



TRANSIT PLANNING & OPERATIONS COMMITTEE

Thursday, December 15, 2005

MINUTES

1. CALL TO ORDER

The Regular Meeting of the Transit Planning and Operations (TP&O) Committee was called to order at 4:31 p.m. by Chairperson Cortese in Room W120, San Jose City Hall, 200 East Santa Street, San Jose, California.

ROLL CALL

Members Present

David Cortese, Chairperson
Ron Gonzales
Joe Pirzynski, Vice Chairperson

Members Absent

Bob Livengood

Alternates Present

Dennis Kennedy

Alternates Absent

Dolores Sandoval
Ken Yeager

*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. **Minutes of October 20, 2005**

M/S/C (Pirzynski/Kennedy) to approve the Minutes of October 20, 2005.

5. **2006 Transit Planning and Operations Committee Meeting Schedule**

M/S/C (Pirzynski/Kennedy) to Approve the 2006 Transit Planning and Operations Committee Meeting Schedule.

6. **Monthly Legislative Report for November 2005**

M/S/C (Pirzynski/Kennedy) to receive and file the Monthly Legislative Report for November 2005.

REGULAR AGENDA

7. **Downtown Light Rail Platform Retrofit Project Increase Project Budget and Award Construction Contract**

Mark Robinson, Project Manager, reported that the Downtown Light Rail Platform Retrofit Project is the second phase of VTA's Guadalupe Platform Retrofit Program. The platforms are being raised in order for VTA to provide level boarding to its new fleet of low-floor light rail vehicles.

Mr. Robinson noted that VTA started the program in early 2001 with its design and has worked closely with the City of San Jose, Redevelopment Agency, Downtown Business Association, Chamber of Commerce, and mobility impaired community in developing the design for the Transit Mall station platforms.

Mr. Robinson directed attention to the booklet distributed entitled Preliminary Design Concept: Santa Clara Southbound Station, San Jose Transit Mall Station Retrofit Project and noted it was one of VTA's earlier works in developing the design for the Transit Mall station platforms. He noted that in addition to raising the platforms, VTA has work in the Transit Mall that will remove and replace the shelters currently on the station platforms. VTA is also providing new furniture and upgrading the lighting on the platforms.

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

Mr. Robinson reported that VTA started the first phase construction of the Platform Retrofit Program in approximately 2003, which was the North First Street segment. Due to the economy and VTA's fiscal constraints, the Transit Mall Station Retrofit Platform phase and south line platforms were delayed. During this period, VTA was looking at pursuing additional funds for the program and able to secure a Letter of No Prejudice from the Federal Transit Administration (FTA) and anticipates \$20.3 million in federal funding. The majority of the federal funding would be available in Fiscal Year 2008.

Mr. Robinson reported that VTA went out to bid on the Downtown Light Rail Platform Retrofit Project in March 2005. VTA received bids that exceeded VTA's Project Budget and the bids were rejected. VTA went back to the Board of Directors on August 4, 2005, wherein VTA asked for and received approval to increase the Downtown Light Rail Platform Retrofit Project budget by \$2.5 million. This allowed VTA to rescope and re-advertise the Transit Mall contract. VTA made changes to the contract, which included removing a station from the contract package, deferring it to the next phase, and re-advertising the project in the Fall of 2005.

Mr. Robinson noted that VTA received three bids and Robert A. Bothman, Inc., was the lowest responsible bidder, the bid was 18 percent over VTA's budget. He noted that VTA has reviewed the three bids received, compared the bids between the three bidders, and reviewed the bids previously received. VTA believes that the costs are fair and reasonable and that costs continue to be attributed to the cost of construction materials, such as specialty metals, granite procurement, and the handling of the overhead catenary system.

Mr. Robinson reported that the alternative to awarding the contract would be to reject all bids and re-advertise at a future date, which VTA does not recommend. The primary reasons would be the risk of fewer or no bidders on a third advertisement of the contract, continued escalation of steel and petroleum based material prices higher than the Consumer Price Index, and the desire to complete the work while there is consensus on the special design for the Downtown Transit Mall.

Mr. Robinson noted that in order to proceed with the award of the contract, it is necessary to increase the Project budget by \$4.5 million. Included in the recommended action is a transfer of the \$4.5 million from the VTA Enterprise account to the Project budget. He indicated that it is anticipated that by Fiscal Year 2008, VTA will be able to receive the federal funds to the point of 80 percent of the project costs and this would reimburse VTA for the monies it has advanced for the contract.

