

MEMORANDUM

TO: Santa Clara Valley Transportation Authority
Board of Directors

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

DATE: August 31, 2009

SUBJECT: Weekly Legislative Update: Week of August 24, 2009

FEDERAL

Cash for Clunkers: The federal government ended the Cash for Clunkers Program on August 24 because it has run out of money. The program, formerly known as the Car Allowance Rebate System (CARS), began in late July and offered consumers rebates of \$3,500 or \$4,500 for trading in older cars and trucks for new, more fuel-efficient models. The trade-in vehicles, which needed to get 18 miles per gallon or less, were then scrapped. The program proved to be far more popular than expected. In fact, Congress was forced to add \$2 billion to the original \$1 billion budget when the first pot of money nearly ran out in a week. The extra funding was supposed to last through Labor Day, but in the end, Cash for Clunkers lasted only about a month.

According to data released by the U.S. Department of Transportation, the Cash for Clunkers Program generated more than 690,000 in new vehicle sales. Approximately 84 percent of the trade-ins were trucks and 50 percent of the new vehicles purchased by consumers were passenger cars. New vehicles bought through the program had an average fuel efficiency of 24.9 miles per gallon, compared with an average of 15.8 miles per gallon for trade-ins, a 58 percent improvement.

Transportation Secretary Ray LaHood commented that U.S. consumers and workers were “the clear winners” as a result of the Cash for Clunkers Program. He noted, “Manufacturing plants have added shifts and recalled workers. Moribund showrooms were brought back to life, and consumers bought fuel-efficient cars that will save them money and improve the environment.”

While dealers were pleased with the new sales, they reported difficulties in trying to get the federal government to reimburse them for the rebates that they gave to consumers buying vehicles under the Cash for Clunkers Program. LaHood assured dealers that they would be reimbursed for the money that they have fronted. Under the program, dealers were responsible for paying the rebates out of their own pockets and then seeking reimbursement from the federal government. Some car dealers have said their reimbursement requests have not been approved,

leading to a cash crunch at their businesses. Dealers typically borrow money to put new cars on their lots and must repay lenders within a few days of sales.

Federal Deficit: The federal budget deficit will hit a record \$1.6 trillion this year, a figure that could threaten President Barack Obama's domestic agenda, complicate the 2010 congressional campaign and set up big political battles over government spending. These political themes were drawn as soon as the White House and the non-partisan Congressional Budget Office (CBO) released projections showing mounting deficits and debt, an unemployment rate that will hit 10 percent, and a shrinking economy.

The White House said a dramatic drop in tax collections, combined with spending in an effort to jump-start the economy, is causing the federal budget deficit to more than triple from 2008's figure of \$459 billion. Nevertheless, the \$1.6 trillion estimate is lower than what was previously assumed because of reduced spending to help prevent bank failures.

Republicans seeking to gain seats in next year's congressional elections outlined likely campaign themes shortly after the projections were released. House GOP leader John Boehner (R-OH) said the reports "confirm what the White House has been trying to hide. The Democrats' out-of-control spending binge is burying our children and grandchildren under a mountain of unsustainable debt."

Health Care: Lawmakers said President Obama must scale back his ambitious plans to overhaul the nation's health care system because ballooning budget deficits are undermining support for more comprehensive and costly legislation. With the release of deficit projections by the White House and the CBO, even Democrats in Congress commented that whatever health care bill emerges this fall will have to cost less than the \$1 trillion price tag contemplated earlier this year.

Renewed criticism of the health care proposals pending in Congress comes as lawmakers hear from skeptical voters at town hall meetings across the country during their August recess. Previously, much of the concern focused on the proposed government-run insurance program known as the "public option." While President Obama prefers a public option, the White House said he is willing to listen to other ideas if they encourage competition with private insurers and drive down health care costs. Now the health care debate is starting to be framed by the new deficit figures from the White House and the CBO. In response, President Obama vowed that his plan would not add to the deficit, but will lower costs for the federal government and families.

