



ADMINISTRATION & FINANCE COMMITTEE

Thursday, January 18, 2007

MINUTES

1. CALL TO ORDER

The Regular Meeting of the Administration and Finance Committee (A&F) was called to order at 12:05 p.m. by Chairperson Williams in Room 157, County Government Center, 70 West Hedding Street, San Jose, California.

ROLL CALL

Members Present

Breene Kerr, Vice Chairperson
Forrest Williams, Chairperson

Members Absent

Don Gage
San Jose Representative

Alternates Present

Pete McHugh

Alternates Absent

Dominic Caserta
Judy Chirco

* Alternates do not serve unless participating as a Member.

A quorum was present.

Chairperson Williams removed the following Agenda Items from the Agenda: Agenda Item #2., Closed Session and Agenda Item #3., Closed Session Report.

2. CLOSED SESSION

Conference with Labor Negotiators
[Government Code Section 54957.6]

VTA Designated Representatives:

Roger Contreras, Chief Financial Officer
Bill Lopez, Chief Administrative Officer
Robert Escobar, Manager, Office of Employee Relations

Employee Organization:

American Federation of State, County, and Municipal Employees (AFSCME)

There was no Closed Session.

3. CLOSED SESSION REPORT

There was no Closed Session Report.

4. PUBLIC PRESENTATIONS

Martin Bishop, Interested Citizen, requested that the Administration and Finance (A&F) Committee agendaize his presentation of a new type of mitigation restraint device at its February 15, 2007 Meeting. Mr. Bishop urged the Committee to revisit the current four-way Mandatory Securement Policy through a financial impact study and to consider a new type of mitigation restraint device.

Chairperson Williams responded that staff is currently working on data measurements related to the implementation of VTA Board of Directors approved Q'Straint System restraint system for VTA's bus vehicles. Chairperson Williams requested that Mr. Bishop forward his data to staff.

Vice Chairperson Kerr stated that the VTA Board of Directors has already approved the Q'Straint System restraint system and the VTA Board of Directors will receive a report on the implementation of the program within a year. The Board will then review the data to determine the success of the new program. Vice Chairperson Kerr stated that he would not support the request to agendaize this item for the February 15, 2007 A&F Committee Meeting.

Alternate Board Member McHugh stated that the VTA Board of Directors will monitor the program implementation and based on the data measurements will make a determination regarding the program.

Chairperson Williams stated that the A&F Committee would not support the request to agendaize the item and would continue to monitor the program. Chairperson Williams stated that the VTA Board of Directors is not in the research and design process.

5. ORDERS OF THE DAY

There were no Orders of the Day.

CONSENT AGENDA

6. Regular Meeting Minutes of November 16, 2006

M/S/C (McHugh/Kerr) to approve the Regular Meeting Minutes of November 16, 2006.

7. Regular Meeting Minutes of December 21, 2006

M/S/C (McHugh/Kerr) to approve the Regular Meeting Minutes of December 21, 2006.

8. **Report on Santa Clara Valley Transportation Authority Investments for the month of November 2006**

M/S/C (McHugh/Kerr) to receive the Report on Santa Clara Valley Transportation Authority Investments for the month of November 2006.

9. **Monthly Legislative History Matrix**

M/S/C (McHugh/Kerr) to receive the Monthly Legislative History Matrix.

10. **2007 Administration and Finance Committee (A&F) Meeting Schedule**

M/S/C (McHugh/Kerr) to approve the 2007 Administration and Finance Committee Meeting Schedule.

REGULAR AGENDA

11. **2007 Federal Legislative Program**

Kurt Evans, Government Affairs Manager, provided a brief overview of the 2007 Federal Legislative Program. Mr. Evans commented that the VTA Board of Directors annually adopts a Federal Legislative Program to provide direction for its legislative and policy activities in Washington, D.C. Mr. Evans continued that the 2007 State Legislative Program is divided into the following 10 sections: 1) Federal Transportation Appropriations, 2) Highway Trust Fund, 3) Public Transit Security, 4) New Starts Program, 5) Small Starts Program, 6) High-Occupancy Toll Lanes, 7) Lease/Leaseback Transactions, 8) Energy, 9) Amtrak, and 10) High-Speed Rail.

