



## BOARD OF DIRECTORS MEETING

June 7, 2007

### MINUTES

#### 1. CALL TO ORDER

The Regular Meeting of the Santa Clara Valley Transportation Authority's (VTA) Board of Directors was called to order by Chairperson Chu at 5:44 p.m. in the Board of Supervisors' Chambers, County Government Center, 70 West Hedding Street, San José, California.

#### 2. ROLL CALL

##### Members Present

Nora Campos  
 David Cortese  
 Dean J. Chu, Chairperson  
 Don Gage  
 Liz Kniss, Vice Chairperson  
 Sam Liccardo  
 Dolly Sandoval  
 Greg Sellers  
 Forrest Williams  
 Ken Yeager, Ex-Officio

##### Members Absent

Breene Kerr  
 Laura Macias  
 Chuck Reed

##### Alternates Present

Dominic Caserta  
 Pete McHugh  
 Roland Velasco

##### Alternates Absent

Judy Chirco  
 Kathleen King

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

**A quorum was present.**

### 3. **ORDERS OF THE DAY**

Chairperson Chu noted that three items would not be heard at this meeting due to the length of the Agenda and were deferred to August 2007: Report from the General Manager, Report from the Chairperson, and Employee Recognitions.

Chairperson Chu requested that the following item be heard as the first item under the Regular Agenda: **Agenda Item # 32.**, Consider the following amendments to the Policy Advisory Committee (PAC) bylaws proposed by the PAC: 1) Amend the quorum requirement from “presence of 9 members” (majority of total authorized membership) to “presence of a majority of filled membership positions” and 2) Change the votes required to pass an item from “majority of total authorized membership” to “majority of quorum”; and further, advise staff which, if any, of these proposed or other modifications to the PAC bylaws the Board wants submitted for formal adoption at a subsequent meeting.

Chairperson Chu noted that the following items are related and recommended that they be heard as a single item on the Agenda: **Agenda Item #30.**, Approve invoking an exemption under CEQA, P.R.C. §21083 and CEQA Guidelines Section 15061(b)(3) for the purpose of establishing and modifying fares and adopt a resolution establishing rates and fares for VTA bus, light rail, and paratransit services effective July 1, 2007; and **Agenda Item #31.**, Adopt a resolution approving the Recommended Biennial Budget for Fiscal Years 2008 and 2009 as revised herein.

Chairperson Chu requested that **Agenda Item #41.D.**, Public Employee Performance Evaluation, [Government Code Section 54957], Title: General Manager, be deferred to the August 2, 2007 Board of Directors Regular Meeting.

Chairperson Chu noted that staff requested removal of the following items from the Agenda: **Agenda Item #42.X.**, Approval of the Labor Agreement Between Santa Clara Valley Transportation Authority and the American Federation of State, County and Municipal Employees (AFSCME), Local 101, VTA Chapter; and **Agenda Item #43.**, Authorize the General Manager to take all necessary actions to purchase the “Mitchell Block” (property bounded by North First Street, North Market Street, Santa Clara Street, and West St. John Street in downtown San José).

**M/S/C (Gage/Cortese)** to accept the Orders of the Day.

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

**4. Policy Advisory Committee (PAC) Chairperson's Report**

Chris Moylan, PAC Chairperson, expressed appreciation to Michael T. Burns, General Manager and Dean J. Chu, VTA Board of Directors Chairperson for attending the May 10, 2007 PAC meeting. He provided a report regarding the May 10, 2007 PAC Meeting and highlighted the following: 1) PAC recommended VTA Board of Directors approval of the North San José Deficiency Plan, Draft 2006 Monitoring and Conformance Report and Findings, and Project Priorities for the FY 2008 Countywide Transportation Development Act (TDA) Article 3 Program; 2) PAC passed a motion that recommends the Board to approve the Recommended Biennial Budget and indicate the following items within the budget document: a) the number of regular and contracted employees along with the total full time equivalents; b) information regarding retiree medical pensions; c) clarification on IT upgrades; and d) actual number of Marketing employees; 3) PAC recommended that the Board approve the proposed fare changes and consider route changes to the Gilroy Community Bus; and 4) PAC reviewed the following items: a) Comprehensive Operations Analysis Draft Proposed Service Operating Plan; and b) Valley Transportation Plan 2030 Update.

Board Member Liccardo took his seat at 5:48 p.m.

Board Member Sandoval took her seat at 5:49 p.m.

**5. PUBLIC PRESENTATIONS**

Jim Stallman, Interested Citizen, requested that the following Agenda Item be removed from the Consent Agenda and placed on the Regular Agenda: **Agenda Item #17.**, Authorize the General Manager to negotiate and execute a contract with Mark Thomas & Company to provide preliminary engineering, environmental planning and final design services for the I-880 Improvements (State Route 237 to US 101) project for a total contract value not to exceed \$7,500,000 and an initial contract term through August 31, 2011. He advised that he sent his concerns regarding this item to VTA staff via e-mail noting that he expressed concern about how VTA spends money. He stated that the work involved in the contract was previously completed. He noted that this money should be used to prevent transit cuts.

Randy Tamez, Committee for Transit Accessibility (CTA) Chairperson, expressed concern about VTA staff requesting a CTA Member to provide advice and training. He requested that the Board direct staff to discontinue contacting CTA members and asking for things that are inappropriate.

Tim Pitsker, Interested Citizen, expressed concern about the Dumbarton Rail Project and requested a meeting with each Board Member to discuss the project's issues. He noted the following: 1) The condition to pay the \$44 million to SamTrans for the Caltrain right-of-way debt is a scheme to force VTA to pay SamTrans' portion of their obligation to Dumbarton Rail; 2) The Dumbarton Rail Project cannot be completed because Union Pacific Railroad (UPRR) is not selling the tracks that are essential for the project; 3) The project study reports refer to a \$40 million "gift" to UPRR in a form of a freight bridge in

Niles, Fremont. He noted that this is an unauthorized use of money, as it does not require any obligation from UPRR.

John Rolland, Vice President of AFSCME Local Chapter 101, expressed concern about the labor contract negotiations with VTA management. He noted that the last contract expired over four years ago. He noted that the issue about AFSCME's legality has been resolved at the appellate court level and that the Board subsequently directed staff to move forward with the negotiations last year. He expressed concern that the same issue is delaying the current contract negotiations and requested that the Board provide direction to staff to move forward with the contract negotiations.

Board Member Liccardo and Vice Chairperson Kniss left their seats at 5:55 p.m.

**6. HEARING - NOTICE OF INTENTION TO APPROVE THE CITY OF SAN JOSÉ NORTH SAN JOSÉ DEFICIENCY PLAN**

Chris Augenstein, Transportation Planning Manager, provided a brief background noting that the Deficiency Plan is a two-year collaborative effort between VTA and the City of San José. The area noted in the plan is the corridor that spans North First Street and U.S. 101 to Tasman Avenue. The plan is expected to generate about \$519 million of which approximately \$460 million will go to roadway improvements while \$60 million will go to transit, pedestrian, and bicycle improvements. Mr. Augenstein noted that VTA will monitor the plan as part of the Congestion Management Program (CMP) guidelines and as part of the annual monitoring process. He noted that staff recommends approval of the plan and reminded that the Board must approve or reject the plan in its entirety and cannot make changes. He introduced Hans Larsen, City of San José Deputy Director, Department of Transportation.

Board Member Liccardo took his seat at 5:58 p.m.

Vice Chairperson Kniss took her seat at 5:59 p.m.

Mr. Larsen provided a background on the North San José Deficiency Plan. He introduced the City of San José team: Paul Krutko, Chief Development Officer and Head of Economic Development; Joe Horwedel, Planning, Building and Code Enforcement Director; and Jim Helmer, Transportation Director.