Climate Change: According to military and intelligence analysts, the changing global climate will pose significant strategic challenges to the United States in the coming decades, raising the prospect of military intervention to deal with the effects of violent storms, drought, mass migration, and pandemics. The Pentagon and intelligence agencies, which for the first time are taking a serious look at the national security implications of climate change, noted that such climate-induced crises could topple governments, feed terrorist movements or destabilize entire regions. Recent intelligence studies have concluded that over the next 20-30 years, vulnerable regions, particularly sub-Saharan Africa, the Middle East and South/Southeast Asia, will face the prospects of food shortages, water crises and catastrophic flooding driven by climate change that could demand an American humanitarian relief or military response.

So far, much of the public and political debate on global warming has focused on finding substitutes for fossil fuels, reducing greenhouse gas emissions and engaging in further negotiations toward an international climate treaty—not potential security challenges. But a growing number of policy makers say the world’s rising temperatures, surging seas and melting glaciers are a direct threat to the national interest. Proponents of this view contend that if the United States does not lead the world in reducing fossil fuel consumption and, thus, greenhouse gas emissions, a series of global environmental, social, political, and possibly military crises loom that the nation will urgently have to address. This argument could prove to be a fulcrum for debate in the Senate next month when it takes up climate change legislation that was passed by the House in June.

STATE

State Budget: The Department of Finance released its most recent multi-year budget forecast, which reflects the revisions to the state’s FY 2010 spending plan that were enacted in July. The updated forecast assumes that all of the savings and other solutions in the July budget agreement will be realized. Still, it shows operating deficits in FY 2010 and in the next three fiscal years, as follows:

FY 2010 = \$4.958 billion.
FY 2011 = \$7.419 billion.
FY 2012 = \$15.467 billion.
FY 2013 = \$15.097 billion.

The primary cause of the big jump between FY 2011 and FY 2012 is the expiration of the temporary tax increases that were approved as part of the February budget deal. FY 2012 is also when the corporate tax cuts from the February agreement will fully kick in.

The forecast further assumes that the state will repay local governments in FY 2013 for the \$1.935 billion in property tax revenues that will be borrowed in FY 2010 pursuant to Proposition 1A. With interest, the total repayment will amount to \$2.37 billion. In addition, it reflects a continuation of the recent spending cuts to health, human services and other General Fund programs through the end of the forecast period, as well as the continued diversion of “spillover” revenues from public transit to cover state debt service costs.

Education: Gov. Arnold Schwarzenegger called a special legislative session to repeal a controversial law that prohibits linking teacher evaluations to student performance. The Obama Administration is demanding the repeal in order for California to be eligible to receive some of the \$4.3 billion in federal economic stimulus money that is available for public schools. But the move might face tough sledding in the Democratic-controlled Legislature because of opposition from the California Teachers Association.

The Governor is also calling upon lawmakers to approve other changes that he believes will make the state more competitive for federal funds. These changes include lifting a cap on the number of charter schools, allowing “alternative pay schedules” for teachers in some jobs, and

opening enrollment to allow students to attend any school in the state. The Governor wants the Legislature to take up the package and finish by October 5 so that the state has time to apply for what he claims could be hundreds of millions of federal dollars for California's schools.

The California Teachers Association said the changes outlined by Gov. Schwarzenegger, such as merit-based pay and charter school expansion, "just don't work" and noted that teachers can already be evaluated on the basis of student performance if local administrators and teachers agree.

Water: Gov. Schwarzenegger said he will not approve a water deal unless it includes a multi-billion-dollar bond to pay for dams and other projects. In a letter to Democratic leaders, the Governor wrote, "I cannot sign a comprehensive water package if it fails to include a water infrastructure bond that expands our water storage capacity—both surface storage and groundwater—funds habitat restoration, water quality and conservation." His demand, however, is at odds with the push by Democratic lawmakers to seek policy changes first. The divide threatens to derail negotiations on legislation to shore up California's water supplies and to address environmental issues related to the Sacramento-San Joaquin Delta.

Senate President Pro Tem Darrell Steinberg (D-Sacramento) indicated that he is open to a water bond, but said, "I want to make sure that we first get the policy right on how to restore the Delta and deal with the issue of water supply reliability." Steinberg also noted that the Governor's proposal to do a bond measure in the range of \$10 billion is too expensive given the state's weak fiscal condition.

