

**ADMINISTRATION & FINANCE COMMITTEE**

Thursday, October 21, 2010

**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 Kniss in Room B-104, VTA River Oaks Campus, 3331 North First Street, San Jose, California.

**1. ROLL CALL**

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>
Don Gage	Board Member	Absent
Liz Kniss	Chairperson	Present
Chuck Reed	Board Member	Present
Perry Woodward	Vice Chairperson	Absent
Nora Campos	Alternate Board Member	NA
Pete McHugh	Alternate Board Member	Present
George Shirakawa	Alternate Board Member	NA

\* 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.

**CONSENT AGENDA**

**4. Regular Meeting Minutes of September 16, 2010**

M/S/C (McHugh/Reed) to approve the Regular Meeting Minutes of September 16, 2010.

**5. Monthly Legislative History Matrix**

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

**6. Monthly Investment Report – August 2010**

M/S/C (McHugh/Reed) to review the Report on Santa Clara Valley Transportation Authority Investments for the month of August 2010.

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

**7. Quarterly Attendance Report**

**M/S/C (McHugh/Reed)** to review the 2010 Quarterly Attendance Report for the VTA Board of Directors, Ad-Hoc Committees, Board Standing Committees, and Board Advisory Committees.

**REGULAR AGENDA**

**8. Fiscal Year 2010 Quarterly Statement of Revenues and Expenses for the Period Ending June 30, 2010**

Carol Lawson, Fiscal Resources Manager, reported that VTA's Fiscal Year (FY) to date Total Revenues is below budget estimates by \$2.6 million due to unfavorable variances in Sales Tax Revenues, Fares, the Transportation Development Act (TDA), and Measure A Sales Tax Operating Assistance.

The revenue shortfall was partially offset with Federal Operating Grants by using 10 percent of the American Recovery and Reinvestment Act (ARRA) funds for operating and reprogramming unused capital grants and supplemental ARRA funds to preventive maintenance.

Ms. Lawson commented that VTA's FY to date Total Expenses were \$15 million below budget due to favorable variances in Labor Costs, Professional and Special Services, Other Services, Fuel, Reimbursement, Paratransit, and Debt Service.

Ms. Lawson stated that VTA's FY 2010 Actual surplus to reserves was \$16 million; therefore, ending at 15 percent operating reserve level.

Joseph Smith, Chief Financial Officer, stated VTA as a whole worked together to aggressively manage expenditures and adjust the budget.

The Committee complimented staff and VTA Board Members for their diligent work during these hard economic times. Their efforts enabled VTA to end FY 10 in a better financial position than anticipated.

Michael T. Burns, General Manager, expressed appreciation to the entire organization for working collaboratively to address the budget concerns.

**M/S/C (McHugh/Reed)** to review and accept the Fiscal Year 2010 Quarterly Statement of Revenues and Expenses for the period ending June 30, 2010.

**9. VTA Permit Fee Schedule**

Bill Kindricks, Business Relations Manager, reported VTA's Permit Policy and Permit Fee Schedule includes the following proposed changes:

- Revision of VTA Background Security Check Standards;
- Update of VTA Permit Fee Schedule, revising fees and adding fees for service impacts; and
- Adjustment of fees consistent with the VTA revised allocated rates.

Upon query from Board Member Reed, Mr. Kindricks responded that the proposed Permit Fee Schedule is based upon the fully allocated costs for issuing permits, performing inspection services, and other permit related services. Costs to be charged for various labor services will be calculated on a fully allocated cost basis.

**M/S/C (McHugh/Reed)** to approve submitting a recommendation to the Board of Directors to adopt a resolution amending the VTA Permit Fee Schedule, adjusting fees to be collected for Restricted Access Permits and Construction Access Permits to be consistent with the revision of VTA allocated rates.

Board Member Reed indicated he would abstain from **Agenda Item #10**. Contract Award for Operations Insurance Broker.

The quorum was lost and a Committee of the Whole was declared.

**10. Contract Award for Operations Insurance Broker**

Nanci Eksterowicz, Risk Manager, reported that VTA utilizes the services of a licensed insurance broker for the procurement and management of the insurance policies that comprise VTA's Operations Insurance Program. The Operations Insurance Program is marketed annually with the policies renewing on July 1st. The current broker contact with Alliant Insurance Services expires on January 31, 2011.