Mr. Evans reported that every year Congress adopts appropriations bills and the transportation measures provide the legal authority for federal agencies to spend funding during the upcoming fiscal year for their programs.

Mr. Evans commented on the FY 2008 Federal Transportation Appropriations, noting that VTA will support a minimum appropriations level for federal surface transportation programs equal to the guaranteed spending levels authorized in Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

VTA will advocate for the highest possible levels of funding for individual programs within the highway and public transit titles of SAFETEA-LU including: the Urbanized Area (UZA) Formula Program; the New Starts, Small Starts, Fixed Guideway Modernization, and Bus/Bus Facilities Programs; the Job Access/Reverse Commute and New Freedom Programs; the Surface Transportation Program (STP); and the Congestion Mitigation and Air Quality Improvement Program (CMAQ).

Mr. Evans reported that VTA will advocate to help ensure that appropriations are allocated according to the program structure contained in SAFETEA-LU and seek federal appropriations in FY 2008 for the Bus Rapid Transit (BRT) Corridor Alternatives

Analysis; Advanced Zero Emission Bus (ZEB) Demonstration Program; Rapid 522 Capital Improvements; Highway Occupancy Toll (HOT) Lane Demonstration Project; and the Palo Alto Intermodal Transit Center.

Mr. Evans continued that VTA will work with the American Public Transportation Association (APTA), American Association of State Highway and Transportation Officials (AASHTO), and other relevant stakeholder groups to communicate the need for sustained federal investment in public transit and additional highway capacity, and to address the projected shortfall in the Highway Trust Fund.

Mr. Evans commented on Public Transit Security, noting that VTA will support legislation to create a new federal program to fund efforts to enhance the security and safety of the nation's public transit systems.

Mr. Evans commented on the New Starts Program, noting that VTA will partner with the New Starts Working Group, a coalition that represents New Starts project sponsors in Washington, D.C., on advocacy efforts to ensure that FTA is implementing the program consistent with the provisions of SAFETEA-LU and the intent of Congress. VTA will support efforts to ensure that FTA is utilizing a multi-measure approach with regard to evaluating New Starts projects consistent with congressional intent and not an approach under which a single criterion can determine a project's overall rating or whether it is recommended for funding.

Mr. Evans commented on the Small Starts Program, noting that VTA will support that the program be consistent with the provisions of SAFETEA-LU to ensure that the evaluation and rating process places an emphasis on transit-supportive land use and impact on local economic development and cost effectiveness.

Vice Chairperson Kerr queried about the Dumbarton Rail project and the possibility of utilizing a temporary Bus Rapid Transit (BRT) over the same route. Mr. Evans responded that the Small Starts Program is geared toward projects with total costs less than \$250 million.

Mr. Evans commented on the High Occupancy Toll (HOT) Lanes, noting that a HOT Lane is a carpool lane that permits a single occupant vehicle to use the carpool lane for a fee that will fluctuate by time of day or level of congestion. The HOT Lane fee is set at such a level to ensure that the lane never becomes too congested in order to provide a timesavings benefit to carpoolers or those paying the fee. The revenue generated by the fee could be used to operate and maintain the highway facility, provide enforcement for the HOT Lane, improve the highway corridor, and increase public transit service in the corridor.

Mr. Evans reported that under the Tax Increase Prevention and Reconciliation Act (TIPRA) of 2005, the U.S. Treasury Department could require VTA and other public transit agencies, which have previously entered into tax-advantaged leasing arrangements with the private sector to pay excise taxes on the proceeds received from the transactions.

Mr. Evan noted that VTA will work with APTA and other impacted public transit agencies to ensure that the Treasury Department does not retroactively impose an excise

tax on the proceeds of tax-advantaged leasing arrangements that were entered into prior to the enactment of the 2004 American Jobs Creation Act. If the outcome of the Treasury Department's rulemaking regarding the tax-advantaged leasing arrangements is unfavorable then VTA will work with APTA and other impacted public transit agencies to pursue legislation to fix the problem.

Mr. Evan commented on the Energy Policy Act (EPAAct) of 2005, which addresses all aspects of energy supply and demand and represents the first comprehensive, long-range, national energy policy in a decade. The EPAAct created a competitive grant pilot through the U.S. Department of Energy's Clean Cities Program to provide \$200 million for up to 30 geographically dispersed grants to state and local governments, and public transit agencies. The EPAAct authorized \$1.125 billion from FY 2007 – FY 2010 for a separate program to fund demonstration projects involving fuel cell and hydrogen-based energy technologies.

