



BOARD OF DIRECTORS MEETING

Thursday, December 11, 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 Vice Chairperson Sandoval at 9:08 a.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
Nora Campos	Board Member	Present	
David Casas	Board Member	Present	
Dominic Caserta	Board Member	Absent	
David Cortese	Alternate Board Member	Present	9:20 a.m.
Dean Chu	Ex-Officio Board Member	Present	9:10 a.m.
Don Gage	Board Member	Present	
Yoriko Kishimoto	Board Member	Present	
Sam Liccardo	Board Member	Present	9:10 a.m.
Bob Livengood	Alternate Board Member	Absent	
Pete McHugh	Alternate Board Member	Absent	
Chris Moylan	Alternate Board Member	Absent	
Chuck Page	Alternate Board Member	Absent	
Nancy Pyle	Board Member	Present	
Chuck Reed	Board Member	Present	
Dolly Sandoval	Board Member	Present	
Greg Sellers	Board Member	Present	9:10 a.m.
Forrest Williams	Board Member	Present	10:50 a.m.
Ken Yeager	Ex-Officio Board Member	Present	
Liz Kniss	Chairperson VTA Board of Directors	Present	9:09 a.m.

* Alternates do not serve unless participating as a Member.

A quorum was present.

2. RECESSED TO CLOSED SESSION at 9:09 a.m.

PUBLIC EMPLOYMENT

[Pursuant to Government Code Section 54957]

Position to be Filled: General Counsel

Board Members Sellers arrived at 9:10 a.m.
Board Member Liccardo arrived at 9:10 a.m.
Ex-Officio Board Member Chu arrived at 9:10 a.m.
Board Member Cortese arrived at 9:20 a.m.

RECONVENED TO OPEN SESSION at 9:26 a.m.

3. CLOSED SESSION REPORT

Chairperson Kniss announced the appointment of Kevin Allmand as General Counsel. The term of the agreement is three years, with a base salary of \$210,000 per year and a yearly contribution of \$10,000 to deferred compensation.

M/S/C (Gage/Sandoval) to approve Employment Agreement relating to position of General Counsel.

4. ORDERS OF THE DAY

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

5. ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON FOR A TERM EXTENDING FROM JANUARY 2009 THROUGH DECEMBER 2009

Chairperson Kniss announced the Nominating Committee proposed Dolly Sandoval as Chairperson and Sam Liccardo as Vice Chairperson. She asked if there are any other nominations from the Board.

M/S/C (Pyle/Kishimoto) to close the nominations for Chairperson and Vice Chairperson.

M/S/C (Kishimoto/Sellers) to elect Dolly Sandoval as VTA Board of Directors Chairperson and Sam Liccardo for Vice Chairperson for a term extending from January 2009 through December 2009.

6. AWARDS AND COMMENDATIONS

Chairperson Kniss suggested deferring the presentation of Resolution No. 08.12.32 of Commendation to outgoing Board Member Forrest Williams to later in the meeting.

7. REPORT FROM THE CHAIRPERSON (Verbal Report)

Chairperson Kniss reported the Board Members are going to begin a board self assessment on our conduct as a board as well as our contributions as individual board members. This will assist in determining how well we are carrying out our responsibilities and also to identify areas where we need to improve.

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

CONSENT AGENDA

Chairperson Kniss noted the recusal of Board Member Liccardo on items 28, 29 and 30.

M/S/C (Pyle/Sandoval) to approve the Consent Agenda.

8. **Regular Meeting Minutes of November 6, 2008**

M/S/C (Pyle/Sandoval) to approve the Board of Directors Regular Meeting Minutes of November 6, 2008.

9. **Fiscal Year 2008 Quarterly Statement of Revenues and Expenses for the period ending June 30, 2008**

M/S/C (Pyle/Sandoval) to review and accept the Fiscal Year 2008 Quarterly Statement of Revenues and Expenses for the period ending June 30, 2008.

