



BOARD OF DIRECTORS MEETING

Thursday, September 4, 2008

MINUTES

CALL TO ORDER

The Regular Meeting of the Santa Clara Valley Transportation Authority's (VTA) Board of Directors was called to order by Chairperson Kniss at 5:35 p.m. in the Board of Supervisors' Chambers, County Government Center, 70 West Hedding Street, San Jose, California.

1. Roll Call

Attendee Name	Title	Status	Arrived
David Cortese	Alternate Board Member	Absent	
Nora Campos	Board Member	Absent	
Dean Chu	Ex-Officio Board Member	Present	
Don Gage	Board Member	Present	
Liz Kniss	Chairperson VTA Board of Directors,	Present	
Dolly Sandoval	Board Member	Present	
Forrest Williams	Board Member	Present	
Sam Liccardo	Board Member	Present	
Nancy Pyle	Board Member	Present	
Chuck Reed	Board Member	Absent	
David Casas	Board Member	Present	
Yoriko Kishimoto	Board Member	Present	
Dominic Caserta	Board Member	Present	
Chris Moylan	Alternate Board Member	Present	

Bob Livengood	Alternate Board Member	Absent	
Greg Sellers	Board Member	Present	
Pete McHugh	Alternate Board Member	Present	
Chuck Page	Alternate Board Member	Absent	
Ken Yeager	Ex-Officio Board Member	Present	

* Alternates do not serve unless participating as a Member.

A quorum was present.

2. ADJOURN TO CLOSED SESSION

Conference with Labor Negotiators
[Government Code Section 54957.6]

VTA Designated Representatives:

Joseph Smith, Chief Financial Officer
Bill Lopez, Chief Administrative Officer
Robert Escobar, Manager, Office of Employee Relations

Employee Organization:

Amalgamated Transit Union (ATU)

Board Member Kishimoto arrived and entered to Closed Session at 5:56 p.m.

Alternate Board Member Moylan came out of Closed Session at 5:57 p.m.

Ex-Officio Board Member Yeager arrived at 6:02 p.m.

Alternate Board Member McHugh arrived at 6:06 p.m.

RECONVENED TO OPEN SESSION at 6:20 p.m.

3. CLOSED SESSION REPORT

Conference with Labor Negotiators
[Government Code Section 54957.6]

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Robert Escobar, Manager, Office of Employee Relations

Employee Organization:

Amalgamated Transit Union (ATU)

Kevin Allmand, Acting General Counsel, reported that there was no reportable action taken during Closed Session.

Mike Macarelli, VTA Employee, stated that given the present economic downturn is dimming the hopes for VTA Employees' future. ATU members are in jeopardy. He urged VTA to rethink its labor negotiation strategy, help revitalize the economy, and bring to the table a fair offer,

Ed Dolores, ATU Local 265 Maintenance Business Agent, noted that ATU has dealt on a variety of VTA issues and stated that settling the labor negotiation is within reach. ATU's proposal for the labor negotiation is less than 50 percent of the Consumer Price Index (CPI) for the Bay Area. He noted that ATU Members want a fair contract to be able to live in Santa Clara County.

Dennis Medina, VTA Employee, expressed disappointment that the labor negotiation is still not settled.

Kevin Fish, Interested Citizen, urged VTA to be more reasonable and be in good faith during the labor negotiations. He noted that if ATU Members strike, it will adversely impact VTA and the public that it serves.

Dimitri Grant, VTA Employee, expressed concern about inefficient internal system that VTA uses to order parts for vehicle maintenance.

Judy Kaur, VTA Employee, expressed concern that the delayed settlement of the labor contract is causing stress among workers. She noted that hard working VTA employees deserve a decent contract to provide for their families. She commented that bringing BART to Santa Clara County is politically correct but questioned if it is hurting VTA and its employees financially.

Eugene Bradley, Santa Clara VTA Riders Union, distributed an open letter addressed to VTA General Manager and the ATU 265 Executive Board. Mr. Bradley urged both parties to work together to settle the labor dispute the soonest time possible.

