

ADMINISTRATION & FINANCE COMMITTEE

Thursday, October 16, 2008

MINUTES

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.

1. ROLL CALL

Attendee Name	Title	Status	Arrived
David Casas	Board Member	Present	
Don Gage	Board Member	Present	
Chuck Reed	Board Member	Present	
Forrest Williams	Board Member	Present	
David Cortese	Alternate Board Member	Absent	
Pete McHugh	Alternate Board Member	Absent	
Chris Moylan	Alternate Board Member	Absent	

* 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

There were no Orders of the Day.

4. ADJOURNED TO CLOSED SESSION at 12:10 p.m.

Anticipated Litigation--Conference with Legal Counsel

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: (Two cases)

RECONVENED TO OPEN SESSION at 1:04 p.m.

5. CLOSED SESSION REPORT

Anticipated Litigation--Conference with Legal Counsel

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: (Two cases)

There was no reportable action taken during Closed Session.

CONSENT AGENDA

6. Regular Meeting Minutes of August 21, 2008

M/S/C (Gage/Reed) to approve the Regular Meeting Minutes of August 21, 2008.

7. Regular Meeting Minutes of September 18, 2008

M/S/C (Gage/Reed) to approve the Regular Meeting Minutes of September 18, 2008.

8. Monthly Investment Report - August 2008

M/S/C (Gage/Reed) to review the Monthly Investment Report - August 2008.

9. Annual Swap Report for Period Ending June 30, 2008

M/S/C (Gage/Reed) to receive the Annual Swap Report for Period Ending June 30, 2008.

10. Monthly Legislative History Matrix

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

REGULAR AGENDA

11. Governance Presentation for Cities and County

Michael T. Burns, General Manager, reported that at the September 18, 2008 Administration & Finance (A&F) Committee meeting, the Committee directed staff to develop a presentation, which provides an overview of VTA's governance options to determine if the cities and County have a preferred alternative.

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

Mr. Burns reported that the presentation was forwarded to the A&F Committee members and the Governance Subcommittee members for their review. He continued that VTA received comments from Chris Moylan, Policy Advisory Committee (PAC) Chairperson, which were included as part of the item. Mr. Burns stated that staff is seeking the Committee's input on the presentation.

Board Member Gage stated that the Board has previously approved the following three Governance Structure proposals:

- Eliminate the Rotation Process;
- Encourage Consecutive Four-Year Terms for Members; and
- New Process for Selecting Members within the City Grouping. VTA Board of Directors should have experience and qualifications in transportation.

Board Member Gage stressed the importance to allow the Governance Structure to be tabled for a year then reassess the issue and go back to the cities and the County to receive their input regarding the option they support, which should be conducted before the expiration. Board Member Gage stressed the importance to have a "cooling down period" and noted his support to endorse Option #2 – Reconfigure City Groupings.

Board Member Reed stated that some of the issues identified by the Hay Group have been resolved with the three Governance Structure proposals, which were previously approved by the Board.

Board Member Reed concurred with Board Member Gage and suggested that the Governance Structure item rest for one year then the Board would determine the next steps to move forward.

Chairperson Williams stated that he is not in favor of going out to convince the cities and County on the four options and stressed the importance for the cities to decide what option they prefer.

Vice Chairperson Casas stated that it appears that the Committee has a consensus, noting that it makes sense to table the Governance Structure item for a period of time; however, stressed the importance to manage the stakeholders expectations regarding the Governance options.

Vice Chairperson Casas stressed the importance for VTA and the Board to do their due diligence and develop a plan to ensure that decisions are made in a timely manner. Vice Chairperson Casas stressed the importance to ensure that the stakeholders are briefed on the matter.

Board Member Gage expressed his appreciation to the Governance Subcommittee for their diligent work, time, and effort. Board Member Gage stated that the goal is to gather all the information to formulate a plan. Board Member Gage stressed the importance to allow adequate time to determine if the approved three changes to the Governance item will make a difference.

Mr. Burns responded that staff would provide a schedule of the assessment at the November 20, 2008 A&F Committee meeting.

Vice Chairperson Casas stated that the comments submitted by Chris Moylan should be included as part of the Governance item and stressed the importance to ensure that the

Advisory Committees and Governance Subcommittee are apprised of the plan that is moving forward.

