



BOARD OF DIRECTORS MEETING

Thursday, March 4, 2010

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 Liccardo at 5:32 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
Margaret Abe-Koga	Vice Chairperson	Present
Nora Campos	Alternate Board Member	Absent
Dean Chu	Ex-Officio Board Member	Present
Don Gage	Board Member	Present
Rose Herrera	Board Member	Present
Ash Kalra	Board Member	Present
Liz Kniss	Board Member	Present
Rich Larsen	Board Member	Present
Sam Liccardo	Chairperson	Present
Jamie Matthews	Alternate Board Member	Present
Pete McHugh	Alternate Board Member	Present
Chris Moylan	Board Member	Present
Chuck Page	Board Member	Present
Nancy Pyle	Board Member	Absent
Chuck Reed	Board Member	Absent
George Shirakawa	Alternate Board Member	Absent
Perry Woodward	Board Member	Present
Ken Yeager	Ex-Officio Board Member	Present

* Alternates do not serve unless participating as a Member.

A quorum was present.

2. RECESS TO CLOSED SESSION at 5:33 p.m.

Ex-Officio Member Yeager arrived at 5:39 p.m. and entered into Closed Session.

Member Larsen arrived at 5:40 p.m. and entered into Closed Session.

Alternate Member McHugh arrived at 5:49 p.m.

A. Existing Litigation - Conference with Legal Counsel

[Government Code Section 54956.9(a)]

Name of Case: Thach, et al. v. Santa Clara Valley Transportation Authority
(Santa Clara Superior Court No.: 1-07-CV-094995)

B. Existing Litigation - Conference with Legal Counsel

[Government Code Section 54956.9(a)]

Name of Case: PG&E v. Santa Clara Valley Transportation Authority, et al.
(Santa Clara Superior Court No.: 1-09-CV-140902)

C. Existing Litigation - Conference with Legal Counsel

[Government Code Section 54956.9(a)]

Name of Case: Santa Clara Valley Transportation Authority v. Mission West Shoreline, LLC (Santa Clara Superior Court No.: 1-02-CV-810069) (Eminent Domain)

D. Public Employee Performance Evaluation

[Government Code Section 54957]

Title: General Manager

RECONVENED TO OPEN SESSION at 6:18 p.m.

3. CLOSED SESSION REPORT

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

4. Employment Agreement relating to position of General Manager

Chairperson Liccardo provided a brief overview of the amended employment agreement for Michael T. Burns, General Manager, noting: 1) the employment agreement specifies the effective date of the agreement as September 1, 2010; 2) the contract term is for a five-year period; and 3) the compensation, spelled out in the original agreement, will be fixed for a two-year period with subsequent adjustments on an annual basis.

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

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

5. ORDERS OF THE DAY

There were no Orders of the Day.

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

6. AWARDS AND COMMENDATIONS

A. Employees of the Month for March 2010

Chairperson Liccardo recognized and presented an award to Kenneth Lui, Data Base Administrator, River Oaks Administration; Steve Suh, Coach Operator, Cerone Division; and Ferdinand De Guia, Electronic Technician, Cerone Maintenance Division, as Employees of the Month for March 2010.

B. Employees of the Year and Supervisor of the Year for 2009

Chairperson Liccardo recognized and presented an award to Dennis Mellon, Senior Systems Design Engineer, River Oaks Administration; Terry Russell, Coach Operator, Cerone Division; and Felipe Vera, Transit Mechanic, Cerone Division, as Employees of the Year for 2009; and Bill Capps, Deputy Director, Operations, River Oaks, as 2009 Supervisor of the Year.

7. PUBLIC PRESENTATIONS

Alice Frayne, Interested Citizen, provided a handout requesting the Board consider moving its meetings to midday on the first Saturday of the month due to a lack of available transportation for the public to attend evening meetings. Chairperson Liccardo noted unless there is a concurrence among the Board members the date and time of the meeting will not change.

