

ADMINISTRATION & FINANCE COMMITTEE

Thursday, April 17, 2008

MINUTES

1. CALL TO ORDER

The Regular Meeting of the Administration and Finance Committee (A&F) was called to order at 12:07 p.m. by Chairperson Williams in Room 157, County Government Center, 70 West Hedding Street, San Jose, California.

ROLL CALL

Members Present

David Casas, Vice Chairperson
Don Gage
Chuck Reed
Forrest Williams, Chairperson

Members Absent

None

Alternates Present

None

Alternates Absent

David Cortese
Pete McHugh
Chris Moylan

* Alternates do not serve unless participating as a Member.

A quorum was present.

Chairperson Williams moved the following Items to the end of the Agenda: **Agenda Item #2.**, Closed Session and **Agenda Item #3.**, Closed Session Report.

2. ADJOURN TO CLOSED SESSION

Conference with Labor Negotiators
[Government Code Section 54957.6]

VTA Designated Representatives:

Joseph Smith, Chief Financial Officer
Bill Lopez, Chief Administrative Officer
Robert Escobar, Manager, Office of Employee Relations

Employee Organization:

Amalgamated Transit Union (ATU)

3. CLOSED SESSION REPORT

The Agenda was taken out of order.

5. ORDERS OF THE DAY

Chairperson Williams moved the following Items to the end of the Agenda: **Agenda Item #2.**, Closed Session and **Agenda Item #3.**, Closed Session Report.

Michael T. Burns, General Manager, noted that Joseph Smith, Chief Financial Officer, will be the Administration and Finance (A&F) Committee Staff Liaison, which was one of the recommendations from the Hay Group Assessment.

Chairperson Williams deferred the following Item to the May 15, 2008 A&F Committee meeting: **Agenda Item #21.**, Discuss the Open Government Proposal.

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

4. PUBLIC PRESENTATIONS

There were no Public Presentations.

Chairperson Williams removed the following Item from the Consent Agenda and placed on the Regular Agenda: **Agenda Item #7.**, Report on Santa Clara Valley Transportation Authority Investments for the Month of February 2008.

Vice Chairperson Casas stressed the importance for the Committee to be consistent and operate under the same policies and processes conducted at the Board of Directors meeting.

Chairperson Williams stated that the following Item will be placed at the end of the Agenda before the Committee Adjourns to Closed Session: **Agenda Item #7.**, Report on Santa Clara Valley Transportation Authority Investments for the Month of February 2008.

CONSENT AGENDA

6. Regular Meeting Minutes of March 20, 2008

M/S/C (Gage/Casas) to approve the Regular Meeting Minutes of March 20, 2008.

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

Report on Santa Clara Valley Transportation Authority Investments for the Month of February 2008.

8. Monthly Legislative History Matrix

M/S/C (Gage/Casas) to review the Monthly Legislative History Matrix.

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

REGULAR AGENDA

9. **Accept Availability & Utilization Study & Approve the Reestablishment of a Race Conscious Disadvantaged Business Enterprise Program**

Thomas Smith, Purchasing and Materials Manager, provided a brief report, highlighting the 9th Circuit Court of Appeals decision in the Western States Paving Co., Inc., v. Washington State Department of Transportation (DOT) case (Western States) related to race conscious federal Disadvantaged Business Enterprise (DBE) programs in the transportation contracting industry. Mr. Smith reported that a race neutral program means that grantees may not set DBE participation goals for individual contracts awarded.

Caltrans notified subrecipients of Federal Highway Administration (FHWA) funds, such as VTA that contracts must be advertised and awarded without specific DBE contract goals effective May 1, 2006. VTA received the same direction from the Federal Transit Administration (FTA) for grants received through the FTA.

In May 2007, the Board of Directors approved a contract with CRA International to perform an Availability and Utilization Study to determine if there was evidence of discrimination in the contracting industry that would meet the standards set forth by the 9th Circuit Court.

CRA has performed an exhaustive review of information relating to the availability and utilization of minority groups in the construction and professional services sectors in the San Jose – San Francisco – Oakland combined statistical area. CRA conducted both statistical analyses and collected anecdotal evidence of race and gender discrimination. The report details that in most instances there is “statistically significant evidence of discrimination against construction and professional services firms owned by women, African Americans, Hispanic, and Asian Americans in the construction and professional services industries operating within the relevant local market.”

Mr. Smith stated that VTA believes the results of the study document discrimination that is significant enough to warrant a return to a race conscious DBE Program.

Board Member Reed arrived at the meeting and took his seat at 12:16 p.m.

Mark Berkman, CRA International Consultant, reported that VTA receives United States DOT funding affected by the decision in the Western States Paving v. Washington DOT and seek to ensure that its contracting programs continue to conform to federal requirements.

Mr. Berkman stated that anecdotal evidence confirms the findings that minority and woman owned construction and professional service firms consistently reported greater impediments to contracting opportunities including unfavorable treatment by prime contractors and lending institutions than their white male counterparts.