M/S/C (Gage/Reed) to allow the Governance Structure to be tabled for up to a year then reassess the issue and go back to the cities and the County to receive their input regarding the option they support, which should be conducted before the expiration.

On order of Chairperson Williams, there being no objection, the Committee received information on the requested presentation outlining the four governance options.

12. Approve List of Specialty – Area Law Firms

Kevin Allmand, Acting General Counsel, reported that VTA utilizes outside legal services in specialized areas of law or when the volume of work exceeds the capacity of VTA staff. Mr. Allmand stated that staff established a list of qualified firms to select from that would provide the necessary specialized services to VTA.

Mr. Allmand reported that a Request for Proposals (RFP) for outside attorney services was issued on June 18, 2008. The purpose of the RFP was to solicit proposals from law firms with expertise in ten specified categories of law and litigation to enable VTA to establish pre-approved attorney panels in each of those specialized areas.

Mr. Allmand stated that VTA received 29 proposals, which many of the firms submitted a proposal for more than one panel of specialized area. The selection process consisted of review and evaluation where each proposal was graded and ranked according to established criteria.

Mr. Allmand continued that 21 firms were selected to be on one or more panels and added that contracts with the recommended firms will be entered into as the need arises. Funding has been budgeted in the current fiscal year for all outside professional legal services.

Board Member Gage stressed the importance for VTA to hire a large firm with expertise in several areas. Mr. Allmand responded that VTA has received enough firms in each specified category of law.

Board Member Gage stressed the importance for VTA to have in-house expertise. Mr. Allmand responded that VTA tries to complete as much work as possible in-house; however, there may be some areas where staff are not able to complete.

Board Member Gage stressed the importance to assess over a period of time how successful and effective the list of specialty area law firms has been. Board Member Gage stressed the importance to assess if VTA used the outside legal services or if it would have been beneficial to have the expertise in-house.

Board Member Gage requested a report be conducted one year from now and presented to the Board on the assessment of the specialty area law firm's effectiveness and indicate the funding spent.

Board Members Reed queried about the costs spent on the outside legal services in the course of a year and stressed the importance to determine if it is beneficial for VTA to hire additional lawyers or contract out.

Board Member Gage requested a report that indicates how much money was spent on the outside legal services to be provided every six months to A&F Committee.

M/S/C (Gage/Reed) to approve submitting a recommendation to the Board of Directors to authorize the General Manager to execute contracts and future extensions thereof with the following law firms in ten specialized areas of law and litigation. Each contract will be for an initial three-year period, with up to two additional one-year terms, in a total amount not to exceed amounts budgeted for such legal services in any given year.

Board Member Reed left the meeting at 1:36 p.m.

13. VTA Permit Policy and Permit Fee Schedule Revisions

Bill Kindricks, Business Relations Manager, reported that the purpose of VTA's Permit Policy is to protect VTA property, facilities, and service by establishing conditions for construction and activities in proximity to VTA facilities as well as for VTA to recover the associated costs.

Mr. Kindricks stated that VTA's Permit Policy and Permit Fee Schedule proposed revisions include the following:

- Addition of the Background Security Check Program for permit applicants;
- Addition of VTA's Background Security Check Standards; and
- Update of VTA's Permit Fee Schedule, increasing fees and adding fees for service impacts and Background Security Checks.

Mr. Kindricks continued that the policy complies with the recommended practice by the Transportation Security Administration and consistent with the standard being considered by the American Public Transit Association (APTA) Security Risk Management Work Group.

Board Member Gage stressed the importance for the organization to recover all costs associated with VTA's Permit Policy.

M/S/C (Gage/Casas) to approve submitting a recommendation to the Board of Directors to revise the VTA Permit Policy to include the Background Security Check Program and adopt a resolution amending the Permit Fee Schedule, increasing the fees to be collected for Restricted Access Permits and Construction Access Permits, adding fees relating to modified Light Rail and Bus services, and adding a fee relating to the Background Security Check Program.

14. Amend FY 09 Budget to Include Funding for Advanced Zero Emission Bus (ZEB) Demo Project

John Ristow, Chief CMA Officer, referenced the August 7, 2008 Board of Directors Regular meeting where the Board adopted the strategy of partnering with the other Bay Area transit properties and designating AC Transit as the lead agency for procuring and deploying the Advanced Zero Emission Bus (ZEB) Demo Program vehicles. Mr. Ristow continued that VTA's participation in the ZEB Demo Program will be primarily financial.

