

To: VTA Board of Directors
From: Kurt Evans, Government Affairs Manager
Date: June 2, 2008
Subject: General Information: Weekly Legislative Report

For your information, I am attaching the weekly legislative update for the week of May 26, 2008.

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

FROM: Kurt Evans, Government Affairs Manager
Santa Clara Valley Transportation Authority

DATE: June 2, 2008

SUBJECT: Weekly Legislative Update: Week of May 26, 2008

FEDERAL

Global Warming: The head of the U.S. Environmental Protection Agency (EPA) refused to say whether he had any specific discussions with President George W. Bush that would have caused him to reverse his agency's position and deny a waiver that California needs to move ahead with stringent auto emission standards. The appearance of EPA Administrator Stephen Johnson before the House Oversight and Government Reform Committee came a day after the panel's Democrats released a report saying Johnson was willing to go along with California's Clean Air Act waiver until he was told by the White House that it did not support that decision.

But Johnson resolutely insisted that all decisions were made by him after considering the recommendations and views of agency scientists, the public and the White House. He was repeatedly asked by committee members whether he had met with President Bush about California's waiver request and he declined to directly answer, saying only that he regularly meets with the President over a wide range of issues. "It would not be appropriate for me to get into discussions I had with the executive branch," Johnson testified. He further commented that it is important that agency heads have the opportunity to discuss matters privately with the President and other White House officials.

Supplemental Appropriations Bill: The Senate approved \$165 billion to fund the war in Iraq until President Bush's successor takes over. The 70-26 vote came just minutes after a majority of Republicans voted to add tens of billions of dollars for veterans college aid and for extending unemployment benefits to the supplemental appropriations bill. But the President has promised to veto the legislation if it contains the domestic measures, and he still has enough GOP support to sustain a veto. The Senate also voted 63-34 to block a Democratic plan to urge President Bush to begin redeployment of combat troops and to place other strings on his ability to conduct the war in Iraq. The House still has to act on the supplemental appropriations bill.

To be sure, the huge margin in the Senate was driven by the popular money to extend unemployment benefits by 13 weeks and to provide returning Iraq war veterans with sharply

increased college aid. But dozens of other add-ons favored by senators in both parties also contributed to the unexpectedly sweeping tally. Such initiatives include money for Louisiana and Mississippi for levees and coastal restoration projects, \$850 million for international food aid, \$1.9 billion for military construction projects, and several billion dollars in various foreign aid programs.

Tax Breaks: The House passed a \$54 billion tax package that Democratic backers said would help relieve dependence on imported oil, while easing the economic strain on parents, homeowners and businesses. The wide-ranging legislation passed 263-160, sending it to the Senate and an uncertain future. Most Republicans opposed the bill because it is paid for by requiring some corporations with offshore offices to pay more taxes and does not address shielding taxpayers from the alternative minimum tax. The White House, citing those factors, threatened a presidential veto.

The measure renews dozens of targeted tax breaks that have expired or will expire soon, and provides new tax relief by expanding for a year the refundable child tax credit available to lower income families. It also allows, for one year, a new deduction of property taxes for non-itemizers, worth up to \$700 for a couple. In discussing the impacts of the legislation, House Speaker Nancy Pelosi (D-CA) noted the following: (a) 30 million homeowners would benefit from the property tax credit; (b) the refundable tax credit would help the parents of 13 million children; (c) renewal of a deduction for tuition and other education costs would benefit 4.5 million families; and (d) 11 million would be affected by extending current deductions for state and local sales taxes.

In addition, the legislation provides some \$17 billion in tax incentives for: (a) renewable energy sources, such as wind and solar power; (b) carbon capture and sequestration projects; (c) plug-in cars; and (d) technology for green buildings. It provides \$8.8 billion over 10 years to renew the research and development tax credit. It also creates a new category of tax credit bonds to finance state and local government initiatives to reduce greenhouse gas emissions.

The main protests to the bill were over the \$54 billion in so-called offsets—new sources of money needed to pay for the legislation. One offset would close a loophole allowing hedge fund managers and others working for offshore corporations to defer taxes on their compensation, and another would delay implementation of a tax break for multinational corporations operating overseas. House Republicans also scolded Democrats for putting off the question of the alternative minimum tax, a levy created in 1969 to catch a small number of very rich tax dodgers. However, because the tax has never been adjusted for inflation, it hits more upper-middle and middle-class taxpayers every year unless Congress acts to prevent that. Republicans pointed out that without a fix this year, the number of those affected would grow from about 4 million to 25 million, at an average added tax burden of some \$2,400.

STATE

State Budget: Gov. Arnold Schwarzenegger used overly optimistic assumptions in his lottery proposal and could wind up shortchanging education by billions in future years, according to Legislative Analyst Elizabeth Hill. She also is skeptical that the state could repay the \$15 billion

from future lottery revenues and fund education. Instead, Hill proposed borrowing against lottery income on a smaller scale, raising \$5.6 billion over two years to help close the state's budget gap.

In his revisions to the state budget, which were released on May 14, the Governor proposed a \$144.4 billion spending plan for the fiscal year that begins July 1. He would immediately use a chunk of the lottery's proceeds to help close a \$15.2 billion gap in the General Fund. Such a move would require a measure on this November's ballot to change existing lottery laws. If it were not to be approved by the voters, then the Governor's plan would impose a temporary one-cent sales tax to raise the money.