Democratic lawmakers are pushing a five-bill package that does not include financing for water projects. Rather, the bills would create a seven-member Delta Stewardship Council to make key decisions on how to restore the Delta while assuring more reliable water supplies. Democrats argue that the council is needed to bring more order in the Delta, which is now overseen by more than 200 separate agencies.

State Prisons: A Senate-passed plan to reduce the state's prison population by 27,300 inmates and to form a commission to change sentencing laws stalled in the Assembly. The vote in the Senate to approve the package, which Gov. Schwarzenegger supports, was 21-19. No GOP senators supported the plan. In the Assembly, however, Democratic leaders lacked the 41 votes needed to pass the package over Republican objections. The ball is now in the court of Speaker Karen Bass (D-Los Angeles), who must decide whether to cut portions of the package in order to win additional Democratic support.

Senate action came after hours of debate during which GOP lawmakers predicted increased crime as a result of the inmate releases, while Democrats defended the cost-cutting move as a necessary action that contains adequate public safety protections. The plan calls for reducing the state's prison population of 167,700 inmates by roughly 27,300 over the next fiscal year, relying on various maneuvers and reclassifications to get the number down. The strategies include turning over inmates who are not U.S. citizens to federal authorities for deportation, placing some low-level inmates under "house arrest" with GPS monitoring, incarcerating some offenders in county jails, and not automatically returning to prison non-violent offenders who violate their

parole. The package also establishes a sentencing commission that would be responsible for recommending sentencing and parole changes by mid-2012. The changes would take effect on January 1, 2013, unless the Legislature votes to reject them.

The budget-balancing agreement signed by Gov. Schwarzenegger last month assumes a \$1.2 billion cut in state prison spending, but it did not specify exactly how that reduction would be achieved.

The sentencing commission has become a major flashpoint in the Assembly. Supporters promote it as a way to fairly and equitably set sentencing guidelines in the wake of decades of determinant sentencing laws that have left judges with little discretion and contributed to rising prison populations. Opponents counter that the proposed commission is a thinly veiled attempt to soften criminal punishment that would backfire by placing more offenders on the street. Also controversial is the suggestion that the commission's recommendations take effect automatically unless rejected by the Legislature and Governor. Law enforcement groups and some lawmakers argue that such an automatic process would give too much power to an unelected body. They believe the panel's recommendations need to be approved by the Legislature and Governor in order to take effect.

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

From: Board.Secretary
Sent: Monday, August 31, 2009 4:10 PM
To: Board.Secretary
Subject: 2000 A Citizens Watchdog Committee Response to Civil Grand Jury Report

Dear VTA Board of Directors:

The Citizens Watchdog Committee requested the VTA Board of Directors receive their response to the 2008-09 Santa Clara County Civil Grand Jury Report.

Deborah Harrington
Board Secretary
Santa Clara Valley Transportation Authority
408.321.5773

August 25, 2009

The Honorable Jamie Jacobs-May
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

Re: Citizens Watchdog Committee, Santa Clara Valley Transportation Authority

Dear Judge Jacobs-May:

The 2008-09 Civil Grand Jury Report relating to Santa Clara Valley Transportation Authority (VTA) focuses mainly on the Citizens Watchdog Committee established by Santa Clara County citizens voting approval of 2000 Measure A. The Citizens Watchdog Committee (CWC) discussed this Report, commenting on numerous misstatements and factual inaccuracies in the Report, at its meetings on June 10, 2009, July 8, 2009, and August 12, 2009. It appointed a subcommittee to further review the Findings and Recommendations and report back to the full CWC.

The CWC acknowledges the VTA response to the Grand Jury Report Findings and Recommendations. However, as the focus of the Grand Jury Report is primarily on the CWC, the committee determined it would respond directly to the Findings and Recommendations.

It is important to note that CWC, like any organization, is committed to continual improvement. Prior to receiving the Report, the CWC had both identified and was pursuing improvement on many of the findings subsequently contained in the Report. This process began far in advance of issuance of the Report, in some cases up to two years prior, and continues forward. The Committee feels it is a different committee than it was prior to the investigation, which was the point of reference in the Report.

It is respectfully requested that you attach this response from the Citizens Watchdog Committee to the Report and that where the Report is posted on a website within your control, that this response from the CWC is posted side-by-side with the Report.