10. **Fiscal Year 2009 Quarterly Statement of Revenues and Expenses for the period ending September 30, 2008**

M/S/C (Pyle/Sandoval) to review and accept the Fiscal Year 2009 Quarterly Statement of Revenues and Expenses for the period ending September 30, 2008.

11. **BPAC APPOINTMENT**

M/S/C (Pyle/Sandoval) to ratify the appointment to the Bicycle and Pedestrian Advisory Committee of Jana (Kolakowski-Tran) Zavala. This appointment is for the 2-year term ending June 30, 2010.

12. **Equal Employment Opportunity/Affirmative Action Plan**

M/S/C (Pyle/Sandoval) to approve the triennial revision of the Valley Transportation Authority (VTA) Equal Employment Opportunity/Affirmative Action Plan (EEO/AAP) for the period beginning January 1, 2009 through December 31, 2011, in accordance with federal and state civil rights regulatory requirements.

13. **2009 VTA Legislative Program**

M/S/C (Pyle/Sandoval) to approve the 2009 Legislative Program for the Santa Clara Valley Transportation Authority (VTA).

14. **Employer Pick Up of CalPERS Contribution**

M/S/C (Pyle/Sandoval) to adopt a Resolution No. 08.12.33 to allow VTA to continue to make member contributions for VTA employees covered by the California Public Employees' Retirement System (CalPERS) on a tax-deferred basis.

15. US 101 Auxiliary Lanes Project – SR 85 to Embarcadero Road Amendment to Contract with URS Corporation for Phase II, Final Plans, Specifications, and Estimates

M/S/C (Pyle/Sandoval) to authorize the General Manager to: execute a contract amendment with URS Corporation in an amount not to exceed \$6.65 million increasing the total contract value to \$9.15 million and extend the contract term to December 31, 2011, to provide Phase II, final plans, specifications, and estimates services for the US 101 Auxiliary Lanes Project - State Route 85 to Embarcadero Road.

16. Express Lanes Project–Final Recommendations/Implementation Plan

M/S/C (Pyle/Sandoval) to recommend the Board of Directors take the following actions:

(1) Approve the Silicon Valley Express Lanes Program as described in the memorandum and attachments;

(2) Approve allocation of up to \$6,000,000 from the Local Program Reserve funds for implementation of SR 237 Express Connectors and for continuation of environmental documentation and engineering for the SR 85 & US 101 Express Lanes; and

(3) Direct staff to return within 90 days with an update on funding options for the completion of the Silicon Valley Express Lanes Program.

17. Lifeline Transportation Program – Second Cycle Supplemental

M/S/C (Pyle/Sandoval) to approve the programming of FY 2009/2011 Lifeline Transportation Program funds as described in the memorandum.

18. Reprogram Congestion Mitigation and Air Quality (CMAQ) Funds

M/S/C (Pyle/Sandoval) to approve the re-programming of \$257,827 in Congestion Mitigation and Air Quality (CMAQ) funds to Sunnyvale's Tasman/Fair Oaks Area Enhancements project.

19. Bay Area Regional HOT Lanes Network Implementation Principles

M/S/C (Pyle/Sandoval) to adopt a Board of Directors policy position regarding the Regional HOT Lane Network based on MTC's adopted regional principles and current legislation.

20. Valley Transportation Plan (VTP) 2035 – Update – Draft Plan

M/S/C (Pyle/Sandoval) to review and comment on the draft Valley Transportation Plan 2035 (VTP 2035) as Santa Clara County's long-range countywide transportation plan.

21. Programmed Projects Quarterly Monitoring Report for July - September 2008

M/S/C (Pyle/Sandoval) to receive the Programmed Projects Quarterly Monitoring Report for July to September 2008.

22. FY08-09 California Transit Security Grant Program - California Transit Assistance Fund (CTSGP-CTAF)

M/S/C (Pyle/Sandoval) to adopt a Resolution No. 08.12.34 authorizing the General Manager to submit and execute grant applications and agreements, certifications, assurances, and other documents as necessary to the Governor's Office of Homeland Security (OHS) to receive \$3,289,948 from the FY08-09 California Transit Security Grant Program-California Transit Assistance Fund (CTSGP-CTAF).