4. ORDERS OF THE DAY

There were no Orders of the Day.

5. AWARDS AND COMMENDATIONS

Employees of the Month for September 2008

Chairperson Kniss recognized and presented award to Milah Baldovino, Document Control Clerk II, as Employee of the Month for September 2008 Administration category. Gurpreet Singh, Light Rail Operator, Guadalupe Operations; and David Gaillard, Service Worker, Chaboya Maintenance, were unable to attend.

6. REPORT FROM THE GENERAL MANAGER

Michael T. Burns, General Manager, reported the following:

- Tony Sandhu, Financial Accounting Manager, was awarded a Certificate of Achievement for Excellence in Financial Reporting for the Comprehensive Annual Financial Report (CAFR) for FY 2007 by the Government Finance Officers Association of the United States and Canada.
- The SR 152 Flyover opened six weeks ahead of schedule. This flyover is a component of the SR 152/156 Improvement Project, which when fully completed in Spring 2009 will enhance safety and improve traffic. Board Members Gage, Williams and Ex-Officio Board Member Chu, Congressman McNerny, and local officials attended the ribbon cutting event on August 27, 2008.
- VTA replaced the rail track between First and Devine Streets on August 22, 2008 weekend. This work will reduce noise, lessen maintenance costs, and improves safety.
- VTA Systemwide average weekday boarding for July 2008 increased 11.4 percent when compared to the same period last year. Bus average weekday boarding increased 15.9 percent while Light Rail ridership remained flat, partly due to the on-going construction at some stations.
- Caltrain ridership is up 17.5 percent in July 2008 when compared to last year with 46,000 average weekday ridership.
- Altamont Commuter Express (ACE) ridership also seen an increase of 23 percent in ridership.
- He introduced Captain Schiller who will replace Captain Luther Pugh in the Sheriff's Office at VTA's Protective Services Department. Captain Pugh is reassigned to head the Detective's Division.
- He introduced a news clip from KTVU news which highlights the success of the Maintenance Career Ladder Training Program.

7. REPORT FROM THE CHAIRPERSON

There was no report from the Chairperson.

8. Policy Advisory Committee (PAC) Chairperson's Report

Christopher Moylan, PAC Chairperson, provided a report regarding the PAC Meeting on August 14, 2008 highlighting the following: 1) Received an update regarding Valley Transportation Plan (VTP) 2035 Program areas; 2) Received an update and provided feedback regarding the High Occupancy Toll (HOT) Lanes; 3) Mr. Burns provided a brief report regarding the State Audit and noted that VTA will be working towards a strategy to enhance the Advisory Committees; 4) PAC will discuss the governance issue at next week's meeting to determine whether to forward a recommendation to the Board.

6. REPORT FROM THE GENERAL MANAGER (continued)

Eugene Bradley, Santa Clara VTA Riders Union, inquired if VTA has a contingency plan in case of a labor strike.

Mr. Burns responded that VTA has contingency plans and are coordinating with multiple agencies to come up with alternatives, in an event of a work stoppage. He stressed that VTA's effort is focused on reaching an agreement for labor negotiations at this time.

CONSENT AGENDA

Board Member Liccardo requested that the following agenda items be moved from the Consent Agenda to the Regular Agenda: **Agenda Item #11.**, Approve the work plan and budget for VTA staff to proceed with the development of a Transportation System Monitoring Program (TSMP) for Santa Clara County; approve the use of existing funds from the Congestion Management Program (CMP) budget to support the development of the proposed TSMP; **Agenda Item #16.**, Receive MTC/RTP Plan Development Update; and **Agenda Item #17.**, Receive VTP 2035 Program Area Review: Bicycle, TSOM, and Livable Communities and Pedestrian Program.

9. Minutes of August 7, 2008

M/S/C (Williams/Sandoval) to approve Minutes of August 7, 2008.

10. Programmed Projects Quarterly Monitoring Report for April - June 2008

M/S/C (Williams/Sandoval) to receive the Programmed Projects Quarterly Monitoring Report for April - June 2008.

