



BOARD OF DIRECTORS MEETING

October 4, 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 4:04 p.m. in the Board of Supervisors' Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

2. ROLL CALL

Members Present

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

Members Absent

Chuck Reed

Alternates Present

Roland Velasco

Alternates Absent

Dominic Caserta
Kansen Chu
Kathleen King
Pete McHugh

* Alternates do not serve unless participating as a Member.

A quorum was present.

3. **ORDERS OF THE DAY**

Chairperson Chu **requested** that the following Agenda Items be deferred to the November 1, 2007 Board Meeting:

- **Agenda Item #4.**, Awards and Commendations, Employees of the Month for October 2007 and Supervisor of the Quarter.
- **Agenda Item #5.**, Policy Advisory Committee (PAC) Chairperson's Report.
- **Agenda Item #11.**, Adopt a Resolution: 1) Amending Section 5.4 of the PAC bylaws to change the quorum requirement from majority of total authorized membership to majority of total appointed members or seven, whichever is greater; 2) Further amending Section 5.4 to change the voting requirement to permit a majority of the quorum to pass an item, provided that if the number of votes approving any recommendation is less than a quorum, then the minutes of the meeting shall contain a notation that the item was passed by less than a majority of the total appointed membership; and amending Section 4.1 to require that the PAC Chairperson also shall bring this to the attention of the Board during his/her verbal report to the Board; and 3) Amending Section 4-17 of the VTA Administrative Code to allow implementation of these modifications. Further, if this action is adopted by the VTA Board, recommend that the quorum and voting requirement modifications be agendized for the next PAC meeting to establish an effective date and for formal adoption by the PAC into its bylaws.
- **Agenda Item #26C.**, Public Employee Performance Evaluation [Government Code Section 54957], Title: General Counsel.

Chairperson Chu **requested** that the following Agenda Item be moved towards the end of the agenda: **Agenda Item #8.**, Public Presentations, be moved to the end of the agenda.

Chairperson Chu **noted** that **Agenda Items 17, 18 and 19** would be reviewed by the Administration and Finance Committee on October 18, 2007 prior to consideration by the Board at the November 1, 2007 Board Meeting.

- **Agenda Item #17.**, Continue VTA's existing practice to sell Youth Monthly Passes to school districts and other entities at prices established by the Board of Directors. Direct staff to continue the practice of working with school districts and cities to market VTA's fare media and services to the youth;
- **Agenda Item #18.**, Retain the resolution establishing rates and fares for VTA adopted by the Board of Directors on June 7, 2007, to enable staff to evaluate the impacts of the reduction in the price of Youth Monthly Passes; and

- **Agenda Item #19.**, Retain the resolution establishing rates and fares for VTA adopted by the Board of Directors on June 7, 2007.

Chairperson Chu **requested** that the following Agenda Items be moved from the Regular Agenda and placed on the Consent Agenda:

- **Agenda Item #12.**, Authorize the General Manager to renew benefit contracts with Kaiser, PacifiCare, Valley Health Plan, Delta Dental, Pacific Union Dental, Vision Service Plan, and Custom Benefits Administrators for VTA employees and retirees for calendar year 2008;
- **Agenda Item #13.**, Authorize the General Manager to amend the Route 85/101 (North) Interchange construction contract with FCI Constructors/Pavex Joint Venture by an amount of \$1,800,000 for a new contract amount of up to \$64,200,000, and authorize an adjustment to the current 1996 Measure B Capital Program Budget appropriation for fiscal year 2008;
- **Agenda Item #14.**, Approve the re-programming of \$4.5 million in Federal Surface Transportation Program (STP) funds to projects listed; and authorize the General Manager to execute the appropriate funding agreements with Caltrans, as needed; and approve the resolution to receive federal funding for the State Route 87 Landscaping project;
- **Agenda Item #15.**, Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Freight Railroad Relocation and Lower Berryessa Creek (FRR & LBC) Project and approve the Project; and
- **Agenda Item #16.**, Approve the Bus Rapid Transit (BRT) alternative as the preferred near-term development strategy for the Santa Clara/Alum Rock Transit Improvement project, pending environmental analysis.