Mr. Berkman continued that statistical analysis indicates that minority owned firms face higher loan denial rates even controlling for creditworthiness. Many of the minority and woman owned firms reported discrimination by prime contractors with respect to obtaining subcontracts and contract violations in their performance.

Mr. Berkman stated that other anecdotal evidence was reviewed from surveys, interviews, and public hearings conducted within the Bay Area over the past several years including a Regional Transit Coordinating Council (RTCC) Disadvantaged Business Enterprise (DBE) program survey, a survey by San Francisco State University researchers on behalf of Asian Inc., and disparity studies for the City and County of San Francisco and Caltrans.

Review of disparity studies conducted in the past 15 years demonstrates persistent disparities between minority and woman owned business utilization and availability in construction and professional services. A California DOT study reported a disparity ratio of 59 percent for minority and woman owned firms absent a race conscious affirmative action program.

Mr. Berkman reported that Caltrans conducted a survey study and statewide public hearings, which support the evidence findings that discrimination exists in all the racial and gender categories and warrant a reintroduction of a race conscious program.

Vice Chairperson Casas asked about the percentage of individuals who offered to provide evidence of the discrimination. Mr. Berkman responded that the individuals stated that they were afraid to make a complaint and possibly jeopardize future jobs.

Vice Chairperson Casas asked if the State case is being appealed. Kevin Allmand, Acting General Counsel, responded that the decision is final.

Vice Chairperson Casas stressed the importance to justify the discrimination claims with evidence. Mr. Berkman responded that there is statistical evidence that shows minorities are less likely to receive a loan or are more likely to pay a higher interest rate.

Board Member Reed referenced Table ES3: Relative Frequency of Reporting Impediments to Contracting, Bidder List Survey Respondents and queried about the contracting impediments. Mr. Berkman responded that some of the impediments could be to some extent be dealt with on a race neutral basis as well as shrinking the size of the contracts.

Thomas Smith, Purchasing and Materials Manager, reported that federal requirements require VTA utilize both race conscious and race neutral methodologies to determine possible ways to address issues. Mr. Smith stated that VTA has a Small Business Enterprise (SBE) Program, which is utilized for non-federally funded projects. He continued that staff will review the report and look at the areas to determine if the race neutral will address some of the valid concerns. VTA's intent is to separate the allegations from the true issues to address concerns.

Vice Chairperson Casas expressed concern that assertions are not unfounded. Board Member Casas stressed the importance for VTA to be diligent and advocate for a process to address discrimination concerns.

Board Member Gage concurred with Vice Chairperson Casas' comments and stressed the importance for VTA to implement a policy to address issues to ensure there are no discrimination concerns.

Chairperson Williams stressed the importance to implement a policy to address discrimination issues and noted the importance for firms to submit backup support to prove allegations of discrimination.

Board Member Gage requested that staff provide a draft document on the problem areas with remedy solutions back to the Committee for review. Mr. Burns responded that a report with the requested information will be provided to the Committee.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to review and accept the report submitted by CRA International entitled, "Measuring Minority and Woman-Owned Construction and Professional Service Firm Availability and Utilization." Additionally approve implementation of a Race Conscious Disadvantaged Business Enterprise (DBE) program.

10. VTA Transformation Program Progress Report

Michael T. Burns, General Manager, reported that VTA's Transformation Program was initiated in May 2007 with the objective to implement recommendations resulting from the Hay Group Organizational and Financial Assessment. Mr. Burns stated that the Organizational and Financial Assessment included recommendations for improvement in Governance, Organizational Structure, and Financial Management.

Mr. Burns stated that the Transformation Team includes VTA Senior Management staff working directly with Karen Antion, Transformation Program Officer, to develop a Transformation Program.

Karen Antion, Transformation Program Officer, provided a brief report, highlighting that the Transformation Team has been working to execute tasks listed within the VTA Transformation Program Work Plan Scorecard. The Scorecard specifies the activity levels conducted in each project activity area, team lead responsibility, staff participation, status, and accomplishments to date.

Ms. Antion stated that the Transformation Program Work Plan was reviewed by the Administration and Finance (A&F) Committee, noting that the program was initiated in May 2007 and the results are through March 31, 2008.

Ms. Antion directed attention to the presentation entitled, "VTA Transformation Program Activities and Results", highlighting: 1) VTA Transformation Program Background; 2) Transformation Program Focus Areas; 3) VTA Transformation Program Results to Date; 4) Governance; 5) Organization; 6) Division and Program Specific; and 7) Financial Management.