Mr. Evans noted that VTA will generally advocate for maximum funding of EPAAct programs and look for opportunities through the Department of Energy to fund VTA's Advanced ZEB Demonstration Program.

Mr. Evans commented on the Amtrak reauthorization plan, which ends Amtrak's national route network. He noted that the plan creates a system in which states and local communities will have the responsibility to determine the rail services that will operate within their areas and use state funds. The Plan will replace federal subsidy payments with direct federal matches for capital investments paid directly to states and multi-state compacts.

Mr. Evans noted that Amtrak would transition over time into these three entities: a private passenger rail company, a private rail infrastructure company, and the National Passenger Rail Corporation. The current Amtrak system is an essential network that supports the development and operation of intercity rail, high-speed rail, commuter rail, and other passenger rail services.

Mr. Evans continued that any changes to Amtrak's institutional structure must protect the integrity of the network and honor existing contracts, commitments, financial arrangements, and existing service contracts executed with passenger rail operators, such as the Caltrain Joint Powers Board and the Capitol Corridor Joint Powers Authority in the San Jose-Oakland-San Francisco Bay Area.

Alternate Board Member McHugh queried about the Amtrak section of the Legislative Program and stressed the importance of High-Speed Rail. Mr. Evans responded that the Amtrak section states the importance to fund Amtrak but that the funds should not come from programs that fund public transit needs.

Chairperson Williams inquired about FTA New Starts Program funding related to the BART project. Mr. Evans responded that VTA is making progress with the BART project, noting that VTA staff met with FTA staff last week regarding modeling issues related to the BART project, which the FTA approved.

Mr. Evans stated that VTA is working with the FTA to bring project issues to closure to move the BART project forward.

Vice Chairperson Kerr queried about FTA's attitude towards allocating additional funds towards alternative fuel and hybrid project programs. Mr. Evans responded that the EPAct was created to address all aspects of energy supply and demand issues.

Mr. Evans commented that the EPAct created a competitive grant pilot through the U.S. Department of Energy's Clean Cities Program to provide \$200 million for up to 30 geographically dispersed grants to state and local governments, and public transit agencies for acquiring alternative fuel, hybrid, or fuel cell vehicles; installing or acquiring infrastructure that directly supports alternative fuel, hybrid or fuel cell vehicles including fueling stations and other support equipment; and operating and maintaining the infrastructure and equipment.

Mr. Evans stated that the EPAct authorized \$1.125 billion from FY 2007 through FY 2010 for a separate program to fund demonstration projects involving fuel cell and hydrogen based energy technologies. Mr. Evans stated that there are new programs that have created new additional funding for these type of alternative fuel, hybrid or fuel cell project programs.

Mr. Bishop commented that he has extensive experience dealing with regulations and queried about the possibility of seeking a waiver from FTA Policy regarding the two-inch requirement related to the Securement of Mobility Devices. Mr. Bishop pledged his commitment to work collaboratively with VTA to address issues related to the Mandatory Securement Policy.

M/S/C (McHugh/Kerr) to approve submitting a recommendation to the Board of Directors to approve the 2007 Federal Legislative Program for the Santa Clara Valley Transportation Authority (VTA).

12. **Resolution of Necessity for the State Route 152 B-1 Improvement Project Property Owned by Gilroy Energy Center, LLC**

M/S/C (McHugh/Kerr) to approve submitting a recommendation to the Board of Directors to adopt a Resolution of Necessity determining that the public interest and necessity require the acquisition of fee and temporary construction easement property interests from one parcel of land owned by Gilroy Energy Center, LLC for the State Route 152 B-1 Improvement Project.

Mr. Lopez noted that Mr. Evans needs to leave the A&F Committee Meeting to meet with Michael T. Burns, General Manager, and James Simpson, new Federal Transportation Administration (FTA) Administrator, for a briefing on the New Starts projects for federal funds. Mr. Lopez reported that VTA staff is scheduled to provide a tour to Mr. Simpson of the Silicon Valley Rapid Transit (SVRT) Corridor Project alignment.