M/S/C (Gonzales/Pirzynski) to approve submitting a recommendation to the Board of Directors to approve increasing the Downtown Light Rail Platform Retrofit Project budget by \$4.5 million to \$23.0 million, and authorize the General Manager to execute a contract with Robert A. Bothman, Inc., the lowest responsible bidder, in the amount of \$18,650,000 for retrofitting Transit Mall station platforms to accommodate level boarding with low floor light rail vehicles. Initial federal funding is 22 percent, however, a Letter of No Prejudice from the Federal Transit Administration has been signed, which will allow VTA to be reimbursed up to 80 percent by fiscal year 2008.

Chairperson Cortese noted the addition of the following Agenda Item: #7.X. Adopt a policy recommendation from staff and the Committee for Transit Accessibility (CTA) to require all mobility device users, such as wheelchair and scooter users, to ride with their mobility devices secured on VTA buses. This policy, if adopted, will be effective January 8, 2006.

7.X. Bus Mobility Device Securement Policy

Sam Lau, Deputy Director of Operations Planning & Support Services, reported that the item is to adopt the policy recommendation from VTA staff and the Committee for Transit Accessibility (CTA) to require mobility device users, such as wheelchair and scooter users, to ride with their devices secured on buses. If adopted, the policy would become effective January 8, 2006. Mr. Lau noted that the development of the policy has been a collaborative effort and introduced participants in the development of the policy: 1) Steve Johnstone, VTA Project Manager, 2) Mark Thomas, VTA Lead Training Supervisor, 3) Edna Pampy, VTA Accessible Services Manager, and 4) David Julian, CTA Chairperson.

Mr. Lau reported that the Transit Planning and Operations (TP&O) Committee previously received a report on the status of the Bus Mobility Device Securement Task Force, a CTA Subcommittee created to review the policy and make recommendations. He noted that CTA passed a motion to endorse the following securement policy recommendations of the Task Force: 1) purchase new and standardized securement equipment, 2) establish a mandatory securement policy, 3) train all VTA operators, 4) the Bus Mobility Device Securement Task Force stay in tact for one year to monitor the policy, and 5) implement a public awareness campaign with a series of community meetings.

Mr. Lau reported that currently VTA does not require mandatory securement on its buses. Operators must, however, ask and assist passengers to secure their mobility devices. From an Americans With Disabilities Act (ADA) perspective, VTA can and is allowed to implement a mandatory securement policy that applies to mobility devices. However, VTA cannot refuse service based on its inability to secure mobility devices. VTA can deny service to customers who refuse to ride with their devices secured, but VTA cannot require customers to transfer from a mobility device to an existing seat on its coaches.

Mr. Lau noted that many mobility device manufacturers also have in their literature warning labels indicating that it is unsafe for users to sit on a mobility device while riding on a moving vehicle.

Mr. Lau reported that as of to date, VTA has installed equipment on most of its fleet, noting that by the end of December 2005, all new securement devices would be installed on the coaches. VTA had secured more than 70 different types of wheelchair mobility devices at the Bay Area Abilities Expo, which was held in 2005 in Santa Clara County. VTA has trained all new operators, noting that the last class of operators was sent to the Bay Area Abilities Expo to demonstrate to users how to secure their mobility devices. VTA is providing ongoing/annual refresher training courses for operators and communicated in written form and implemented onsite training concurrent with the installation. VTA is also planning to provide roving instructors to all its yard sites in case training is needed onsite.

Mr. Thomas showed a video clip comparing the old securement device to the new securement device.

Mr. Lau noted that the major benefit of the new securement policy is safety.

Member Gonzales read into the record the following letter from Martin Bishop, N.E.E.D. Project:

“VTA Board of Directors,

I am here today to seek a 60-90 day deferment of implementation of agenda item 7X: Mandatory Securement of Mobility Impaired Passengers.

VTA Directors, as a 7-year member of the Ad Hoc Committee on Transportation for the Mobility Impaired, I have never missed a meeting in 7 years of service. The Ad Hoc Committee is now the CTA. During my membership I was instrumental in insuring that County Transit was fully accessible by 1992 as mandated by the County Board of Supervisors in the early 1980s. In addition, I was a cofounding member along with the Who’s Who of Paratransit, County Transit Board of Supervisors, in writing the Paratransit plan, in addition to spearheading the integration of low-floor light rail vehicles. Other notable items, such as the supervisor’s van to pick up disabled passengers who were stranded because of non-operational bus lifts, and most of all, mandating the policy of “It is requested and preferred, but not mandatory, to tie down wheelchair and scooter passengers.”