Finding 1a

The term "watchdog" is a misnomer. The structure and composition of the CWC called for in 2000 Measure A, as well as how the CWC responsibilities are interpreted by VTA staff and the Board, prevents the CWC from performing its duties effectively.

Response

The Citizens Watchdog Committee disagrees with Finding 1a. The structure and composition established by 2000 Measure A are well thought out and provide for CWC effectively to perform its duties as required by that Measure.

Finding 1b

Although arguably the CWC may have technically complied with the minimum functions specified by Measure A, the CWC is failing the public by not providing reliable information to make intelligent decisions regarding transit in the county.

Response

CWC disagrees with Finding 1b. Accurate, reliable information is regularly provided to the community. CWC meetings are publicly posted, the public is invited to make presentations to the committee, a public hearing is held annually, an annual report is widely published, and both invitations to the public hearing and the annual report are published in various city and regional newspapers including those published in several different languages.

Recommendation 1a

The CWC should reevaluate its scope and expand its functions beyond the minimum standards stated in 2000 Measure A and operate as a true “watchdog” committee.

Response

CWC disagrees with Recommendation 1a. CWC will continue to operate as mandated by 2000 Measure A. Expanding its functions would require voter approval of a new ballot measure.

Recommendation 1b

The Board should provide the CWC with independent advisors, including legal counsel, to assist them in this effort.

Response

CWC disagrees that independent advisors, including legal counsel, are required; it does not see any need. Experience has been that when information is requested from staff, the CWC studies diligently the information provided. The level of expertise and experience of CWC members is such that no further advisors are required. Additional advisors would be a waste of taxpayer resources.

There has been no issue on which the committee felt the need to ask for outside advice.

Finding 2

The CWC is not independent. CWC members are appointed or have their appointment approved by the VTA Board, the very people they are charged with overseeing. In other transportation agencies in California, citizen oversight bodies are appointed and/or approved by independent third parties. (See Appendix A).

Response

CWC disagrees. Members are nominated by third party stakeholder groups and by the organizations they represent. The Board does not and has not denied approval to them or to members representing stakeholders.

Recommendation 2

The Grand Jury recognizes that the assignment of members of the CAC as the CWC is part of existing law and cannot be changed without a new ballot measure. However, the Board is at liberty to change the CAC bylaws and hence change who approves membership in this combined committee. The Grand Jury recommends that the Board change the bylaws so that the selection process is conducted by, and selections approved by an independent third party.

Response

CWC disagrees with Recommendation 2. While this recommendation is directed to the Board, CWC has determined it will respond.

CWC does not recommend a bylaw change or the involvement of a third party. The current structure includes a wide spectrum of stakeholder groups and community organizations, who nominate their representatives.

Recommendation 2b

Former elected officials should not be allowed to sit on the Citizens Advisory Committee to eliminate the possibility of bias from prior responsibilities.

Response

CWC disagrees. The committee benefits from members with a history of service to the community.

Recommendation 2c

The CWC should have its own staff, independent of VTA staff, to set meeting agendas, coordinate project investigations, write reports and do other tasks assigned to the CWC.

Response

CWC disagrees. There is no need for duplicate overlapping staffs. This would not be a good use of Measure A funds. It would simply add an unnecessary layer of bureaucracy.

Finding 3

The CWC is not in control of its own agenda. CWC bylaws do not explicitly allow members to participate in setting the agenda for their own meeting. Other VTA committees such as the Policy Advisory Committee have this explicit right. The CWC chairperson reviews the staff-proposed agenda in advance and can suggest changes. Other members only view the agenda when formally published.

Response

CWC disagrees with Finding 3. The CWC chair and vice chair meet with staff to set the agenda. CWC members have opportunity both to amend the agenda and to submit issues for inclusion. In addition, the CWC Work Plan, which is reviewed by the CWC as its final action at each meeting, reflects items requested by members for inclusion on future CWC agendas.

CWC is currently involved in improving the process of developing agendas and the timing of placing items on the agenda.

Recommendation 3

The bylaws should be amended to allow the CWC to prepare and set their own agenda without involvement of VTA staff. If VTA staff wishes to place an agenda item, they should consult with CWC Chairperson, not the other way around.