Mr. Larsen presented a PowerPoint presentation entitled, "Vision North San José." He noted the Growth Projections for population and jobs in Santa Clara County. He discussed the Vision for North San José, which includes support for Silicon Valley Job Growth, New Housing Provision, Multi-Modal Transportation Improvements, Revenue Sources, and the update of the Regional Deficiency Plan. Mr. Larsen provided visuals of examples of the future North San José. He also briefly discussed the plan's benefits to VTA.

Chairperson Chu reminded the Board and the public that the San José City Council has approved the Deficiency Plan. He added that according to the CMP statutes, the VTA Board must approve or reject the plan in its entirety and cannot recommend any changes to the plan.

Board Member Gage commented that the plan seems to conflict with the Coyote Valley Plan. He inquired how the housing vacancies will be filled.

Mr. Horwedel responded that the City of San José is currently updating its General Plan. He noted that the planned housing for North San José and the Coyote Valley is still not sufficient based on the Association of Bay Area Governments' (ABAG) population growth projections for the City of San José.

Vice Chairperson Kniss referred to the funding/revenue sources and inquired if there are existing applications from businesses. Mr. Horwedel responded that currently, the City of San José is processing housing and business buildings projects. He added that this is a phased jobs plan, meaning the housing development will stop at 8,000 until 7 million square feet of office space is built. If those two conditions are met, then the City will proceed with the next phase.

Alternate Member Caserta inquired about San José's outreach efforts to the cities of Santa Clara and Milpitas regarding the Deficiency Plan. Particularly, he inquired about the Santa Clara Unified District's comments about the plan and expressed concern about the impacts of the plan to school districts.

Mr. Horwedel responded that there were numerous outreach efforts. Outreach to the cities of Santa Clara and Milpitas were part of the traffic analysis. The City of San José worked through the CMP methodologies and collaborated with these cities to identify mitigation. Mr. Horwedel added that the City of San José is funding improvements for these cities.

As for school impacts, Mr. Horwedel noted that under state law, school impacts are treated differently than traffic impacts. The City of San José funded an on-going study by the Santa Clara Unified School District to look at student generation rates, which has yet to be released. Mr. Horwedel noted that the planned new development at North San José will generate approximately \$50 million in school impact fees alone. That estimate is based on the current school fee rates and school districts could raise those fees in the future.

Board Member Liccardo inquired where funding for intersections with low levels of service would come from if the \$500 million developers' impact fees do not materialize.

Mr. Larsen responded that more than \$300 million worth of projects that are proposed to be funded from this plan have been identified for regional funding. If there is no opportunity to generate new sources of revenue, the City of San José will work with VTA to fund these transportation projects through discretionary regional funds. The benefit of this plan is to generate new sources of revenues for regional improvements, therefore, the

plan allows existing resources to be applied to other projects throughout Santa Clara County.

Board Member Cortese left his seat at 6:16 p.m.

Jim Stallman, Interested Citizen, commented that the plan is good. However, he expressed concern that the implementation proposed by the City of San José is done in an “ala carte” fashion. He expressed concern about bicycle and pedestrian projects that are not addressed by the City of San José since last year. He stated that the bicycle and pedestrian access should be done concurrent with the development. Mr. Stallman referred to Metropolitan Transportation Commission (MTC) Resolution No. 3765 which sets specific actions MTC and partner agencies will undertake to promote routine accommodation of non-motorized travelers in project planning and design. He suggested that the Board add a condition of approval to the Deficiency Plan that the MTC resolution 3765 be part of the implementation of the Deficiency Plan.

Eugene Bradley, Santa Clara Valley Transportation Authority Riders Union, concurred with Mr. Stallman’s comments. He expressed concern about the overall vision of the North San José plan in reference to BART, noting that the proposed BART alignment requires riders to make transfers in order to travel to North San José. He noted that this will increase travel times significantly. He further expressed concern that the current plan only focuses on light rail and does not address bus service to North San José. He noted that bus access to North San José should be emphasized.

Board Member Cortese took his seat at 6:19 p.m.

Board Member Sandoval referred to the 80 percent funding by developer and inquired how the 20 percent gap will be addressed. She further asked about the dollar amount of the 20 percent.

Mr. Larsen responded that the City of San José is seeking contributions from regional funds as the majority of these projects are within the plan. He stated the projects are proposed for regional plans such as freeway interchange upgrades. Regarding the cost, Mr. Larsen stated that out of the approximately \$570 million in transportation investment, \$460 million will come from private developers, \$30 million will be contributed by the San José Redevelopment Agency, and the balance of \$80 million will be competing for regional funds.

Board Member Gage left his seat at 6:21 p.m.

Board Member Sandoval inquired why the improvements are not in the budget. Mr. Larsen responded that this is a long-range 30-year plan and is divided in four balanced phases. Until there is balance in job, housing, and transportation investment, the next phase will not be implemented. He added that these projects will be reflected in the Valley Transportation Plan (VTP) 2030 Regional Master Plan.

Michael T. Burns, General Manager, added that the projects noted in this presentation are beyond the FY 08-09 budget that will be considered by the Board tonight. He reaffirmed that these projects will be included as part of the VTP 2030.

Upon inquiry of Board Member Sandoval, Mr. Larsen responded that with additional funding sources (i.e. developer fees and contributions), it reduces competition for money. He also stated that the City of San José is actively pursuing other grants that are outside of the VTA process.

Board Member Gage took his seat at 6:24 p.m.

Board Member Williams noted the importance of planning for the future based on regional projections for population and job growth. He reminded the Board that it must be prudent and incorporate planning to maintain Silicon Valley's positive economic growth and retain its global competitive advantage. Board Member Williams noted that the City of San José North San José Deficiency Plan is a good starting plan that will evolve.

Board Member Cortese referred to Alternate Board Member Caserta's concerns and noted that the San José City Council directed that these concerns be addressed through a master planning process. He added that the transportation impact issues have been addressed and those recommendations are reflected in the plan.

**M/S/C (Williams/Liccardo)** to close hearing and approve the City of San José North San José Deficiency Plan.

## **CONSENT AGENDA**

Laurie Smith, County of Santa Clara Sheriff, commented on Agenda Item #29., and stated that the last law enforcement five-year contract expired in 2006. She reported that VTA and the Sheriff's Office are in the final stages of reaching an agreement. She introduced Captain Luther Pugh and Commander John Hirokawa and added that the Sheriff's Office is looking forward to continuing its good and long relationship with VTA.

### **7. Board of Directors' Workshop Meeting Minutes of April 27, 2007**

**M/S/C (Gage/Caserta)** to approve the Minutes of the Board of Directors' Workshop Meeting of April 27, 2007.

### **8. Regular Board of Directors' Meeting Minutes of May 3, 2007**

**M/S/C (Gage/Caserta)** to approve the Minutes of the Regular Board of Directors' Meeting of May 3, 2007.

## ADMINISTRATION AND FINANCE COMMITTEE

**9. Legislative Positions**

M/S/C (**Gage/Caserta**) to adopt support position for AB 256 (Huff), AB 945 (Carter), and SB 445 (Torlakson); and further, adopt an oppose position for SB 204 (Dutton).

**10. Federal Fiscal Year 2007 Federal Transit Administration Grant Applications**

M/S/C (**Gage/Caserta**) to authorize the General Manager to submit federal Fiscal Year 2007 grant applications and execute grant agreements with the Federal Transit Administration (FTA) for Section 5307 Urbanized Area Formula, and Section 5309 New Starts, Fixed Guideway, and Bus/Bus Facility funds.

**11. VTA FY 2008 Transportation Development Act and State Transit Assistance Allocation Claim**

M/S/C (**Gage/Caserta**) to adopt Resolution No. 07.06.10 authorizing the filing of an annual claim to the Metropolitan Transportation Commission (MTC) for allocation of FY 2008 Transportation Development Act (TDA) and State Transit Assistance (STA) funds.