11. (Removed from the Consent Agenda and Placed on the Regular Agenda.)

Approve the work plan and budget for VTA staff to proceed with the development of a Transportation System Monitoring Program (TSMP) for Santa Clara County; approve the use of existing funds from the Congestion Management Program (CMP) budget to support the development of the proposed TSMP.

12. On Call Environmental Services Consultant Selection

M/S/C (Williams/Sandoval) to authorize the General Manager to execute contracts for the preparation of environmental compliance documents and other environmental support services for transit, highway and facility projects with the following firms as funds become available for each project. The total value shall not to exceed \$4,800,000 for all agreements.

13. Approval Annual Monitoring and Conformance Report -- Consultant Selection Process (For 2008-2012 Study)

M/S/C (Williams/Sandoval) to authorize the General Manager to execute a contract with Dowling Associates, Inc. for Monitoring and Conformance Program services. The contract will be to provide program services for the 2008 Monitoring and Conformance cycle with up to four one-year extensions through 2012. Program services for the 2008-12 Monitoring and Conformance contract shall be a time and materials contract not to exceed \$750,000 for all five years.

14. Resolution Authorizing the Execution and Filing of an Application with MTC for Congestion Mitigation and Air Quality (CMAQ) Funding for the Santa Clara Caltrain Station Grade-Separated Pedestrian Crossing

M/S/C (Williams/Sandoval) to adopt Resolution No. 08.09.24 certifying that VTA is an eligible and responsible sponsor for the Santa Clara Caltrain Station Grade-Separated Pedestrian Crossing ("Project") and authorize the General Manager to submit applications for Congestion Mitigation and Air Quality (CMAQ) funding for the Project.

15. Lifeline Transportation Program - Community Transportation Program

M/S/C (Williams/Sandoval) to approve the programming of \$1,105,487 in FY 2007/08 Lifeline Transportation Program funds for Outreach's Community Transportation Program.

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

Receive MTC/RTP Plan Development Update.

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

Receive VTP 2035 Program Area Review: Bicycle, TSOM, and Livable Communities and Pedestrian Program.

18. VTP 2035 Program Area Review: Pavement Management, Sound Mitigation, and Landscape Restoration & Graffiti Removal

M/S/C (Williams/Sandoval) to receive VTP 2035 Program Area Review: Pavement Management, Sound Mitigation, and Landscape Restoration & Graffiti Removal.

19. State Route 85 and US 101 High Occupancy Toll (HOT) Lanes Preliminary Engineering Update

M/S/C (Williams/Sandoval) to receive an update on State Route 85 and U.S. 101 High Occupancy Toll (HOT) Lanes Preliminary Engineering.

20. Joint Development Program Update

M/S/C (Williams/Sandoval) to receive an update on the Joint Development Program.

21. ACE Shuttle Vendor Contract Award

M/S/C (Williams/Sandoval) to authorize the General Manager to execute a three-year agreement with El Paseo Limousine (El Paseo) to provide Altamont Commuter Express (ACE) shuttle bus services in an amount not to exceed \$3,149,183 with options for two additional one year periods with escalation rates not to exceed the increase in the San Francisco Bay Area Consumer Price Index.

22. Amend Caltrain Centralized Equipment Maintenance and Operations Facility (CEMOF) Monitoring Committee Bylaws

M/S/C (Williams/Sandoval) to approve amending the bylaws of the Caltrain Centralized Equipment Maintenance and Operations Facility (CEMOF) Monitoring Committee to modify the appointment requirements for representatives and to provide for alternate members.

23. Banking and Custodial Services Contract

M/S/C (Williams/Sandoval) to authorize the General Manager to execute a contract with Union Bank of California for commercial banking and custodial safekeeping services in an amount not to exceed \$541,000 for a period of five years; and, further authorize the General Manager to extend such contract for one year periods not to exceed five additional years.

24. Amend CAC Bylaws to Institute a CAC Chairperson Report Requirement at VTA Board Meetings

M/S/C (Williams/Sandoval) to adopt **Resolution No. 08.09.25** amending Section 4.1 of the Citizens Advisory Committee bylaws, as indicated, to include as an additional responsibility of the CAC Chairperson to provide to the Board of Directors at each of its meetings a verbal report on the previous CAC meeting and any concerns of the Committee.

