



## CONGESTION MANAGEMENT PROGRAM & PLANNING COMMITTEE

Thursday, April 19, 2007

### MINUTES

#### 1. CALL TO ORDER

The Regular Meeting of the Congestion Management Program & Planning Committee (CMPP) was called to order at 10:40 a.m. by Chairperson Kniss in Room Room 157, County Government Center, 70 West Hedding Street, San Jose, California.

#### ROLL CALL

##### Members Present

Liz Kniss, Chairperson  
Sam Liccardo

##### Members Absent

Nora Campos, Vice Chairperson  
Laura Macias

##### Alternates Present

None

##### Alternates Absent

Dominic Caserta  
Judy Chirco  
Pete McHugh

\* Alternates do not serve unless participating as a Member.

**A quorum was not present and a Committee of the Whole was declared.**

#### 2. PUBLIC PRESENTATIONS

There were no public presentations.

#### 3. ORDERS OF THE DAY

There were no Orders of the Day.

## CONSENT AGENDA

4. **Minutes of February 15, 2007**

**On order of Chairperson Kniss**, there being no objection, the Committee of the Whole deferred the Minutes of February 15, 2007.

5. **Monthly Legislative History Matrix**

**On order of Chairperson Kniss**, there being no objection, the Committee of the Whole reviewed the Monthly Legislative History Matrix.

6. **Programmed Projects Quarterly Monitoring Report for January to March 2007**

**On order of Chairperson Kniss**, there being no objection, the Committee of the Whole reviewed the Programmed Projects Quarterly Monitoring Report for January to March 2007.

## REGULAR AGENDA

Chairperson Kniss inquired about the oversight of the future financial planning related to the Organizational and Financial Assessment. Michael T. Burns, General Manager, responded that the Administration and Finance (A&F) Committee will discuss the development of an action plan, work scope, and priorities based on the Hay Group's recommendations. Mr. Burns introduced Jerry Mikolajczyk, Interim Chief Financial Officer (CFO). Mr. Burns noted that upon request, Board Members could meet with Mr. Mikolajczyk to discuss his deliverables.

Mr. Burns noted that after the Organizational and Financial Assessment was released, VTA had discussions with the financial community and added that the placement of an interim CFO helped ease the concerns of the financial community. Mr. Burns reported that VTA received the following bond rating for the 2007 Refunding Bonds: Standard & Poor's Corporation (S&P) – "AAA"; Moody's Investors Service (Moody's) – "Aa3"; and Fitch Ratings – "AA-."

Chairperson Kniss noted that she looks forward to working with Mr. Mikolajczyk as the public has great interest in what is going to happen to VTA's financials. Mr. Burns noted that Mr. Mikolajczyk helped make the biennial budget more clear and concise.

Chairperson Kniss expressed that the public will appreciate clarity in the budget report. She inquired about the work of the other consultants. Mr. Burns noted that the A&F Committee is the main Committee that will discuss the work of the other consultants (i.e. setting of priorities, work scope).

Chairperson Kniss expressed interest in receiving a direct report from the other consultants at CMPP meetings. Mr. Burns responded that the consultants could provide a report to the CMPP, if the CMPP workload permits it.

Upon request of Chairperson Kniss, the following members of the public/meeting attendees introduced themselves:

Jim Lawson, Government Affairs Manager - State & Regional, VTA  
Chris Augenstein, Transportation Planning Manager, VTA  
Maria Marinos, Board Secretary, VTA  
Khan Bui, Policy Aide for Member Liccardo, City of San Jose  
Rosemarrie Gonzalez, Executive Secretary to Carolyn Gonot, VTA  
Grace Salandanan, Fiscal Resources Manager, VTA  
Stephen Flynn, Senior Management Analyst, VTA  
Marcella Rensi, Transportation Planning Manager, VTA  
Bill Hough, Transportation Planner, VTA  
Leonard Danna, Partner, Vavrinek, Trine & Day  
John Ristow, Programming & Project Development Deputy Director, VTA  
Joan Jenkins, City of Mountain View  
Kurt Evans, Government Affairs Manager - State & Federal, VTA  
Jack Collins, Chief Construction Officer, VTA  
Elaine Baltao, Board Assistant, VTA  
Carolyn Gonot, Chief Development Officer and CMPP Staff Liaison, VTA  
Liz Kniss, Chairperson, CMPP, representing Santa Clara County  
Joan Benjamin, Transportation Policy Aide for Chairperson Kniss  
Sam Liccardo, Board Member representing City of San Jose  
Suzanne Gifford, General Counsel, VTA  
Michael T. Burns, General Manager, VTA

7. **Fiscal Year 2008 Transportation Fund for Clean Air Program Manager Fund**

Chairperson Kniss noted that she also serves on the Bay Area Air Quality Management District (BAAQMD).