Governance

- Board Audit Committee established;
- Conducted Board Workshop focusing on Fiduciary Responsibilities;
- Conducted Board Summit on Vision and Values on February 1, 2008;
- Distributed a survey to VTA staff soliciting input on VTA's Vision and Values Statements;
- Developing Vision and Values Statements for Board consideration at May 1, 2008 Board of Directors Meeting;
- Developed new guidelines to improve the quality of information in Board memos and minutes;
- Automating the process for the creation and distribution of agendas and Board memos for the Board and Committees;
- Provide expanded access to Board and Committee information on VTA's website;
- Developed an Annual Work Plan for the Board and its Committees;
- Drafted a strategy and proposal for extending the term of office for Directors;
- Developed a proposal for the selection of Directors by new city groupings; and
- Developing a new Board Member Orientation Programs.

Organization

- Realign the Organization Structure and Executive Team with new strategy;
- Defined roles and responsibilities of the leadership team;
- Realigned functional positions and established appropriate separation of duties;
- Reconstituted and strengthened the Congestion Management Agency (CMA);
- Reestablished goals, objectives, and performance measures for the leadership team;
- Recruited and hired key leaders: Chief Financial Officer (CFO), Chief External Affairs Officer (CEAO), and Chief Information Officer (CIO);
- Implemented a transformation staffing plan and reporting process; and
- Developed plans and conduct on going monthly strategy sessions with the General Manager.

Board Member Gage queried about the ratio between managers to employees and requested that this information be presented to the Board of Directors. Ms. Antion responded that the information will be provided to the Board of Directors.

Board Member Gage stressed the importance to have a measurement to determine if the implemented changes are working and benefiting VTA.

Chairperson Williams stressed the importance to improve and manage VTA's resources.

Vice Chairperson Casas directed attention to Page 7 of the presentation, and expressed concern that the benefits to VTA implies that VTA has not been focusing on County-wide decisions. Mr. Burns responded that the benefits to VTA are the goals that VTA is trying to achieve as a result of the changes from the Transformation Program.

Chairperson Williams stated that the intent and goal is to continue to improve the focus on County-wide decisions.

Vice Chairperson Casas expressed appreciation and commended Mr. Burns for his diligent work and effort to move VTA forward.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to receive the VTA Transformation Program Progress Report.

11. Support Position for AB 1756 (Caballero)

Kurt Evans, Government Affairs Manager, reported that AB 1756 would create an Office of Local Public Private Partnerships (P3s) within the Business, Transportation, and Housing Agency to facilitate the use of best value P3s by local governments for fee producing infrastructure projects.

Mr. Evans reported that the specific duties of the new office would include: 1) Providing information to local agencies and other interested stakeholders regarding P3s; 2) Serving as a clearinghouse of information regarding local agency use of P3s to build infrastructure in California and elsewhere; and 3) Establishing a service to link local agencies with technical and legal resources to assist them in developing and evaluating requests for proposals for P3 projects, and in structuring agreements to protect their interests in a P3.

Mr. Evans reported that the intent of AB 1756 is to create a clearinghouse that would provide information to local jurisdictions about P3s and connect local agencies with experts that might assist with evaluating and developing potential P3 agreements.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to adopt a support position for AB 1756 (Caballero), which requires the Business, Transportation and Housing Agency to establish the “Office of Local Public-Private Partnerships” to inform local agencies and other interested stakeholders regarding the role that public-private partnerships could play in financing, constructing and/or operating fee-producing local infrastructure projects.

12. Support Position for AB 3034 (Galgiani)

Kurt Evans, Government Affairs Manager, reported that AB 3034 updates and expands upon the provisions of the High-Speed Passenger Train Bond Act enacted in the original 2002 legislation, and establishes additional fiscal controls on the expenditure of State Bond Funds to ensure that they are directed to construction activities in the most cost-effective and efficient manner. Mr. Evans stated that the intent of AB 3034 achieves the following:

- States the Legislature’s intent that construction of the high-speed train system be consistent with the High-Speed Rail Authority’s more recent November 2005 certified environmental impact report, rather than its June 2000 Final Business Plan;
- Clarifies that the \$9 billion in bond proceeds for the High-Speed Train System may be used for planning and eligible capital costs along the system’s entire 800-mile route in order to provide the High-Speed Rail Authority with sufficient flexibility in terms of how to phase the construction of the system;
- Specifies that no more than 10 percent of the bond proceeds for the High-Speed Train System may be used for environmental studies, planning, engineering, and

other preconstruction activities in order to maximize the amount of funds available for construction;

- Requires the High-Speed Rail Authority to have a detailed funding plan for each segment of the system that identifies the full cost of construction and the sources of revenue for that segment prior to awarding a construction contract for the segment;
- Provides that in selecting each segment for construction, the High-Speed Rail Authority must: (a) give priority to those segments requiring the smallest amount of bond funds as a percentage of the total construction cost; (b) consider the utility of that segment for other passenger rail services; and (c) ensure that any other passenger services provided on that segment will not result in operating or maintenance costs for the authority;
- Requires complementary rail capital improvements funded from the \$950 million in bond proceeds allocated to intercity, commuter and urban rail systems to provide direct connectivity and benefits to the High-Speed Train System and its facilities, or to be part of the construction of the system;
- Requires operating revenues in excess of the amount needed to operate, maintain and complete construction of the high-speed train system to be deposited in the state's General Fund; and
- Takes effect immediately to make the changes operative in time for the November 4, 2008, vote on the bond act.