Member Moylan noted more public transportation options are available during the weekdays than on weekends. He also noted he would support moving the Board meetings to Saturdays due to his own commute challenges.

Chairperson Liccardo noted staff would contact Ms. Frayne regarding the best transit alternatives for attending VTA Board meetings.

Charles T. Johnson, Interested Citizen, suggested colored stripes be used along the bus schedule fold to better distinguish the different routes.

James Wightman, Interested Citizen, questioned the proposed schedule changes for Lines 34 and 35. Chairperson Liccardo requested staff follow-up with Mr. Wightman.

Ross Signorino, Interested Citizen, suggested a Rapid Bus System on Alum Rock Avenue would be more cost effective than the Light Rail System.

8. REPORT FROM THE GENERAL MANAGER

Michael T. Burns, General Manager, provided a brief report highlighting the following:

VTA system average weekday ridership is down 13.5 percent for January 2010 compared to January 2009. Mr. Burns reminded the Board that service reductions were instituted in January 2010 and staff will monitor ridership over the next few months and report back to the Board.

VTA partners are experiencing similar ridership issues: 1) Caltrain average weekday ridership down 5 percent; 2) Ace Train average weekday ridership down 12 percent; 3) Capitol Corridor average weekday ridership down 8 percent; and 4) Highway 17 Express Bus average weekday ridership down 2.4 percent.

Mr. Burns referenced the fatality involving the Light Rail System on Friday, February 26, 2010 and an issue with Board Member notification following the incident. To ensure all Board Members receive timely notifications in the future, VTA will utilize the external Everbridge emergency notification system in addition to VTA's standard internal notification process. Sandra Weymouth, Board Secretary, will contact the Board to determine each member's preferred emergency contact method.

Mr. Burns reported he traveled to Washington D.C. during the week of February 22, 2010, with Kurt Evans, Government Affairs Manager, to discuss progress on the BART project. While in Washington, a meeting was held with Congresswoman Lofgren, Congresswoman Eshoo and Congressman Honda. Meetings were also held with Federal Transit Administration (FTA) senior staff regarding the New Starts Program, as well as with staff members from the Senate Transportation Appropriations Subcommittee, the House Transportation Appropriations Subcommittee, and the Department of Transportation.

Mr. Burns stated this was the first meeting in Washington with VTA's new lobbyist, Steve Palmer of Van Scoyoc Associates.

Mr. Burns reported the Title 6 issues the FTA had with the BART portion of the Oakland Airport Connector Project were not resolved within the required stimulus-funds timeframe, thereby enabling VTA to received \$12.2 million in stimulus funds through the Metropolitan Transportation Commission (MTC). The infrastructure VTA has set-up has the funds earmarked for the hybrid bus procurement. Staff will determine if a portion of these funds may be used to help with VTA's operating budget shortfall.

Mr. Burns stated VTA has a tradition of responding quickly to natural catastrophes and raising funds to help victims. VTA also participates in several annual charitable efforts, ranging from toy and food collections to participating in fundraising for local charitable organizations. Following the Haiti earthquake employees immediately asked how VTA, as an organization, could help. Employees Jackie Adams and Camille Williams volunteered to lead VTA's effort to help the Haitian victims and surpassed their ambitious goal of \$10,000. The donation was split between the American Red Cross and UNICEF.

Kurt Evans reported Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), the current law governing federal transportation programs, expired on February 28, 2010, without Congress enacting legislation to either replace or extend it. As a result there was a two-day period where federal transportation agencies had no legal authority to spend money from the highway trust fund. This caused the Federal Transit Administration (FTA) to stop processing grants and the Federal Highway Administration (FHA) to actually furlough its work force. On March 2, 2010, Congress passed legislation to extend SAFETEA-LU to March 28, 2010.

Mr. Evans reported the Senate approved a \$15 billion jobs bill providing a series of tax incentives to businesses that hire new employees. There are some provisions in the Senate jobs bill that would further extend SAFETEA-LU to the end of the calendar year, but there is no new money in the Senate Bill for transportation investment for other highways or transit. That contrasts with the House bill that was passed in December that was much more robust and did include \$37 billion in new funding for transportation programs. At this point the House is expected to temporarily concede on the issue, go along with what the Senate has approved, and send the Senate Bill to the President.