He stated that the recommendation is to amend VTA's Fiscal Year 2009 Transit Enterprise Fund Capital Budget to add \$6.248 million to enable VTA to meet its financial commitments for the Advanced ZEB Demo Program project.

Mr. Ristow continued that the Metropolitan Transportation Commission (MTC) has programmed \$8.9835 million in grant funds to VTA for use in the Advanced ZEB Demo Program project. VTA will receive \$6.248 million in Fiscal Year 2009 and the \$2.7355 million balance will be available in Fiscal Year 2010.

Board Member Gage stressed the importance for the Board of Directors to be aware of the ZEB Demo Program issues and challenges to determine the practicality of continuing with the program. Michael T. Burns, General Manager, responded that VTA's ZEB's were first generation but noted that the AC Transit ZEB's are newer technology and more reliable.

Mr. Burns stated that there are many challenges associated with the ZEB Demo Program, noting that it is a research and development effort and transit agencies are obligated and required to participate in by the Bay Area Air Quality Management District (BAAQMD).

Board Member Gage expressed concern and stressed the importance for the Board to know if the ZEB's are not working efficiently before VTA spends its own funds on the program.

Vice Chairperson Casas reference the Committees previous request to forward concerns regarding the ZEB Demo Program to the BAAQMD and expressed concern for VTA to spend funding on a program that is not proving to be effective.

Mr. Burns stated that at this point the funds are not discretionary and have been designated to be used for the ZEB Demo Program through MTC grant funding. He continued that VTA has spent funds on the ZEB Demo Program.

Chairperson Williams stressed the importance for VTA's Board of Directors to receive progress updates regarding the ZEB Demo Program with AC Transit as the lead agency.

M/S/C (Gage/Casas) to approve submitting a recommendation to the Board of Directors to amend the FY 2009 VTA Transit Enterprise Fund Capital Budget to add \$6.248 million for the Advanced Zero Emissions Bus Demonstration (ZEB Demo) project.

OTHER ITEMS

15. FY 2010 and FY 2011 Biennial Budget Assumptions

Joseph Smith, Chief Financial Officer (CFO) and Staff Liaison, reported that staff is currently working on the preparation of the Fiscal Year 2010 and Fiscal Year 2011 Biennial Budget. VTA's Biennial Budget reflect the business plan of the organization and stated that there will be no significant growth to the service plan.

Mr. Smith reported that the Fiscal Year 2010 and Fiscal Year 2011 Recommended Budget will be published and distributed in April 2009 then it will be forwarded to the Board for consideration at the June 18, 2009 Board of Directors Regular meeting.

Mr. Smith stated that staff will use the following budget assumptions as guidelines to develop the Recommended Budget:

- Wages and Benefits;
- Projected Sales Tax Revenues;
- Diesel Fuel;
- State Transit Assistance (STA) funding level;
- Federal Operating Grants Preventative Maintenance funding level;
- Capital Program funding level; and
- Operating Reserves funding level.

Mr. Smith reported that all currently negotiated contracts with AFSCME, SEIU, TAEA, and ATU will expire before or during the next biennial budget cycle, noting that currently negotiated contract provisions for wage increases will be reflected in the budget. Funding of potential wage increases for represented employees upon expiration of current contracts and for merit increases for non-represented employees will be managed through vacancy savings.

He stated that projected health insurance premium increases will be based on employee benefits broker's estimate and that all other benefits are projected to increase at rate of inflation where appropriate.

Mr. Smith stated that Fiscal Year 2009 Projected Sales Tax Revenues percentage increase is at a rate consistent with assumptions used in the AECOM Financial Model, noting that staff will make necessary adjustments with the sales tax growth.

Board Member Gage referenced the sales tax revenues, noting that it could adversely impact VTA's projections, which would affect VTA's Capital Budget, Operating, and Maintenance Budgets.

Board Member Gage stressed the importance for the Board to know if VTA's projects are able to be sustained and added that it is necessary for the Board to have a realistic view of the projections.

Mr. Smith stated that the cost of diesel fuel is volatile and added that staff will continue to monitor the cost of diesel fuel.

Board Member Gage queried about VTA's diesel fuel storage capacity and queried about VTA's supply. Michael T. Burns, General Manager, responded that diesel fuel is delivered to VTA a couple of times a week, noting that VTA has a three to four day supply.

