fair opportunities for all wireless providers. Kaye L. Evleth, Chief Administrative Officer, thanked Vice Chairperson Casas for the offer to provide information assistance to staff.

M/S/C (Gage/Dixon) to approve on a vote of 3 ayes to 1 noes to 0 abstentions to submit a recommendation to the Board of Directors to authorize the General Manager to execute a contract with AT & T Wireless (AT&T) for one year to provide cellular telephone service, with an option to extend the contract on an annual basis for four additional years. This contract will not exceed \$230,000 for the first year with an escalation rate of two percent for each of the next four years, for a total contract amount not to exceed \$1,196,930 over the five-year period. Vice Chairperson Casas opposed.

15. **Contract Services for VTA Community Outreach/Public Education/Marketing Program**

Ms. Gonot provided a brief overview on the Contract Services for VTA Community Outreach/Public Education/Marketing Program. Ms. Gonot commented that this item was deferred from the September 2, 2004 VTA Board of Directors Regular Meeting and is coming back to Administration and Finance Committee for recommendation. It will go to the other two Standing Committees as a discussion item. Ms. Gonot noted that the previous memorandum is attached to provide clarification speaking to the San Jose Mercury New article as well as provide some definition of what Federal Transit Administration (FTA) expects regarding public involvement from the capital projects. Ms. Gonot referenced Page 4 regarding FTA recommended coordination and referenced Page 5 regarding the selection of Burson – Marsteller Team.

Member Dixon queried when the memorandum was presented in August and if staff had the detailed information regarding the public relations firm and their subcontractors. Ms. Gonot responded that staff has the detailed information; however, did not include the detailed information within the August memorandum. Member Dixon noted that it would have been helpful to have all the detailed information included in the beginning.

Member Dixon noted VTA's financial issues at this time and queried on the validity of a three-year contract versus a one-year contract with options. Member Dixon queried about a three-year contract and a price breakdown. Ms. Gonot responded that the three-year contract takes VTA through the preliminary engineering phase of Bay Area Rapid Transit (BART) and Downtown East Valley (DTEV) projects. Ms. Gonot added that the three-year contract is a good breaking point for VTA and staff could then move into final design with DTEV with funding received from operating revenues for final design with DTEV. Ms. Gonot noted that the Board of Directors could choose to restructure the contract differently and further noted Congestion Management Programming and Planning (CMPP) Committee's request to bringing back options to the Board.

Member Dixon queried if the options would reduce the costs. Ms. Gonot responded that staff has a breakdown for each of the activities and allocated amounts for each of the years and noted that the last three-years of the contract is the bulk of the funds because of final engineering and early construction on BART and DTEV projects. Ms. Gonot noted that in those cases the activities for those projects increase for outreach and other projects, such as High Occupancy Vehicle (HOV) lanes would reach a higher peak. Ms. Gonot added that within the first three-years the cost is approximately \$4 million and the last two-years is \$3.7 million and noted that staff will provided a breakdown to the Board of Directors.

Member Dixon noted that her overall impression when the memorandum was presented in August that the plan was supposed to be the major public relations marketing plan for the entire VTA organization. Member Dixon noted the public's concern regarding the public relations marketing plan and that it is going through the back door with the focus

on BART. Member Dixon noted that the public's questions and concern are legitimate and added that VTA did not do its best in putting the right information out to begin with.

Member Gage noted confusion regarding the expenditure of the money and added that many people associated the expenditure of the money to be on existing transit and rail services. Member Gage requested a breakdown regarding the programs and where the \$7.7 million will be implemented. Ms. Gonot responded and noted CMPP Committee's request for a breakdown and noted that staff will provide a breakdown to the Board of Directors.

Member Gage requested information regarding the total amount of funds allocated from 2000 Measure A for this program and whether there was plans for additional funding from VTA's General Fund Account for the Community Outreach/Public Education/Marketing Program.

Vice Chairperson Casas noted the importance of the timing of the money, source of the money and where the deliverables fall within the timing. Vice Chairperson Casas requested information regarding the funding sources. Ms. Gonot responded that staff will provide the fund sources for each of the areas and noted a limited amount would be from the operating budget because much of it is covered in 2000 Measure A.

Roger Contreras, Chief Financial Officer, noted that \$1.1 million is coming from VTA's operating budget and the rest of the funding is coming from 2000 Measure A as well as other capital projects.

Member Gage suggested moving the item forward to the Board of Directors without a recommendation from the Committee for Board level discussion and consideration.

Vice Chairperson Casas queried on the size of Burson-Marsteller. Ms. Gonot responded that they are very large; however, staff will be working with two of their smaller offices located in San Francisco and Sacramento.