VTA issued a Request for Proposals (RFP) on July 28, 2010 and received several proposals. VTA's selection panel selected three vendors and recommended Alliant Insurance Services for contract award based on performance, experience, and competitive pricing.

The Committee of the Whole recommended forwarding the item for consideration at the November 4, 2010 VTA Board of Directors Regular Meeting: Authorize the General Manager to execute a three year fixed fee contract for \$213,060; with two additional one year options at \$80,609 for the first optional extension and \$75,862 for the second extension; for a grand total of \$369,531; with Alliant Insurance Services to provide insurance brokerage and loss control service for VTA operations.

The quorum was re-established.

**11. Measure A Bond Financing**

Mr. Burns noted the Measure A Bond Financing is an action item scheduled for VTA's Board Workshop/Special Meeting on Friday, October 22, 2010. Mr. Burns stated this will ensure a good position for VTA.

Kim Koenig, Fiscal Resources Manager, reported the recommendation is to authorize the General Manager to issue up to \$800,000,000 of Measure A Sales Tax Revenue Bonds, which the proceeds will be used to finance certain Measure A capital expenditures, provide a debt service reserve fund, and to pay the costs of issuance.

Ms. Koenig commented on significant achievements of the BART Silicon Valley Rapid Transit (SVRT) Program including: 1) 65 percent design completion, 2) federal environmental clearance, and 3) the passage of the 2008 Measure B Sales Tax, which is a dedicated funding source for the operations and maintenance of the BART extension to Santa Clara County.

Ms. Koenig continued that development of procurement documents for design build contracts associated with the Berryessa Extension (SVBX) are underway and will result in the release of the first Request for Qualifications (RFQ) on October 21, 2010, which will be followed by a Request for Proposals (RFP) in early 2011.

The significant progress in the SVRT Program places VTA in an excellent position to accelerate the bonding plans before the end of 2010 than issue bonds in FY 2012 and FY 2013.

Ms. Koenig commented on the following advantages to VTA and the Measure A Program:

- Historically low interest rates based on current market conditions;
- Issue Build America Bonds (“BABs) with a 35 percent federal subsidy prior to the expiration of the authorization of BABs on December 31, 2010;
- Lock in a Measure A funding rate that is significantly lower than assumed for the New Starts financial plan and reducing interest rate risk for the Measure A Program; and
- Strengthen VTA’s case to the Federal Transit Administration (FTA) for the Full Funding Grant Agreement by having the local match funds available, which will attract more favorable construction bids.

Ms. Koenig stated that staff proposes to structure the 2010 Bonds as a combination of fixed rate BABs and tax exempt bonds, which will mature not later than 2036. Staff recommends the use of a negotiated sale for the 2010 Bonds in order to take advantage of low interest rates and BABs authorization.

Ms. Koenig reported that staff issued a task order for Ross Financial to provide financial advisory services as well as contracts with Orrick, Herrington & Sutcliffe LLP and Fulbright & Jaworski LLP for the Bond and Disclosure Counsel, which are included in VTA’s legal services pool. The combined fees will be funded from the 2010 Bond proceeds.

The following underwriters will market and place the 2010 Bonds and are firms included in VTA’s Investment Banking Pool: Barclays Capital and Citigroup Capital Markets and J.P. Morgan, Morgan Stanley, De La Rosa & Co., Stone & Youngberg. Ms. Koenig stated the underwriting fees plus expenses will be funded from the bond proceeds.

Ms. Koenig commented on the following attachments to the Measure A Bond Financing:

- Supplemental Indenture - supplements the Master Indenture by establishing the terms of the 2010 Bonds including provisions related to BABs and the treatment of the federal subsidy payments, principal payment dates, redemption provisions, maturities, and reserve fund requirement;
- Purchase Contract - sets forth the price to be paid for the 2010 Bonds, the interest rates that the bonds will bear and all closing conditions, including required legal opinions and certifications;
- Official Statement – includes a description of the bonds, the purpose of the bonds, what is pledged as security for repayment of the bonds and the risks inherent in owning the bonds. And contains legal issues relevant to the bonds. The final OS will not be completed until after the 2010 Bonds are sold;
- Continuing Disclosure Agreement – summarizes specific operating and financial information that VTA will provide on a continuing basis.