Mr. Evans stated that VTA has historically supported the concept of building and operating a High-Speed Train System to provide a competitive, long distance travel option between Northern and Southern California as a way to relieve air traffic and highway congestion. VTA partnered with four other organizations to establish the Silicon Valley High-Speed Rail coalition to advocate not only for High-Speed Rail in general, but also for a Pacheco Pass Alignment into the Bay Area.

M/S/C (Reed/Gage) to approve submitting a recommendation to the Board of Directors to adopt a support position for AB 3034 (Galgiani), which revises provisions in the existing Safe, Reliable, High-Speed Passenger Train Bond Act for the 21st Century to be submitted to the voters of California on November 4, 2008. Specifically, this bill: (a) amends and expands the descriptions of the route segments for the proposed high-speed train system; (b) makes \$9 billion in bond proceeds available for the entire 800-mile high-speed train route, rather than for just certain segments; (c) limits the amount of bond funds that could be spent on preconstruction activities; (d) requires detailed funding plans for each high-speed train system segment; and (e) establishes priorities and financial criteria for selecting construction segments.

13. Support Position for AB 1815 (Feuer)

Kurt Evans, Government Affairs Manager, reported that AB 1815 is modeled on the National Surface Transportation Policy and Revenue Study Commission established in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Mr. Evans stated that the intent of the bill is to create a forum to analyze the impact of the increased use of alternative fuels and enhanced motor vehicle fuel efficiency on the amount of state gas tax revenues available for transportation programs and to identify alternative revenue sources that would offset any decline in the gas tax.

AB 1815 establishes a 14-member California Transportation Infrastructure Funding Task Force for the purpose of considering and making recommendations regarding alternatives to the current system of funding transportation infrastructure in the state through per-gallon excise taxes. Under the provisions of the bill, the Task Force would be required to report its findings to the Legislature and Governor by January 1, 2010.

AB 1815 would create an opportunity to examine options for generating additional transportation funds and to build a consensus for future legislative action.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to adopt a support position for AB 1815 (Feuer), which calls for creating a 14-member California Transportation Infrastructure Funding Task Force to develop a report for the Governor and Legislature on alternatives to the current system of funding transportation infrastructure in the state by taxing road users through per-gallon fuel taxes.

14. Support Position for AB 2650 (Carter)

Kurt Evans, Government Affairs Manager, reported that AB 2650 extends provisions in existing law that authorize Caltrans to consent to the jurisdiction of the federal courts with regard to the assumption of the Federal Highway Administration (FHWA) responsibilities under the National Environmental Policy Act (NEPA) and that waive the state's Eleventh Amendment protection against lawsuits brought in federal court for as long as Caltrans participates in the pilot program.

AB 2650 would extend the statutory changes made pursuant to Speaker Nunez's 2006 bill beyond the January 1, 2009, sunset date, thereby allowing Caltrans to continue to participate in the pilot program until it expires on August 10, 2011.

Mr. Evans stated that VTA may benefit by the bill since VTA often manages State Highway Capital Improvement Projects in Santa Clara County on behalf of Caltrans.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to adopt a support position for AB 2650 (Carter), which permits Caltrans to continue to participate in a federal pilot program that allows certain states to assume the responsibilities of the Federal Highway Administration (FHWA) under the National Environmental Policy Act (NEPA) for a limited period of time to see if this approach would speed up the delivery of capital improvement projects on state highways without a lessening of environmental protection. Specifically, AB 2650 extends provisions in existing law that authorize Caltrans to consent to the jurisdiction of the federal courts with regard to the assumption of FHWA's responsibilities under NEPA and that waive the state's Eleventh Amendment protection against lawsuits brought in federal court for as long as Caltrans participates in the pilot program.

15. Transportation Advisory Measure for November 2008 Ballot

John Ristow, Chief CMA Officer, reported that in 1976 the Santa Clara County Transit District sales tax was approved by the voters and a second measure was approved that required the District to submit to the voters a comprehensive transit program for an advisory vote in intervals of every six years.

VTA is the Congestion Management Agency for the County of Santa Clara and is responsible to prepare and adopt the County-wide, long range transportation plan for the County. The projects and programs included in the Valley Transportation Plan (VTP) serve as recommendations for submittal to the Metropolitan Transportation Commission (MTC) for inclusion in the Regional Transportation Plan (RTP), which covers all nine Bay Area Counties.

The resolution to call for a special election advisory measure on the Comprehensive Transit Program will be submitted to the Santa Clara County Board of Supervisors and the County Registrar of Voters to request the proposed measure be placed on the November 4, 2008 ballot.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to adopt a resolution calling for a special election on November 4, 2008 to submit to the voters an advisory measure regarding the comprehensive transit program identified in Valley Transportation Plan 2035 scheduled for adoption on November 6, 2008 or amended thereafter.