Currently, the lottery produces about \$1.2 billion a year for public education, providing just 1.5 percent of total K-12 school funding. Based on more conservative growth estimates than those provided by the Schwarzenegger Administration, Hill warned that public education funding "would fall well short of their current levels—perhaps by \$5 billion over the next 12 years combined" because bondholders would have first claim on the money. Administration officials replied that they remain confident that the state could increase income from the lottery enough to raise \$15 million as long as they were given greater flexibility on games and technology. In 2007, California's per capita lottery sales were \$91, about 50 percent of the national average.

Hill also questioned the logic of the Governor's plan for a "rainy-day" account, calling it overly complicated and seriously flawed. She said the state already has ways to save cash in years when its income exceeds expenses. Hill noted that the Governor's plan would allow tapping the fund only when revenues fall by a specific rate. Otherwise, the state would be required to make automatic cuts in spending—up to 5 percent each year—if its income was insufficient. The result, she contended, could be "automatic multibillion-dollar, across-the-board reductions," without addressing the ongoing imbalance between income and spending.

Finally, Hill was critical of Gov. Schwarzenegger for continuing to propose 10 percent across-the-board cuts as part of his FY 2009 budget plan. She offered an alternative budget that uses a combination of program cuts and revenue increases to hold state services at their current levels.

Taxation: The state's persistent budget shortfalls appear to have produced a growing consensus among politicians and civic leaders that California's convoluted state-local tax system is a major contributor to the problem. The system generates too much money during economic booms, thus enticing politicians to overspend. But revenues drop sharply in even the mildest economic downturn, thus creating chronic deficits. Moreover, it is a revenue system that is riddled with special-interest loopholes and bears little relationship to an ever-changing economy. "We have a tax system that does not reflect the 21st-century California," Gov. Schwarzenegger points out. "It needs to be modernized to serve our more dynamic information service and technology-based economy."

The Governor says he wants a "bipartisan tax-modernization commission that will give California a tax system that serves modern California better." His words echo those of new Assembly Speaker Karen Bass (D-Los Angeles), who told the Associated Press, "The state of California is in a crisis. I want to set up a commission outside of the Legislature that will look at

more long-term solutions and evaluate whether the tax structure we have now makes sense, given that it was devised in the 1930s when we had an entirely different economy.”

It is not the first time that the notion of tax reform has floated through the halls of the Capitol, but no previous effort, whether mounted by Democrats or Republicans, has even gotten to first base, always foundering on widespread disagreement over what reform means. Liberals fear that bringing more stability to a volatile revenue system might mean reducing the progressivity of the income tax, reducing the burden on the affluent and tapping more into the stable incomes of middle-class families. Conservatives fear that tax reform would be a smoke screen for raising taxes to cover California’s chronic deficits, perhaps through closing loopholes and/or changing Proposition 13, the state’s landmark property tax limit ballot measure.

According to Capitol insiders, if a tax reform commission could keep its focus on the twin goals of generating a more reliable revenue stream, and making the state’s tax code more reflective of California’s changing economy, then it would have a target-rich environment in which to operate—for example, closing loopholes that have outlived their purpose, widening the sales tax to include at least some services to reflect changes in consumer spending, and aligning tax policy with larger societal goals of expanding the economy and encouraging job-producing investment.

REGIONAL

Metropolitan Transportation Commission (MTC): On May 27, MTC held a workshop to solicit input from commissioners on potential investment strategies for the Regional Transportation Plan (RTP). The next step is for staff to use the feedback received at the workshop to develop several alternative investment packages. These packages will include potential revenue allocations for: (a) public transit; (b) local streets and roads; (c) system operations; (d) system expansion; and (e) programs aimed at focused growth, climate protection and Lifeline transit services. The packages will be presented to MTC’s Planning Committee on June 13. It is anticipated that the full Commission will approve the draft RTP in July.

At its May 28 meeting, MTC took the following actions: (1) adopted the 2009 Transportation Improvement Program (TIP); (2) approved guidelines for the second funding cycle for the New Freedom Program; (3) allocated \$5.2 million in Regional Measure 2 funds, including \$1.5 million to VTA, for the Translink Project; (4) adopted 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 state highway projects for a limited period of time; and (5) adopted an oppose position with regard to proposals circulating in Washington, D.C., to temporarily suspend the federal gas tax as a way to combat high prices at the pump.

Air District: Jumping ahead of state and federal regulators, the Bay Area Air Quality Management District (BAAQMD) became the first in the nation to impose fees on businesses that pump some of the highest levels of carbon dioxide into the air each year. The air district’s 15-1 vote sets the stage for 2,500 companies and agencies—from supermarkets to gas stations to power plants—to pay 4.4 cents for every metric ton of carbon dioxide that they expel, beginning

July 1. The top 10 companies combined would pay more than \$820,000. However, the fee for a large share of businesses would be less than \$1.

BAAQMD took the historic step as federal and state officials continue to mull over how and when to reduce the gases that many scientists blame for pushing up the Earth's temperatures and changing weather patterns. As much as BAAQMD's regulation creates a framework for pursuing the biggest carbon polluters in the region, it also provides an opportunity for the air district to make a statement on the speed with which its counterparts in Sacramento and Washington, D.C., are tackling the problem.

BAAQMD officials took great pains to emphasize that the estimated \$1.1 million to be collected annually will pay for collecting and tracking data on greenhouse gases. However, representatives of local refineries, among the polluters whose bills would run an additional \$200,000 each year, argued that BAAQMD has no legal authority to levy such fees and that the anticipated greenhouse gas emissions inventory would overlap with similar efforts at the state level.