Vice Chairperson Casas queried on the relationship between Burson-Marsteller and BKSH Associates and how closely aligned are the subsidiaries. Kurt Evans, Government Affairs Manager, responded and noted a delineation between BKSH Associates and Burson-Marsteller and added that BKSH Associates is owned by Burson-Marsteller. Mr. Evans added that each corporation contains their own separate staff; therefore, VTA does not interact with any staff member from Burson-Marsteller in terms of lobbying contracts. Mr. Evans continued and noted that BKSH Associates was set up in a partnership involving four individuals in a lobbying firm. Mr. Evans continued that several years later Burson-Marsteller incorporated BKSH Associates into their corporate structure but noted there is a delineation between the corporate office and BKSH Associates. Mr. Evans added that VTA staff does not deal with any staff from Burson-Marsteller.

Vice Chairperson Casas queried when the corporation partnership was formed with BKSH Associates. Mr. Evans responded that BKSH Associates partnership was formed in the late 1990's.

Vice Chairperson Casas queried when Measure A was passed. Member Gage responded that Measure A was passed in 2000.

Vice Chairperson Casas noted the reason for his questions is to understand the response to the news article regarding the relationship line between the corporations. Mr. Evans responded and stated that a relationship exists financially but no personal relationship exists.

Vice Chairperson Casas noted significant issues regarding ethics and relationships and that he wants to ensure that staff has done the due diligence necessary to demonstrate that there are no improprieties associated with the contracts. Ms. Gonot responded that CMPP Committee requested the Solicitation Summary and process regarding the Request for Proposals (RFP) received on the contract and the information will be provided to the Board Members.

Vice Chairperson Casas queried on the scoring process and specific areas of ranking regarding the selection. Ms. Gonot responded that the Solicitation Summary contains the scoring and ranking information. Suzanne B. Gifford, Legal Counsel, added that the report is very comprehensive. Ms. Gonot added that the RFP for this contract was released with three problem statements and required the contractors provide a work scope and budget when they submitted their bids.

Vice Chairperson Casas queried about the selection panel composition and the questions asked. Ms. Gonot responded that the Solicitation Summary includes who was on the selection panel and the questions asked.

Vice Chairperson Casas queried on how the contractors were scored and if the ranking was both quantitative and qualitative and if the information is in the summary. Ms. Gifford responded yes and added that the Solicitation Summary includes the information.

Vice Chairperson Casas noted that the Solicitation Summary appears to be a very comprehensive report and added that it would have been handy to have.

Member Dixon noted VTA's situation at this time and the importance to be beyond scrutiny.

Vice Chairperson Casas queried when the Solicitation Summary report will be provided to the Board Members. Ms. Gonot responded that the information is being compiled and it will be available within a week and a half.

Vice Chairperson Casas asked if the document is currently a public document. Ms. Gifford responded yes that the report is a public document and added that staff has been compiling all the public records in response to a request for information.

Vice Chairperson Casas queried on the marketing contract. Ms. Gonot responded that the marketing contract will be cost plus fixed fee specific task oriented projects where VTA staff and the contractor negotiate on a price to complete specific tasks.

Vice Chairperson Casas inquired on the Federal Transit Administration (FTA) requirements. Ms. Gonot responded that staff has researched the material; however, was unable to locate requirements that specifically deal with public involvement regarding the development activities on a project in a capital program. Ms. Gonot noted that significant public involvement process is required through project development or preliminary engineering.

Chairperson Williams noted a request for a breakdown of what was mandatory as a result of 2000 Measure A. Chairperson Williams noted the public's concern regarding VTA's financial problems and intention to spend funding on marketing and education. Chairperson Williams added that it would be helpful if staff provided definition and clarification regarding the elements of a project that need to be completed and are mandatory. Ms. Gonot responded that a breakdown regarding year, project, activities, and price sources will be provided; however, noted the mandatory versus the non-mandatory is difficult.

Chairperson Williams agreed with Member Gage's suggestion to forward the item without a recommendation from the Committee to the Board for further discussion and consideration.

Member Gage requested the item be forwarded to the October 7, 2004 VTA Board of Directors Regular Meeting without a recommendation from the Committee for Board discussion and consideration with the caveat that all the things discussed at this Committee Meeting will be added.

Vice Chairperson Casas noted the due diligence of the decision-making process and noted that it is absolutely appropriate. Vice Chairperson Casas added that detail summarizations should be applied to all the decisions that require Board action from a financial standpoint and noted that the clarity and transparency of the data will assist in making better decisions. Vice Chairperson Casas noted the importance to apply the detail process and utilize it with other financial decisions to ensure success in the future.