Mr. Evans noted Congress appears to have embarked on a strategy of adopting a series of smaller economic stimulus bills over a period of several months, rather than one huge bill as they did last year with the American Recovery and Reinvestment Act (ARRA). He noted VTA is still holding out some hope there is an opportunity through a subsequent jobs bill for there to be a new investment in transportation infrastructure.

Mr. Evans reported on March 4, 2010, the California State Legislature approved the transportation funding swap proposal. He noted the proposal is incredibly complex, with three main components: 1) the swap – the sales tax on gasoline would be eliminated and replaced with a corresponding increase in the per gallon excise tax on gasoline, relieving the general fund of the obligation for having to pay for debt service on highway bonds. That obligation would now be covered by the new revenues that would be generated by the increase in the gas tax. This swap was crafted in such a way with the intent of, at a minimum, holding the State Transportation Improvement Program (STIP) and local streets and roads harmless and would result in new money for rehabilitation projects on the state highway system; 2) \$400 million appropriation for State Transit Assistance Program (STA) - the only state program that provides money for transit operations. That \$400 million would cover the current fiscal year as well as FY 2011; and 3) sales tax on diesel fuel - would continue to exist and would be retained for transit. The rate of the diesel sales tax would increase, beginning in FY2012 to allow it to take care of the following: a) relieving the general fund of the obligation of having to pay debt service on HSR and transit bonds; b) to fully fund the operations and maintenance of California's inner city rail system, including the capitol corridor for which we are a partner in; and c) to support an ongoing STA program that would, at a minimum, be \$350 million in FY2012, but would then grow over a period of time to eventually reach \$500 million in FY2021.

Mr. Evans noted the legislature-approved swap package will go to the Governor for his consideration. If the Governor signs the package, it will take effect after 90 days upon his signature.

Michael T. Burns noted if the Governor signs the swap package in its current form transit would receive \$400 million for FY2010 and FY2011, of which VTA would expect between \$12 and \$15 million of those funds. The swap package would provide transit with \$350 million per year thereafter, which would provide VTA with approximately \$12 million per year. Mr. Burns noted it was hoped the Governor would sign the package in its current form, which could help with VTA's current and continuing budget structural shortfall.

Greta Helm, Chief External Affairs Officer, responding to a request from the Administration and Finance Committee, provided a PowerPoint Presentation on VTA's Comprehensive Communications Plan highlighting: 1) Annual Plan; 2) Goal; 3) Living Document; 4) Weekly Communications Meeting; 5) Daily Monitoring; 6) Modes Employed; 7) Traditional Media; 8) VTA's Multimedia Page; 9) Gov.Delivery – Electronic Subscription Service on VTA Website; 10) VTA Website; 11) Social Media; 12) Community Outreach; 13) Government Relations Outreach; 14) Customer Relations Management; 15) Marketing Efforts; 16) Marketing Campaigns; 17) Public Perception of VTA; and 18) Upcoming Efforts.

Ms. Helm noted VTA creates an annual plan that maps out the major messages and modes to reach the community and to ensure that VTA's stakeholder groups, customers, elected officials, and community partners are all aware of VTA's roles, priorities, capital project progress and financial condition. She noted this document is updated as conditions change in the community. VTA is continually monitoring communication about VTA to identify items that are either misinformation or issues and concerns that need to be addressed by VTA.

Ms. Helm noted VTA utilizes the Internet as well as traditional media, including community and ethnic newspapers, to ensure VTA's message reaches the public. She stated an average of two to three media releases are issued per week with a 70 to 80 percent pick-up rate, which is quite high for any industry. In 2009 VTA generated 93 media releases that were picked up for publication and 300 stories that were generated out of VTA's media releases or from other sources.