The California Air Resources Board (CARB) is working on measures tied to AB 32 (Nunez), the state's landmark Global Warming Solutions Act of 2006, which aims to slash greenhouse gas emissions to 1990 levels by 2020. But so far, CARB has not released its long-awaited draft scoping plan to achieve that target. Industry groups contended that BAAQMD's action is premature, and would create an ineffective and confusing patchwork effect.

At the national level, there is also no comprehensive plan. Last month, President Bush urged the United States to halt the growth of greenhouse gas emissions by 2025. But with no specific mandates or proposed legislation, the announcement was widely seen as having no impact.

BAAQMD's greenhouse gas emissions inventory is of particular concern to industry because future rules or fees at the local, state or federal levels will hinge on certain benchmarks. High or low numbers may hurt or help emitters, depending on the program. While BAAQMD's plan calls for local monitoring of emissions, it is unclear whether a state program would rely on local monitoring or on figures provided by the companies. BAAQMD officials insist that the air district would integrate fees and inventory data with any new state regulations. In fact, they hope the Bay Area plan will become a template for similar systems in other regions and the state.

NOTE: Also contributing to this report were Susan Lent with Akin, Gump, Strauss, Hauer & Feld; Mark Watts with California Strategies; and Scott Haywood, VTA's Policy and Community Relations Manager.

To: VTA Board of Directors
From: Kurt Evans, Government Affairs Manager
Date: June 2, 2008
Subject: General Information: Governor's May Revise

For your information, I am attaching a summary of the Governor's FY 2009 May Revise as it pertains to transportation.

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

FROM: Kurt Evans, Government Affairs Manager
Santa Clara Valley Transportation Authority

DATE: June 2, 2008

SUBJECT: Summary of Governor's FY 2009 May Revise

BACKGROUND

In his May revisions to his January 10 budget plan (May Revise), Gov. Arnold Schwarzenegger proposed borrowing against California Lottery income to help close a projected \$15.2 billion deficit, and reversed himself by deciding not to seek to close 48 state parks, ask for early release of 22,000 prison inmates or give K-12 schools less money than they are guaranteed by the state Constitution. In addition, the Governor called for deeper cuts to health care and welfare programs for the poor even as his Administration calculated that the projected demand for government assistance is growing, and recommended diverting an additional \$711 million in public transit money for General Fund expenditures. And citing changes in federal student loan regulations, the Governor postponed the sale of EdFund, the state's student loan guarantor program, to the FY 2010 budget, though he still hopes to generate \$500 million by selling the non-profit sometime in the future.

The centerpiece of Gov. Schwarzenegger's May Revise is a proposal to borrow against the proceeds of the lottery to help address the state's budget problems, rather than leasing it as previously suggested. Under the plan, California would seek investors to lend \$15 billion secured by future earnings from lottery games that the state hopes would be improved. Investors would be repaid from lottery revenues over 32 years. The \$15 billion would be deposited into a new "rainy day fund." About \$5 billion would be used to help balance the FY 2009 budget. The rest could be used over the subsequent two fiscal years. The lottery's current rules would be changed to allow broader promotion, bigger and more frequent prize payouts, and other incentives to create more player interest. The money going to schools would be capped at the amount that they have received in recent years—about \$1.2 billion a year of the \$3.3 billion in total lottery revenues. The \$1.2 billion is not guaranteed, however, as the investors must be paid first from lottery proceeds under the deal.

Voters would have to approve a November ballot measure to change the state Constitution, which currently requires 34 percent of lottery money—the amount left after paying prizes and overhead—to be allocated for K-12 education. Failure at the ballot would trigger a temporary 1-

cent sales tax increase for up to three years to raise the \$15 billion for the rainy day fund. After that, it is assumed the economy will have improved enough to feed the rainy day fund in good years. After the sales tax ends, taxpayers would get a full rebate using a formula yet to be determined.

The basic idea of the rainy day fund is twofold. First, governors would have more power to make mid-year budget cuts. Second, the rainy day fund would accumulate money in good years for use in bad years to even out the ups and downs of the economy. Because the state is experiencing a down period now, the fund would be jump-started with the \$15 billion from the lottery transaction. The creation of the rainy day fund also would have to be approved by the voters in a separate ballot measure.

Now the spotlight shifts to the Legislature, which has a June 15 constitutional deadline to submit a balanced budget to the Governor. That deadline, however, has been routinely missed in the past. In fact, a state budget has not been enacted on time in 17 out of the last 21 years.

Whether the Governor and Legislature will be able to come to an agreement on a spending plan in time for when the new fiscal year begins on July 1 is uncertain. Although a series of actions enacted in February of this year trimmed \$7 billion from the budget, the deficit continues to grow, and difficult decisions still lie ahead. Democratic legislative leaders have declared that they are prepared to delay the budget if that is what it would take to get a tax increase, which they believe is the only reasonable solution to California's multibillion-dollar shortfall. Republicans, on the other hand, have repeatedly said they will not vote for any budget that includes new taxes. All but two GOP lawmakers have signed a "Taxpayer Protection Pledge," vowing to "oppose and vote against any and all efforts to increase taxes." Although Republicans are the minority party in the Legislature, a budget cannot be approved unless at least eight GOP lawmakers sign off on it.

The following summarizes the key transportation elements of the Governor's May Revise.

PROPOSITION 42

Background: In March 2002, the voters of California approved Proposition 42, which made the sales tax on gasoline a permanent funding source for transportation. These revenues were dedicated for the following purposes: (a) the State Transportation Improvement Program (STIP); (b) local streets and roads; (c) the Public Transportation Account (PTA); and (d) the Traffic Congestion Relief Program (TCRP), which consists of 149 projects that were earmarked in legislation that was enacted in 2000.