**12. Transportation, Community and System Preservation Program Grant Application for Conceptual Engineering & Environmental Clearance for the Realignment of State Route 152**

M/S/C (**Gage/Caserta**) to authorize staff to submit an application for \$1 million in Transportation, Community and System Preservation (TCSP) Program funds (§1117 of Pub L. 109-59) for conceptual engineering and environmental clearance for the realignment of State Route 152, and if successful in obtaining funds, authorize the General Manager to enter into all necessary agreements with Caltrans and/or the Federal Highway Administration (FHWA) to accept the grant.

**13. Authorize the General Manager to Terminate and Execute Agreements with the Professional Investment Management Firms**

M/S/C (**Gage/Caserta**) to authorize the General Manager to execute an agreement with MFS Investment Management (MFS) and terminate the agreement with Pyramis Global Advisors (Pyramis) for the management of the International Growth Equity Index Fund portfolio of the Valley Transportation Authority (VTA)/Amalgamated Transit Union (ATU) Pension Plan assets.

**14. Three Grant Applications for Funding the Silicon Valley Comprehensive Mobility Initiative**

M/S/C (Gage/Caserta) to authorize staff to submit applications to the “Intelligent Transportation Systems Operational Testing to Mitigate Congestion” (ITS-OTMC), “Value Pricing Pilot (VPPP) Program” and the “Discretionary Bus and Bus Facilities Program” grant programs for the Silicon Valley Comprehensive Mobility Initiative. Authorize the General Manager to enter into all necessary agreements with the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), Caltrans and Metropolitan Transportation Commission (MTC) to accept and use these grants.

**15. Authorization for the Preparation of Environmental Compliance Documents for Highway, Transit, and Transit Facility Projects**

M/S/C (Gage/Caserta) to amend the authorization granted to the General Manager on October 7, 2004 to execute task order contracts for the preparation of environmental compliance documents and other environmental support services for highway, transit, and related facility projects and approve an increase in the total value for all agreements from \$2,400,000 to \$4,800,000.

**16. Lease Agreement with Bright Horizons Children’s Centers, Inc. for the Operation and Maintenance of the Tamien Child Care Center**

M/S/C (Gage/Caserta) to authorize the General Manager to execute a Five-Year Lease with Bright Horizons Children’s Center for occupancy of the Tamien Child Care Center at a rental rate of \$75,000 per year with two-percent annual increases and a six-month termination notice.

**17. (Removed from the Consent Agenda and placed on the Regular Agenda.)**

Authorize the General Manager to negotiate and execute a contract with Mark Thomas & Company to provide preliminary engineering, environmental planning and final design services for the I-880 Improvements (State Route 237 to US 101) project for a total contract value not to exceed \$7,500,000 and an initial contract term through August 31, 2011.

**18. Contract with HMM Engineers for Preliminary Engineering, Environmental and Final Design Services of US 101 Operational Improvements Project (I-280/680 to Tully Road)**

M/S/C (Gage/Caserta) to authorize the General Manager to negotiate and execute a contract with HMM Engineers to provide preliminary engineering, environmental planning and final design services for the US 101 Operational Improvements Project (I-280/680 to Tully Road), for a total contract value not to exceed \$6,000,000 and an initial contract term through December 31, 2009.

**19. Contract with URS Corporation for Preliminary Engineering and Environmental of the US 101 Improvements Project – SR 85 to Embarcadero Road**

M/S/C (Gage/Caserta) to authorize the General Manager to negotiate and execute a contract with URS Corporation to provide preliminary engineering and environmental planning services for the US 101 Improvements Project – State Route 85 to Embarcadero Road, for a total contract value not to exceed \$2,500,000 and an initial contract term through December 31, 2009.

**20. Contract Amendment with Mark Thomas & Company, Inc. Preliminary Engineering and Environmental Document I-280/I-880/Stevens Creek Boulevard Interchange Project**

M/S/C (Gage/Caserta) to authorize the General Manager to execute a contract amendment with Mark Thomas & Company, Inc. for Preliminary Engineering and Environmental Document services for the I-280/I-880/Stevens Creek Interchange Project, increasing the approved contract value by \$2,330,000 for a new contract value of \$2,816,025; and extending the term of the contract through December 31, 2010.

**21. Contract Amendment with URS Corporation for Preliminary Engineering and Environmental Services for the US 101 Widening Project, from Monterey Road to SR 129**

M/S/C (Gage/Caserta) to authorize the General Manager to negotiate and execute a contract amendment with URS Corporation increasing the contract value by \$3,900,000 to perform preliminary engineering and environmental services for the US 101 Widening Project, from Monterey Road to State Route 129 for a total contract value of \$4,650,000 and extending the contract term through August 31, 2010.

**22. Amendments to SCVTA – ATU Pension Plan**

M/S/C (Gage/Caserta) to approve amendments to the Santa Clara Valley Transportation Authority (VTA) - Amalgamated Transit Union (ATU) Pension Plan.

**23. VTA Appointments to SCVTA – ATU Pension Plan Board of Pensions**

M/S/C (Gage/Caserta) to adopt Resolution No. 07.06.11 designating positions from which VTA's appointees to the Santa Clara Valley Transportation Authority (VTA) - Amalgamated Transit Union (ATU) Pension Plan Board of Pensions will be made, and authorize the General Manager to make those appointments. Additionally, authorize the General Manager to appoint Gerald A. Rosenquist, former Chairperson to the Board of Pensions, as the jointly-selected seventh Pension Board member.

**24. Amendments to 457 Deferred Compensation Plan and 401(a) Money Purchase Plan**

M/S/C (Gage/Caserta) to authorize amendments to VTA's 457 Deferred Compensation Plan and 401 (a) Money Purchase Plan to incorporate provisions authorized or mandated by federal regulations and to make clarifications to certain administrative provisions of the Plans.

**CONGESTION MANAGEMENT PROGRAM AND PLANNING COMMITTEE**

**25. Proactive CMP Reviewed and Approved Projects Quarterly Status Report January through March 2007**

M/S/C (Gage/Caserta) to review the Proactive CMP Reviewed and Approved Projects Quarterly Status Report January through March 2007.

**26. FY 2008 Transportation Development Act (TDA) Article 3 Project Priorities**

M/S/C (Gage/Caserta) to approve project priorities for the FY 2008 Countywide Transportation Development Act (TDA) Article 3 program.

**27. Local Program Reserve Programming**

M/S/C (Gage/Caserta) to approve the programming of Local Program Reserve (LPR) funds to projects.

**28. Draft 2006 Monitoring and Conformance Report and Conformance Findings**

M/S/C (Gage/Caserta) to approve the Draft 2006 Monitoring and Conformance Report and Conformance Findings.

**TRANSIT PLANNING AND OPERATIONS COMMITTEE**

**29. Contract for Law Enforcement services with the County of Santa Clara Office of the Sheriff**

M/S/C (Gage/Caserta) to authorize the General Manager to execute a contract with the County of Santa Clara Office of the Sheriff for law enforcement services for a period of five years at current staffing levels for a total estimated contract value of \$19,100,000.

**REGULAR AGENDA**

**ADMINISTRATION AND FINANCE COMMITTEE  
CHAIRPERSON'S REPORT – (See Agenda Item #37.A.)**

Board Member Sellers **recused** himself on Agenda Item #17 per Government Code Section 84308.

Board Member Sellers left his seat at 6:32 p.m.

17. **Contract with Mark Thomas & Company for Preliminary Engineering, Environmental and Final Design Services for the I-880 Improvement Project (SR 237 to US 101)**

Michael T. Burns, General Manager, noted that this is one of the projects approved by the California Transportation Commission as part of the State Infrastructure Bond. Mr. Burns noted funds for this project are not from the VTA Enterprise Funds. He added that CTC encourages project sponsors to move the approved projects as quickly as possible and begin construction.