M/S/C (**Kniss/Kerr**) to accept the Orders of the Day.

4. (Deferred to the November 1, 2007 Board of Directors Meeting.)

AWARDS AND COMMENDATIONS

Employees of the Month for October 2007

5. (Deferred to the November 1, 2007 Board of Directors Meeting.)

Policy Advisory Committee (PAC) Chairperson's Report

6. **REPORT FROM THE GENERAL MANAGER**

There was no report from the General Manager.

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

7. REPORT FROM THE CHAIRPERSON

Board Member Williams took his seat at 4:08 p.m.

Chairperson Chu appointed Board Members Williams, Gage and himself as the Nominating Committee for the election of Chairperson and Vice-Chairperson for the 2008 Board of Directors. He noted the Nominating Committee will provide its report at the November 1, 2007 Board meeting and the elections for Chair and Vice-Chair will take place at the December 13, 2007 Board meeting.

On order of Chairperson Chu, there being no objection, Board Members Williams, Gage and Chairperson Chu were appointed as the Nominating Committee for the election of Chairperson and Vice-Chairperson for the 2008 Board of Directors.

The Agenda was taken out of order.

8. (Moved towards the end of the Agenda.)

PUBLIC PRESENTATIONS

CONSENT AGENDA

M/S/C (Gage/Williams) to approve the Consent Agenda, as amended.

9. Minutes of the Regular Board of Directors' Meeting of August 30, 2007

M/S/C (Gage/Williams) to approve the Minutes of the Regular Board of Directors' Meeting of August 30, 2007.

10. Citizens Advisory Committee Appointment

M/S/C (Gage/Williams) to ratify the appointment of Judi Kirkham to the Citizens Advisory Committee position representing the South Bay AFL-CIO Labor Council.

11. (Deferred to the November 1, 2007 Board of Directors Meeting.)

Adopt a Resolution: 1) Amending Section 5.4 of the PAC bylaws to change the quorum requirement from majority of total authorized membership to majority of total appointed members or seven, whichever is greater; 2) Further amending Section 5.4 to change the voting requirement to permit a majority of the quorum to pass an item, provided that if the number of votes approving any recommendation is less than a quorum, then the minutes of the meeting shall contain a notation that the item was passed by less than a majority of the total appointed membership; and amending Section 4.1 to require that the PAC Chairperson also shall bring this to the attention of the Board during his/her verbal report to the Board; and 3) Amending Section 4-17 of the VTA Administrative Code to

allow implementation of these modifications. Further, if this action is adopted by the VTA Board, recommend that the quorum and voting requirement modifications be agendized for the next PAC meeting to establish an effective date and for formal adoption by the PAC into its bylaws.

12. Renewal of Benefit Contracts

M/S/C (Gage/Williams) to authorize the General Manager to renew benefit contracts with Kaiser, PacifiCare, Valley Health Plan, Delta Dental, Pacific Union Dental, Vision Service Plan, and Custom Benefits Administrators for VTA employees and retirees for calendar year 2008.

13. 1996 Measure B Transportation Improvement Program 85/101 (North) Interchange Project Construction Contract Amendment

M/S/C (Gage/Williams) to authorize the General Manager to amend the Route 85/101 (North) Interchange construction contract with FCI Constructors/Pavex Joint Venture by an amount of \$1,800,000 for a new contract amount of up to \$64,200,000, and authorize an adjustment to the current 1996 Measure B Capital Program Budget appropriation for fiscal year 2008.

14. Reprogram Federal Surface Transportation Program (STP) Funds

M/S/C (Gage/Williams) to approve the re-programming of \$4.5 million in Federal Surface Transportation Program (STP) funds to projects listed; and authorize the General Manager to execute the appropriate funding agreements with Caltrans, as needed; and approve Resolution 07.10.18 to receive federal funding for the State Route 87 Landscaping project.