Ms. Helm reported Gov.Delivery is a new electronic subscription communications tool implemented in the summer of 2009, where interested parties with a few quick steps can subscribe to a number of topics including updates on meetings or major service interruptions. At present there are approximately 1600 subscribers, with 60,000 bulletins sent to date.

Ms. Helm reviewed other initiatives such as social media, an updated website and the deployment of a customer relations management system.

Ms. Helm stated there is no substitute for face-to-face meetings however; and VTA is aggressively scheduling public education meetings to bring VTA's message to the public.

Currently VTA is working to ensure the public is aware that Census data will translate to dollars to VTA, because of the funding dependent upon the population of the County.

The Government Affairs staff is also very active in the community, engaging with elected officials and partners to ensure they are aware of VTA's legislative priorities.

Member Kniss noted VTA is spending a fair amount to reach five percent of the population. She then noted while Ms. Helm's slides indicate a positive response to VTA, there is a less positive view in the portion of the County she represents where the services have been reduced.

Member Kniss requested Ms. Helm determine how VTA's budget of \$7 million for communication and \$3 million for non-labor costs compares with other large districts and report back to the Board.

Ms. Helm noted VTA's communications efforts are much broader than transit, with VTA performing community outreach for construction projects, highway projects, as well as the BART project. She noted the difficulty in comparing VTA's budget to other agencies, because there are very few organizations with both transit and Congestion Management Agency responsibilities. She then noted she would report back to the Board with her findings.

Member Moylan recommended advertising in areas where those not utilizing VTA travel, specifically Highways 85 and 87 where the heavy traffic would ensure a captive audience.

Member Kalra noted improvements to the website, as well as the Gov.Delivery page, are very valuable. He recommended providing real-time information, service-impact alerts, as well as the location of the bus to improve the quality of experience.

Michael T. Burns reported TransLink is presently underway and will provide real-time information via cell phones and/or personal data assistants (PDAs). He noted information would be provided to the Board over the next few months.

Ex-Officio Member Yeager referenced the problem larger employers have with purchasing and distributing the ECO Pass, not knowing how to encourage their employees to use it. He cautioned to not take the larger companies for granted and encouraged staff to regularly check in with all customer companies. Ms. Helm stated VTA does stay in contact with customer companies, supporting their efforts in encouraging employees to utilize public transit.

Michael T. Burns noted once TransLink is in operation VTA will be able to target individual company usage as well as pricing.

Public Comment:

Eugene Bradley, Silicon Valley Transit Users, thanked Michael T. Burns for responding to concerns he expressed at a previous meeting.

Mr. Bradley noted, even with the gridlock on Highway 85, drivers are able to reach Mountain View faster by car than by Light Rail.

9. REPORT FROM THE CHAIRPERSON

Chairperson Liccardo noted the Technology in Transit presentation would be deferred to a future meeting.

Member Gage provided the Ad Hoc Financial Recovery Committee report noting: 1) The Ad Hoc Committee has met twice since the February Board Meeting; 2) At the February 10, 2010, Ad Hoc meeting the Committee received a report on the work of the original Ad Hoc Finance Stability Committee, the Hay Group Report, and the Bureau of State Audits Report. These reports provided background on areas previously considered and in many cases acted upon; 3) At the February 24 meeting the Committee received a presentation on the Short Range Transit Plan, which helped clarify the structural shortfall the Committee is seeking to address and reinforced the concept that the changes the Committee recommends must address ongoing and long-term solutions to VTA's financial shortfall; 4) the Committee is beginning to focus on major areas where cost containment and control can be achieved; and 5) at its next meeting, the Committee will hear a presentation on long term sales tax projections and the advantage and pitfalls of contracting out transit services.

Member Kniss noted Member Gage had participated on a previous Ad Hoc Committee and expressed her appreciation for Member Gage's willingness to do so again.

Chairperson Liccardo thanked Member Gage, Member Herrera, and Vice Chairperson Abe-Koga for volunteering to serve on the Ad Hoc Committee.