While state transportation funding was expected to increase as a result of the passage of Proposition 42, the Governor and Legislature took advantage of a "loophole" in the ballot measure to divert a significant amount of these revenues to the General Fund. To curb this practice, California voters approved Proposition 1A in November 2006, a constitutional amendment that puts restrictions on when and how often Proposition 42 revenues can be loaned to the General Fund. It also requires any outstanding prior-year Proposition 42 loans to be repaid

within a 10-year period and specifies an annual minimum amount that must be paid back in a given fiscal year.

Governor's May Revise Proposal: Consistent with his January 10 budget plan, the Governor is proposing to fully fund Proposition 42. However, the amount of money expected to be available for transportation programs in FY 2009 under Proposition 42 has dropped from \$1.485 billion in January to \$1.43 billion today. Of the \$1.43 billion, the STIP would receive \$572 million (40 percent), local streets and roads \$572 million (40 percent), and the PTA \$286 million (20 percent). While the Governor did toy with the notion of suspending Proposition 42 in the upcoming fiscal year to help with the General Fund problem, he did not include that recommendation in his May Revise. In the final analysis, he deemed that "the state cannot achieve budgetary savings" with such an action since the amount would have to be repaid in three years with interest pursuant to Proposition 1A.

TCRP: FY 2008 was the last year of Proposition 42 allocations to the TCRP, meaning higher funding levels for the STIP, local streets and roads, and the PTA from now on. While no Proposition 42 dollars will flow to the TCRP in FY 2009, the program is expected to receive \$83 million as a repayment for loans that were made to the General Fund during FY 2004 and FY 2005. While this loan repayment was originally intended to be a General Fund obligation, the Governor's May Revise proposes that the PTA cover it instead.

After FY 2009, the TCRP is still owed roughly \$1 billion for repayment of outstanding loans to the General Fund. These loans are to be repaid to the TCRP through a combination of Proposition 1A payments and revenues generated from new gaming compacts that were negotiated by the Schwarzenegger Administration with five Native American tribes. Under current law, these revenues would trickle into the program over the next eight fiscal years.

However, given that project sponsors have indicated that they will need to draw down their TCRP shares over the next three to four years to avoid delays to their projects, the program is currently suffering for a severe cash-flow problem. While legislation was enacted to allow the state to bond against tribal gaming revenues, this authority has been challenged in the courts. A final decision in this court case has yet to be rendered. If the court ruling is favorable, then the state could issue \$300 million-\$400 million in bonds immediately to address the near-term, cash-flow problem plaguing the TCRP.

Local Streets and Roads: The current fiscal year also is the last time that cities and counties will have to forego Proposition 42 funding for local streets and roads. In FY 2007 and FY 2008, cities and counties received no Proposition 42 money because of a requirement to repay prior-year loans that were provided in FY 2002 and FY 2003 for local streets and roads from the State Highway Account.

PROPOSITION 1B

The Governor's May Revise updates the numbers for Proposition 1B, which calls for issuing \$20 billion in bonds over a 10-year period for roughly 14 different transportation programs. This bond measure was approved by the voters of California in November 2006. In his May Revise,

the Governor recommends allocating \$4.59 billion in Proposition 1B funding in FY 2009, or roughly 23 percent of the \$20 billion total, as follows:

- Corridor Mobility Improvement Account (CMIA) = \$1.547 billion. VTA would not begin receiving money for its three CMIA projects until FY 2010 at the earliest.
- Public Transportation Modernization Improvement Account = \$350 million. Of this amount, VTA would receive roughly \$13 million under this formula program.
- STIP = \$1.187 billion.
- Trade Corridors Improvement Fund (TCIF) = \$413 million. No projects were programmed by the California Transportation Commission (CTC) for Santa Clara County under the TCIF.
- State/Local Partnership Program = \$200 million. Legislation still needs to be enacted to determine the allocation method for this program.
- State Highway Operation and Protection Program (SHOPP) = \$94 million.
- Grade Separation Program = \$65 million. The CTC is scheduled to adopt a program of projects for this Proposition 1B category in late August 2008.
- State Route 99 = \$108 million.
- Local Seismic Bridges = \$21 million.
- Intercity Rail = \$73 million.
- Traffic Signal Synchronization = \$122 million. The CTC recently programmed \$15 million for traffic signal improvements in the city of San Jose and \$900,000 for the county.
- Air Quality = \$250 million.
- Transit Security = \$102 million. Under this formula program, VTA would receive roughly \$3 million of the recommended amount.
- Port Security = \$58 million.

There are no recommended Proposition 1B appropriations for local streets and roads in FY 2009. The reason cited by the Schwarzenegger Administration is that the Department of Finance still is in the process of developing a template for administering \$950 million in Proposition 1B funding that was allocated to cities and counties in the current-year budget.

PUBLIC TRANSPORTATION ACCOUNT

PTA Revenues and Expenditures: Revenues in the PTA are derived primarily from the sales tax on diesel fuel, the sales tax on 9 cents of the state excise tax on gasoline, Proposition 42, and the so-called “spillover.” On the expenditure side, 50 percent of all PTA dollars historically have gone to the State Transit Assistance Program (STA), while the remaining balance has been used to fund the following:

- Mass transit planning activities of Caltrans and the CTC.
- Passenger rail safety responsibilities of the California Public Utilities Commission (CPUC).
- Operating costs of the state’s intercity rail system, including the Capitol Corridor trains.
- Rolling stock acquisition and other capital projects for intercity rail.