Carolyn Gonot, Chief Development Officer and Staff Liaison, noted that this item pertains to the annual programming of the 40 percent of the Transportation Fund for Clean Air (TFCA), which is generated by a \$4.00 surcharge on vehicle registrations. The 40 percent of the surcharge returns to the counties and are allocated by a program manager. VTA is the program manager for Santa Clara County.

Ms. Gonot noted that on August 3, 2000, the VTA Board of Directors designated half of the annual TFCA 40% allocation to bicycle projects in the Countywide Bicycle Expenditure Plan (BEP) for a ten-year period. This commitment was extended until 2030 by a December 9, 2004 VTA Board of Directors decision.

VTA expects approximately \$2.6 million from TFCA 40%. Approximately \$1.5 million is designated for competitive program in the 2007/08 cycle. Six projects were submitted and staff recommends funding all six projects at the level requested, with a total grant request of \$1,520,653. Approximately \$1.1 million is available for the BEP projects during the FY 2007 fund cycle. Staff recommends that \$1,070,778 of this be programmed to Metropolitan Transportation Commission's (MTC) Vehicle Buyback Program as the third and final part of the exchange for the Congestion Mitigation and Air Quality (CMAQ) funds. Ms. Gonot noted that Attachment A – Santa Clara County FY 2007-08 TFCA 40% Program highlights the Competitive and BEP allocations.

Upon inquiry of Member Liccardo, Ms. Gonot responded that the swap with MTC is one for one and VTA does not lose any money. She added that the Tasman/Fair Oaks Streetscape Enhancements Project involves sidewalk construction by the light rail station to provide pedestrians access.

Upon inquiry of Chairperson Kniss, Michael T. Burns, General Manager, noted that the Light Rail Shuttle Program noted on Attachment A includes all the different shuttles that VTA operates.

Chairperson Kniss inquired about the progress of the Permanente Creek Trail Bridge in Mountain View. Joan Jenkins, City of Mountain View, responded that the project is in the 60 percent design phase.

**On order of Chairperson Kniss**, there being no objection, the Committee of the Whole approved submitting a recommendation to the Board of Directors to approve the programming of FY 2007/08 Transportation Fund for Clean Air Program Manager (TFCA 40%) funds to projects.

**8. Recommended FY 07-08 Congestion Management Program Work Program**

Carolyn Gonot, Chief Development Officer and Staff Liaison, noted that this is an annual requirement directed by the Joint Powers Agreement (JPA) of the Congestion Management Agency (CMA). Ms. Gonot stated that Attachment A – “Santa Clara Valley Transportation Authority Congestion Management Program(CMP), Recommended Work Program for Fiscal Year 2007-08” lists the major tasks that the CMP will address during this fiscal year. Most of the work will focus on programming activities, highway project development activities, project implementation and monitoring, update of the Bicycle Plan Element, and Countywide Transportation Plan update.

Ms. Gonot referred to Page 4 of 5 – CMP Budget and noted that staff developed a projected expenditure and revenue sources. Ms. Gonot noted that the revenue includes Member Agency Fees, which are based on the 3.5 percent increase over the previous year. Ms. Gonot noted that in the past the CMP budget is adopted separately. However, for this year, the budget is incorporated in the VTA Biennial Budget.

Member Liccardo inquired about the Countywide Transportation Modeling. Ms. Gonot responded that VTA uses a sophisticated model for everything, including transportation planning. The expenditure under this item includes staff time and minimal consultant work.

**On order of Chairperson Kniss**, there being no objection, the Committee of the Whole approved submitting a recommendation to the Board of Directors to approve the Recommended FY 07-08 Congestion Management Program Work Program.

## **OTHER ITEMS**

### **9. State Infrastructure Bond For Transportation – Public Transportation, Modernization, Improvement and Service Enhancement Account.**

Carolyn Gonot, Chief Development Officer and Staff Liaison, noted that this item relates to the MTC proposal for Proposition 1B: Regional Transit Funding. She noted that based on formulas (revenue and population shares) the Bay Area will obtain approximately \$1.3 billion. Ms. Gonot noted that the revenue share directly goes to the operators and VTA is expected to receive approximately \$123 million for transit capital investments. The population share's expected amount is approximately \$347 million.