Ex-Officio Board Member Yeager left his seat at 6:33 p.m.

Jim Stallman, Interested Citizen, encouraged VTA to take a second look at this project to save time and money. He commented that the environmental work was probably previously done as part of another project and spending \$7.5 million tax dollars for this project is not worthwhile. He encouraged the Board to approve this item with the inclusion of a condition of “subject to determination” to ensure that there is no duplicate work and monies are not wasted.

**M/S/C (Gage/Williams)** on a vote of 9 ayes, 0 noes, 0 abstentions, and 1 recusal to authorize the General Manager to negotiate and execute a contract with Mark Thomas & Company to provide preliminary engineering, environmental planning and final design services for the I-880 Improvements (State Route 237 to US 101) project for a total contract value not to exceed \$7,500,000 and an initial contract term through August 31, 2011. Board Member Sellers recused.

Board Member Sellers took his seat at 6:35 p.m.

32. **Amendments to the Policy Advisory Committee Bylaws Proposed by the Policy Advisory Committee**

Chris Moylan, PAC Chairperson, thanked the Board for moving the item as the first item on the regular agenda. He noted that it is important that the Board approve the two requests in order to increase the effectiveness of the Advisory Committees, as recommended by the Organizational and Financial Assessment.

PAC Chairperson Moylan distributed an updated PAC attendance sheet and made the following arguments in support of the first request: Amend the quorum requirement from majority of total authorized membership to presence of a majority of filled membership positions.

- PAC Chairperson Moylan stated that three PAC meetings last year that did not have a quorum, but there would have been a quorum if the quorum were based on actual membership.
- He referred to Page 3 of 5 of staff report and argued that that the lack of a quorum is due to vacancies and not attendance. He indicated that the filled seats in the PAC fluctuate between 12-14 and not 15 as noted in the staff report. He commented that the current practice penalizes jurisdictions that have appointed members. He stated that it is not in the Board's interest to deny itself policy advice merely because some jurisdictions did not make appointments.
- He disagreed with staff's statement that, "Even though a quorum may not be present or the PAC does not take formal action on an item, the committee can still provide meaningful input."
- He also disagreed with the concern that the change in the determination of a quorum might encourage more jurisdictions to leave their seats vacant. He noted that in his opinion, the current rules do not encourage jurisdictions to make appointments. He suggested that to address this concern, the Board could choose to define a minimum number of appointed seats in which to base the quorum on.
- He stated that although the quorum requirement will change month to month, monitoring the change is not burdensome.

PAC Chairperson Moylan made the following arguments in support of the second request: "Reverse the Board's decision two years ago and restore the ability to pass a motion with a majority of members present as long as those present constitute a quorum."

- PAC Chairperson Moylan stated that the Board decision two years ago is not working for the PAC because PAC cannot make any advisory recommendations to the Board on any controversial topic. Currently, PAC only endorses staff report and endorsing staff report is not valuable to the Board.
- It is not essential for PAC to have the same voting requirement as the other Advisory Committees due to the fact that its membership is different – PAC members are elected officials. PAC should also not have the same voting standard as the Board as PAC is acting in an Advisory Committee capacity.
- He referred to the concern that led to the Board decision to change the voting requirements from majority of a quorum to majority of the total membership in 2005, and suggested that this be addressed by modifying the "Limitations and Authority" section of the PAC bylaws to reflect, "*The PAC and its members will not represent that anything they have said is the view of the majority of the jurisdictions unless nine members vote for it.*"
- He referred to Page 4 of 5, Bullet #4, and stated that this argument is contradictory as it is better to have a 5-4 vote than not able to vote at all.
- The PAC has been struggling with the current quorum and voting provisions in the past few years. Because of this, some PAC members feel that they cannot make a difference. PAC wants this current provision to change to ensure that the Committee is more meaningful and effective.

- He expressed his opinion that if the current provisions are continued, PAC attendance will decline and the Committee will be ineffective.
- He expressed that it is for the best interest of the Board to consider both the staff and PAC recommendations.

Board Member Liccardo left his seat at 6:45 p.m.

Board Member Sandoval left her seat at 6:46 p.m.

Vice Chairperson Kniss commented that based on the attendance, the two cities with low attendance were San José and Santa Clara and that the West Valley Cities have good attendance. She expressed support for PAC's requests. She noted that the Board had spirited discussion about this same issue two years ago and expressed concern about the PAC's perception that the Committee does not have value. She stated that when the PAC was created, the intention was for PAC to have influence on the Board and commented that this has diminished over the years.

PAC Chairperson Moylan stated that the PAC was created to ensure that each city has representation to VTA. He stated that it is critical that PAC be allowed to have a meaningful role but currently, PAC is struggling to have a meaningful role.

Pete McHugh, Santa Clara County Supervisor, PAC Member, and Alternate Board Member, stated that in his recollection of the April 12, 2007 PAC meeting, the PAC unanimously voted to "not to reverse but to refer to the Board for their consideration the changes." He noted that the vote was to refer to the Board for policy matter but not to indicate support.

Board Members Liccardo and Sandoval took their seats at 6:48 p.m.

Steve Glickman, Town of Los Gatos Council Member and PAC Member, stated that the current and past chairpersons of the PAC exerted significant effort to make the PAC very useful to the Board. He suggested that in order to make the PAC useful and effective, the Board should provide incentives to members who attend and jurisdictions that appoint members to the PAC. Jurisdictions who do not appoint representatives to the PAC should be made aware of the importance of having a representative in the PAC. The decision in 2005 was counter-productive and noted that it should be changed. He expressed that the two proposed changes will be beneficial.

Board Member Gage noted the importance of having the whole community involved and giving "equal voice" to all cities, including small cities. The Board wants to avoid situations where only few people make decisions for the whole County. He suggested sending notifications to cities that do not attend or do not have a representative and inquire if they are still interested to participate in PAC. If the city expressed a disinterest to participate in PAC, they could be removed from the authorized membership, thus decreasing the number of membership and quorum requirements. If in the future the city expressed interest to rejoin and participate in PAC, then they could be allowed to do so and again modify the quorum requirements. He concurred with Alternate Board Member McHugh and noted that this is a policy issue.

PAC Member Glickman expressed support for Board Member Gage's suggestion and noted that it is the point of one of the recommendations – a quorum based on appointed members. If the city does not see the benefit of having a representative on PAC, their seat could be removed. PAC Member Glickman noted that the current provision penalizes cities that appoint representatives to the PAC because the quorum is based on the total authorized membership. He added that it is the PAC's Chairperson and Vice Chairperson's responsibility to make it clear to all the cities that it is in the city's interest to have a representative to the PAC because if a city does not participate in PAC, the city loses significant opportunities. The usefulness and effectiveness of the PAC must be demonstrated to all cities to encourage them to appoint a representative who will participate in PAC.

Alternate Board Member Caserta applauded PAC Chairperson Moylan for voicing important concerns. He noted that the PAC has a very important role and noted that in five and half years of being a PAC Member, he observed that some PAC members felt that attending the meeting was a waste of time. He concurred with Vice Chairperson Kniss noting that the PAC has a very important role of advising and supporting the Board. He noted that the PAC wants to be empowered, productive, and more helpful to the Board. He noted that the current provisions do not work and urged Board approval of the PAC request. He noted that the recommended changes be implemented and evaluated in the future to see its effectiveness and make changes, when necessary.

Vice Chairperson Kniss referred to Board Member Gage's comments and noted that there are certain provisions in VTA that indicate the PAC's role and she inquired if those provisions could allow cities to resign or relinquish their seat from the PAC. She noted that based on the attendance sheet, there may be several cities who would get notification based on their representative's attendance to PAC.