My purpose for being here today is to seek a deferment of a final vote of the VTA Directors mandating the securement of mobility impaired passengers in wheelchairs and scooters because the problems with securement of wheelchair passengers that existed then still exist, and it is my strong concern that we are trading one liability, passengers falling over and suing the County, for two even greater liabilities: a) the securement devices for wheelchairs and scooters are ineffective because there is no standardized tie down to secure a mobility device which will cause tying the device in any possible way that may seem safe, but may cause breakages of wires, electronic controls, and wheelchair drive shafts, and, consequently, VTA will be sued for repairs; b) the liability for injury to aging coach operators who may hurt their backs, get their hands caught reaching for securement devices and attaching them to the mobility device thereby causing a multitude of workman's compensation claims. Together, repairs to mobility devices and compensation awards to bus and light rail drivers will far outweigh the costs of keeping the current policy.

VTA Directors, today my reason for asking for a deferment of your final recommendation for mandated securement is to look at and study a far superior type of securement that will eliminate possible damages to wheelchairs and scooters and eliminate the possibility of injury to coach operators. This device is similar to one used on roller coasters; it has a rectangular bar that flips down over the passenger and the mobility device to prevent the possibility of falling over sideways. In addition it has a moveable rectangular bar which prevents lateral falls and an adjustable bar that can slide back and forth and latch into place and stop any mobility device from sliding forward or backward during acceleration and deceleration. This type of device has never been introduced for discussion, yet it can be obtained and installed for one-tenth the cost of purchasing tie downs, in addition to eliminating workman compensation claims by coach operators and lawsuits for damages to wheelchairs.

Thank you for your time and consideration.

Respectfully,

Martin Bishop
Director, N.E.E.D. Project"

Member Gonzales referred to the illustrations that were attached to the letter provided by Mr. Bishop and requested that the illustrations be distributed and provided for the record.

Mr. Bishop expressed concern regarding the recommended mandatory securement of mobility-impaired passengers, the possible damage to wheelchairs/scooters, possible lawsuits for damages to wheelchairs, and possible injury to coach operators. He referred to diagrams that were distributed, which illustrated a type of securement device that would eliminate possible damages to wheelchairs/scooters and the possibility of injury to coach operators. He noted the perplexities to his wheelchair and indicated that he would be more inclined to decline restraints of any type. Mr. Bishop suggested that waivers be granted to passengers who do not want their mobility devices to be placed in restraints, so that VTA would not be held liable.

Mr. Lau referred to the illustrations provided showing Mr. Bishop's proposal of a device that has a rectangular bar that flips down over the passenger and the mobility device to prevent the possibility of falling over sideways, etc. He noted that VTA engineers had a phone conversation with Mr. Bishop and noted that the engineers created the illustrations based upon his proposal. Mr. Lau noted the following concerns that VTA had with the proposal: 1) VTA has different type of buses with different types of structures and mounting the device on a non-standard off-the-shelf type of equipment would have to be fabricated, tested, certified, and approved, 2) a disabled passenger may have medication or implants in the stomach area that would prevent any kind of bar from leaning on the passenger. Mr. Lau noted that there are various issues to consider both from a safety and implementation point of view.

Upon query of Member Gonzales, Mr. Lau noted that CTA approved VTA's recommendation. He also queried about the industry practice of securing wheelchairs in the Bay Area. Michael T. Burns, General Manager, noted that it was mandatory at AC Transit, SamTrans, and Sacramento Regional Transit District. He indicated that San Francisco Muni trained the operators to secure the wheelchairs and asked the operators to secure the wheelchairs, but it was not mandatory.

Member Gonzales asked what would happen if a passenger refuses to have their mobility device secured. Mr. Lau noted that the operator is asked to call VTA's Operations Control Center and staff at the Operations Control Center would then give instruction to the operator to either dispatch a supervisor to talk to the passenger or dispatch law enforcement. If he/she still refuses, a supervisor can then let the passenger on board their vehicle or Outreach can be called.

Vice Chairperson Pirzynski noted that VTA will have to have an outreach program of a universal nature over a period of time to let the public know about the bus mobility device securement policy. He also expressed concern about passengers refusing restraints and about possible damage to equipment.