Chairperson Liccardo encouraged Board Members to bring items for the agenda to the Board's attention.

10. Citizens Advisory Committee (CAC) Chairperson's Report

There was no CAC Chairperson's Report.

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

On behalf of PAC Chairperson Matthews, Jim Lawson, Senior Policy Advisor, read into the record the following report regarding the February 11, 2010, PAC Meeting:

Discussion Items:

- Recommended that the Board adopt the "Block Grant" Program structure for programming future flexible funds.

- Recommended that the Board authorize the use of up to \$1 million in Local Program Reserve funding for the Project Readiness Initiative.
- Recommended that the Board accept the findings of the California Statewide Local Streets and Roads Needs Assessment and authorize the General Manager to provide advocacy to increase funding for local streets and roads.
- Received the Transportation Systems Monitoring Program Final Report.
- Received presentations on the following:
 - ABAG Socioeconomic Projections and Historical Data
 - Proactive CMP Quarterly Report

CONSENT AGENDA

12. Board of Directors Regular Meeting Minutes of February 4, 2010

M/S/C (Gage /Kniss) to approve the Board of Directors Regular Meeting Minutes of February 4, 2010.

13. Proactive CMP Quarterly Report for October through December 2009

M/S/C (Gage/Kniss) to receive a presentation on the Proactive CMP Quarterly Report for October through December 2009.

14. Programmed Project Monitoring – Quarterly Report

M/S/C (Gage/Kniss) to receive the Programmed Projects Quarterly Monitoring Report for October-December 2009.

15. Project Readiness Initiative

M/S/C (Gage/Kniss) to approve the use of up to \$1,000,000 in Local Program Reserve funding for the Project Readiness Initiative; and authorize the General Manager to execute funding agreements with Member Agencies, as necessary to implement the Program.

16. New Cycle Surface Transportation Program (STP)/Congestion Mitigation Air Quality (CMAQ) “Block” Program Structure

M/S/C (Gage/Kniss) to adopt the “Block Grant “program structure for programming future Federal flexible funds through the Congestion Management Agency.

17. Statewide Local Streets and Needs Assessment Survey

M/S/C (Gage/Kniss) to accept the findings of the California Statewide Local Streets and Roads Needs Assessment and authorize the General Manager to provide advocacy

support to the efforts of the sponsors of the Study, as appropriate, to increase funding for local streets and roads.

18. Transportation System Monitoring Program Final Report

M/S/C (Gage/Kniss) to accept the recommendations from the Transportation System Monitoring Program (TSMP) Final Report.

19. Reallocation of Local Program Reserve Funds; Contract Amendment with HMH Engineers for Design Support Services During Construction of US 101/Tully Road Interchange (Phase 1), Final Design of the US 101/Capitol Expressway Interchange and US 101/Yerba Buena Interchange Improvements (Phase 2); and Execution of Cooperative Agreements with Caltrans

M/S/C (Gage/Kniss) to authorize the General Manager to complete the following:

- 1) Reallocate \$4,356,050 of Local Program Reserve (LPR) funds from phase 1 of the US 101 Operational Improvements Project (US 101/Tully Rd) to phase 2 of the US 101 Operational Improvements Project (US 101/Capitol Expressway and Yerba Buena Interchange Improvements).
- 2) Execute a contract amendment with HMH Engineers for: a) design support services during construction of phase 1, US 101/Tully Road Interchange, and b) final design of phase 2, US 101/Capitol Expressway and Yerba Buena Interchange Improvements. The HMH Engineers contract amendment will increase the approved contract by a not-to-exceed value of \$3,114,420 for a revised contract value up to \$9,114,420 and will extend the term of the contract through June 30, 2013.
- 3) Execute any necessary agreements with California Department of Transportation (Caltrans) for design, right-of-way, construction and landscaping of phase 2.