OTHER ITEMS

13. Zero Emission Bus (ZEB) Demonstration Program Update

Art Douwes, Operations Senior Mechanical Engineer, provided a brief overview of the report on the Zero Emission Bus (ZEB) Demonstration Program Update.

Mr. Douwes distributed a presentation entitled, "Zero Emission Bus (ZEB) Program Status California Air Resources Board (CARB) Regulation Changes." Mr. Douwes commented on the recent changes to the CARB ZEB regulations. Mr. Douwes reported that CARB is modifying the ZEB regulations for transit agencies with 200 or more buses to delay the ZEB procurement requirement and instead require an additional ZEB demonstration program with new technology buses.

Mr. Douwes reported that the regulation changes for transit agencies on the alternative fuel path note that 15 percent of all new transit buses purchased after 2012 must be ZEB's. The regulation changes for transit agencies on the diesel fuel path note that 15 percent of all new transit buses purchased after 2011 must be ZEB's, demonstrate ZEB technology in revenue service starting February 2006, purchase up to 12 new ZEB's, and implement an advanced ZEB demonstration starting January 2009.

Mr. Douwes commented that in February 2000 the CARB enacted regulations to reduce transit bus emissions; therefore, transit agencies were to select either the diesel fuel path or alternative fuel path for the procurement of new buses by January 31, 2001.

Mr. Douwes commented that the previous regulations required transit agencies on the alternative fuel path with 200 or more buses to implement 15 percent of all new transit buses purchased after 2010 with ZEB's. Transit agencies on the diesel fuel path with 200 or more buses to implement 15 percent of all new transit buses purchased after 2008 with ZEB's and demonstrate ZEB technology in revenue service starting July 2003.

Mr. Douwes reported that the VTA Board of Directors selected the diesel fuel path for VTA on December 14, 2000. VTA procured three hydrogen fuel cell ZEB's in a joint program with SamTrans, built a maintenance facility, and contracted with Air Products and Chemicals Incorporated to lease a fueling facility to provide the hydrogen fuel for the buses. Mr. Douwes stated that VTA's joint ZEB Demonstration Program with SamTrans implemented ZEB's into revenue service in February 2005, which is one year ahead of the CARB requirements.

Mr. Douwes commented that the funding for the ZEB Demonstration Program included Federal Transit Administration (FTA), Bay Area Air Quality Management District (BAAQMD), California Energy Commission (CEC), SamTrans, and VTA funding.

Mr. Douwes continued that CARB extended the ZEB Demonstration implementation date in 2004 to February 2006 when CARB recognized that the status and availability of the technology would make the earlier implementation date infeasible.

Mr. Douwes stated that information from the VTA and SamTrans ZEB Demonstration Program has been evaluated by the National Renewable Energy Laboratories and the final report was posted November 2006 and the information can be located at www.eere.energy.gov/hydrogenandfuelcells/tech_validation/pdfs/40615.pdf. The final report verifies that fuel cell buses are prototype technology and provides the operational costs for the fuel cell buses.

Mr. Douwes referenced Slide 4, "Bus Performance," noting that the report indicates that the ZEB fuel cell technology is improving but that the buses are still high cost prototype buses, have limited fuel cell life, are costly to maintain and operate, have low reliability, and are not ready for commercial transit bus application.

Mr. Douwes referenced Slide 6, "Advanced Demonstration Requirements," and reported that the recent CARB regulations require transit agencies to implement an advanced ZEB Program, which could either be a separate agency or a joint effort demonstration. The advanced ZEB Program includes providing for maintenance facility, training for operators and maintenance personnel, implement ZEB's into revenue service January 1, 2009 for a minimum of 12 months, retain operation and maintenance records, report to CARB, and existing buses could qualify for credit if they can be upgraded.

Mr. Douwes commented that single transit agency demonstration would require a minimum of six advanced ZEB's versus the joint transit agency demonstration effort, which requires a minimum of 12 buses per demonstration, three buses per agency, rotation of buses among agencies, and training of operations and maintenance personnel at each agency.

Mr. Douwes commented that the advanced buses are expected to have greatly improved fuel efficiency, availability, reliability, system life, and maintainability over the present fuel cell buses with reduced maintenance costs.