David Julian, Committee for Transit Accessibility (CTA) Chairperson, requested a delay in implementation of the policy, in order for VTA to communicate effectively to all parties concerned.

Member Kennedy noted that he supports a delay in implementation of the policy. He suggested that when the information is sent to persons needing the service that there be some flexibility/option for a passenger to be able to have a special device that they could provide for their unit that would adapt to VTA's system.

Suzanne Gifford, General Counsel, referred to the public awareness and education process and noted that VTA cannot refuse to accept a person in a mobility device if the device is unable to be secured with VTA's new equipment. If VTA's equipment will adequately secure the device, use of the device will be mandatory.

Mr. Burns stated that VTA could address the issues of the outreach plan, liability, and implementation date by the January 5, 2006 Board Meeting.

Mr. Burns noted that a response would be provided to Mr. Bishop addressing his issues.

M/S/C (Kennedy/Gonzales) to approve submitting a recommendation to the Board of Directors to adopt a policy recommendation from staff and the Committee for Transit Accessibility (CTA) to require all mobility device users, such as wheelchair and scooter users, to ride with their mobility devices secured on VTA buses, and further that staff address implementation issues in an outreach program.

Member Gonzales left the meeting at 5:18 p.m.

8. Fiscal Year 2006-2015 Short Range Transit Plan

Kevin Connolly, Transportation Planning Manager, reported that VTA prepares the Fiscal Year 2006-2015 Short Range Transit Plan (SRTP) on a bi-annual basis. The purpose of the SRTP is to provide a snapshot in time of a financial condition of the following two areas: 1) VTA's Financial Operating Plan and 2) VTA's Capital Improvement Plan. He noted that the SRTP contains five chapters and provided a brief overview of each chapter. Mr. Connolly noted that the SRTP was placed on VTA's website the week of December 5, 2005 and has been presented at all VTA's Committees. The SRTP will be forwarded to the Board of Directors for adoption at their January 5, 2006 Meeting.

Mr. Connolly noted that the Capital Improvement Plan section contained in the SRTP consists of three components: 1) ongoing and completed projects, 2) projects underway, and 3) 2000 Measure A Projects, which is currently listed as "TBD" (to be determined) and will be completed upon approval of VTA's Expenditure Plan.

Mr. Connolly noted that staff is asking TP&O Committee Members to recommend that the Board of Directors consider the item for adoption.

M/S/C (Pirzynski/Kennedy) to approve submitting a recommendation to the Board of Directors to adopt the Fiscal Year 2006-2015 Short Range Transit Plan.

OTHER ITEMS

9. **Committee for Transit Accessibility Unapproved Minutes of December 7, 2005**

On order of Chairperson Cortese, there being no objection, the Committee for Transit Accessibility Unapproved Minutes of December 7, 2005 were received and filed.

10. **Committee Work Plan**

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

11. **Committee Staff Report**

Jack J. Collins, Chief Construction Officer, noted the increase in light rail ridership since the opening of the Vasona Light Rail Line, especially during the month of November 2005.

On order of Chairperson Cortese, there being no objection, the Committee Staff Report was received.

12. **Chairperson's Report**

There was no Chairperson's Report.

13. **Determine the Consent Agenda for the January 5, 2006 Board Meeting**

CONSENT: Item #7. Approve increasing the Downtown Light Rail Platform Retrofit Project budget by \$4.5 million to \$23.0 million, and authorize the General Manager to execute a contract with Robert A. Bothman, Inc., the lowest responsible bidder, in the amount of \$18,650,000 for retrofitting Transit Mall station platforms to accommodate level boarding with low floor light rail vehicles. Initial federal funding is 22 percent, however, a Letter of No Prejudice from the Federal Transit Administration has been signed, which will allow VTA to be reimbursed up to 80 percent by fiscal year 2008 and **Item #8.** Adopt the Fiscal Year 2006-2015 Short Range Transit Plan.

REGULAR: Item #7.X. Adopt a policy recommendation from staff and the Committee for Transit Accessibility (CTA) to require all mobility device users, such as wheelchair and scooter users, to ride with their mobility devices secured on VTA buses, and further that staff address implementation issues in an outreach program.

14. **Announcements**

There were no Announcements.

15. **ADJOURNMENT**

On order of Chairperson Cortese, there being no objection, the meeting was adjourned at 5:24 p.m.

Respectfully submitted,

Tracene Y. Crenshaw, Board Assistant
VTA Board of Directors