16. VTA Governance

Scott Haywood, Policy and Community Relations Manager, reported that the Hay Group Organization and Financial Assessment identified Board turnover as a critical challenge to the governance structure at VTA, especially high for the small city groupings.

The Assessment recommended that the VTA Board determine alternatives to lengthen the term of office for Board of Directors and also work with appointing authorities to ensure that eligibility for selection to serve on the VTA Board include appropriate qualifications and experience, as well as the time left in the elected officials term of office so that they do not “term out” during their tenure as a VTA Board of Director.

Board Member Greg Sellers was asked to work collaboratively with VTA staff and consultants to develop recommendations regarding VTA’s Governance and the geographical configuration of the small city groupings. Board Member Sellers provided a brief update at the February 7, 2008 Board of Directors Regular meeting on Governance Subcommittee’s activities and initial recommendations.

On February 15, 2008, Board Member Sellers sent letters to every Santa Clara County Mayor, VTA Board Member, and VTA’s Policy Advisory Committee Members with a summary of the Proposed Governance recommendations. The Proposed Governance recommendations was presented at several City Council meetings, the Policy Advisory Committee (PAC), the Citizens Advisory Committee (CAC), and the Committee for Transit Accessibility (CTA) in March and April 2008.

Mr. Haywood reported on the Proposed VTA Governance structure:

- Eliminate the concept of city groupings selecting their representative(s) through a rotation process. Each of the city groups will “select” their representative(s) to serve as a Director on the VTA Board;
- VTA Directors will still serve two-year terms. However, the appointing authorities will be encouraged to reappoint representatives to consecutive terms;
- Include a process for selecting VTA Directors within the city groupings. VTA Directors should have the required experience and qualifications in transportation;
- Reconfigure the small city groupings to include a new group comprised of Santa Clara, Sunnyvale and Milpitas, and move Los Altos Hills to the West Valley City Group.

VTA’s current small city group configuration was based primarily on population and secondarily on geography. Cities that are geographically proximate have very similar issues, challenges, and opportunities. The proposed recommendations organize cities based on geographic proximity first and population second.

Mr. Haywood reported that the CTA and CAC did not endorse the proposed VTA Governance recommendations. PAC supported three of the recommendations except the recommendation to reconfigure the small city groupings and supported County-wide elections for VTA’s Board of Directors.

Mr. Haywood reported that VTA received a letter from the West Valley City Group requesting that Los Altos Hills remains in the North County since they do not have geographical proximity.

Mr. Haywood continued that VTA received support for the proposed VTA Governance recommendations from the following cities: Mountain View, Milpitas, Santa Clara, Gilroy, Morgan Hill, and Saratoga; however, Sunnyvale recommended a County-wide election process.

Board Member Gage stressed the importance to establish rules and a process for the city groupings to select their representative to serve on the Board.

Vice Chairperson Casas expressed concern that tenure on an Advisory Committee does not represent experience or knowledge. Vice Chairperson Casas expressed concern to reconfigure the city groupings since the current city groupings are contiguous.

Vice Chairperson Casas expressed concern that the Governance Subcommittee did not have the opportunity to meet to discuss the issues and noted that the Subcommittee requires additional time to evaluate the proposal. He expressed concern and noted his opposition for the Committee and Board to move forward, noting that moving forward would be premature and inappropriate.

Vice Chairperson Casas referenced San Martin, noting that it is not a city but a county and expressed concern that San Martin’s population is being considered in the South County grouping. Vice Chairperson Casas stated that with the inclusion of San Martin in the South County grouping would equate a two for one vote based on the population, which would be undemocratic and inappropriate.

Vice Chairperson Casas expressed his support for three of the recommendations except for the recommendation to reconfigure the small city groupings.

Vice Chairperson Casas expressed concern and stated that it is premature and inappropriate for the Committee and Board to rush and move forward with the recommendation to reconfigure the small city groupings.

Vice Chairperson Casas expressed concern that next Governance Subcommittee meeting is scheduled for Wednesday, April 30, 2008, which does not allow adequate time for discussion before the Thursday, May 1, 2008 Board of Directors Regular meeting.

Board Member Gage stated that the current city grouping had Milpitas with Gilroy and Morgan Hill, but Milpitas did not have anything in common with the South County cities; therefore, expressed his support that Milpitas is being moved to another small city grouping with similar issues.

Vice Chairperson Casas expressed his support and recommended that the following three recommendations be forwarded for consideration to the May 1, 2008 Board of Directors Regular meeting:

- 2) Eliminate the concept of city groupings selecting their representative(s) through a rotation process. Each of the city groups will “select” their representative(s) to serve as a Director on the VTA Board; 3) VTA Directors will still serve two-year terms. However, the appointing authorities will be encouraged to reappoint representatives to consecutive terms; and 4) Include a process for selecting VTA Directors within the city groupings. VTA Directors should have the required experience and qualifications in transportation.