Chairperson Williams noted that this will be a good test and added that it is important to explain and show what is crucial and mandatory for the projects.

M/S/C (Gage/Dixon) to forward the item without a recommendation from the Committee to the Board of Directors for consideration at the October 7, 2004 VTA Board

of Directors Regular Meeting: Authorize the General Manager to execute a contract with Burson – Marsteller for community outreach, public education, and marketing services, for an amount not to exceed \$7,700,000. The contract will be for an initial three-year period with two optional one-year extensions.

16. Reaffirm the Investment Policy on Unrestricted and Restricted Funds

Mr. Contreras provided a brief overview on the Reaffirm the Investment Policy on Unrestricted and Restricted Funds. Mr. Contreras commented that the Board of Directors in accordance with California Government Code Section 53646 (a) is required to reaffirm the investment policy and reauthorize the delegation of authority to the General Manager to place investments on behalf of VTA. Mr. Contreras noted the investment policy objectives in order of priority are safety, liquidity, and return on investment and added the policy does not include any changes from the policy that was approved last year by the Board.

M/S/C (Gage/Dixon) to approve submitting a recommendation to the Board of Directors to reaffirm the Santa Clara Valley Transportation Authority (“VTA”) Investment Policy on Unrestricted and Restricted Funds and the delegation of authority.

17. Valley Transportation Authority (VTA) Permit Fee Policy

Jeff Funk, Construction Deputy Director, provided a brief overview on the Valley Transportation Authority (VTA) Permit Fee Policy. Mr. Funk noted that the Board of Directors adopted the last incorporated change for the construction access permit in 2003. Mr. Funk added that the proposed adoption would implement a couple of changes, such as, update the minimum rates that VTA charges for construction access permits and update the connection with restricted access permits, which have not been collected before. Mr. Funk noted the Ad-Hoc Financial Stability Committee’s recommendations to ensure recovery of costs that are caused by outside actions; therefore, staff determined that the restricted access permits incur additional costs to VTA and are worth collecting. Mr. Funk noted that the proposed adoption would also grant authority to the General Manager to enter into mutual fee waiver agreements with other public agencies.

Member Dixon queried if staff is internally tracking the funds recovered. Mr. Contreras responded that staff will be able to track from year to year all the changes being implemented.

Board Member Dixon queried about the Board Members being provided with an update regarding the implementation of recommendations from the Ad-Hoc Financial Stability Committee. Ms. Gonot responded that staff has been implementing the Ad-Hoc Financial Stability Committee’s 19 recommendations and added that updated information will be provided to the Board Members.

Member Dixon noted that the information would be helpful, especially as VTA starts the public education in the community because VTA has made many positive changes. Member Gage agreed that VTA has made many changes. Member Dixon noted that VTA has made several changes within the organization and implemented many of the recommendations from the Ad-Hoc Financial Stability Committee.

Chairperson Williams queried on the motivation for the restricted access fee. Mr. Funk responded that staff updated the expected minimum fees for construction access based upon labor and restricted access fees were added. Mr. Funk noted that restricted access fees were never requested; however, noted that the permits for the restricted access can incur sizable costs.

Chairperson Williams queried on the frequency of occurrence for restricted access. Mr. Funk responded that primarily utility companies need the restricted access for safety purposes and added the frequency of occurrence is enough that it is worth the time to collect the funds.

M/S/C (Dixon/Gage) to approve submitting a recommendation to the Board of Directors to adopt an amended permit fee schedule and policy adding charges for Restricted Area Access Permits, allowing the General Manager to enter into mutual fee waiver agreements with other public entities, and exempting projects undertaken pursuant to VTA cooperative agreements from fee collection requirements.

18. Propositions 68 and 70

Mr. Evans provided a brief overview on Propositions 68 and 70. Mr. Evans commented on AB 687 (Nunez), which is part of the FY 2005 State Budget that the Legislature passed and the Governor signed into law. Mr. Evans noted that this bill did two things: 1) ratified gaming compacts that the administration had previously negotiated with five Native American tribes and 2) authorized the State to issue up to \$1.5 billion in bonds in FY 2005 that will be backed by the revenues that the Native American tribes would pay the State for the privilege of doing casino-style gambling in California. Mr. Evans noted that the bond proceeds would be used to begin to repay some of the \$3.3 billion, which has been loaned to the General Fund from various transportation accounts to balance the State Budget deficit. Mr. Evans referenced a chart in the memorandum that illustrates and summarizes the distribution of the bond proceeds to the State Highway Account, Traffic Congestion Relief Program (TCRP), Public Transportation Account, and Local Streets and Roads; however, noted that both Propositions 68 and 70 must be defeated in November. Mr. Evans noted if either one of these propositions passes the five gaming compacts are null and void; therefore, the bonds do not get issued and the proceeds are lost for transportation. Mr. Evans noted that staff recommends opposing both Propositions 68 and 70 ballot measures.