Response

CWC disagrees with Recommendation 3. The committee's responsibility is to determine whether 2000 Measure A funds are spent appropriately. Agenda development is a partnership between the CWC chair, committee members, and VTA staff.

Finding 4a

While meeting the minimum requirement, CWC reports to the public have not been comprehensive, timely or complete. The CWC has published only two three-page status reports since its inception in July 2006. The financial audit for FY 2007 (June 2007) was conducted by an independent auditor retained by VTA staff, not an independent auditor retained by the CWC. In 2008, audits of 2000 Measure A expenditures will be conducted by BOTH an independent auditor retained by VTA and an independent auditor retained by the CWC.

The CWC has failed to take the opportunity to file more frequent reports on Measure A 2000 expenditures, such as monthly or quarterly reports.

Response

CWC disagrees with Finding 4a. The financial audit for FY 2007 was conducted by an independent auditor that was retained by the VTA board. For FY 2008, the audit of 2000 Measure A was conducted by an independent auditor that was retained by the CWC, and this auditor directly reported its findings to the CWC.

The committee disagrees that more frequent reports are necessary or worth the expenditure of Measure A funds.

Finding 4b

The CWC has failed to inform the public that the 2000 Measure A sales tax revenue is not sufficient to complete all of the Measure A programs, and state and federal funding has not been identified to fill the gap. This has been clear to VTA management for some time.

Response

CWC disagrees with Finding 4b. 2000 Measure A does not assign this responsibility to the CWC.

Recommendation 4a

CWC should independently decide on report frequency and content without VTA staff involvement or supervision.

Response

CWC disagrees with Recommendation 4a. The committee decides on frequency and content of reports and benefits from discussion with VTA staff.

Recommendation 4b

No recommendation.

Response

No response.

Finding 5

The VTA staff has forced its own perspective on the CWC regarding committee roles and responsibilities. VTA staff dictates have stifled independent thinking on the part of CWC members.

Response

CWC disagrees with Finding 5. This statement is absurd. Members are aware of their responsibilities under 2000 Measure A and freely express their ideas in overseeing expenditures. CWC takes umbrage at the implication that its members are incapable of independent thinking. CWC is proud of its performance overseeing the appropriate use of 2000 Measure A expenditures.

Recommendation 5

The Board should direct VTA staff to revise its training materials and memoranda to include best practices of other agency watchdog committees and encourage the CWC to establish its own priorities and responsibilities.

Response

CWC disagrees with Recommendation 5 and notes this Recommendation is directed to the Board. The CWC structure and responsibilities are set by the 2000 Measure A ballot measure.

Finding 6

Board work plans and meeting agendas are developed primarily by VTA staff.

Response

CWC disagrees with Finding 6. It has no further comment. This Finding is directed to the Board.

Recommendation 6

The VTA Board should prepare its own agenda and work plans. The Chairperson of the Board should consult with Board members, standing and advisory committees and VTA staff to formulate the agenda.

Response

CWC disagrees with Recommendation 6. This Recommendation is directed to the Board.

Finding 7

With the exception of members from San Jose and the County, Board members have inadequate staff support to fully participate in Board activities. The volume of information supplied to Board members can serve to obscure key issues that deserve focus.

Response

CWC disagrees with Finding 7. Again, this Finding is directed to the Board.

Recommendation 7

The Board should have its own staff, independent of VTA staff, to set meeting agendas, do project investigations, write reports, publish minutes and do other tasks required by the Board.

Response

CWC disagrees with Recommendation 7, and notes this Recommendation is directed to the Board.

Finding 8

Both the Hay Report and the State Auditor Report recommended that the VTA Board make every effort to ensure that new board members have transportation experience by appointing new members with previous transportation experience and reappointing members for multiple terms. Nevertheless the Mayor of San Jose recently appointed two new board members to represent San Jose who have no previous transportation experience.

Response

CWC disagrees, and notes Finding 8 is directed to the Board.

Recommendation 8

New VTA Board members must have transportation knowledge. The VTA Board should require at least one full year on the PAC or another VTA advisory committee prior to being appointed to the Board.

Response

CWC disagrees, and notes this Recommendation is directed to the Board.