Ms. Gonot noted the MTC's policy principles for population share and added that the MTC have discretion on how to allocate the funds. The MTC proposal provides funding to programs for Urban Core Transit Improvements, Lifeline Funding for Transit Operators, Zero Emission Busses (ZEB), and Ridership Growth on Smaller Transit Systems. VTA will receive funding from the first three programs: a) Urban Core Transit Improvements - \$45 million for VTA for Line 522/523 Bus Rapid Transit (BRT); b) Lifeline Commitment - \$33 million; and c) ZEB - \$4 million.

Ms. Gonot noted that there are issues to the Urban Core Transit Improvements as the MTC proposal includes conditions for VTA including: 1) \$45 million match from Revenue-based funds; 2) complete financial plan; and 3) resolve Caltrain Right-of-Way issue. She noted that the third condition is a major concern and VTA is proactively communicating its opposition to this condition with MTC's Executive Management as well as Commissioners.

Chairperson Kniss commented that this condition is not in MTC's policy purview.

Michael T. Burns, General Manager, concurred with Chairperson Kniss' comment and added that the Joint Powers Board (JPB) should address this right-of-way issue, if it is determined as an issue. This issue relates to MTC's involvement in the BART and SamTrans negotiations for the San Francisco Airport Extension. Mr. Burns added that MTC contributed \$24 million of their money to resolve that BART and SamTrans issue.

Chairperson Kniss commented that the condition placed on VTA is very troublesome and encouraged staff to work diligently to address the issue.

Mr. Burns noted that MTC's condition was inappropriate and outrageous. Mr. Burns provided a brief background, noting that San Mateo County paid an extra \$80 million when the right-of-way was purchased from Southern Pacific. The agreement that San Francisco and Santa Clara Counties will repay in either cash or improvements was more for public relations and political cover for San Mateo County. Mr. Burns noted that this was an issue in 1991 and Rod Diridon, Jim Beall, and Diane McKenna, who were on the Transit District at the time recollect that the issue was resolved and that the full obligation was satisfied. Mr. Burns noted that Santa Clara County contributed and continues to contribute a significant amount of money to Caltrain.

San Francisco Muni expressed that they are not against the condition as their expected amount is \$100 million, which could easily pay their principal to SamTrans of about \$9 million. Santa Clara County on the other hand is conditioned to repay between \$30 - \$60 million (including interest) and the expected amount for Urban Core Transit Improvement is only \$45 million.

Mr. Burns noted that MTC's proposal to "must resolve" basically puts "a gun on VTA's head." VTA has been very aggressively working to remove this condition. Mr. Burns requested the Board of Directors' assistance. Mr. Burns cautioned that this issue could set precedence and could begin to condition any money in the future to other counties.

Chairperson Kniss commented that this issue is so offensive to Santa Clara County and inquired about the genesis of this condition/issue. Mr. Burns explained that this issue came about during the negotiations between SamTrans and BART regarding the San Francisco Airport Extension. MTC initially viewed that San Mateo County would not obtain any money from the Infrastructure Bond and this condition would provide it some funds. He added that the funds received by San Mateo County will help resolve the dispute with BART. This condition will relieve the County of its obligation and will receive an additional \$24 million from MTC.

Member Liccardo inquired if Santa Clara County's representation to MTC is proportionate to its population. Mr. Burns noted that the larger counties get two representatives and smaller counties get one representative to MTC. Santa Clara County has two representatives and David Cortese is the representative from Association of Bay Area Governments (ABAG).

Chairperson Kniss noted that since MTC's existence in the 1970's the population has shifted and yet the Board Structure/representation has not. She noted that the representation is not adequate and poses a problem now and possibly in the future. Chairperson Kniss offered her assistance in resolving this important issue, as it represents a terrible precedent.

Kurt Evans, Government Affairs Manager, noted that VTA should to build a coalition with other representatives in MTC such as the North and East Bay Counties. VTA's MTC Commissioners should also note to other MTC Commissioners that this is not the

direction that VTA wants to move in terms of regional public policy. It could also establish a precedent for future conditions on other counties.

Mr. Burns noted that this action is set to take place at MTC within the next 30 days. Mr. Burns noted that SamTrans wants payment through a check.

Ms. Gonot directed attention to Page 6 of 7 of the Attachment – Memo To PAC – Draft funding proposal for Prop 1B Regional Transit Funding, and noted that the \$24 million for BART to Warm Springs is actually going to the SFO Extension.

Member Liccardo expressed concern that Santa Clara County will not receive the proportionate amount for the population share. Mr. Burns confirmed that most counties, with the exception of San Francisco, will receive slightly less than what they should receive in the population share. Mr. Burns noted that MTC’s argument is that the funds are not allocated solely through a formula. Additionally, MTC argues that transit projects should support high ridership areas and San Francisco has significantly higher ridership than any county in the Bay Area. Mr. Evans noted that MTC allocates money by discretion.