23. Freight Railroad Relocation - Cooperative Funding Agreement Amendment with Alameda County Transportation Authority and the City of Fremont for Final Engineering Services

M/S/C (Pyle/Sandoval) to authorize the General Manager to execute an amendment to the Cooperative Funding Agreement with Alameda County Transportation Authority and the City of Fremont for final engineering services for the Mission Warren Truck Rail Program. The Cooperative Funding Agreement amendment will increase the VTA share by \$1.96 million to \$6.90 million.

24. Freight Railroad Relocation – Amendment to Engineering Services Contract with HNTB Corporation for Mission Warren Truck Rail Program and Wrigley Creek Improvement Project (Phase I)

M/S/C (Pyle/Sandoval) to authorize the General Manager to execute a contract amendment with the HNTB Corporation in an amount not to exceed \$4.70 million, and extend the contract term to May 31, 2010, for engineering services necessary to complete 100% design development of the Mission Warren Truck Rail Program and Phase 1 of the Wrigley Creek Improvement Project. The current HNTB Corporation contract amount is \$64.83 million.

25. Freight Railroad Relocation – Right-of-Way Acquisition Agreement with Alameda County Transportation Authority and the City of Fremont

M/S/C (Pyle/Sandoval) to authorize the General Manager to execute a Right-of-Way Acquisition Agreement with Alameda County Transportation Authority and the City of Fremont for the acquisition of rights-of-way for the Mission Warren Truck Rail Program. The right-of-way acquisition agreement will be for \$1,530,000, of which VTA's share is not to exceed \$400,000.

26. Balance Point Contract Amendment

M/S/C (Pyle/Sandoval) to authorize the General Manager to execute a contract with Balance Point Strategic Services in the amount of \$462,355 to provide professional

services in support of the Joint Workforce Investment (JWI) project. The term of the contract would be from January 1, 2009 through June 30, 2011, with an additional one-year option.

27. Santa Clara/Alum Rock Bus Rapid Transit (BRT) EIR Certification

M/S/C (Pyle/Sandoval) to approve the Santa Clara-Alum Rock Transit Improvement Project through the following actions:

1. Certify that the Final Environmental Impact Report:
 - a. Meets the requirements of the California Environmental Quality Act;
 - b. Represents the independent judgment of VTA as the Lead Agency; and
 - c. Was presented to the VTA Board of Directors for review and consideration.
2. Adopt the Findings, including the following:
 - a. Findings; and
 - b. Facts in Support of Findings.
3. Adopt a Mitigation and Monitoring and Reporting Program.
4. Adopt the recommended project description, which calls for implementing Phase I-Bus Rapid Transit.

31. Receive and Declare the Results of Measures B, C, and D as Set Forth in the Certificates of Election Results for the General Election held on November 4, 2008, Pursuant to Elections Code Section 15400

M/S/C (Pyle/Sandoval) to receive the Certificates and Official Final Results from the Santa Clara County Registrar of Voters and declare the results of Measures B, C, and D as set forth in the Certificates of Election Results for the General Election held on November 4, 2008, pursuant to Elections Code Section 15400.

BOARD OF DIRECTORS WORKSHOP

32. Measure A Program Update Process

33. Status of Key Measure A Projects

34. Planned Upcoming Board Actions for Measure A Projects

Michael T. Burns, General Manager, directed the Board Members and the audience to the PowerPoint presentation entitled Measure A Program Strategy. He stated agenda items 32, 33 and 34 will be presented as one item. He discussed the process on how to proceed with the Measure A program and reviewed the status of various projects. Mr. Burns stressed the importance to have decisions made by May for incorporation into the capital budget to be adopted in June.

Mr. Burns noted Measure B passed, Measures C and D received favorable outcome. In addition, Proposition 1A, the High Speed Rail, passed on the State ballot. Staff is looking forward to working with the new federal administration, reauthorization of the

federal transportation bill, and the desire to invest in infrastructure as part of the economic stimulus at both the state and federal level.