Mr. Douwes referenced Slide 7, "Advanced Demonstration," and reported that transit agencies in the region that meet the joint effort demonstration requirements are AC Transit, Golden Gate Transit, SamTrans, and VTA. Mr. Douwes stated that staff recommends that VTA implement a joint effort demonstration program with AC Transit, Golden Gate Transit, and SamTrans.

Alternate Board Member McHugh queried if there were drawback to the collaborative effort. Mr. Douwes responded that it is in VTA's best interest to participate in a joint effort demonstration.

Mr. Douwes referenced Slide 8, "Capital Cost Estimate (MTC)," and reported that the costs of 12 buses equal \$26.2 million, fueling facilities costs equal \$7.8 million, maintenance facility costs equal \$1.5 million, and the total cost equals \$35.5 million.

Mr. Douwes stated that the cost estimates do not include the operational costs associated with the ZEB Demonstration Program. VTA has been working with MTC and the region's transit agencies to identify potential funding sources for the CARB mandated Advanced Demonstration.

Chairperson Williams inquired about the government mandate regarding the program and queried if funding is available to assist the transit agencies. Mr. Douwes responded that \$2 million in funding for the fuel cell costs has been set aside statewide.

Mr. Douwes referenced Slide 9, "Potential Funding," and reported that VTA is working with MTC and the regional transit agencies to identify funds for the Advanced ZEB Demonstration. Mr. Douwes stated that funds may be available from the National Fuel Cell Program, Regional Transit Capital Shortfall Funds, Governor's Funding FY 2007, State Alternative Fuel Incentives, Bay Area Air Quality Management District (BAAQMD) Infrastructure Bond –STA, 2006 State Transportation Improvement Program (STIP) Augmentation, 2007 & 2008 STIP, and Federal 5309 Bus Program.

Mr. Douwes stated that although CARB's initial demonstration requirements have been completed, VTA plans to continue operating the fuel cell buses in accordance with the FTA requirements. VTA will implement an Advanced ZEB Demonstration Program in a joint effort with AC Transit, Golden Gate Transit, SamTrans, and MTC in accordance with the new CARB regulations.

Mr. Douwes commented that VTA Operations and Engineering staff will continue to provide future updates to the Board of Directors.

Alternate Board Member McHugh and Chairperson Williams queried if VTA had the choice or option to continue with the demonstration program. Mr. Douwes responded that VTA could make a request to the FTA to discontinue with the operation of the initial three ZEB's Demonstration Program; however, VTA must continue with the Advanced Demonstration Program.

Vice Chairperson Kerr asked if VTA was able to change its selection from the diesel fuel path to the fuel cell path. Mr. Douwes responded, "no".

Vice Chairperson Kerr asked if CARB would allow a biodegradable fuel alternative. Mr. Douwes responded, "no".

On order of Chairperson Williams, there being no objection, the Committee received the report on the Zero Emission Bus (ZEB) Demonstration Program Update.

14. Items of Concern and Referral to Administration

Vice Chairperson Kerr requested that the A&F Committee pilot the use of audio conferencing for the agency. Suzanne B. Gifford, Legal Counsel, responded that staff is currently working to address the audio conferencing issue and the A&F Committee will receive further information.

15. Committee Work Plan

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

16. Committee Staff Report

Bill Lopez, Chief Administrative Officer, provided a brief report highlighting: Black History Month Celebration for VTA employees at Cerone Yard on February 16, 2007 and noted that VTA provided transportation resources to transport homeless individuals to shelter facilities during the freezing weather in early January 2007.

17. Chairperson's Report

There was no Chairperson's Report.

18. Determine Consent Agenda for the February 1, 2007 Board Meeting

CONSENT: Agenda Item # 11., Approve the 2007 Federal Legislative Program for the Santa Clara Valley Transportation Authority (VTA).

REGULAR: Agenda Item # 12., Adopt a Resolution of Necessity determining that the public interest and necessity require the acquisition of fee and temporary construction easement property interests from one parcel of land owned by Gilroy Energy Center, LLC for the State Route 152 B-1 Improvement Project.

19. Announcement

There were no Announcements.

20. ADJOURNMENT

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

Respectfully submitted,

Michelle M. Garza, Board Assistant
VTA Board of Directors