Member Liccardo commented that MTC is only looking at the present ridership and not future ridership. He noted that VTA should consider talking to the legislature in Sacramento and determine if the relationship with MTC should be sustained. He noted that this is the Silicon Valley and should be the “gorilla” as far as Sacramento is concerned and that Silicon Valley should be “flexing its muscles.”

Chairperson Kniss thanked Member Liccardo for his very good suggestion.

Ms. Gonot discussed the next steps, noting that the MTC is expected to adopt this policy/proposal by May 23, 2007.

Upon inquiry of Chairperson Kniss, Mr. Burns noted that the Commissioners should vote to remove this condition at their meeting. Ms. Gonot stated that VTA requested that MTC remove this condition but MTC staff refused.

Chairperson Kniss requested that staff continues to update the Board Members about this issue.

**On order of Chairperson Kniss**, there being no objection, the Committee of the Whole received a report on the State Infrastructure Bond For Transportation – Public Transportation, Modernization, Improvement and Service Enhancement Account.

#### **10. Congestion Management Program Financial Audit, FY 2006**

Leonard Danna, Partner, Vavrinek, Trine & Day (VTD), reported that the annual audit of the CMP Program obtained an “unqualified opinion” from VTD. This denotes that the

CMP financial reports were presented fairly, in all material respects, the respective financial position of the Special Revenue Fund and the Agency fund of the CMP as of June 30, 2006. In addition the changes in financial position of the Special Revenue Fund for the year ended in conformity with principles generally accepted in the United States of America.

Chairperson Kniss noted for the record that the audit does not review how the funds were spent but rather if it was spent properly.

Mr. Danna noted that the audit reviewed historical data. He added that financial statements are also included in the VTA Comprehensive Annual Financial Report (CAFR). This CAFR is submitted to the Government Finance Officers Association (GFOA) and VTA has consistently received a certificate of excellence in the past.

**On order of Chairperson Kniss**, there being no objection, the Committee of the Whole reviewed the Congestion Management Program Financial Audit, FY 2006.

**11. Notice of River Oaks General Plan Amendment Application**

Chris Augenstein, Transportation Planning Manager, noted that this provides VTA the opportunity to apply for zoning changes for a potential development/sale/lease of the land that VTA owns on River Oaks. Mr. Augenstein noted that at the City of San Jose Planning Commission, a member of the public from the River Oaks Homeowner's Association noted that the VTA area should be the one developed. The City of San Jose is scheduled to approve this on April 24, 2007.

Member Liccardo noted that the City of San Jose approved development of 100+ units of housing next to Hynix (checkered portion in the map).

**On order of Chairperson Kniss**, there being no objection, the Committee of the Whole received the Notice of River Oaks General Plan amendment application.

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

There were no Items of Concern and Referral to Administration.

**13. Committee Work Plan**

Carolyn Gonot, Chief Development Officer and Staff Liaison, noted the revised work plan on the table and discussed the items for May 2007 and the upcoming months. She

stated that the CMPP may not have a quorum in May 2007 due to schedule conflict with the City of San Jose representatives.

Chairperson Kniss requested that staff find an alternative date for the May 2007 CMPP meeting to ensure that there is a quorum.

Michael T. Burns, General Manager, noted that staff needs to work with all of the jurisdictions to ensure that there is an alternate that could attend a meeting if the regular member cannot attend.

Chairperson Kniss noted that the turnover for the Board of Directors is rapid. She noted the importance of having good attendance and be involvement at Committee meetings.

Member Liccardo noted that Fridays are generally free for the San Jose City Council.

Chairperson Kniss noted that another challenge is that most of the Board Members from smaller cities are employed somewhere else. She requested information about the reason why some Members could not attend the meetings.

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

**14. Committee Staff Report**

There was no Committee Staff Report.

**15. Chairperson's Report**

There was no Chairperson's Report.

**16. Determine Consent Agenda for the May 3, 2007 Board of Directors Meeting**

**CONSENT: Agenda Item #6.**, Review the Programmed Projects Quarterly Monitoring Report for January to March 2007. **Agenda Item #7.**, Approve the programming of FY 2008 Transportation Fund for Clean Air Program Manager (TFCA 40%) funds to projects. **Agenda Item # 8.**, Approve the Recommended FY 07-08 Congestion Management Program Work Program.

**REGULAR: None**

**17. Announcements**

There were no announcements.

**18. ADJOURNMENT**

**On order of Chairperson Kniss**, there being no objection, the meeting was adjourned at 11:49 a.m.

Respectfully submitted,

Elaine F. Baltao, Board Assistant  
VTA Board of Directors