Vice Chairperson Casas stated that the recommendation to reconfigure the small city groupings requires additional discussion and recommended that the following item be deferred to the August 7, 2008 Board of Directors Regular meeting:

- 1) Reconfigure the small city groupings to include a new group comprised of Santa Clara, Sunnyvale and Milpitas, and move Los Altos Hills to the West Valley City Group.

Vice Chairperson Casas stressed the importance for the Committee and Board to consider other alternatives.

M/S/C (Casas/Gage) to approve submitting a recommendation to the Board of Directors to recommend that the VTA Board of Directors amend the VTA Administrative Code to make the following changes to VTA’s governance structure: 2) Eliminate the concept of city groupings selecting their representative(s) through a rotation process. Each of the city groups will “select” their representative(s) to serve as a Director on the VTA Board; 3) VTA Directors will still serve two-year terms. However, the appointing authorities will be encouraged to reappoint representatives to consecutive terms; and 4) Include a process for selecting VTA Directors within the city groupings. VTA Directors should have the required experience and qualifications in transportation.

M/S/C (Casas/Gage) to defer the following item for consideration to the August 7, 2008 Board of Directors meeting: 1) Reconfigure the small city groupings to include a new group

comprised of Santa Clara, Sunnyvale and Milpitas, and move Los Altos Hills to the West Valley City Group.

17. 2008/2009 Annual Renewal of Operations Property and Casualty Insurance Coverage

Nanci Eksterowicz, Risk Manager, reported that the recommended program includes \$25 million in coverage for General Liability claims, including Public Officials' Errors and Omissions Liability claims, Auto Liability claims and Property loss coverage for all VTA buildings, equipment, bus, light rail and non-revenue vehicle fleets.

In 2002, VTA eliminated the Workers' Compensation Excess, Earthquake, and Crime Policies from its coverage and is now self-insured for all Workers Compensation Claims and does not carry Earthquake Insurance. In 2008, VTA directed Alliant Insurance Services, VTA's broker, to develop estimates for premium cost information on Earthquake and Excess Workers' Compensation coverage.

Alliant Insurance Services estimates that the premium for purchasing excess coverage would be approximately \$718,600 and \$465,000 for earthquake coverage; therefore, staff does not recommend the purchase of the excess coverage or earthquake coverage.

Ms. Eksterowicz reported that the results of the insurance marketing and final purchase price for VTA's insurance coverage will be reported at the September 19, 2008 Administration and Finance (A&F) Committee meeting.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to purchase insurance coverage for Excess Liability, General and Auto Liability, Public Officials' Errors and Omissions Liability, Property/Boiler and Machinery, Inland Marine for Buses, Vans and Mobile Equipment, Inland Marine for Light Rail Vehicles, and Flood exposures for the annual Operations Program insurance renewal for an amount not to exceed \$1,831,000.

18. Establishment of a Qualified Other Post Employment Benefits (OPEB) Trust

Ali Hudda, Deputy Director of Accounting, reported that the Governmental Accounting Standards Board (GASB), establishes standards of financial accounting and reporting for state and local government entities regarding accounting for retiree health benefits. The GASB has issued Statement Numbers 43 and 45, which requires public agency employers to provide more complete, reliable, and decision-useful financial reporting regarding the costs and financial obligations that they incur when they provide Other Post Employment Benefits (OPEBs) other than pensions.

VTA provides retiree health care as an OPEB to its employees in its collective bargaining agreements and the resolution of benefits for non-represented employees. VTA has been performing actuarial valuations of the obligation since 1996 to determine the financial condition and contribution requirements of the Plan.

Mr. Hudda reported that VTA has been prefunding its share of retiree health benefits and has accumulated \$102 million in assets as of February 29, 2008. VTA proposes the establishment of the "Santa Clara Valley Transportation Authority Retirees' OPEB Trust" as provided under Section 115 of the Internal Revenue Code. All assets currently held by

VTA to discharge its retiree health obligations will be transferred to the Trust. Mr. Hudda stated that VTA is required to adopt GASB 43 and 45 in Fiscal Year 2008.

VTA's Board of Directors will be the Trustees and the General Manager will be the Administrator of the Trust. Trust assets will be used solely for the purposes of paying OPEBs to or for the benefit of retirees and beneficiaries, and for paying expenses of administering the Trust and will not be available to creditors of VTA or the retirees and beneficiaries.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to adopt a resolution to establish the "Santa Clara Valley Transportation Authority Retirees' Other Post Employment Benefits (OPEB) Trust", and authorize the General Manager to transfer all assets held by VTA pertaining to the Retiree Medical Fund to the Trust.