Member Gage noted that the Santa Clara County Board of Supervisors opposed Propositions 68 and 70. Chairperson Williams noted that the City of San Jose will oppose Propositions 68 and 70.

M/S/C (Gage/Casas) to approve submitting a recommendation to the Board of Directors to adopt an oppose position for Propositions 68 and 70, two competing measures appearing on the November 2004 general election ballot relating to the expansion of casino-style gambling across California.

OTHER ITEMS

19. Committee Work Plan

On order of Chairperson Williams, there being no objection, the Committee reviewed the Committee Work Plan.

20. Committee Staff Report

There was no Committee Staff Report.

21. Chairperson's Report

There was no Chairperson's Report.

22. Determine Consent Agenda for the October 7, 2004 Board Meeting

CONSENT: Agenda Item #8., Ratify the appointment of Margaret Okuzumi to the Citizens Advisory Committee position representing the North County Cities; **Agenda Item #9.**, Adopt a resolution to preserve the right to use tax-exempt bond proceeds to reimburse the Santa Clara Valley Transportation Authority (VTA) for costs incurred for capital projects and equipment purchases, if VTA, at a future date, decides to issue bonds; **Agenda Item #10.**, Authorize the General Manager to approve the award of a contract to Free Life Enterprises for Substance Abuse Professional Services for five years. The contract value for the five-year period is \$400,000; **Agenda Item #11.**, Authorize the General Manager to execute a contract with AT & T Wireless (AT&T) for one year to provide cellular telephone service, with an option to extend the contract on an annual basis for four additional years. This contract will not exceed \$230,000 for the first year with an escalation rate of two percent for each of the next four years, for a total contract amount not to exceed \$1,196,930 over the five-year period; **Agenda Item #12.**, Authorize the General Manager to renew benefit contracts with Kaiser, PacifiCare, Valley Health Plan, Delta Dental, Pacific Union Dental for VTA employees and retirees for calendar year 2005. Authorize the General Manager to execute a contract with Custom Benefits Administrators for one year for flexible spending account plan administration and Metropolitan Life Insurance Company for life, accidental death and dismemberment, and long-term disability insurance for three years; **Agenda Item #13.**, Authorize the General Manager to execute task order contracts for the preparation of environmental compliance documents and other environmental support services for highway, transit and related facility projects with the following firms as funds become

available for each project. Each contract will be for a maximum three-year period with an option for two additional years with a total value not to exceed \$2,400,000 for all agreements; **Agenda Item #14.**, Authorize the General Manager to amend the contract with Mark Thomas & Co. for final design and design support during construction of the River Oaks Bicycle and Pedestrian Bridge, increasing the approved contract value by \$52,500 for a new total contract value not to exceed \$570,000; **Agenda Item #16.**, Adopt an amended permit fee schedule and policy adding charges for Restricted Area Access Permits, allowing the General Manager to enter into mutual fee waiver agreements with other public entities, and exempting projects undertaken pursuant to VTA cooperative agreements from fee collection requirements; **Agenda Item #17.**, Reaffirm the Santa Clara Valley Transportation Authority (“VTA”) Investment Policy on Unrestricted and Restricted Funds and the delegation of authority; and **Agenda Item #18.**, Adopt an oppose position for Propositions 68 and 70, two competing measures appearing on the November 2004 general election ballot relating to the expansion of casino-style gambling across California.

REGULAR: Agenda Item # 15., Forwarded to the Board of Directors without a recommendation from the Committee: Authorize the General Manager to execute a contract with Burson – Marsteller for community outreach, public education, and marketing services, for an amount not to exceed \$7,700,000. The contract will be for an initial three-year period with two optional one-year extensions.

23. Announcements

Vice Chairperson Casas queried about the VTA Transit Operating and Capital Scenarios and when the scenarios would be presented to the Board of Directors for review and comment. Ms. Gonot responded that staff will present the scenarios at the October 1, 2004 VTA Board of Directors Workshop Meeting.

Chairperson Williams announced the 85/101 Interchange Opening Ribbon Cutting Ceremony scheduled for Monday, September 20, 2004, at 10:30 a.m. held at the Caltrans Maintenance Facility.

24. ADJOURNMENT

On order of Chairperson Williams, there being no objection, the meeting was adjourned at 12:58 p.m.

Respectfully submitted,

Michelle M. Garza, Board Assistant
VTA Board of Directors