Mr. Burns stated in April 2008, a financial analysis demonstrated the Measure A Program did not have enough revenue to complete all projects in the program.

Mr. Burns reviewed the financial crisis on the local, state, national and international levels. The current financial environment has created more challenges to forecast long-term financial outcomes. He suggested short term revenues are more certain and the Measure A Plan should be aligned with two-year capital and operating budget. He recommended limiting borrowing in the near term and being prepared to take advantage of additional funding opportunities. The Strategy for Measure A would include: development of a two-year capital program for Measure A; accounting for obligated Measure A funds; and review of Program of Projects.

Mr. Burns provided project updates on BART (Bay Area Rapid Transit), Caltrain, Light Rail Transit, Bus Rapid Transit, Highway 17 Service, Palo Alto Transit Center and Dumbarton Rail. He noted the City of San Jose is looking at an Airport People Mover with public and private partnership options.

Board Member Gage asked if the cost of maintenance for BART has been determined and will that cost be covered by the 1/8 cents tax? Mr. Burns responded the 1/8 cents sales tax covers the operations and maintenance cost. Board Member Gage stressed the need to track and report on ridership especially on transit oriented development.

Board Member Kishimoto stated it is important for PAC, TAC and CAC to be fully involved in the Measure A and VTP 2035 discussions and their recommendations incorporated in the staff report. She queried if Measure B will cover operating costs and if there will be any assurance that BART's projections for operating costs will not be underestimated. Mr. Burns responded the best financial people are working on the estimates and the estimates are based on the formula and criteria that are in the agreement with BART.

Board Member Casas stated from a financial planning standpoint on Measure A, a 2 year budget cycle allows us to accomplish near term goals, but we also need 10 or 30 year financial planning models. He stated it is important to look at full project timelines for high priority so when the Board is making decision, it is clear where it fits in the overall plan. He also stressed the need to focus on maintaining our core services.

Board Member Reed was confident with the direction proposed. On the federal stimulus package, he suggested all local organizations work together and have projects that are high on the list ready for funding.

Board Member Cortese took his seat at 10:35 a.m.

Board Member Campos stated it is important to keep track of ridership levels. She stressed the importance for VTA Board of Directors and staff to work closely with the

City of San Jose in making sure that we move the Santa Clara/Alum Rock project in a timely manner.

Ex-Officio Board Member Yeager stated BART is the priority project. He stressed the need to keep the project moving and obtain the necessary funding. He stated we need to go to Sacramento and lobby for this project.

Alternate Board Member Cortese stated all funding decisions should be made on the basis that BART is the priority. He asked if the PowerPoint reflected a prioritization of projects. Mr. Burns responded that was not the intention. The Caltrain and BART projects were the focus of the discussion, so they were presented first and second. Mr. Burns added the Caltrain package includes electrification and an overall modernization program.

Board Member Cortese left his seat at 10:50 a.m.
Board Member Williams took his seat at 10:50 a.m.

The Board returned to Awards and Commendations at this time.

Chairperson Kniss congratulated Vice Chairperson Sandoval and Board Member Liccardo as Chairperson and Vice chairperson for 2009.

Chairperson Kniss acknowledged the presence of Board Member Williams and asked him to step forward to receive a commendation. Vice Chairperson Sandoval read the resolution to be given to Board Member Williams.

Board Member Williams thanked the Board for their consideration and gave a brief accounting on how he joined VTA. He was happy he can go back to the community and say he had achieved his goals. He expressed his appreciation to the Board. He did not want to leave the Board without getting the necessary resources to bring BART to San Jose. He thanked everyone and stated he will continue to do all he can to help make the city and county a better place to live.

The Board Members stated their appreciation to Board Member Williams:
Chairperson Sandoval appreciated his service on the board.
Board Member Gage thanked him for all the years of service to the Board.
Board Member Pyle thanked him for being such a good colleague.
Board Member Liccardo thanked him for all his service.
Board Member Chu stated it has been a pleasure working with him.
Board Member Campos said she will miss him as a colleague and friend.