Mr. Smith reported that the State Transit Administration (STA) funding will be reflected at the Fiscal Year 2009 funding level. The Federal Transit Administration (FTA) Section 5307 grant program is designed primarily to fund capital acquisitions; however, funds can also be awarded for preventive maintenance activities. He noted that VTA will continue the practice of utilizing FTA 5307 funds to support preventive maintenance activities for Fiscal Year 2010 and Fiscal Year 2011.

Mr. Smith stated that to maintain VTA's capital infrastructure, balances in the Debt Reduction Fund will be used to backfill the application of FTA 5307 funds to preventive maintenance. He continued that a portion of the maintenance funding will be used to offset the lost in sales tax revenues and VTA will offset the lost in sales tax revenues by continuing to manage VTA's expense budget.

The FY 2010 and FY 2011 VTA Transit Capital Program will be funded based on the financially constrained Capital Improvement Program in the 2009 Short Range Transit Plan. Operating Reserves will be designated at 15 percent of the Recommended Budget expenditures and any surplus revenues over expenses in excess of the 15 percent goal will be designated to the Debt Reduction Fund for funding of the local portion of future year capital expenditures.

Board Member Gage suggested that the Board revisit the 15 percent goal designated for VTA's Operating Reserves sometime next year. Board Member Gage stressed the importance for VTA to reduce its debt service instead of placing excess funds into additional capital projects.

On order of Chairperson Williams, there being no objection, the Committee received a report on the FY 2010 and FY 2011 Biennial Budget Assumptions.

16. Items of Concern and Referral to Administration

There were no Items of Concern and Referral to Administration.

17. Committee Work Plan

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

18. Committee Staff Report

Michael T. Burns, General Manager, referenced Board Member Liz Kniss' request to move the Congestion Management Program and Planning (CMPP) Committee to VTA River Oaks Campus, 3331 North First Street, San Jose, CA effective immediately.

Mr. Burns stated that it would be efficient to have all VTA's Standing Committee meetings conducted at VTA River Oaks Campus.

The Committee agreed to conduct the A&F Committee meetings at VTA River Oaks Campus effective immediately. Mr. Burns responded that the November 20, 2008 CMPP Committee and A&F Committee meetings will be held at VTA River Oaks Campus.

Board Member Gage expressed concern and noted that the CMPP Committee often runs long and overlaps into the Administration and Finance (A&F) Committee meeting time.

Board Member Gage stressed the importance to consider changing the CMPP Committee meeting time from 10:30 a.m. to 10:00 a.m. to address the meeting time overlap between the CMPP Committee and the A&F Committee.

Board Member Gage requested that the Office of the Board Secretary notify County Room Reservation to ensure that the County meeting rooms reserved for the CMPP and A&F Committees are released for the remainder of the year.

Vice Chairperson Casas stressed the importance to have direction signs placed around VTA River Oaks Campus to ensure that Committee Members and interested citizens are able to locate the Committee meeting room.

19. Chairperson's Report

There was no Chairperson's Report.

Board Member Reed left the meeting at 1:36 p.m.

20. Determine Consent Agenda for the November 6, 2008 Board Meeting

CONSENT: Agenda Item #12., Authorize the General Manager to execute contracts and future extensions thereof with the following law firms in ten specialized areas of law and litigation. Each contract will be for an initial three-year period, with up to two additional one-year terms, in a total amount not to exceed amounts budgeted for such legal services in any given year; **Agenda Item #13.**, Revise the VTA Permit Policy to include the Background Security Check Program and adopt a resolution amending the Permit Fee Schedule, increasing the fees to be collected for Restricted Access Permits and Construction Access Permits, adding fees relating to modified Light Rail and Bus services, and adding a fee relating to the Background Security Check Program; and **Agenda Item #14.**, Amend the FY 2009 VTA Transit Enterprise Fund Capital Budget to add \$6.248 million for the Advanced Zero Emissions Bus Demonstration (ZEB Demo) project.

REGULAR: None

21. Announcements

There were no Announcements.

22. ADJOURNMENT

On order of Chairperson Williams, there being no objection, the meeting was adjourned at 2:01 p.m.

Respectfully submitted,

Michelle M. Garza, Board Assistant
VTA Board of Directors