Board Member Gage reiterated that the matter should be examined on a policy level. There should be a set process and if the city does not participate in the PAC, then they waive their right to complain.

Suzanne Gifford, General Counsel, explained that the Public Utilities Code requires that the Board have at least one Advisory Committee. The Administrative Code, which contains provision for Committees, is within the Board's purview. She clarified that the Enabling Act does not mandate the Advisory Committees.

Ex-Officio Board Member Yeager took his seat at 7:02 p.m.

Vice Chairperson Kniss stated that at the time the PAC was created, the intent was to have representatives from all cities in Santa Clara County.

Board Member Cortese recommended continuing the dialogue at the August 2007 meeting to provide the opportunity for other Board Members to offer alternative solutions. He committed that he will prepare an alternative proposal to this item and he encouraged other Board Members to do the same.

Alternate Member Caserta expressed support to Board Member Cortese's comments.

Board Member Sandoval expressed concern about deferring the discussion about the item. As a former PAC Chairperson, she noted that it may be beneficial if the Board allows the PAC to have different rules on voting and quorum requirements. She added that cities could be contacted annually to determine their interest in participating in PAC and if they are not interested, the quorum requirement could be reduced. She noted that it discourages PAC members from participating in the meetings when they cannot vote due to the lack of a quorum. She noted the importance of grooming future Board Members through serving as a PAC member first.

**M/S/F (Kniss/Sandoval)** on a vote of 6 ayes, 4 noes, 0 abstentions, and 0 recusals to consider the following amendment to the Policy Advisory Committee (PAC) bylaws proposed by the PAC: 1) Amend the quorum requirement from "presence of 9 members" (majority of total authorized membership) to "presence of a majority of filled membership positions." Board Members Cortese, Gage, Liccardo, and Williams opposed.

Chairperson Chu commented that it may be beneficial to discuss this matter at the Board of Directors Committee of the Whole Meeting on July 19, 2007 prior to Board action on August 2007.

Board Member Gage suggested creating a sub-committee of the Board that will discuss and make policy recommendations regarding the voting and quorum requirements of Advisory Committees. He further suggested deferring the item to the September 2007 Meeting.

Board Member Cortese responded to Board Member Gage's comments and stated that he prefers a less formal process.

Board Member Williams noted the importance for cities to have representation on PAC. The respective city residents should be informed if their city refuses to appoint a representative or their representative does not participate in PAC. He noted that it is a complex problem, it is a policy issue, and that it needs further discussion.

Michael T. Burns, General Manager, noted that this is a significant policy issue. He supported Board Member Gage's suggestion to defer the item to the September 2007 meeting, which will occur on August 30, 2007. He noted that this will provide the opportunity to have more discussion.

Board Member Sandoval expressed interest in hearing the concerns of other Board Members regarding this issue. She urged other Board Members to put their concern and other suggestions on the table.

Vice Chairperson Kniss inquired about the low PAC attendance of the cities of San José and Santa Clara and the zero attendance from the city of Milpitas and Town of Los Altos Hills.

**NOTE: M/S/F MEANS MOTION SECONDED AND FAILED.**

Board Member Cortese commented that although he cannot speak for the San José PAC Member, he would like the Board to know that there is a vacancy in the City of San José City Council that requires more time from current Council Members. He noted that he requested deferral to allow time for dialogue and to come back to the Board of Directors with recommendations that are acceptable to parties involved.

PAC Chairperson Moylan stated that the only Council Member from the Town of Los Altos Hills who is willing to serve on VTA is already on the VTA Board. The City of Milpitas' seat is currently vacant. He noted that he is committed to working to ensure that there are appointments and that members attend.

Chairperson Chu stated that a formation of a sub committee is not necessary. However, he reminded the Board of Directors to follow the Brown Act.

**M/S/C (Cortese/Gage)** on a vote of 8 ayes, 2 noes, 0 abstentions, and 0 recusals to defer to the August 30, 2007 Board of Directors meeting consideration of the following amendments to the Policy Advisory Committee (PAC) bylaws proposed by the PAC: 1) Amend the quorum requirement from “presence of 9 members” (majority of total authorized membership) to “presence of a majority of filled membership positions” and 2) Change the votes required to pass an item from “majority of total authorized membership” to “majority of quorum”; and further, advise staff which, if any, of these proposed or other modifications to the PAC bylaws the Board wants submitted for formal adoption at a subsequent meeting. Board Members Kniss and Sandoval opposed.

Alternate Board Member Caserta left the meeting at 7:29 p.m.

**30. Proposed Fare Modifications and**  
**31. Approval of Recommended Biennial Budget for Fiscal Years 2008 and 2009**

Michael T. Burns, General Manager, explained that **Agenda Items #30 and #31** are related and therefore staff proposed that they be heard together. He introduced Jerry Mikolajczyk, Interim Chief Financial Officer. Mr. Burns reported that the budget was presented at community meetings, advisory, and standing committee meetings, all of which expressed support for the budget.

Mr. Mikolajczyk introduced Carol Lawson, Treasury and Financial Planning Manager. Ms. Lawson provided a brief overview noting that the proposed fare modification is based on the RIDE Taskforce suggestion as an incentive to increase ridership. Included in the proposal are: addition of the Youth Summer Blast Pass to the VTA tariff at \$75.00; formal addition of the 8-hour Light Rail Excursion Pass, reduction of Day Pass prices; reduction of monthly passes for youth and senior/disabled; community bus fares; deferral of the paratransit service area surcharge; and deferral of the paratransit door-to-door (escort) service surcharge. Ms. Lawson added that this item also includes invoking an exemption under CEQA.

Board Member Kniss left her seat at 7:33 p.m.

Ms. Lawson noted that the Board reviewed the FY 2008 and 2009 budget at their April 27, 2007 Workshop. Ms. Lawson reiterated that VTA held five community meetings throughout the County, presented the budget to the VTA Advisory and Standing Committees in May 2007. With the exception of one Advisory Committee that did not have a quorum, all four Advisory Committees recommended approval of the budget. Ms. Lawson stated that the updates from the original publication of the budget are outlined in the staff report. Ms. Lawson added that the approval of the resolution also approves the Congestion Management Program Member Agency Fee Assessments for all of the city agencies.

Board Members Liccardo and Sandoval left their seats at 7:34 p.m. the quorum was lost and a Committee of the Whole was declared.

Upon inquiry of Chairperson Chu, Mr. Burns noted that the major change in the appropriation is the incorporation of the authorization of the highway construction projects. These projects are moving forward as a result of the infrastructure bonds. In the past, the highway projects are brought forward as amendments to the budget as projects are approved. Given the timing of the approval of these projects, staff was able to incorporate them in this budget.

Board Members Sandoval and Kniss took their seats at 7:36 p.m. and a quorum was declared.

Board Member Williams inquired how VTA will address the approximate \$1 million loss due to the reduction of fares. He noted the importance of tracking the impact of the fare reductions to VTA's ridership. Ms. Lawson responded that the projection of \$1 million loss is a worse case scenario and is 0.3 percent of VTA's total revenues. Ms. Lawson noted that staff believes that as a result of the reduction of fares, ridership will increase, therefore, it could be budget neutral. Ms. Lawson added that staff will monitor the impacts through the monthly revenue and ridership report, which staff brings to the Transit Planning and Operations Committee.

Mr. Burns noted that there are a series of Caltrain safety and service related projects that were included in the budget. Mr. Burns noted that VTA proposed these projects under the Measure A budget. However, he emphasized that VTA still needs to do a nexus analysis between the impact of the safety and service projects before they are eligible for funding under Measure A. If eligible, the projects will be moved forward.

Eugene Bradley, Santa Clara Valley Transportation Authority Riders Union, noted that it is an interesting experiment to lower the fares for senior and disabled. He referred to his inquiry during a VTA public meeting about the contract to support Windows NT. He inquired if VTA has an existing contract for UNIX support. He inquired if the contract has been cancelled now that VTA is using Windows NT.