Ms. Koenig continued that the Board of Directors could either choose not to issue the 2010 Bonds or sell the 2010 Bonds using a competitive sale method. However, this would increase the cost of funds for the Measure A Program due to the expiration of the

35 percent Federal Government subsidy as well as potential increases in long term interest rates.

Ms. Koenig stated a competitive sale will prevent VTA the flexibility to respond to market demand or change the allocation between tax exempt and BABs, which would result in a less cost effective financing. The estimated cost of issuance for the 2010 Bonds is approximately \$3 million, which will be funded from the bond proceeds and amortized over the life of the bonds.

Mr. Burns stated that the intent is to take advantage of the opportunities that would be beneficial to both VTA and the Measure A Program, such as securing low interest rates and utilizing the BABs 35 percent federal government subsidy.

Upon query from Board Member Reed, Ms. Koenig responded that if the federal government reneges on its contract to provide the 35 percent subsidy, VTA believes the risk to be remote.

Kathleen Leek, Bond Counsel, responded that VTA has the ability to redeem the bonds in the event that there is a change in tax law, noting all the available protections are incorporated within the documents. Ms. Leek noted that the issuance of BABs implies with it that the public agency takes the risk if the federal government reneges on its contract to provide the subsidy; however, this is understood by the issues in the market place.

Board Member Reed queried about the spend down requirements regarding the federal tax code. Ms. Koenig responded that VTA has to show a reasonable expectation that VTA will be able to spend the bond proceeds within certain time frames, which may be between three and five years and is set once the bonds are issued.

Ms. Koenig reported if VTA does not meet the spend down requirements then the interest earned on the bonds that is over and above what VTA is paying is rebated to the Internal Revenue Service (IRS). Ms. Koenig stated that staff does not anticipate this scenario occurring since VTA will be earning less on the bond funds than what VTA is paying.

Ms. Koenig continued that VTA will spend the funding on good expenditures, such as the Measure A Program projects, Bus Rapid Transit (BRT), and other allowable projects.

Alternate Board Member McHugh expressed his support, noting the huge benefits of moving forward with the recommendation to issue the Measure A Bond Financing.

Board Member Reed suggested that the arbitral provisions within the memorandum be reworded for the October 22, 2010 Board of Directors Workshop/Special Meeting. Mr. Burns responded that staff will provide an explanation at the Board Workshop/Special Meeting scheduled on Friday, October 22, 2010.

**M/S/C (McHugh/Reed)** to approve submitting a recommendation to the Board of Directors to adopt a Resolution authorizing the General Manager or his designee to take all necessary actions to offer, via negotiated sale, up to \$800,000,000 of Measure A Sales Tax Revenue Bonds, Series 2010 (the "2010 Bonds") in the form of tax-exempt bonds and/or Build America Bonds ("BABs") to finance certain Measure A capital expenditures, provide a debt service reserve fund, and to pay the costs of issuance.

12. **Santa Clara Valley Transportation Authority (SCVTA) - Amalgamated Transit Union (ATU), Local 265 Pension Plan Amendments**

Bill Lopez, Chief Administrative Officer, reported the proposed plan amendments to the SCVTA – ATU Pension Plan will ensure the Plan is tax compliant as required by the Internal Revenue Service (IRS). The Proposed Plan Amendments will be submitted with the request for a favorable Determination Letter from the IRS. VTA’s Board of Pensions has agreed to enter into the Voluntary Correction Program, which permits plans to retroactively correct certain compliance issues without penalty.

Mr. Lopez noted the recommendation also allows the Board to authorize all future Plan amendments required by the IRS that do not affect the level of the pension benefit to ensure the Plan is tax compliant.

The Proposed Plan Amendments have tentatively been agreed upon and are subject to ratification by the ATU Board on Thursday, October 21, 2010 and VTA’s Board of Directors on Thursday, November 4, 2010.