- California High-Speed Rail Authority.
- Transit capital projects programmed through the STIP process.

Spillover: The spillover has grown significantly in recent years because gasoline prices have been increasing at a faster rate than the general economy. As a result, it has become an attractive target for shoring up the General Fund. Under the Revenue and Taxation Code, the Board of Equalization and the Department of Finance are required to make a theoretical calculation every year that compares the revenues estimated to be generated by a state sales tax rate of 5 percent on all goods except for gasoline versus the revenues generated by a state sales tax rate of 4¾ percent on all goods plus gasoline. If the amount estimated at 4¾ percent is greater than the amount estimated at 5 percent, then the difference is supposed to “spill over” from the General Fund into the PTA. From there, the revenues are supposed to be divvied up 50 percent to STA and 50 percent primarily for transit capital projects programmed through the STIP process.

The spillover is not a stable or predictable source of funding. Sometimes the spillover calculation results in zero funds being transferred to the PTA. In other years, spillover revenues have fluctuated from a low of \$2 million to a high of \$867 million in FY 2008. Because there appears to be no end in sight to high gas prices, spillover revenues are projected to be significant for the foreseeable future. Today, it generates more money than any other PTA funding source. In the Governor’s May Revise, the spillover is estimated at \$1.177 billion, up from \$910 million in January.

Recent Legislative Changes to the PTA: The FY 2008 state budget turned out to be disastrous for the PTA. Not only was \$1.259 billion in PTA revenues diverted to pay for General Fund expenditures, but lawmakers also enacted SB 79, a budget trailer bill that amended the Revenue and Taxation Code to restructure the account in the following ways:

- Starting in FY 2009, one-half of all spillover revenues would be deposited into a newly created Mass Transportation Fund to be used for paying debt service on transportation bonds and yellow school bus service. Previously, these expenditures were General Fund obligations.
- The remaining 50 percent of spillover revenues would be split two-thirds to STA and one-third to transit capital projects programmed through the STIP process.
- Transportation services for clients of the state’s regional occupational centers would become a permanent obligation of the PTA, rather than the General Fund.

In September 2007, the California Transit Association filed a lawsuit challenging most of the \$1.259 billion diversion, as well as the legality of SB 79. This case is currently pending in the appellate court.

Meanwhile, a second PTA bill, SB 717 (Perata), slipped out of the Legislature during the hectic final days of last year’s regular session and was signed into law by the Governor. This measure restructured the allocation of the account’s share of Proposition 42 dollars, pumping more money

into STA at the expense of the STIP. Specifically, SB 717 changed the split between STA and transit capital projects programmed through the STIP process from 50-50 to 75-25.

Governor's May Revise Proposal: Gov. Schwarzenegger's January 10 budget plan adhered to the provisions of SB 79, but his May Revise does not. In his May Revise, the Governor proposes to use all spillover dollars plus the growth in diesel sales tax revenues that has occurred since January for General Fund expenditures, which amounts to a shift of \$711 million in PTA revenues to non-public transit purposes. When combined with the amount diverted by SB 79, the total loss to the PTA in FY 2009 would be \$1.424 billion. These revenues would be used to cover the following General Fund expenditures:

- Transportation general obligation bond debt service = \$607 million.
- Proposition 1A loan repayment to the TCRP = \$83 million.
- Regional occupational center transportation = \$141 million.
- Yellow school bus service = \$593 million.

State Transit Assistance Program: STA is a formula-based program that provides funding to public transit agencies that can be used for either operating or capital purposes. In his January 10 budget plan, the Governor included a \$743 million appropriation for STA in FY 2009. However, with the additional \$711 million diversion of PTA revenues for General Fund expenditures proposed in the Governor's May Revise, the funding level for STA drops to \$306 million, the same level that was appropriated in the current fiscal year. This represents roughly a \$17 million difference for VTA (\$30 million under a \$743 million STA Program versus \$13 million under a \$306 million program).

PTA STIP: No PTA funding would be provided for the STIP in FY 2009 under the May Revise. This recommendation remains unchanged from the Governor's January 10 budget plan. Because all State Highway Account gasoline excise tax dollars are going to the SHOPP, the primary funding sources for the STIP are gasoline sales tax dollars from Proposition 42 and the PTA. This means that the STIP has become entirely reliant on funding sources that are subject to the vagaries of the annual state budget process. Proposition 1B also provided \$2 billion for the STIP, which was programmed by the CTC last year. In past fiscal years, the STIP has been able to withstand the impacts of PTA cuts because the CTC advanced Proposition 1B funds to backfill the loss. This essentially has pushed the impact of the PTA cuts off until FY 2009.

The impacts of the recent budget decisions that have been made by lawmakers and the Governor are clearly evident in the 2008 STIP, which was approved by the CTC on May 29, 2008. First, there is no programming for transit projects in FY 2009, reflecting the absence of PTA capacity. Second, most carryover highway and transit projects from the 2006 STIP have been delayed by at least one year.

HIGH-SPEED RAIL

In his January 10 budget plan, Gov. Schwarzenegger recommended a total of \$1.2 billion for the California High-Speed Rail Authority in the upcoming fiscal year. That number is now \$41.2 million under the May Revise.

On a related note, the Governor has dropped a request that lawmakers remove the \$10 billion high-speed rail bond measure from the November 2008 ballot. However, he wants the Assembly and Senate to pass legislation to tie the spending of the bond money to guarantees of support from the federal government and the private sector, each of which is assumed to be on the hook for a third of the funding needed to build the initial phase of the high-speed train project under the authority's financial plan. To address the Governor's concerns in this regard, Assembly Members Cathleen Galgiani (D-Tracy) and Fiona Ma (D-San Francisco) have introduced AB 3034, which is currently winding its way through the legislative process.