Board Member Liccardo took his seat at 7:41 p.m.

Mr. Burns referred to Mr. Bradley's concern and introduced Doug Beley, Acting Chief Technology Officer. He encouraged Mr. Bradley to relay to Mr. Beley his specific and more detailed question.

Randy Tamez, CTA Chairperson, stated that he supported the fare reduction for the senior/disabled pass. He noted that CTA commented that the fares were not reduced enough.

Mr. Tamez distributed the Silicon Valley Independent Living Center draft proposal to provide a new monthly low-income adult pass for \$15 for people with low to very-low income. The proposal includes a recommendation to sell the proposed passes at agencies who can verify people's income. Mr. Tamez requested that the Board consider this proposal at a future meeting or direct staff to provide low-income fares.

Mr. Tamez inquired about the \$100,000 allocated for accessible documentation and inquired which VTA department will oversee this money and how these monies will be spent.

Mr. Burns referred to Mr. Tamez' question and responded that the purpose of the expenditure is to procure software and conduct training to ensure that all documentation is fully accessible. Mr. Burns stated that the project manager for that project will be present at the next CTA meeting to discuss that initiative.

**M/S/C (Gage/Kniss)** to approve invoking an exemption under CEQA, P.R.C. §21083 and CEQA Guidelines Section 15061(b)(3) for the purpose of establishing and modifying fares and adopt Resolution No. 07.06.12 establishing rates and fares for VTA bus, light rail, and paratransit services effective July 1, 2007.

**M/S/C (Gage/Kniss)** to adopt Resolution No. 07.06.13 approving the Recommended Biennial Budget for Fiscal Years 2008 and 2009 as revised herein.

Vice Chairperson Kniss referred to the costs associated with collecting fares and inquired if VTA has examined a "No Fare" scenario. She noted that Palo Alto and Los Gatos offer free shuttle service.

Board Member Sellers left his seat at 7:45 p.m.

Mr. Burns responded that VTA has not examined a No Fare scenario in detail. However, he noted that the VTA cost associated with collecting fares is approximately 10 percent, much lower than most transit systems because of the proof of payment systems and machine use. He noted that there is a concern not collecting fares may result into transit users not valuing the system and equipment.

Board Member Sellers took his seat at 7:50 p.m.

Board Member Gage left his seat at 7:50 p.m.

**32. (Moved to the beginning of the Regular Agenda.)**

Consider the following amendments to the Policy Advisory Committee (PAC) bylaws proposed by the PAC: 1) Amend the quorum requirement from “presence of 9 members” (majority of total authorized membership) to “presence of a majority of filled membership positions” and 2) Change the votes required to pass an item from “majority of total authorized membership” to “majority of quorum”; and further, advise staff which, if any, of these proposed or other modifications to the PAC bylaws the Board wants submitted for formal adoption at a subsequent meeting.

**33. Governance and Organizational Transformation Support**

Michael T. Burns, General Manager, noted that this item relates to the implementation of the recommendations from the Organizational and Financial Assessment. He noted that the Board approved \$150,000 out of the original \$500,000 contract request for the Karen Antion Consulting, LLC last April 2007. At the same meeting, the Board directed staff to come back in June 2007 with a more detailed work scope. He recommended that the item be deferred to August 2007 to allow staff to deal with the individual questions about the work scope.

Board Member Campos expressed concern about VTA staff’s long-term implementation strategy after the consultant’s contract is over.

Mr. Burns noted Board Member Campos’ concern and encouraged all Board Members to forward him their questions, suggestions, and concerns related to the implementation of the recommendations from the Organizational and Financial Assessment.

**M/S/C (Kniss/Campos)** to defer to the August 2007 Board Meeting the recommendation to authorize the General Manager to negotiate and execute a contract amendment with Karen Antion Consulting, LLC (KAC), increasing the contract value by \$350,000 to provide professional services in support of the implementation of recommendations contained in the Organizational and Financial Assessment of the Santa Clara Valley Transportation Authority, for a total contract value of \$500,000, and extending the term of the contract through April 30, 2008. Board Member Gage was absent.

**CONGESTION MANAGEMENT PROGRAM AND PLANNING COMMITTEE  
CHAIRPERSON’S REPORT – (See Agenda Item #37.B.)**

There were no items submitted for the Regular Agenda by the Congestion Management Program and Planning Committee.

**TRANSIT PLANNING AND OPERATIONS COMMITTEE  
CHAIRPERSON’S REPORT – (See Agenda Item #37.C.)**

There were no items submitted for the Regular Agenda by the Transit Planning and Operations Committee.

Board Member Gage took his seat at 7:54 p.m.

## **OTHER ITEMS**

### **34. Final Supplemental Environmental Impact Report Certification BART Extension Project to Milpitas, San José, and Santa Clara**

Tom Fitzwater, Environmental Planning Manager, provided a PowerPoint presentation entitled "Santa Clara Valley Transportation Authority – BART Extension to Milpitas, San José, and Santa Clara." He provided a presentation overview, noting that the presentation is composed of the following: New Information, Design Changes under Consideration, Environmental Findings, and Environmental Process and Schedule.

Chairperson Chu left his seat at 7:55 p.m.

Mr. Fitzwater noted that the Board approved the project and certified the Final Environmental Impact Report (FEIR) in December 2004. Mr. Fitzwater noted that the new information includes: 2003 ABAG Smart Growth Projections, New Traffic Analysis for 2030, and New Federal Noise Analysis Guidelines.

Chairperson Chu took his seat at 8:00 p.m.

The Design Changes Under Consideration resulted from moving the project forward from 10 percent conceptual engineering to 35 percent preliminary engineering. There were 57 design changes addressed in the Supplemental Environmental Impact Report (SEIR) that range from consolidating two downtown San José stations into one to changes in electrical facility locations. This also includes comparison of design options.

Mr. Fitzwater presented the environmental findings of the SEIR. He briefly discussed the beneficial impact improvements, no new major long-term impacts, mitigated impacts, and significant unavoidable impacts.

Board Member Gage relinquished his seat and left the meeting at 8:07 p.m. and Alternate Board Member McHugh took his seat at 8:07 p.m.

Mr. Fitzwater discussed the Environmental Findings for the design changes for each affected city starting with the City of Fremont. Design Change #1 – Mission Boulevard/East Warren Avenue Alignment, staff recommends at-grade alignment. Design Change #5 – Kato Road Underpass involves significant unavoidable short-term traffic impact during construction at Kato Road.

Design Change # 8 – Dixon Landing Road Alignment in the City of Milpitas has significant unavoidable short-term traffic impact during construction at Dixon Landing. VTA has committed to work with Milpitas on a construction plan. Staff recommendation for this location is BART at-grade option. Milpitas also has significant long-term vibration impacts at two residences at the Terrace Gardens Housing Complex. At the

future South Calaveras Station, there are four locations with significant unavoidable long-term traffic impacts. For Design Change #14 – Curtis Avenue to Trade Zone Boulevard, Mr. Fitzwater reported that the City of Milpitas objected to the aerial option, keeping the retained cut long option. The Design Change #17 – Montague/Capitol Station has significant unavoidable long-term traffic impacts at five intersections.

Design Change #25 – Berryessa Station in the City of San José has significant unavoidable long-term traffic impacts at two intersections. For Design Change #25 – Electrical Facilities at Mabury, staff examined another alignment and came up with a recommendation of Las Plumas Overhead Option. Design Change #33 – Alum Rock Station has significant unavoidable long-term traffic impacts to four intersections.