REGULAR AGENDA

25. Auditor General Request for Proposal (RFP) - Scope of Work and Proposer's Minimum Qualifications

Michael T. Burns, General Manager, stated that this item is forwarded from the Audit Committee. The Audit Committee has met twice and will meet quarterly. Mr. Burns noted that if the Board approves the Scope of Work and Minimum Qualifications for the VTA Auditor General Request for Proposal (RFP), staff will present a recommendation for a proposed contractor to the Audit Committee at their December 2008 meeting. Subsequent to that is a contractor selection action by the Board in January 2009.

Mr. Burns reviewed the staff recommendation highlighting that the contract is expected to be for a two-year period, with three additional one-year options to be executed at the sole discretion of VTA. He highlighted the scope of services including: 1) recommend Goals and Objectives for the Internal Audit Program; 2) Develop Annual Internal Audit Plan that will provide a methodology for conducting audits; 3) conduct individual audits; 4) provide status reports; 5) have a direct reporting relationship with the Audit Committee and administrative reporting relationship to the General Manager; and 6) Proposers may not currently be performing Auditor General Services for the County of Santa Clara, any of the 15 cities in the VTA service area, or currently performing any other services for VTA.

Mr. Burns noted that at inquiry of Audit Committee Member Casas, Acting General Counsel Kevin Allmand indicated that the ineligibility of contractors proposing on the RFP would extend to sub-contractors on VTA projects.

Mr. Burns reviewed the General Minimum Qualifications and highlighted the following: 1) experienced audit firm with team of individuals with five years public accounting experience and five years experience in the capacity of Auditor General. Specific Qualification include but are not limited to the following: 1) licensed Certified Public Accountant (CPA) as an Audit Partner within the firm; and 2) be familiar with the 10 areas of accounting as noted in the staff report.

Mr. Burns reported that at the request of the Audit Committee, staff prepared a memorandum that affirms that there are eligible firms in the area that could perform the work as described in the scope of services. Currently there are 115 firms registered in the Accounting/Auditing category on VTA's vendor system and inclusive of that are three of the four big firms: Deloitte Consulting, KPMG, and PriceWaterhouse Coopers. Mr. Burns noted that there will be a Pre-proposal Conference for this RFP. The scope of work could be revisited after that time if there is limited competition.

Member Kishimoto requested inclusion of performance audits for the scope of work. She referred to Attachment A, Scope of Services, Item #2, Bullet #1 - "Recommend a methodology to assess and prioritize business risk that will serve as the basis for developing the Annual Audit Plan" and commented that agency/organizational performance and productivity enhancement should be included.

Alternate Board Member McHugh expressed support for the recommendation and inquired if there is an estimated cost for Auditor General and the associated audit services.

Mr. Burns noted that independent cost estimates notes that the cost will be about \$500,000 per year. Since the Board adopted budget did not anticipate a contracted Audit service, staff identified contracted funds of about \$350,000 for the first year. He assured that the Audit Committee will provide direction on Audit budget.

M/S/C (Gage/Caserta) to review and approve the Scope of Work and Proposer's Minimum Qualifications for the Santa Clara Valley Transportation Authority (VTA) Auditor General Request for Proposal (RFP) with the inclusion of agency/organizational performance and productivity enhancement to Scope of Services, Item #2, Bullet #1.

11. Transportation System Monitoring Program

Board Member Liccardo referred to the Countywide Development Impact Fee, and urged for a thorough legal analysis of the nexus issue relating to how fees are extracted and for what purpose could those fees be used for. He noted that it will be very helpful to understand the issue fully before engaging into something that could potentially be very controversial.

Board Member Liccardo expressed great interest in reviewing the assessment with regard to maintenance and condition of facilities. He noted that the assessment will help people have awareness of whether or not there is fair share.