SHOPP

Consistent with his January 10 budget plan, the Governor's May Revise allocates \$100 million in revenues generated by renegotiated gaming compacts with several Native American tribes to the State Highway Account in order to repay prior-year loans to the General Fund. These tribal gaming revenues are targeted for the SHOPP, which consists of rehabilitation, safety and seismic retrofit projects on the state highway system. However, the May Revise proposes a new \$200 million State Highway Account loan to the General Fund for FY 2009, which would come at the expense of the SHOPP.

From: Board.Secretary
Sent: Wednesday, June 04, 2008 11:33 AM
To: Board.Secretary
Cc: Burns, Michael
Subject: June 5th Board Meeting - Agenda Item #s 22 and 23

To VTA Board of Directors:

Attached is a memorandum from the General Manager regarding the following Agenda Items for the June 5th Board of Directors Meeting:

- Item 22. Governor's May Budget Revisions
- Item 23. Contract Amendment for Gasoline Purchase

Thank you .

Yolanda L. Cruz
Assistant Board Secretary
VTA Office of the Board Secretary
Voice: 408.321.5669 Fax: 408.955.0891

MEMORANDUM

TO: VTA Board of Directors

FROM: Michael T. Burns
General Manager

DATE: June 4, 2008

SUBJECT: Board Meeting, June 5, 2008

The agenda for the June 5, 2008 Santa Clara Valley Transportation Authority (VTA) Board of Directors Meeting contains two items that did not go through the Standing Committee process. Those items are Item 22, *Advocacy Position on State Budget*, and Item 23, *Contract with SC Fuels*.

Item 22, *Advocacy Position on State Budget*, requests the Board's approval to advocate for the \$743 million in State Transit Assistance Program Funds (STA) proposed in Governor Schwarzenegger's January 10 Budget. Because the May Revise (May 14, 2008) redirected \$711 million of this amount to the State's General Fund to help balance the state budget, action is required now to authorize staff advocacy on behalf of the STA funds originally proposed.

Item 23, *Contract with SC Fuel*, is a contract amendment to our existing fuel contract. Normally, such amendments would be handled under the General Manager's authority. Cooperative purchasing agreements such as this one require Board approval. This action allows us to purchase gasoline for the community bus fleet through our cooperative agreement for diesel fuel. Storage facilities are now complete at the necessary operating divisions, and approving the contract now will enable VTA to reduce our cost for gasoline as quickly as possible.

These items are exceptions to our policy of bringing items through the committee process. In my judgment, they are reasonable exceptions to this procedure. If you have any questions, please feel free to call me.

From: Board.Secretary
Sent: Wednesday, June 04, 2008 11:58 AM
To: Board.Secretary
Cc: Burns, Michael
Subject: Grand Jury Report

Dear Board Members:

The Santa Clara County Grand Jury has published a report entitled “Dumbarton Rail Bridge Project—Do we Need it?” This report will be made public this afternoon. A copy is attached for your review.

VTA has 90 days to submit a response to the Presiding Judge of the Santa Clara County Superior Court (September 2, 2008), therefore, the response will be agendized for consideration at the August 7, 2008 Board meeting.

If you have any questions about this report, or our process for responding to the report, please feel free to contact me.

Greta Helm
Chief of External Affairs
(408) 321-5522



2007-2008 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

DUMBARTON RAIL BRIDGE PROJECT – DO WE NEED IT?

Introduction

The 2007-2008 Santa Clara County Civil Grand Jury (Grand Jury) received a complaint from a citizen stating that Santa Clara County (County) has committed funds to the Dumbarton Rail Corridor (DRC) project, which has significant cost and legal issues and is of questionable benefit to county residents.

Background

In the past 20 years, the Bay Area and Santa Clara County have established programs that address regional and county transportation issues.

In 2000, county voters approved Measure A, which was a series of 14 transportation projects designed to provide transportation relief to the residents of the county. The projects ranged from extending BART to downtown San Jose to connecting Caltrain to the Dumbarton Rail Corridor, and would be under the management of the Santa Clara Valley Transportation Authority (VTA). These projects would be paid for through an extension of the ½ cent sales tax through 2030. Proponents of this measure stated that these projects would be completed on time and within budget.

In 2004, voters from the seven Bay Area counties approved Regional Measure 2 (RM2), which is part of an overall Regional Traffic Relief Plan and includes the DRC project and the BART extension project.

The DRC project, a part of this regional transportation program, is a proposed passenger rail service that would span the southern portion of the San Francisco Bay, connecting communities in the East Bay (Union City, Fremont, Newark) to communities in the West Bay (Menlo Park and beyond to San Jose and San Francisco). A new rail bridge crossing the bay would replace the existing rail bridge which has not been in operation since the mid-1980s. The lead agency for the project is the Caltrain Peninsula Joint Powers Board.

Six daily westbound trains would depart in the morning and converge with the existing Caltrain line in the West Bay. Using the Caltrain line, three of the trains would travel north to San Francisco while the other three trains would head south to San Jose. During the afternoon peak, all trains would reverse their routes back to Union City. Four train stations would be directly served by DRC trains (Union City Intermodal Station, Fremont Centerville, Willow Street in Newark and Willow Road in Menlo Park).