20. Santa Clara-Alum Rock Bus Rapid Transit Project – Preliminary Engineering Contract Award

M/S/C (Gage/Kniss) to authorize the General Manager to execute a contract with CH2M HILL consulting services to complete preliminary engineering for the Santa Clara-Alum Rock Bus Rapid Transit (BRT) Project. The contract shall be for a three-year period for a total value not to exceed \$4,886,000.

21. 2000 Measure A Transit Improvement Program Semi-Annual Report – December 2009

M/S/C (Gage/Kniss) to receive the 2000 Measure A Semi-Annual Report.

22. Authorization for General Manager to Transfer Easements, and Execute Possession and Use and Right of Entry Agreements for the Mission/Warren/Truck Rail and Kato Grade Separation Projects

M/S/C (Gage/Kniss) to authorize the General Manager to execute all documents necessary to transfer road easements, public service easements and other easements at no cost to the City of Fremont and State of California for the Mission/Warren/Truck Rail and the Kato Grade Separation Projects. Further, authorize the General Manager to execute Possession and Use or Right of Entry Agreements to grant legal possession of the right-of-way prior to final conveyance of said easements, as necessary.

REGULAR AGENDA

23. Permanent Disposition Process and Declaration of Surplus Property

Ex-Officio Member Chu recused himself
from discussion on this item due to a conflict of interest.

Ex-Officio Member Chu left the meeting at 7:29 p.m.

Member Herrera left the meeting at 7:29 p.m.

Ex-Officio Member Yeager left the meeting at 7:29 p.m.

Bijal Patel, Deputy Director Property Development and Management, provided a PowerPoint Presentation highlighting: 1) Today's Recommendation; 2) Policy Framework; 3) Legal Framework; 4) Evaluation Process; 5) Recommendations; 6) Recommended for Permanent Disposition; and 7) Next Steps.

Member Gage questioned whether there were appraisal values on the listed properties. Ms. Patel noted Broker Price Opinions have been used as a gauge in determining valuation. She stated as transactions go forward it will be determined if an appraisal is required, on a case by case basis.

Member Gage questioned whether the listed properties may be used in trade for other properties. Ms. Patel noted most of the properties on the list do not have joint-development potential.

Member Kniss noted the property located at El Camino Real and Page Mill Road in Palo Alto is a prime property and should be appraised.

Vice Chairperson Abe-Koga questioned whether leasing the Palo Alto property located at El Camino Real and Page Mill had been considered. Ms. Patel noted declaring a property surplus allows for sale or lease of that property.

Member Kniss left her seat at 7:36 p.m.

Member Moylan requested to amend the motion to include the statement "Staff will include into the negotiations as well as present to the Board for any proposed transaction the respective asset's peak values, both past and projected future." Member Moylan noted this would tie in with the financial goal to not use single-term transactions to try to address structural deficits. He noted this is a buyer's market for real estate and not a seller's market.

M/S/C (Gage/Abe-Koga) to approve as amended for permanent disposition and declare as “surplus property” in accordance with applicable law the six real estate assets:

- A. Avenue A near Alum Rock (San Jose, CA)
- B. Communications Hill at Hwy 87 (San Jose, CA)
- C. Lawrence Expressway at Moorpark Park-n-Ride (San Jose, CA)
- D. Lean @ Herlong (San Jose, CA)
- E. North 1st & St. James (San Jose, CA)
- F. Page Mill and El Camino Park-n-Ride (Palo Alto, CA)

The final disposition terms and conditions of the recommended assets will be brought to the Board for consideration and approval at such time that a transaction is proposed. Staff will include into the negotiations as well as present to the Board for any proposed transaction the respective asset’s peak values, both past and projected future.

Public Comment:

Michael Ludwig, Interested Citizen, questioned whether VTA had looked into the usage of these properties by transit riders. Michael T. Burns noted property usage is part of the evaluation, both historically and in the future.

24. Guadalupe Corridor – DC Switchgear Replacement Contract Award

Michael T. Burns provided a summary of the staff recommendation as well as the discussion held at the Transit Planning & Operations Committee meeting.

Member Kniss took her seat at 7:39 p.m.