Alternate Board Member McHugh inquired about the increase in cost from \$110,000 in the staff report presented to the PAC in May 2008 and the current \$180,000 presented in the current staff report. John Ristow, Chief CMA Officer, responded that since the PAC meeting in May 2008, there are additional requests for data points that will be included in the report. The addition of data points will also increase the amount of work and time to prepare the report.

Alternate Board Member McHugh requested a staff report that will illustrate how the report could be used internally.

Vice Chairperson Sandoval inquired how the requests from Board Member Liccardo and Alternate Board Member McHugh will be incorporated in this plan.

Mr. Ristow responded that the request of Board Member Liccardo is a separate direction that VTA staff received from the June 2008 Board Meeting that directed staff to prepare a report on options for a countywide development impact fee or a sub-county development impact fee. Mr. Ristow noted that this will be a separate report for the Board to consider and will include a high level of legal analysis of nexus and examples. On the other hand, the Transportation System Monitoring Program (TSMP) will help determine where the deficiencies are and where future potential development impact fees could be applied. Mr. Ristow assured that these activities will not increase the current cost noted in the staff report.

M/S/C (Liccardo/Sellers) to approve the work plan and budget for VTA staff to proceed with the development of a Transportation System Monitoring Program (TSMP) for Santa Clara County; approve the use of existing funds from the Congestion Management Program (CMP) budget to support the development of the proposed TSMP.

16. MTC/RTP Plan Development Update

Board Member Liccardo requested clarification if the HOT Lane revenues will come back to the County. Mr. Ristow responded that it will go back to the County, however, it is described as corridor improvements. Mr. Ristow stated that VTA will advocate that the revenues will come back to the area where HOT Lane tolls were collected.

Board Member Liccardo thanked Alternate Board Member Cortese and Ex Officio Board Members Chu and Yeager, VTA Representatives to the Metropolitan Transportation Commission (MTC), for their success in securing the return to source concept, ensuring that the pavement maintenance is included in the front-end.

Chairperson Kniss noted that although HOT Lanes are very controversial, she is enthusiastic about HOT Lanes.

Ex-Officio Board Member Chu agreed that HOT Lanes are controversial. He noted that the future HOT Lanes at the I-680 Corridor (Santa Clara and Alameda Counties) and the other corridor within Santa Clara County will be the first Bay Area implemented HOT Lanes within the next five years. Ex-Officio Board Member Chu referred to Attachment A - MTC Commission Recommendation and noted that the expected \$6.1 billion revenues from HOT Lanes are in excess of maintenance. These monies will be returned to the corridor. Ex-Officio Board Member Chu noted that the Sunol HOT Lane Committee representative is currently Board Member Kishimoto.

On order of Chairperson Kniss, there being no objection, the Board of Directors received the MTC/RTP Plan Development Update.

17. VTP 2035 Program Area Review: Bicycle, TSOM, and Livable Communities and Pedestrian Program

Board Member Liccardo inquired if the City of San Jose still has ample time to submit the proposal to physically segregate bike lanes as a demonstration project as part of VTP 2035. Mr. Ristow responded yes.

On order of Chairperson Kniss, there being no objection, the Board of Directors received the received VTP 2035 Program Area Review: Bicycle, TSOM, and Livable Communities and Pedestrian Program.

OTHER ITEMS

26. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

Board Member Kishimoto requested an update for Measure A and project updates such as the Caltrain Electrification.

Mr. Burns noted that staff will wait for the outcome for the Measure A ballot on November 2008 to have certainty with regard to what the financial resources are. Mr. Burns noted that VTA will work with the Caltrain staff to present the Electrification and Overall Caltrain Improvement Project to the regional boards.

Board Member Williams inquired about the status of the rebuttal against the 1/8 cent sales tax. Mr. Burns responded that he sent to the Board earlier this week the ruling on challenge to the opponents' arguments against Measure B. He noted that the judge want to strike two provisions and those provisions are outlined in the memo.