19. 2000 Measure A Program Financial Report, Fiscal Year 2007

Leo Dana, Vavrinek, Trine, Day & Company, LLP (VTD), a Certified Public Accounting Firm representative, reported that VTD issued an unqualified opinion on the 2000 Measure A Program's Financial Statements. The audit report states that the 2000 Measure A Program's Financial Statements present fairly in all respects and the changes in financial position of the Program for the year ended in conformity with principles generally accepted in the United States.

Mr. Dana continued that there were no reportable conditions or material weaknesses in internal control procedures. The Independent Auditor's Report, the 2000 Measure A Program's Financial Statements, and the financial statements are contained in the Financial Section of the 2000 Measure A Program Financial Report Fiscal Year Ended June 30, 2007.

Mr. Dana commented that Section 3 of the report includes information for each project including expenditures to date, description, status, and activities for the fiscal year.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to review and accept the 2000 Measure A Program Financial Report for Fiscal Year 2007 (FY2007).

20. Palo Alto Train Depot Caffè del Doge Lease

Roberta Notrangelo, Real Estate and Project Administration Manager, reported on a three way subleasing between the City of Palo Alto, VTA, and Caffè del Doge where Caffè del Doge will operate a café in the Historic Palo Alto Train Depot. The building was seismically retrofitted in 2006 and restored to its original condition, including the interior furnishings, lighting, walls, and the mural. Ms. Notrangelo continued that after the retrofit was completed, Caltrain was unable to continue to staff ticket sales; therefore, the Train Depot remained closed to the public.

In a cooperative effort to re-open the Train Depot, VTA, Stanford, and the City of Palo Alto decided to enter into a Request for Proposal (RFP) to open a retail business that would attract pedestrian activity to the Train Depot.

As VTA is the sublessee of the Train Depot building, VTA assumes the position of landlord to Caffè del Doge and has negotiated the lease with the concurrence of the City of Palo Alto and Stanford.

The Lease calls for the payment of rent in the amount of \$1,500 per month commencing on the seventh month of retail operation, which allows Caffè del Doge the time to establish its business and stabilize the income as previous operators were unsuccessful. In addition to the rent, Caffè del Doge will pay the pro rata share of the real property taxes, water, gas and electricity bills, and provide janitorial services. The total rent for the lease period is approximately \$82,500.

Michael T. Burns, General Manager, commented that there are outstanding issues between the City of Palo Alto and Stanford regarding the transaction. Ms. Notrangelo reported that the negotiations are close to resolution.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to execute a sub-sublease (Lease) with Caffè del Doge Venezia, Inc. (Caffè) to provide a retail café operation within the Palo Alto Train Depot. Caffè will pay VTA a base rent of \$1,500 per month for the approximate area of 1,289 square feet commencing with the seventh month of retail operation. The Lease will terminate when VTA's sublease with the City of Palo Alto expires on June 30, 2013; and further, authorize the General Manager to execute a Consent Letter whereby Stanford consents to the lease between VTA and Caffè.

Board Member Gage left the meeting at 2:04 p.m.

OTHER ITEMS

21. (Deferred to the May 15, 2008 Administration and Finance Committee meeting.)

Discuss the Open Government Proposal.

24. Committee Staff Report

Kim Koenig, Department of Finance Fiscal Resources Manager, provided a brief status report on VTA's Bond Refunding, highlighting: 2005 Sales Tax Revenue Refunding Bonds (2005 Bonds) and 2000 Measure A Sales Tax Revenue Bonds, Series 2006 Auction Rate Securities (2006 ARS). Ms. Koenig reported that the 2005 Bonds interest rate resets have decreased substantially; therefore, staff does not recommend continuing with the transaction and has placed the 2005 Bonds temporary on hold. Ms. Koenig stated that staff is proceeding forward with the 2006 ARS restructuring options.

22. Items of Concern and Referral to Administration

There were no Items of Concern and Referral to Administration.

23. Committee Work Plan

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

25. Chairperson's Report

There was no Chairperson's Report.