For Design Change #40 – Downtown San José Station, staff recommends station entrance at the Western Dental Building. This change also results in significant unavoidable short-term traffic impacts during construction. For Design Change #42 – Diridon/Arena Station, staff recommends the North Bus Transit Center Option. There is no recommendation for parking options at this time but VTA will continue to work with the City of San José regarding parking. There are also significant unavoidable short-term traffic impacts during construction at two intersections. Design Change #53 – Construction Staging Areas also results in significant unavoidable short-term parking impacts during construction at three locations.

For Design Change #52 – Santa Clara Station in the City of Santa Clara, staff recommends the Parking Structure North Option. This area relates to the concern raised by Federal Express about the impacts of this option to their location. Mr. Fitzwater noted that VTA will provide adequate notice to Federal Express when the facility will be used. Design Change #52 – Santa Clara Station has three significant unavoidable long-term intersection impacts.

Mr. Fitzwater briefly discussed the process and schedule noting that the SEIR was circulated in January 23, 2007. Four public hearings were held in February 2007. The comment period deadline for the SEIR ended on March 16, 2007. The Policy Advisory Board (PAB) considered the SEIR and Design Changes on April 25, 2007. The FSEIR with answers to comments was released on May 17, 2007. Lastly, Mr. Fitzwater noted that the approval of the SEIR and the Design Changes is scheduled for VTA Board approval tonight.

Mr. Fitzwater noted that VTA received four letters regarding the SEIR. The Department of Transportation (Caltrans) questioned the methodology for level of service thresholds. Mr. Fitzwater noted that VTA used the CMP Level of Service Thresholds Approach that has been used in the past by VTA, the County, and cities. He added that this reflects travel speeds in the County.

The second letter is from the City of San José, which requests that the option for the station entrance be kept open. They expressed interest in the Bank of America Building Station Entrance and noted that they are exploring funding options for retrofitting the building.

The third letter is from Lowell Grattan, which expressed concern about BART's negative impact to freeway traffic. Mr. Fitzwater noted that the Project will result in about 145,000,000 vehicle miles travel reduction by 2030. Additionally, the project has benefits to air quality.

The fourth letter was received on June 7, 2007 from the City of Milpitas regarding a number of issues: 1) Inconsistency of the surface parking with the city's Transit Area Plan and VTA's Best Management Practices for Transit Oriented Development; 2) Endorsement of the retained cut long option from Curtis Avenue to Trade Zone Boulevard; 3) Elimination of road closure at Dixon Landing as well as the elimination of adverse impacts to business and residences and the preservation of emergency response during construction; 4) Mitigation of all adverse traffic impacts in Milpitas; and 5) Retain the Locomotive Wye Removal as an option. Mr. Fitzwater noted that as a response to Milpitas' concern, staff requests an amendment to the recommendation to reflect focusing on the structured parking option that included a four to eight level parking garage on two acres plus surface parking to make up the additional parking demand that showed in the model. Mr. Fitzwater noted the benefits of the six-month closure of Dixon Landing, which will result into an 18-month completion compared to a 30-month completion. He also noted that VTA will work with Milpitas on a business preservation plan and will pay the fair share for any traffic improvements at significantly affected intersections. Mr. Fitzwater added that the emergency response times will not be impacted and the locomotive wye removal is not a requirement of the project as the retained cut long option was recommended.

Michael Burns, General Manager, noted that VTA is in an on-going discussion with the City of San José regarding the Western Dental Building (staff recommended entrance) and Bank of America (City of San José preference) station entrance. There is a significant cost differential between the two and the City of San José is aggressively working to find funding options to fund the gap between the two. VTA staff recommends deferral to August 2007 the recommendation on station entrance pending further discussions with the City of San José.

Board Member Liccardo expressed support for staff's recommendation for deferral for the station entrance recommendation. He requested that the Board be provided the total aggregate number for the station to better compare Western Dental Building and Bank of America.

Jack Collins, Chief Construction Officer, noted that VTA and San José City staff will compare the overall development costs between the two.

Felix Reliford, City of Milpitas, noted that the City of Milpitas appreciates VTA staff's reconsideration of not including the surface parking. He noted that if the surface parking was implemented, it will reduce the number of units proposed in the area by 33 percent. Mr. Reliford noted that the City of Milpitas requests that the Retained Cut Long Option from Curtis Avenue to Trade Zone Boulevard be adopted as the only option. Mr. Reliford noted that the City requests that VTA add a requirement to the retention of the Dixon Landing Road At-Grade option to eliminate road closures and adverse impacts to businesses and residences and preserve emergency vehicle times during construction. He noted that Milpitas does not support selection of Design Change #8 without the development of such a plan. Mr. Reliford noted that the FSEIR should identify and adopt feasible traffic management mitigation that reduces all significant traffic impacts in Milpitas to less than significant. Finally, Milpitas requests that Design Change #13 be amended to include the removal of the locomotive wye as an option and relocated to a location consistent with Milpitas' Transit Area Plan.

Peggy O'Laughlin, Federal Express (FedEx) and speaking on behalf of Scott Sheperd, noted that the FedEx primary facility serving Silicon Valley is located in Santa Clara, which is located on the site of the North Option Parking plan. In 2004, FedEx requested that staff look more carefully at its analysis between the north and south parking options. FedEx expressed concern about the difficulty of finding a comparable facility replacement site. FedEx requested that they be given at least two years from the date of filing the eminent domain to the date that BART acquires possession of the property to ensure that FedEx finds a comparable replacement site.

Upon inquiry of Alternate Board Member McHugh regarding definition of fair share, Mr. Fitzwater noted that it involves examining VTA's addition to the traffic condition at the affected intersection and what proportional impact VTA will have in comparison to other development projects. VTA and the City of Milpitas will work on a formula to determine the fair share.

Alternate Board Member McHugh inquired about the preservation of the business plan. Mr. Collins noted that VTA sent a letter to the Milpitas City Manager that advises the City that VTA will be preparing a methodology study on how to phase the construction impacts at Dixon Landing Road.

Ex-Officio Board Member Yeager inquired if staff has addressed the request of FedEx. He noted the importance of providing FedEx the flexibility of the two-year notification. Carolyn Gonot, Chief Development Officer, responded that VTA is working on the timeframe to ensure that the schedule will allow two-year notification. Mr. Collins noted that VTA will work with FedEx.

**M/S/C (Cortese/McHugh)** on a vote of 8 ayes, 0 noes, 1 abstention, and 0 recusal to approve design changes to the Silicon Valley Rapid Transit Corridor Bay Area Rapid Transit (BART) Extension project to Milpitas, San José and Santa Clara through the following actions: 1) Certify that the Supplemental Environmental Impact Report (SEIR): a) Meets the requirements of California Environmental Quality Act (CEQA);

b] Represents the independent judgment of the Lead Agency; and c] Was presented to the VTA Board of Directors and that they reviewed and considered it; 2) Adopt: a] Findings; b] Facts in Support of Findings; and c] Statement of Overriding Considerations; 3) Adopt a Mitigation Monitoring and Reporting Program; and 4) Adopt the Recommended Project Description. Amend staff recommendation to include one parking option – Parking Structure with Surface Parking in the City of Milpitas. Defer to August 2007 the design change for the Downtown San José Station Entrance Location (between First and Second Streets) pending the discussions with the City of San José. Direct staff to work with Federal Express regarding notification to vacate property. Vice Chairperson Kniss abstained.

**35. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION**

There were no Items of Concern and Referral to Administration.

Ex-Officio Board Member Yeager left the meeting at 8:35 p.m.

**36. MONTHLY LEGISLATIVE HISTORY MATRIX**

**On order of Chairperson Chu**, there being no objection, the Monthly Legislative History Matrix was accepted as contained in the Agenda Packet.

**37. SUMMARY MINUTES FROM STANDING COMMITTEES**

**A. Administration and Finance Committee**

**On order of Chairperson Chu**, there being no objection, the May 17, 2007 and May 23, 2007 Administration and Finance Committee Summary Minutes were accepted as contained in the Agenda Packet.