- This project is for the replacement of critical components in the 14 original Guadalupe Corridor Substations.
- The components are reaching the end of their useful life.
- The Guadalupe Corridor Substations are 20-years old.
- Some of the components are no longer available.
- In many cases temporary repairs have been made.
- Five bids were submitted.
- Bids were evaluated based on total bid price.
- Cupertino Electric submitted the lowest bid.
- Staff determined that Cupertino Electric did not submit a listing of subcontractors at the bid opening in compliance with state law bidding requirements and their bid was therefore considered to be non-responsive.
- VTA received a bid protest from Cupertino Electric claiming they did not submit their subcontractor information prior to bid opening, because they believed that a second form identified as 3A and provided as an addendum allowed that the subcontractor information could be submitted 48-hours after the bid opening.
- Cupertino Electric did submit the subcontractor information approximately 2 hours after the bid opening.
- VTA rejected the protest, because under the state procurement law submission of subcontractor information is required with the bid.

- VTA has no authority to waive the statutory requirement, nor can it be considered a minor error or omission and in point of fact 4 of the 5 bidders submitted the required subcontractor information appropriately.
- At the TP&O committee meeting there was significant discussion over the potential to save money by rejecting all bids, which is in the purview of the Board, and rebidding the contract.
- The committee voted 3 to 1 to reject all bids and to reissue the contract for competitive procurement.
- In a rebid, there obviously are no guarantees, no assurances.
- A significant percentage of the material is copper. The primary source of copper in the world is Chile. There is some expectation that there may be some impact on copper prices.
- Staff recommendation is to award the contract to Bleyco.
- The TP&O Committee recommendation is to rebid the contract.
- It is a matter for the Board.

Public Comment:

Chairperson Liccardo recognized Chris Berge, Bleyco, Inc. Mr. Burge noted Bleyco is a small, Bay Area, woman-owned company.

Mr. Berge noted the economics are probably not that significant compared to the risk. VTA would be saving 33 percent or almost \$2 million over its budget. He noted Bleyco is significantly lower than the next bidder. By awarding this contract to Bleyco, VTA will send small contractors a message to keep bidding VTA.

Member Gage stated putting this project out for rebid would provide an unfair advantage now that the bids are all known. He noted the purpose of a secret bid is to allow everyone the same opportunity with the same criteria. Member Gage further noted the protesting company, Cupertino Electric, is a long-established company that has bid many jobs in the public sector and this was their error. He stated the bid should be awarded to the next responsible bidder.

Member Kalra noted there was a full discussion during the Transit Planning & Operations (TP&O) Committee meeting, wherein the crux of the discussion was on whether rebidding the project would save VTA money. The issue of whether there were any legal obstacles in putting the project out for rebid was also raised.

Member Kalra noted his agreement with Member Gage's comments regarding a fair and open bidding system. He then referenced Mr. Burns' comment about potential price fluctuations with the Chilean copper and questioned whether Mr. Burns believed money could be saved by reopening the bid. Mr. Burns stated there were certainly no guarantees that VTA would do better in a rebid.

Mark Robinson, Chief Engineering and Construction Officer, noted the amount of copper work in this contract is between 15 and 20 percent and is a significant portion of the dollar value of the contract. VTA is therefore at risk with a fair portion of the contract.

Member Kalra stated, taking into consideration everything discussed this evening, he would now be in support of staff's recommendation.

Member Larsen noted he was the lone dissenting vote at TP&O. He stated it was a fair bid process, with the lowest responsible bidder selected. He noted to not engage with Bleyco would in the long run impact the long-term credibility of VTA with the bidding community. He stated he remained supportive of the staff recommendation.

Member Page stated he was in favor of following the established process and awarding the bid to Bleyco.

Chairperson Liccardo noted his agreement with some of the points brought up during tonight's discussion. Chairperson Liccardo noted he was one of the three dissenting votes at TP&O. He stated his belief that there are changed circumstances. He noted his belief was that there was more than one point of confusion raised. He stated there were two other companies confused with some other issue related to that form. Mr. Burns noted the confusion was with the second form sent out. He noted that both of those companies did submit their subcontractor information.