Finding 9

VTA failed to provide an updated Measure A Revenue and Expenditure Plan per their published schedule. As a result, voters were deprived of critical information necessary to make an informed decision regarding 2008 Measure B, an additional 1/8-cent sales tax to fund operating costs for a BART extension to San Jose/Santa Clara. The VTA had sufficient time and information to complete this update and made a deliberate decision not to publish it prior to the election. As a result, voters were never told that full funding for the BART extension would jeopardize the completion of other Measure A projects.

Response

CWC declines to comment. This is strictly a Board responsibility and VTA has already responded.

Recommendation 9a

The VTA Board should explain why these facts were withheld from the public.

Response

This is a Board matter and has already been responded to by VTA.

Recommendation 9b

In future elections, the VTA Board should ensure that VTA staff provides the public with a comprehensive explanation of the ramification of each measure, including the impact on both capital and operating fund projections and budgets, as well as the effect on other projects.

Response

This is a Board matter and has been responded to by VTA.

Finding 10

VTA effectively suspended the shovel-ready light rail extension to Eastridge, without informing the VTA Board or the CWC in advance. Additionally, they used evasive language to prevent the Board and the public from understanding the true status (“reaffirming” support) of the project. The people of the east Valley deserve better from the representatives of San Jose on the VTA Board.

Response

CWC disagrees with Finding 10. The Eastridge project is on the program list, not suspended. Development continues on this project, which has never been and still is not “shovel-ready.”

Recommendation 10a

The Board should amend the CAC/CWC bylaws to provide the CWC with the authority to review and make recommendations regarding any changes to the priority and status of all Measure programs. This is a specific request over and above the responsibilities assigned by the 2000 Measure ballot wording.

Response

CWC disagrees with Recommendation 10a. CWC operates under 2000 Measure A ballot wording. CWC does not set policy for the VTA. That is a Board responsibility.

Recommendation 10b

The staff should not make unilateral changes regarding Measure A projects without prior CWC review and Board approval. Specific procedures should be put into place to assure that the VTA Board has reviewed and approved all changes to the scope, funding and schedule of Measure A projects before VTA staff proceeds.

Response

CWC disagrees with Recommendation 10b. Its responsibility is to ensure that 2000 Measure A revenue is spent responsibly. It does not determine policy.

Finding 11

The Board approved Measure C and D to be placed on the November 2009 ballot as part of the consent agenda and without prior review by advisory committees. This occurred on the day prior to the deadline for the submittal of ballot measures for the November 2008 election.

Response

CWC points out that Finding 11 applies to the Board. CWC agrees that good government practices require effective use of advisory committees.

Recommendation 11

The Board should ensure the ballot measures are submitted for Board approval on the regular agenda (never the consent agenda) after thorough review and discussion at both advisory and standing committee meetings.

Response

CWC notes that this Recommendation is directed to the Board.

Finding 12

The Board put 2008 Measure D on the ballot, assigning responsibility for citizen review of future VTA long-range strategic plans to the CWC, without notifying the CWC of its intent to do so. In addition, the CWC will cease to exist on June 30, 2036, leaving the subsequent responsibility for review of the long-range plan in limbo.

Response

CWC agrees that we were not notified. But it should also be noted that the CWC quickly expressed our concern to the Board. We have since been assured that, in the future, appropriate notification and consultation will occur.

CWC disagrees with Finding 12 in that it is factually incorrect that the committee will cease to exist in 2036.

Recommendation 12

The hastily implemented Measure D needs to be rethought before 2036. The Board should assign the responsibility for reviewing the long-range strategic plan to an organization that will remain in existence permanently.

Response

CWC disagrees with Recommendation 12. CWC will continue to exist to oversee 2000 Measure A funds and their expenditure and audit some time beyond 2036.

The long-range strategic plan issue will have to be addressed in the future by the Board.

Finding 13

The Board allowed Measure C to be placed on the November 2008 ballot asking voter approval of the VTA 2035 plan when neither the Board nor the public had seen a draft of the full plan.

Response

CWC disagrees with Finding 13. However, this Finding is directed to the Board.

Recommendation 13

The Board should ensure that VTA's long-range strategic plans are thoroughly reviewed and vetted by the public prior to being offered for approval by whatever body is deemed responsible.