Mr. Burns thanked Board Member Williams on behalf of all staff at the VTA. He appreciated the support he had given to staff, his interest in transportation, his interest in VTA, his intellect and his unending optimism.

Chairperson Kniss left the meeting at 11:00 am.

Vice Chairperson Sandoval presided over the meeting and returned to Measure A Workshop.

Board Member Sellers stated it is important to maintain existing services. He added the need to monitor if existing services are worthy of continuation and justify continuation through ridership and the necessity of serving the community. He stated we should take advantage of opportunities and good financial resources.

Ex-Officio Board Member Chu noted the difficulty of forecasting 30 years out. He agreed there is a need to look beyond 2 years. He stressed the importance of timing, the need to do as much planning as possible, and have the ability to move a project quickly to get funding. He stated, outside of Measure A, we need to look at congestion management projects the same way.

Board Member Liccardo stated he supports the General Manager's two year plan. He also supports Board Member Reed's idea about federal stimulus money. He stated our ability to speak with one voice in this region is important to be able to secure federal funding.

Vice Chairperson Sandoval agreed the two year plan is good. The thirty year plan provides a long term view in making budgetary decisions. She noted the need to leverage dollars that fit in the projects we currently have under Measure A. She stressed the importance of being advocates for the Board plan and the importance of lobbying on the same set of projects. She stated she is honored to be selected as the next chair and is looking forward to working with everyone.

Board Member Williams stated he encouraged the direction we are going in. and looks forward to be of help.

Ross Signorino, concerned citizen, stated he would like to see a feasibility study on bringing BART to downtown San Jose. He also stated the bus service is very important and maximum effort should be put in that regard.

Peter Skinner, representing the Silicon Valley Leadership Group, congratulated the Board for their leadership in placing Measure B on the ballot. He stated the successful passage of Measure B demonstrates the continued support for BART as the priority project on the Measure A list. The Leadership Group is committed to help with the projects.

Josue Garcia, Building Trades Council, stated the BART project will bring hope to working families who are unemployed.

Ann Tudino, concerned citizen, stated she is a disabled passenger and has been a VTA rider for 30 years. She expressed concern with the attitude of some of the drivers. Vice Chairperson Sandoval referred Ms. Tudino to Jim Lawson, Senior Policy Advisor, for assistance.

CONSENT AGENDA

At this time, Board Member Liccardo and Board Member Reed recused themselves from the meeting.

28. Silicon Valley Rapid Transit Program – Amendment to Engineering Services Contract with HNTB Corporation

M/S/C (Sellers/Campos) on a vote of 8 Ayes, 0 Noes, 0 Abstentions and 2 Recusals to authorize the General Manager to execute a contract amendment with the HNTB Corporation in an amount not to exceed \$3.00 million, and extend the contract term to December 31, 2009, for engineering services for the Silicon Valley Rapid Transit Program. The current HNTB Corporation contract amount is \$64.83 million. Board Member Liccardo and Board Member Reed were recused.

29. Silicon Valley Rapid Transit Program – Amendment to Engineering Services Contract with HMM/Bechtel, a Joint Venture

M/S/C (Sellers/Campos) on a vote of 8 Ayes, 0 Noes, 0 Abstentions and 2 Recusals to authorize the General Manager to execute a contract amendment with HMM/Bechtel, a Joint Venture in an amount not to exceed \$10.0 million, increasing the total contract value to \$104.5 million, and extend the contract term to December 31, 2009, for engineering and project-wide support services for the Silicon Valley Rapid Transit Program and the Freight Railroad Relocation program. Board Member Liccardo and Board Member Reed were recused.

30. Silicon Valley Rapid Transit Program – Amendment to Engineering Services Contract with Earth Tech, Inc.

M/S/C (Sellers/Campos) on a vote of 8 Ayes, 0 Noes, 0 Abstentions and 2 Recusals to authorize the General Manager to execute a contract amendment with Earth Tech, Inc. in an amount not to exceed \$3.3 million, increasing the total contract amount to \$42.2 million, and extend the contract term to December 31, 2009 for engineering services for the Silicon Valley Rapid Transit Program. Board Member Liccardo and Board Member Reed were recused.