Member Moylan stated his understanding that TP&O's decision was not due to sympathy for the lowest contractor, but rather sympathy for VTA and its financial plight.

M/S/C (Kniss/Gage) to Authorize the General Manager to execute a contract with Bleyco, Inc., the lowest responsive and responsible bidder, in an amount of \$3,540,920 for the Guadalupe Corridor DC Switchgear Replacement project. This contract is 100% funded by Federal and State grants.

OTHER ITEMS

25. ITEMS OF CONCERN AND REFERRAL TO ADMINISTRATION

Chairperson Liccardo referenced the VTA property adjacent to Tamien Station. He noted VTA is currently in negotiations with the City of San Jose. He asked that this item be brought to the Board for evaluation and consideration of the principles of that negotiation and to request the Board approve the item.

26. MONTHLY LEGISLATIVE HISTORY MATRIX

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

27. REPORTS (UNAPPROVED MINUTES) FROM STANDING COMMITTEES

A. Administration and Finance Committee

On order of Chairperson Liccardo and there being no objection, the February 18, 2010, Administration and Finance (A&F) Committee Meeting Cancellation Notice was accepted as contained in the Agenda packet.

B. Congestion Management Program and Planning Committee

On order of Chairperson Liccardo and there being no objection, the February 18, 2010, 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 Chairperson Liccardo and there being no objection, the February 18, 2010, Transit Planning and Operations (TP&O) Committee Minutes were accepted as contained in the Agenda packet.

D. Audit Committee

There was no Audit Committee report.

28. REPORTS (UNAPPROVED MINUTES) FROM ADVISORY COMMITTEES

A. Committee for Transit Accessibility (CTA)

There was no Committee for Transit Accessibility meeting scheduled for February.

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

On order of Chairperson Liccardo and there being no objection, the February 10, 2010, 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 Chairperson Liccardo and there being no objection, the February 10, 2010, Bicycle & Pedestrian Advisory Committee (BPAC) Minutes were accepted as contained in the Agenda Packet.

D. Technical Advisory Committee (TAC)

On order of Chairperson Liccardo and there being no objection, the February 11, 2010, Technical Advisory Committee (TAC) Minutes were accepted as contained in the Agenda packet.

E. Policy Advisory Committee (PAC)

On order of Chairperson Liccardo and there being no objection, the February 11, 2010, Policy Advisory Committee (PAC) Minutes were accepted as contained in the Agenda packet.

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

A. Peninsula Corridor JPB

On order of Chairperson Liccardo and there being no objection, the March 4, 2010, Summary Notes from the Peninsula Corridor Joint Powers Board were accepted as contained on the dais.

B. Capitol Corridor JPB

On order of Chairperson Liccardo and there being no objection, the February 17, 2010, Summary Notes from the Capitol Corridor Joint Powers Board 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 Chairperson Liccardo and there being no objection, the February 24, 2010, Summary Notes from the Metropolitan Transportation Committee Meeting were accepted as contained on the dais.

E. Sunol Smart Carpool Lane Joint Powers Authority

On order of Chairperson Liccardo and there being no objection, the February 8, 2010, Summary Notes from the Sunol Smart Carpool Lane Joint Powers Authority Governing Board were accepted as contained on the dais.

30. REPORTS FROM VTA POLICY ADVISORY BOARDS (PABs)

- A. Vasona Light Rail PAB
- B. Silicon Valley Rapid Transit Corridor & BART Warm Springs Extension PAB
- C. Downtown East Valley PAB

28. ANNOUNCEMENTS

There were no Announcements.

29. ADJOURNMENT

On order of Chairperson Liccardo and there being no objection, the meeting was adjourned at 7:55 p.m.

Respectfully submitted,

Susan E. Garcia, Board Assistant
VTA Office of the Board Secretary