26. Determine Consent Agenda for the May 1, 2008 Board Meeting

CONSENT: Agenda Item #10., Receive the VTA Transformation Program Progress Report; **Agenda Item #11.**, Adopt a support position for AB 1756 (Caballero), which requires the Business, Transportation and Housing Agency to establish the "Office of Local Public-Private Partnerships" to inform local agencies and other interested stakeholders regarding the role that public-private partnerships could play in financing, constructing and/or operating fee-producing local infrastructure projects; **Agenda Item #12.**, Adopt a support position for AB 3034 (Galgiani), which revises provisions in the existing Safe, Reliable, High-Speed Passenger Train Bond Act for the 21st Century to be submitted to the voters of California on November 4, 2008. Specifically, this bill: (a) amends and expands the descriptions of the route segments for the proposed high-speed train system; (b) makes \$9 billion in bond proceeds available for the entire 800-mile high-speed train route, rather than for just certain segments; (c) limits the amount of bond funds that could be spent on preconstruction activities; (d) requires detailed funding plans for each high-speed train system segment; and (e) establishes priorities and financial criteria for selecting construction segments; **Agenda Item #13.**, Adopt a support position for AB 1815 (Feuer), which calls for creating a 14-member California Transportation Infrastructure Funding Task Force to develop a report for the Governor and Legislature on alternatives to the current system of funding transportation infrastructure in the state by taxing road users through per-gallon fuel taxes; **Agenda Item #14.**, Adopt a support position for AB 2650 (Carter), which permits Caltrans to continue to participate in a federal pilot program that allows certain states to assume the responsibilities of the Federal Highway Administration (FHWA) under the National Environmental Policy Act (NEPA) for a limited period of time to see if this approach would speed up the delivery of capital improvement projects on state highways without a lessening of environmental protection. Specifically, AB 2650 extends provisions in existing law that authorize Caltrans to consent to the jurisdiction of the federal courts with regard to the assumption of FHWA's responsibilities under NEPA and that waive the state's Eleventh Amendment protection against lawsuits brought in federal court for as long as Caltrans participates in the pilot program; **Agenda Item #17.**; Authorize the General Manager to purchase insurance coverage for Excess Liability, General and Auto Liability, Public Officials' Errors and Omissions Liability, Property/Boiler and Machinery, Inland Marine for Buses, Vans and Mobile Equipment, Inland Marine for Light Rail Vehicles, and Flood exposures for the annual Operations Program insurance renewal for an amount not to exceed \$1,831,000; **Agenda Item #19.**, Review and accept the 2000 Measure A Program Financial Report for Fiscal Year 2007 (FY2007); and **Agenda Item #20.**, Authorize the General Manager to execute a sub-sublease (Lease) with Caffè del Doge Venezia, Inc. (Caffè) to provide a retail café operation within the Palo Alto Train Depot. Caffè will pay VTA a base rent of \$1,500 per month for the approximate area of 1,289 square feet commencing with the seventh month of retail operation. The Lease will terminate when VTA's sublease with the City of Palo Alto expires on June 30, 2013; and further, authorize

the General Manager to execute a Consent Letter whereby Stanford consents to the lease between VTA and Caffè.

REGULAR: Agenda Item #9., Review and accept the report submitted by CRA International entitled, "Measuring Minority and Woman-Owned Construction and Professional Service Firm Availability and Utilization." Additionally approve implementation of a Race Conscious Disadvantaged Business Enterprise (DBE) program; **Agenda Item #15.**, Adopt a resolution calling for a special election on November 4, 2008 to submit to the voters an advisory measure regarding the comprehensive transit program identified in Valley Transportation Plan 2035 scheduled for adoption on November 6, 2008 or amended thereafter; **Agenda Item #16.**, Recommend that the VTA Board of Directors amend the VTA Administrative Code to make the following changes to VTA's governance structure: 2) Eliminate the concept of city groupings selecting their representative(s) through a rotation process. Each of the city groups will "select" their representative(s) to serve as a Director on the VTA Board; 3) VTA Directors will still serve two-year terms. However, the appointing authorities will be encouraged to reappoint representatives to consecutive terms; and 4) Include a process for selecting VTA Directors within the city groupings. VTA Directors should have the required experience and qualifications in transportation; and **Agenda Item #18.**, Adopt a resolution to establish the "Santa Clara Valley Transportation Authority Retirees' Other Post Employment Benefits (OPEB) Trust", and authorize the General Manager to transfer all assets held by VTA pertaining to the Retiree Medical Fund to the Trust.

27. Announcement

There were no Announcements.

CONSENT AGENDA (continued)

7. Report on Santa Clara Valley Transportation Authority Investments for the Month of February 2008

Chairperson Williams queried about the fourth quarter of 2007 Gross Domestic Product (GDP). Kim Koenig, Department of Finance Fiscal Resources Manager, responded that the 6 percent increase in the fourth quarter 2007 GDP reflects positive contributions from personal consumption expenditures, exports, nonresidential structures, state and local government spending, and equipment and software, which were offset by negative contributions from private inventory investment and residential fixed investment.

M/S/C (Reed/Casas) to review the Report on Santa Clara Valley Transportation Authority Investments for the Month of February 2008.

Board Member Reed left the meeting at 2:10 p.m.

2. ADJOURN TO CLOSED SESSION at 2:12 p.m.

Conference with Labor Negotiators
[Government Code Section 54957.6]

VTA Designated Representatives:

Joseph Smith, Chief Financial Officer

Bill Lopez, Chief Administrative Officer

Robert Escobar, Manager, Office of Employee Relations

Employee Organization:

Amalgamated Transit Union (ATU)

RECONVENED TO OPEN SESSION at 2:19 p.m.

3. CLOSED SESSION REPORT

There was no reportable action taken during Closed Session.

28. ADJOURNMENT

On order of Chairperson Williams, there being no objection, the meeting was adjourned at 2:19 p.m.

Respectfully submitted,

Michelle M. Garza, Board Assistant
VTA Board of Directors