Upon inquiry of Ex-Officio Board Member Chu, Kurt Evans, Government Affairs Manager, responded that the Governor Schwarzeneggerr has taken exception signed one bill - AB 3034 (Galgiani) since this is a measure that will impact a measure in the November 4, 2008 ballot. Mr. Evans added that Governor indicated that he will sign three more bills (Budget Reform, Modernization and securitization of State Lottery, and Water Bond Measure), which are related to November 2008 Election.

At the request of Chairperson Kniss, Mr. Evans provided a brief status of the California State Budget and stated that at this point, there is no sight of a budget resolution.

27. MONTHLY LEGISLATIVE HISTORY MATRIX

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

28. REPORTS (UNAPPROVED MINUTES) FROM STANDING COMMITTEES

A. Administration and Finance Committee

There was no report from the Administration and Finance (A&F) Committee.

B. Congestion Management Program and Planning Committee

There was no report from the Congestion Management Program and Planning (CMPP) Committee.

C. Transit Planning and Operations Committee

There was no report from the Transit Planning and Operations (TP&O) Committee.

D. Audit Committee

There was no report from the Audit Committee.

29. REPORTS (UNAPPROVED MINUTES) FROM ADVISORY COMMITTEES

A. Committee for Transit Accessibility (CTA)

On order of Chairperson Kniss, there being no objection, the August 13, 2008 Minutes were accepted as contained on the dais.

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

There was no report from the Citizens Advisory Committee (CAC) and 2000 Measure A Citizens Watchdog Committee (CWC).

C. Bicycle & Pedestrian Advisory Committee (BPAC)

On order of Chairperson Kniss, there being no objection, the July 9, 2008 Minutes were accepted as contained on the dais.

D. Technical Advisory Committee (TAC)

There was no report from the Technical Advisory Committee.

E. Policy Advisory Committee (PAC)

On order of Chairperson Kniss, there being no objection, the August 14, 2008 Minutes were accepted as contained in the Agenda Packet.

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

A. Peninsula Corridor JPB

On order of Chairperson Kniss, there being no objection, the September 4, 2008 Summary Notes from the Peninsula Corridor Joint Powers Board were accepted as contained on the dais.

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)

There was no report from the Metropolitan Transportation Commission (MTC).

E. Sunol Smart Carpool Lane Joint Powers Authority

There was no report from the Sunol Smart Carpool Lane Joint Powers Authority.

31. 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 and BART Warm Springs Extension PAB

There was no report from the Silicon Valley Rapid Transit Corridor and BART Warm Springs Extension PAB.

C. Downtown East Valley PAB

Chairperson Kniss noted that the DTEV met earlier at 4:00 p.m. and received the following reports: 1) Community-based Transportation Plan for East San Jose; 2) status report on the Santa Clara/Alum Rock Transit Improvement Project; and 3) status report on the Capitol Expressway Light Rail Project. Chairperson Kniss announced that the next DTEV meeting is scheduled for December 2008.

D. Highway PAB South

There was no report from the Highway PAB South.

32. PUBLIC PRESENTATIONS

Torrance Phillips, Interested Citizen, expressed concern about the safety of very crowded Community Buses, particularly Lines 37, and De Anza. He urged VTA to consider utilizing bigger buses or more Community Buses at least at morning peak times. He referred to the ATU/VTA Labor Negotiations and urged that VTA negotiate to avoid a labor strike.

Mr. Burns directed Mr. Philipps' concern to Bill Capps, Operations Deputy Director.

Eugene Bradley, SCVTA Riders Union, urged that the Public Presentations should be placed at the beginning of the agenda to allow people, especially those who use public transportation, to address the Board Members.

Doug Keegan, VTA Employee, inquired how the State's budget problem will affect VTA.

Mr. Burns responded that in the short-term, VTA will not be adversely be affected. However, if the State Budget is not resolved longer than six to eight months, it will have a negative impact to VTA.

33. ANNOUNCEMENTS

There were no Announcements.

34. ADJOURNMENT

On order of Chairperson Kniss, there being no objection, the meeting was adjourned at 7:30 p.m.

Respectfully Submitted,

Elaine F. Baltao, Board Assistant

VTA Board of Directors