15. Adoption of the Freight Railroad Relocation and Lower Berryessa Creek Project Mitigated Negative Declaration and Approval of the Project

M/S/C (Gage/Williams) to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Freight Railroad Relocation and Lower Berryessa Creek (FRR & LBC) Project and approve the Project.

16. Santa Clara/Alum Rock Transit Improvement Project

M/S/C (Gage/Williams) to approve the Bus Rapid Transit (BRT) alternative as the preferred near-term development strategy for the Santa Clara/Alum Rock Transit Improvement project, pending environmental analysis.

REGULAR AGENDA

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

Authorize the General Manager to renew benefit contracts with Kaiser, PacifiCare, Valley Health Plan, Delta Dental, Pacific Union Dental, Vision Service Plan, and Custom Benefits Administrators for VTA employees and retirees for calendar year 2008.

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

Authorize the General Manager to amend the Route 85/101 (North) Interchange construction contract with FCI Constructors/Pavex Joint Venture by an amount of \$1,800,000 for a new contract amount of up to \$64,200,000, and authorize an adjustment to the current 1996 Measure B Capital Program Budget appropriation for fiscal year 2008.

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

Approve the re-programming of \$4.5 million in Federal Surface Transportation Program (STP) funds to projects listed; and authorize the General Manager to execute the appropriate funding agreements with Caltrans, as needed; and approve the resolution to receive federal funding for the State Route 87 Landscaping project.

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

Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Freight Railroad Relocation and Lower Berryessa Creek (FRR & LBC) Project and approve the Project.

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

Approve the Bus Rapid Transit (BRT) alternative as the preferred near-term development strategy for the Santa Clara/Alum Rock Transit Improvement project, pending environmental analysis.

17. (Deferred to the November 1, 2007 Board of Directors Meeting.)

Continue VTA's existing practice to sell Youth Monthly Passes to school districts and other entities at prices established by the Board of Directors. Direct staff to continue the practice of working with school districts and cities to market VTA's fare media and services to the youth.

18. (Deferred to the November 1, 2007 Board of Directors Meeting.)

Retain the resolution establishing rates and fares for VTA adopted by the Board of Directors on June 7, 2007, to enable staff to evaluate the impacts of the reduction in the price of Youth Monthly Passes.

19. (Deferred to the November 1, 2007 Board of Directors Meeting.)

Retain the resolution establishing rates and fares for VTA adopted by the Board of Directors on June 7, 2007.

OTHER ITEMS

20. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

There were no Items of Concern and Referral to Administration.

21. 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.

Board Member Kerr left his seat at 4:11 p.m.

22. SUMMARY MINUTES FROM STANDING COMMITTEES

A. Administration and Finance Committee

On order of Chairperson Chu, there being no objection, the September 20, 2007 Notice of Cancellation was accepted as contained in the Agenda packet.

B. Congestion Management Program and Planning

On order of Chairperson Chu, there being no objection, the September 20, 2007 Notice of Cancellation was accepted as contained in the Agenda packet.

C. Transit Planning and Operations Committee

On order of Chairperson Chu, there being no objection, the September 19, 2007 Notice of Cancellation was accepted as contained in the Agenda packet.

23. REPORTS (UNAPPROVED MINUTES) FROM ADVISORY COMMITTEES

A. Committee for Transit Accessibility (CTA)

On order of Chairperson Chu, there being no objection, the September 12, 2007 Summary Minutes were accepted as contained in the Agenda packet.

B. Citizens Advisory Committee (CAC) and 2000 Measure A Citizens Watchdog Committee (CWC)

On order of Chairperson Chu, there being no objection, the September 12, 2007 Notice of Cancellation was accepted as contained in the Agenda packet.

C. Bicycle & Pedestrian Advisory Committee (BPAC)

On order of Chairperson Chu, there being no objection, the September 12, 2007 Notice of Cancellation was accepted as contained in the Agenda packet.