Response

CWC notes that Recommendation 13 is directed to the Board.

Finding 14

Measure A funds were used on non-Measure A projects. The Measure A fund exchange violated 2000 Measure A ballot requirements that 2000 Measure revenue was to be spent only on 2000 Measure A programs. But VTA believes it is entitled to use these funds for other programs as long as repayment is certain. It appears that there is in fact repayment uncertainty. Even though the initial \$50M swap was approved in February 2007, the CWC certified (over the chairperson's signature) in the FY 2007 2000 Measure A Status Report that all Measure A revenue was spent only on Measure A programs. It is clear that the CWC does not fully understand its responsibility with respect to the requirement.

Response

CWC disagrees with Finding 14. CWC notes that statements in this Finding are incorrect.

Recommendation 14

The Board should give the CWC the opportunity to review all 2000 Measure A fund transfers. The CWC should point out such usage of funds to the public in their reports. The CWC should make a public decision whether this usage of funds is consistent with the intention of the voters with respect to 2000 Measure A.

Response

CWC partially agrees with Finding 14.

We agree that the Board should allow the CWC opportunity to review Measure A fund transfers prior to their execution and to review the repayment plan.

We agree that CWC should point out such usage of funds to the public in its reports.

We also agree that the CWC should make a public determination on whether these fund transfers are in accordance with the intent of the 2000 Measure A ballot. However, the report fails to note that the CWC already does this, as is evidenced by the Committee's request at its March 11, 2009 meeting for the CWC's independent compliance auditor, Macias Gini & O'Connell, LLP (MGO), to assist the CWC with its fiduciary role by researching whether the fund swap was

consistent with the Measure A ballot. The CWC's determination on this fund swap is being included in its Annual Report for FY 2008.

Finding 15

Measure B on the 2008 Ballot approved a 1/8-cent sales tax for BART operations. Tax collection is slated to start when the BART project receives full federal and state funding. However, VTA intends to start collecting this tax when only the first 2.2 miles of the BART project are funded, not the complete project.

Response

CWC disagrees with Finding 15. However, this is directed to the Board.

Recommendation 15

The Board should consider the intention of the voters as well as the specifics of the ballot measure when considering the issue. This tax should only be collected when funding for the full 16.1 mile BART extension is obtained from the state and federal government.

Response

CWC disagrees with Recommendation 15. It notes that this Recommendation is directed to the Board.

CWC also notes that to wait for full funding for the entire BART line would effectively stop all progress on the BART extension.

Sincerely,

Noel Tebo
Chair, Citizens Watchdog Committee

C: VTA Board of Directors
Michael Burns, VTA General Manager

From: Board.Secretary
Sent: Thursday, September 03, 2009 9:05 AM
To: Board.Secretary
Subject: Response to Letter Regarding Incident at Eastridge Transit Center

To VTA Board of Directors:

Attached is a letter to Supervisor Dave Cortese for your information.

Deborah Harrington
Board Secretary
Santa Clara Valley Transportation Authority
408.321.5773

September 1, 2009

The Honorable Dave Cortese
Supervisor, District Three
County of Santa Clara
70 West Hedding Street, 10th Floor
San Jose, CA 95110

Dear Supervisor Cortese:

Thank you for bringing to my attention the difficulty that you and KNTV personnel encountered in preparation for a recent interview at the Eastridge Transit Center. VTA respects the importance of free expression in public space, and our protocols do not call for news crews to be told that they cannot film on VTA property. We do, however, have procedures and protocols that we employ to ensure that any filming/interviews, etc. is done in a safe manner. I do not believe that our policies, including our policy on filming while on VTA property or around our facilities, infringe on that right.

By way of background, VTA has always made every effort to ensure the safety of our customers and employees, both on the vehicles and around our facilities. Industry safety consultants continue to advise agencies to maintain a heightened level of awareness and to increase their ability to monitor activity at and around their facilities to detect potential safety/security threats. VTA has taken such steps, including the installation of closed circuit television and the addition of increased foot patrol. This level of monitoring has helped VTA reduce claims of injury, as well as to apprehend individuals involved in vandalism or personal/property crimes.