In the 1990s, the San Mateo County Transportation Authority (SMCTA) purchased the right of way from the Southern Pacific Railroad for the Dumbarton Bridge rail crossing. Transit studies were conducted by SMCTA to determine if passenger rail service should be considered for the Dumbarton Bridge. The cost of the DRC was projected to be \$300 million and the project was scheduled to be completed by 2012. Daily ridership was projected to be 5,600 in 2010 and 12,800 by 2030.

Santa Clara County's contribution to the \$300 million project cost is \$44 million, Alameda County's \$32.5 million and San Mateo County's is \$50 million. The balance of the \$300 million would come from the Metropolitan Transportation Commission (MTC).

Discussion

A DRC project study report was completed in February 2004, and a Project Advisory Committee was formed in April 2004. An implementation schedule was established that showed (a) thirteen environmental studies and project design completion by 2009, (b) construction funding approval in 2010, and (c) final design and construction completion by 2012. Passenger service would start in 2012 after project completion.

The MTC recently reported that the 2004 project costs of \$300 million have escalated to \$600 million. Additional revenues to cover the funding gap have yet to be identified. In addition, a key issue of the overall project has not been resolved. The segment of the project that involves the Newark-Union City line is dependent on reaching agreement with the Union Pacific Railroad Company (UPRR) for the use of their rail line. To date, there has been no agreement reached with the railroad after years of discussion. The original completion date of 2012 will not be met because of the significant funding shortfalls and legal issue with UPRR.

DRC project management has been reviewing alternatives if the right of way issue and the significant financial shortfall are not resolved. Among the alternatives being considered are to build portions of the rail corridor project that would only use current committed funds. The VTA has expressed concern in their internal memos over these issues and has considered withholding funds during the current phase, but has released \$2 million to date.

Other justifications identified for undertaking this project are improved commuter delay times across the Dumbarton Bridge and increased ridership of the rail system. The original study was completed in 1999. However, a study conducted by the MTC in 2005 indicates that there has been a 97% drop in commuter traffic delay times from the original study. In addition, a San Francisco Bay Area Regional Rail Plan study in 2007 indicated very low ridership potential for the Dumbarton Rail Corridor even though regional population is projected to increase by 1.5 million by 2025.

Conclusions

The original assumptions for the county's participation in the DRC project are not valid, and the voters of the county and the VTA should question the county's participation in this regional project.

The original projected cost of \$300 million has doubled. With the overall project costs doubling in the last four years, the original VTA commitment of \$44 million could double to \$88 million. The benefit of this expenditure to the County is questionable.

The timetable of completion by 2012 is not going to be met. Without additional funds that have yet to be identified and approved, the project would have to consider a reduced scope that would mean only partial project completion.

Full completion of the project is in jeopardy if agreement with the UPRR for the right of way is not obtained.

Another assumption, that the DRC would improve commuter traffic delay times across the Dumbarton Bridge, has proven to be incorrect. The latest study conducted in 2005 does not support that conclusion.

Although the Regional Transit Plan estimates that regional population will increase by 1.5 million by 2025, the San Francisco Bay Area Regional Rail Plan 2007 report said that the Dumbarton Rail Corridor would have low to moderate ridership potential.

Findings and Recommendations

Findings were reviewed with the subject agencies.

Finding 1

Projected project costs for the DRC project have doubled since receiving voter approval in 2000 on Measure A and RM2 in 2004. Currently, there are no additional funds committed or available to fund the increased project costs nor any plans to obtain them.

Recommendation 1

The VTA Board of Directors should not proceed with additional funding until the current alternatives analysis is complete.

Finding 2

The DRC has yet to obtain a right of way from UPRR, which jeopardizes a significant portion of the project.

Recommendation 2

The VTA should not expend any additional funds on this project until this issue is resolved by the DRC.

Finding 3

There is serious doubt about the cost versus benefit of this project to county residents. The original assumptions of improved commuter delay times and high ridership have proven not to be correct.

Recommendation 3a

The VTA should evaluate the MTC data and use the 2007 Regional Rail Plan as part of its overall decision to continue participation.

Recommendation 3b

The VTA should evaluate the County's \$44 million commitment to the overall project in terms of benefit received.

Key References

Documents

Calthorpe Associates Memorandum. *MTC Resolution 3434 TOD Policy Evaluation and Recommendations Tasks 6B, 6C, & 6E*, May 26, 2005.

Dumbarton Rail Advisory Committee. Minutes, October 23, 2007.

HTNB Corporation. *Dumbarton Rail Corridor, Environmental Phase 1 Alternatives Analysis and Project Purpose and Need, Volume 1 – Final Report*, March 2006.

Dumbarton Rail Policy Advisory Committee, Memorandum. *Status of Discussion with the UPRR*, January 16, 2007.

Funding Agreement between Santa Clara Valley Transportation Authority and San Mateo County Transportation Authority for Final Design (PS&E or Plans, Specifications, and Estimates) Phase of DRC Project, October 2007.

Metropolitan Transportation Commission. *Alternatives Evaluation – Regional Rail without High Speed Rail*, July 23, 2007.

Metropolitan Transportation Commission. *Congested Freeway Locations – Morning and Evening Commutes*, 2005.

Santa Clara County 2003-2004 Civil Grand Jury, *Final Report*. "Inquiry Into the Board Structure and Financial Management of the Valley Transportation Authority," June 2004.

Santa Clara County Ballot Measure A, June 2000.

Santa Clara Valley Transportation Authority, Memorandum. *Budget Allocation and Authorization to Enter into a Cooperative Agreement for the Dumbarton Rail Corridor Project*, February 21, 2007.

Santa Clara Valley Transportation Authority. *Organizational and Financial Assessment Executive Report*, March 2007.