D. Technical Advisory Committee (TAC)

On order of Chairperson Chu, there being no objection, the September 13, 2007 Notice of Cancellation was accepted as contained in the Agenda packet.

E. Policy Advisory Committee (PAC)

On order of Chairperson Chu, there being no objection, the September 13, 2007 Notice of Cancellation was accepted as contained in the Agenda packet.

24. 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 in front of them on the dais.

A. Peninsula Corridor JPB

B. Capitol Corridor JPB

C. Dumbarton Rail Corridor Policy Committee

D. Metropolitan Transportation Commission (MTC)

25. 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

There was no report from the Silicon Valley Rapid Transit PAB.

C. Downtown East Valley PAB

On order of Chairperson Chu, there being no objection, the September 6, 2007 Summary Minutes were accepted as contained in the Agenda packet.

D. Highway PAB – South

There was no report from the Highway PAB - South.

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

On order of Chairperson Chu, there being no objection, the I-680 Sunol SMART Carpool Lane Policy Advisory Committee Report of September 21, 2007, was accepted as contained on the dais.

The Agenda was taken out of order.

8. PUBLIC PRESENTATIONS

Ross Signorino, Interested Citizen, congratulated VTA on the Bus Rapid Transit Santa Clara/Alum Rock project. He also suggested that VTA redesign the seats on buses so that they can be lowered in order to provide the opportunity for VTA buses to be used as emergency vehicles if necessary during an emergency or disaster. He also commented that VTA should consider the liabilities of redesigning the seats.

26. ADJOURNED TO CLOSED SESSION at 4:13 p.m.

Board Member Liccardo arrived at the meeting and entered Closed Session at 4:15 p.m.

Board Member Kerr entered Closed Session at 4:15 p.m.

**A. 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 (Mitchell Block) located in downtown San Jose.

Negotiators for VTA: Jerry Mikolajczyk, Chief Financial Officer
Roberta Notrangelo, Manager of Real Estate

Negotiating parties: Jeffrey S. Kuhn, Managing Principal, Financial Leadership Group, LLC
William T. Brooks, Attorney at Law, Brooks & Hess
John H. Blake, Attorney at Law, Hannig Law Firm

Under negotiation: Price and terms of payment.

- B.** Existing Litigation - Conference with Legal Counsel
[Government Code Section 54956.9(a)]

Name of Case: Armando Reveles v. Santa Clara Valley Transportation Authority
Superior Court Case No. 107CV082231

- C.** (Deferred to November 1, 2007 Board of Directors Meeting.)

Public Employee Performance Evaluation
[Government Code Section 54957]

Title: General Counsel

RECONVENED TO OPEN SESSION at 4:35 p.m.

27. CLOSED SESSION REPORT

- A.** 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 (Mitchell Block) located in downtown San Jose.

Negotiators for VTA: Jerry Mikolajczyk, Chief Financial Officer
Roberta Notrangelo, Manager of Real Estate

Negotiating parties: Jeffrey S. Kuhn, Managing Principal, Financial Leadership Group, LLC
William T. Brooks, Attorney at Law, Brooks & Hess
John H. Blake, Attorney at Law, Hannig Law Firm

Under negotiation: Price and terms of payment.

Suzanne Gifford, General Counsel, noted there was no reportable action taken during Closed Session.

- B.** Existing Litigation - Conference with Legal Counsel
[Government Code Section 54956.9(a)]

Name of Case: Armando Reveles v. Santa Clara Valley Transportation Authority
Superior Court Case No. 107CV082231

Suzanne Gifford, General Counsel, noted there was no reportable action taken during Closed Session.

28. ANNOUNCEMENTS

There were no Announcements.

29. ADJOURNMENT

On order of Chairperson Chu, there being no objection, the meeting was adjourned at 4:35 p.m.

Respectfully Submitted,

Paula Perez, Board Assistant
VTA Board of Directors