Typically, when media wish to conduct an interview on VTA property, they notify our public information officer or other media relations staff to advise them of their intent in advance of filming. Staff can be reached 24 hours, 7 days a week at (408) 464-7810. This allows us to evaluate whether it is necessary to send a field supervisor or media relations staff member to facilitate the crew and ensure that the safety of the people involved in the interview, our customers, and our employees is not compromised in any way. On the rare occasion that media relations staff have not been notified, our Operations staff are instructed to notify field supervision and/or media relations, again for safety/security purposes.

In this particular instance, VTA was not notified in advance of the media presence, and staff was taking steps to notify appropriate individuals when the media crew was observed at the Eastridge Transit Center. I apologize for any inconvenience that this caused you and the media crew. Also, I have asked our Operations and Security staff to review our policy to ensure that field personnel are given appropriate discretion to seamlessly handle situations such as you encountered, and to remind staff that filming at VTA stations is not a prohibited activity.

The Honorable Dave Cortese
September 1, 2009
Page 2 of 2

With regard to your support for the creation of a new bus route, please be advised that we have included your suggestion in our Express Bus Study. Unfortunately, it is unlikely that we will be adding any new service in the short term due to the difficult economic conditions.

Finally, I once again want to thank you for your support of VTA and apologize for our handling of this situation. It appears in this instance procedure may have got in the way of common sense.

Sincerely,

Michael T. Burns
General Manager

cc: KNTV, 2450 North First Street, San Jose, CA 95131

From: Board.Secretary
Sent: Friday, September 04, 2009 12:17 PM
To: Board.Secretary
Subject: Cortese Letter to the BOD regarding Service Reductions

To VTA Board of Directors:

Attached is a letter from Supervisor Cortese regarding future service reductions.

Deborah Harrington
Board Secretary
Santa Clara Valley Transportation Authority
408.321.5773

DAVE CORTESE
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September 3, 2009

Michael Burns
General Manager
Valley Transportation Authority
3331 North First Street
San Jose, CA 95112

Dear Mr. Burns,

In preparation for the VTA BOD's consideration of service cuts (scheduled to be heard at the October BOD meeting, for implementation in January 2010), I would like to register my emphatic support for the suggestions submitted by the Santa Clara VTA Riders Union about which types of bus services to protect. As an elected official representing Evergreen, the East Hills, Berryessa, Alviso, North San Jose, Milpitas and portions of Sunnyvale, I am extremely concerned by those route cuts that will not only impact our county's most vulnerable populations, but also further disenfranchise would-be riders who already view VTA's service routes as incompatible with their travel patterns.

As I've stated in earlier correspondence to the BOD, I am not naïve to the budget challenges facing VTA. Here at the county we will soon be implementing our own second round of cuts (having completed a first round in June 2009) totaling anywhere between \$60 and 120 million. That said, we have prioritized residents who rely on our safety net of services, continued support of programs/services that help people keep their jobs, stay in school and promote gradual emancipation from the public benefits system. VTA's cuts should mirror these values, but they do not go far enough.

Instead the VTA is recommending reducing service on lines that people use to get to work and students use to get to school and that seniors and low income families rely on for independent and low cost travel. Furthermore, given the primacy every city in our county has placed on reducing CO2 emissions, the cuts proposed by staff will unfortunately force people back into their cars. Finally, there is a whole segment of the population who although they may not be considered transit-dependent, they are transit-interested, but due to a lack of common sense routes, have no choice but to use their cars. I would put myself in this last category - a working professional who is a frequent transit rider but due to limited service options, am forced to take my car around the Bay Area more than I prefer.

My own values drive me to:

1. make sure there is not a "second tier" in our own society that remains disadvantaged due to oppressive public policy;
2. ensure that ridership is rewarded when it meets climate change goals;
3. engage those potential riders who do not see public transportation as an option for their travel needs due to a lack of routes that meet their circumstances.

I believe the transit agency's values should be the same, through the provision of commonsense public transportation options. But unfortunately the priorities of the county and the priorities of the transit agency are misaligned. Until we correct this fundamental misalignment, I fear that we will never adequately serve those most in need of service and those interested in service but who have given up hope on a transportation system designed to meet their needs.

Sincerely,

Dave Cortese
County Supervisor – Third District
Frequent transit user