Santa Clara Valley Transportation Authority. *Valley Transportation Plan 2030 (VTP 2030)*, February 2005.

HTNB Corporation. *Summary of the Dumbarton Rail Corridor Project Study Report*, May 2004.

Regional Measure 2, Regional Relief Plan - Ballot Measure and Statute, July 2004.

Documents - continued

Regional Rail Plan for the San Francisco Bay Area, Revised Draft Report, September 2007.

Regional Measure 2, Regional Traffic Relief Plan, Attachment C, MTC Resolution No. 3647, Revised: 07/25/07-C.

Union Pacific Railroad Company, Letter. *Oakland-San Jose Track Improvements - Phase 1*, February 23, 2000.

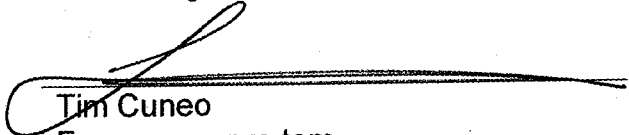
Interviews

December 13, 2007	Member, Dumbarton Rail Citizens Advisory Panel
January 31, 2008	General Manager, VTA
February 12, 2008	Former Member, Dumbarton Rail Policy Advisory Committee and VTA Board of Directors
February 19, 2008	Member, Dumbarton Rail Policy Advisory Committee and VTA Board of Directors
March 4, 2008	Project Manager, DRC Project

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 8th day of May, 2008.



Raymond A. Blockie, Jr.
Foreperson



Tim Cuneo
Foreperson pro tem



Kathryn C. Philp
Secretary

From: Board.Secretary
Sent: Thursday, June 05, 2008 9:17 AM
To: Board.Secretary
Cc: Burns, Michael
Subject: Letter from Representative Anna Eshoo

To VTA Board Members:

Attached, for your information, is the response from Representative Anna Eshoo regarding the letter we sent her on May 15, 2008 urging her to oppose any legislation proposing to suspend the federal motor fuels tax (copy of the letter is also attached).

Thank you.

Yolanda L. Cruz
Assistant Board Secretary
VTA Office of the Board Secretary
Voice: 408.321.5669 Fax: 408.955.0891

Congress of the United States
House of Representatives
Washington, D.C. 20515

Anna G. Eshoo
Fourteenth District
California

May 22, 2008

The Honorable Liz Kniss
Board of Directors
Santa Clara Valley Transportation Authority
3331 First Street
San Jose, California 95134-1927

Dear Liz,

Thank you for your letter expressing concern about suspending the federal motor fuels tax.

I oppose suspending the gas tax because I don't believe the measure will address the problem of gas prices. I realize the importance of the Highway Trust Fund which derives its revenue from the gas tax and the projects that depend on its resources. The ability to maintain our nation's infrastructure should not be put at risk to save eighteen cents per gallon of gas.

The proposed tax holiday might actually incentivize heavier gasoline consumption, which goes against my concerns about climate change and the need to curb greenhouse gas emissions. There are better ways to address the problem than a gas tax holiday. I've cosponsored the Strategic Petroleum Reserve Fill Suspension and Consumer Protection Act (H.R. 6022), which will stop deposits of oil into the Strategic Petroleum Reserve until prices come down. The bill has passed both the House and the Senate was signed into law by the President this week. While this is unlikely to affect gas prices substantially, it is good policy and a step in the right direction. I will continue to look for other opportunities to provide relief at the gas pump, but rest assured that I do not support a suspension of the gas tax.

Thanks again for your letter, and whenever I can be of help to you and the VTA, just let me know.

Warmest regards,

Anna G. Eshoo
Member of Congress

May 15, 2008

The Honorable Anna Eshoo
U.S. House of Representatives
205 Cannon House Office Building
Washington, DC 20515

Dear Representative Eshoo:

On behalf of the Santa Clara Valley Transportation Authority (VTA), I am writing to urge you to oppose any legislation proposing to suspend the federal motor fuels tax. We believe this proposal would potentially destabilize the Highway Trust Fund, and would not result in any significant financial benefits to consumers.

The federal motor fuels tax generates revenues for the Highway Trust Fund, affording state and local governments predictable funding with which to plan highway and public transit investments. With a three-month suspension of this excise tax during the widely traveled summer months, the balance of the Trust Fund would be reduced by approximately \$9 billion. In fact, during the period when regular gasoline prices increased by 230 percent, the 18.4 cents-per-gallon federal gas tax has remained the same, resulting in a 32 percent decline in real purchasing power. With the Highway Account of the Trust Fund facing insolvency in FY 2009, further cuts would result in substantial reductions in necessary and beneficial infrastructure investments. While we recognize that certain proposals offer means of replenishing the lost Trust Fund revenues with General Fund transfers or increased taxation on oil companies, this sets a dangerous precedent for "solutions" to future economic challenges.

Furthermore, as a practical matter, there is no guarantee that suspending the federal motor fuels tax would have the effect desired by its supporters. Prices at the pump may not fall, given that supply and demand are the basic determinants of how much the consumer will pay for gasoline and diesel fuel, not the taxes that are imposed.

Reliable and safe transportation infrastructure is essential to our nation's vitality. By suspending the federal tax on motor fuels, the ability to invest in necessary infrastructure is diminished. We respectfully ask that you oppose any proposals to eliminate the collection of the federal motor fuels tax for any period of time. Thank you for your consideration of our request.

Sincerely,

Liz Kniss, Chairperson
Board of Directors
Santa Clara Valley Transportation Authority