**B. Congestion Management Program and Planning**

**On order of Chairperson Chu**, there being no objection, the May 23, 2007 Congestion Management Program and Planning Summary Minutes was accepted as contained in the Agenda Packet.

**C. Transit Planning and Operations Committee**

**On order of Chairperson Chu**, there being no objection, the May 16, 2007 Transit Planning and Operations Committee Summary Minutes was accepted as contained in the Agenda Packet.

**38. REPORTS (UNAPPROVED MINUTES) FROM ADVISORY COMMITTEES**

**A. Committee for Transit Accessibility (CTA)**

**On order of Chairperson Chu**, there being no objection, the May 9, 2007 Committee for Transit Accessibility Minutes was accepted as contained in the Agenda Packet.

**B. Citizens Advisory Committee (CAC)**

**On order of Chairperson Chu**, there being no objection, the May 9, 2007 Citizens Advisory Committee Minutes was accepted as contained in the Agenda Packet.

**C. Bicycle & Pedestrian Advisory Committee (BPAC)**

**On order of Chairperson Chu**, there being no objection, the May 9, 2007 Bicycle & Pedestrian Advisory Committee Minutes was accepted as contained in the Agenda Packet.

**D. Technical Advisory Committee (TAC)**

**On order of Chairperson Chu**, there being no objection, the May 10, 2007 Technical Advisory Committee Summary Minutes was accepted as contained in the Agenda Packet.

**E. Policy Advisory Committee (PAC)**

**On order of Chairperson Chu**, there being no objection, the April 12, 2007 and May 10, 2007 Policy Advisory Committee Minutes were accepted as contained in the Agenda Packet.

**39. REPORTS FROM JOINT POWERS BOARDS (JPBs) & REGIONAL COMMISSIONS**

Chairperson Chu advised the Board of Directors that the Reports from the Joint Powers Boards (JPBs) & Regional Commissions were placed on the dais.

**A. Peninsula Corridor JPB**

**On order of Chairperson Chu**, there being no objection, the Peninsula Corridor JPB Report was received.

**B. Capitol Corridor JPB**

There was no report from the Capitol Corridor JPB.

**C. Dumbarton Rail Corridor Policy Committee**

There was no report from the Dumbarton Rail Corridor Policy Committee.

**D. Metropolitan Transportation Commission (MTC)**

**On order of Chairperson Chu**, there being no objection, the Metropolitan Transportation Commission (MTC) Report was received.

**40. REPORTS FROM VTA POLICY ADVISORY BOARDS (PABs)**

**A. Vasona Light Rail PAB**

There was no report from the Vasona Light Rail PAB.

**B. Silicon Valley Rapid Transit Corridor PAB**

**On order of Chairperson Chu**, there being no objection, the April 25, 2007 Silicon Valley Rapid Transit Corridor PAB Minutes was accepted as contained in the Agenda packet.

**C. Downtown East Valley PAB**

**On order of Chairperson Chu**, there being no objection, the April 5, 2007 Downtown East Valley (DTEV) PAB Minutes was accepted as contained in the Agenda Packet and received a report on the June 4, 2007 DTEV PAB meeting.

**D. Highway PAB – South**

**On order of Chairperson Chu**, there being no objection, the May 23, 2007 Highway PAB – South Meeting report was received.

**E. I-680 Sunol SMART Carpool Lane Policy Advisory Committee**

There was no report from the I-680 Sunol SMART Carpool Lane Policy Advisory Committee.

**41. ADJOURNED TO CLOSED SESSION at 8:35 p.m.**

**A. Conference with Labor Negotiators  
[Government Code Section 54957.6]**

VTA Designated Representatives:  
Bill Lopez, Chief Administrative Officer  
Robert Escobar, Manager, Office of Employee Relations

Employee Organization:  
American Federation of State, County, and Municipal Employees (AFSCME)

**B.** Conference with Real Property Negotiator  
[Government Code 54956.8]

Property: Block bounded by North First Street, North Market Street, Santa Clara Street and West St. John Street located in downtown San José .

Negotiator for VTA: Roberta Notrangelo, Manager of Real Estate

Negotiating parties: The Mitchell Family, Owners, acting through an exclusive listing by CB Richard Ellis.

Under negotiation: Price and terms of payment.

**C.** Conference with Real Property Negotiator  
[Government Code 54956.8]

Property: Northerly portion of VTA's WP Milpitas line, approximately 3 miles in length

Negotiator for VTA: Roberta Notrangelo, Manager of Real Estate

Negotiating parties: Laura Giraud, Right of Way Division Manager, BART

Under negotiation: Price and terms of payment.

**D. (Deferred to the August 2, 2007 Regular Board of Directors Meeting)**

Public Employee Performance Evaluation  
[Government Code Section 54957]

Title: General Manager

**RECONVENED TO OPEN SESSION at 8:54 p.m.**

**42. CLOSED SESSION REPORT**

**A.** Conference with Labor Negotiators  
[Government Code Section 54957.6]

VTA Designated Representatives:  
Bill Lopez, Chief Administrative Officer  
Robert Escobar, Manager, Office of Employee Relations

Employee Organization:  
American Federation of State, County, and Municipal Employees (AFSCME)

Suzanne Gifford, General Counsel, noted that there was no reportable action taken during Closed Session on Item 41.A.

**B. Conference with Real Property Negotiator**  
[Government Code 54956.8]

Property: Block bounded by North First Street, North Market Street, Santa Clara Street and West St. John Street located in downtown San José .

Negotiator for VTA: Roberta Notrangelo, Manager of Real Estate

Negotiating parties: The Mitchell Family, Owners, acting through an exclusive listing by CB Richard Ellis.

Under negotiation: Price and terms of payment.

Suzanne Gifford, General Counsel, noted that there was no reportable action taken during Closed Session on Item #41.B.

**C. Conference with Real Property Negotiator**  
[Government Code 54956.8]

Property: Northerly portion of VTA's WP Milpitas line, approximately 3 miles in length

Negotiator for VTA: Roberta Notrangelo, Manager of Real Estate

Negotiating parties: Laura Giraud, Right of Way Division Manager, BART

Under negotiation: Price and terms of payment.

Suzanne Gifford, General Counsel, noted that the Board of Directors will consider Closed Session Item #41.C under Agenda Item #44., Authorize the General Manager to execute a Purchase Agreement and all other documents necessary to convey approximately three miles of former Western Pacific Railroad Road (WPRR) right-of-way to the Bay Area Rapid Transit District (BART) for \$20,089,756.

**D. (Deferred to the August 2, 2007 Regular Board of Directors Meeting)**

Public Employee Performance Evaluation  
[Government Code Section 54957]

Title: General Manager

**42.X. (Removed from the Agenda)**

Approval of the Labor Agreement Between Santa Clara Valley Transportation Authority and the American Federation of State, County and Municipal Employees, Local 101, VTA Chapter.

**43. (Removed from the Agenda)**

Authorize the General Manager to take all necessary actions to purchase the “Mitchell Block” (property bounded by North First Street, North Market Street, Santa Clara Street, and West St. John Street in downtown San José). (Verbal Report) (Burns)

**44. BART Purchase of Western Pacific Milpitas Property for Warm Springs Extension Project**

**M/S/C (Williams/McHugh)** to authorize the General Manager to execute a Purchase Agreement and all other documents necessary to convey approximately three miles of former Western Pacific Railroad Road (WPRR) right-of-way to the Bay Area Rapid Transit District (BART) for \$20,089,756.

**45. ANNOUNCEMENTS**

There were no Announcements.

**46. ADJOURNMENT**

**On order of Vice Chairperson Chu**, there being no objection, the meeting was adjourned at 8:55 p.m.

Respectfully Submitted,

Elaine F. Baltao, Board Assistant  
VTA Board of Directors