Board Member Liccardo and Board Member Reed returned to the meeting.

OTHER ITEMS

35. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

Vice Chairperson Sandoval referred a letter from Eugene Bradley, Founder of Santa Clara VTA Riders Union, to General Manager and staff.

Board Member Kishimoto suggested convening the cities in Santa Clara counties which will be affected by the high speed rail and Caltrain. She stated there are many planning and financial issues the cities will be facing and VTA could help.

36. REPORTS (UNAPPROVED MINUTES) FROM STANDING COMMITTEES

A. Administration and Finance Committee

On order of Vice Chairperson Sandoval and there being no objection, the November 20, 2008 Administration and Finance (A&F) Committee Minutes were accepted as contained in the Agenda Packet.

B. Congestion Management Program and Planning Committee

On order of Vice Chairperson Sandoval and there being no objection, the November 20, 2008 Congestion Management Program and Planning (CMPP) Committee Minutes were accepted as contained in the Agenda Packet.

C. Transit Planning and Operations Committee

On order of Vice Chairperson Sandoval and there being no objection, the October 16, 2008 Transit Planning and Operations (TP&O) Committee Minutes were accepted as contained in the Agenda Packet.

On order of Vice Chairperson Sandoval and there being no objection, the November 20, 2008 Transit Planning and Operations (TP&O) Committee Minutes were accepted as contained on the dais.

37. REPORTS (UNAPPROVED MINUTES) FROM ADVISORY COMMITTEES

A. Committee for Transit Accessibility (CTA)

On order of Vice Chairperson Sandoval and there being no objection, the November 12, 2008 Committee for Transit Accessibility (CTA) 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 Vice Chairperson Sandoval and there being no objection, the November 12, 2008 Citizens Advisory Committee (CAC) and 2000 Measure A Citizens Watchdog Committee (CWC) Minutes were accepted as contained in the agenda packet.

C. Bicycle & Pedestrian Advisory Committee (BPAC)

On order of Vice Chairperson Sandoval and there being no objection, the

November 12, 2008 Bicycle & Pedestrian Advisory Committee (BPAC) Minutes were accepted as contained in the agenda packet.

D. Technical Advisory Committee (TAC)

On order of Vice Chairperson Sandoval and there being no objection, the November 13, 2008 Technical Advisory Committee (TAC) Minutes were accepted as contained in the agenda packet

E. Policy Advisory Committee (PAC)

There was no report from the November 13, 2008 Policy Advisory Committee (PAC).

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

A. Peninsula Corridor JPB

On order of Vice Chairperson Sandoval and there being no objection, the December 11, 2008 Summary Notes from the Peninsula Corridor Joint Powers Board were accepted as contained on the dais.

B. Capitol Corridor JPB

On order of Vice Chairperson Sandoval and there being no objection, the December 11, 2008 Summary Notes from the Capitol Corridor JPB were accepted as contained on the dais.

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 Vice Chairperson Sandoval and there being no objection, the December 11, 2008 Summary Notes from the Metropolitan Transportation Commission (MTC) were accepted as contained on the dais.

E. Sunol Smart Carpool Lane Joint Powers Authority

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

39. REPORTS FROM VTA POLICY ADVISORY BOARDS (PABs)

A. Vasona Light Rail PAB (No Meeting Scheduled)

There was no report from the Vasona Light Rail PAB

B. Silicon Valley Rapid Transit Corridor & 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

There was no report from the Downtown East Valley PAB.

D. Highway PAB South (No Meeting Scheduled)

There was no report from the Highway PAB South.

40. PUBLIC PRESENTATIONS

There were no public presentations.

41. ANNOUNCEMENTS

There were no announcements.

42. ADJOURNMENT

On order of Vice Chairperson Sandoval and there being no objection, the meeting was adjourned at 11:40 a.m.

Respectfully Submitted,

Yolanda Cruz, Assistant Board Secretary
VTA Board of Directors