**M/S/C (Reed/McHugh)** to approve submitting a recommendation to the Board of Directors to approve the Proposed Plan Amendments to the Santa Clara Valley Transportation Authority - Amalgamated Transit Union, Local 265 Pension Plan. In addition, authorize all future Plan amendments as required by the Internal Revenue Service (IRS) to ensure the Plan’s tax compliance.

**OTHER ITEMS**

13. **Items of Concern and Referral to Administration**

There were no Items of Concern and Referral to Administration.

14. **Committee Work Plan**

**On order of Chairperson Kniss** and there being no objection, the Committee reviewed the Committee Work Plan.

15. **Committee Staff Report**

Mr. Smith noted the Measure A Bond Financing item would be forwarded for consideration to VTA’s Board of Director Workshop/Special Meeting on Friday, October 22, 2010.

Mr. Smith confirmed that the Board Members received the following Measure A Bond Financing Attachments:

- Attachment 2B – Fourth Supplemental Indenture (Draft dated 10/14/10);
- Attachment 2C – Purchase Contract (Draft dated 10/14/10);
- Attachment 2D – Preliminary Official Statement \* (Draft dated 10/11/10);
- Attachment 2E – Continuing Disclosure Certificate (Draft dated 10/10/10); and
- Attachment 2F – Resolution.

Mr. Smith noted that VTA received an unqualified opinion on VTA’s financial statements for FY 2010 from the external auditors. VTA’s credit rating is scheduled to be reviewed on October 28, 2010 with the pricing transaction in November 2010.

Upon query from Board Member Reed, Mr. Burns responded that VTA has been very conservative on sales tax revenue projection analysis.

Ms. Koenig referenced the Measure A Bond Financing, noting VTA's indenture allows for a 1.3 coverage, which means the sales tax is 130 percent greater than the debt service.

Jim Lawson, Executive Policy Advisor, noted the importance that projections are not accurate; therefore, staff recommends that the Board adopt principles to act on to meet VTA's financial goals.

**16. Chairperson's Report**

There was no Chairperson's Report.

**17. Determine Consent Agenda for the November 4, 2010 Board of Directors Meeting**

**CONSENT: Agenda Item #8.** Review and accept the Fiscal Year 2010 Quarterly Statement of Revenues and Expenses for the period ending June 30, 2010;

**Agenda Item #9.** Adopt a resolution amending the VTA Permit Fee Schedule, adjusting fees to be collected for Restricted Access Permits and Construction Access Permits to be consistent with the revision of VTA allocated rates;

**Agenda Item #11.** Adopt a Resolution authorizing the General Manager or his designee to take all necessary actions to offer, via negotiated sale, up to \$800,000,000 of Measure A Sales Tax Revenue Bonds, Series 2010 (the "2010 Bonds") in the form of tax-exempt bonds and/or Build America Bonds ("BABs") to finance certain Measure A capital expenditures, provide a debt service reserve fund, and to pay the costs of issuance; and

**Agenda Item #12.** Approve the Proposed Plan Amendments to the Santa Clara Valley Transportation Authority - Amalgamated Transit Union, Local 265 Pension Plan. In addition, authorize all future Plan amendments as required by the Internal Revenue Service (IRS) to ensure the Plan's tax compliance.

**REGULAR: Agenda Item #10.** Authorize the General Manager to execute a three year fixed fee contract for \$213,060; with two additional one year options at \$80,609 for the first optional extension and \$75,862 for the second extension; for a grand total of \$369,531; with Alliant Insurance Services to provide insurance brokerage and loss control service for VTA operations.

**18. Announcements**

Chairperson Kniss reminded the Committee Members of VTA's Board of Director Workshop/Special Meeting scheduled on Friday, October 22, 2010 at 9:00 a.m. held at the County Government Center in the Board of Supervisors Chambers.

Chairperson Kniss reminded the Committee to bring the two Measure A Bond Attachment booklets to VTA's Board of Directors Workshop/Special Meeting.

**19. ADJOURNMENT**

**On order of Chairperson Kniss** and there being no objection, the Committee meeting was adjourned at 12:55 p.m.

Respectfully submitted,

Michelle M. Garza, Board Assistant  
VTA Office of the Board Secretary