

Measure B Citizens Watchdog Committee  
Tuesday, January 14, 2015  
Minutes

**1. Call to Order/Roll Call**

Chair Melissa Erickson called the meeting to order at 1:38 p.m. Roll Call was conducted by Clerk Crump.

<b>Members Present:</b>	Melissa Erickson	Kevin Maitski
	David Cameron	Marty Michaels
	Sharlene Carlson	Zoe Mullendore
	Betty Duong	Andrew Nussbaum
	Mary Gloner	Esther Peralez-Diekmann

**Members Present Via Conference Call:** None

**Members Absent:** Hope Cahan & Dolores Morales

**Measure B and County Staff:** George Doorley, Administrative Services Manager III, Office of the County Executive; Ahmad Gharaibeh, Vavrinek, Trine, Day, and Company (VTD); Wendy Jhong, Department Fiscal Officer, Office of the County Executive

**2. Public Comment:** None

**3. Introduction of New Members and Staff:** Each member and staff introduced themselves and provided a brief background.

Member Michaels asked how the public becomes aware of when a meeting is taking place and, would it make sense to publish in the local section of the Mercury News. Mr. Doorley said as all the various boards & commissions in the County are Brown Act reportable, the Clerk of the Board publicizes all meetings on the website and places a notice in various county periodicals. Chair Erickson said she will take Member Michaels suggestion under consideration, and said that the Measure B meetings are offered the same consideration & legality as all other boards/commissions in the County, adding that San Jose Mercury news does charge for advertisement. Ms. Peralez-Diekmann added that interested parties are managed by the Clerk of the Board & if a committee feels there are interested parties then they are forwarded to COB to be placed in the system so that notices reach interested parties.

**4. Approval of Draft Minutes from January 21, 2014 Meeting:**

- Chair Erickson asked that when the meeting minutes are complete, if they could be forwarded to CWC prior to the next meeting.

Moved by Member Michaels and seconded by Member Maitski, to approve the CWC January 21, 2014 draft minutes, which passed unanimously.

**5. Measure B Financial Audits for FY 2014 and Public Hearing Regarding how Measure B Funds are being Spent:**

- a. Open Public Hearing** – None
- b. Close Public Hearing** - Closed

**c. Approve Audit Reports (Ahmed Gharaibeh, Vavrinek, Trine, Day & Co., LLP)**

- Mr. Doorley directed the members to page 2 of the audit packet to: Opinion: “In our opinion, the financial statements referred to above present fairly, in all material respects, the respective changes in financial position of the Program, as of June 30, 2014” (the end of the audit period) adding that it is an impactful sentence for a financial audit.

And, under Other Matters, last paragraph reads: ...the Schedule of Revenues and Expenditures – Budget to Actual is fairly stated in all material respects in relation to the financial statements as a whole.

- Member Michaels asked how many transitions are sampled during the course of an annual audit. Example: contractors who do work for the County submit invoices and the County pays these invoices. Mr. Gharaibeh said a representative sample. All depends, past 3-4 years, most invoices received are VTA and these are not very frequent. First couple years the invoices were vendor-related and now with the winding down of the program there are not many invoices. Ms. Jhong added that it is a 100% audit.

Member Michaels also asked that during an audit, is it determined that the invoice is valid and, before the payment is made that the work was actually performed. Mr. Gharaibeh said that that is correct.

- Mr. Doorley directed the members to page 14 under Compliance and Other Matters: “In addition, we performed specific testing to determine that the Measure B funds were expended for transportation projects specified in Measure A and/or approved by the County Board of Supervisors adding that this was key to several years ago to ensure not only how money is spent, but also that it is lawful and that it is being spent on the projects for which the measure was originally passed.
- Member Michaels asked about the Coyote Ridge Butterfly Habitat and why it would fall under a transportation measure.
- Mr. Doorley gave a historical context on Measure B Committee: In 1996 there were two (2) ballot initiatives. One was a general sales tax initiative and one was a companion measure that listed out that if the electorate approved the sales tax initiative then they would use to fund specified transportation projects. Both passed. Discussion at prior year’s meeting that the tax portion that can be used for any lawful purpose. This is good faith issue to those who voted for this measure to for that focus. In 2000 Transportation funding changed in the county after the 1996 measure was passed: In 2000 tax measure was approve to specifically fund BART to Santa Clara County, which eliminated the heavy rail piece which was going to be the component to link Santa Clara County into the BART system by a non-BART heavy rail link, which meant there was a big portion funded out of this measure to fund the rail infrastructure project. Other County-wide transportation improvements that met the intent of the original 1996 measure were identified and changes were made and programs added by action of the Board of Supervisors. Mr. Doorley said that in order to widen the freeway around the Coyote Ridge Butterfly Habitat, it was needed to have the Habitat litigation measure.
- Member Michaels asked on Page 4 of the report, under Expenditures, Transportation, Other, what does the \$5,400,000 fund. Ms. Jhong said that it has ancillary programs such as bicycle paths and congestion projects. Mr. Doorley added that the context of the entire measure are ancillary to the total dollars but, because of what little is left of the program, there tends to be higher dollar amounts.

- Member Gloner asked on Page 4, if Mr. Gharaibeh can describe what the credit was for under Expenditures, Transportation, Transit/railway projects and asked if the other ballot measure picked it up. Mr. Gharaibeh said that re-class from one project area to another and because it was from the prior year it received a credit for the current year but the total continues to be the same.
- Member Gloner asked that on Page 9, where it shows the tax revenue is financially dropping, what is the expectation/forecast for FY 2015 will get zero sales tax revenue. Ms. Jhong said that it was unexpected with the first quarter coming in at \$95,000 the second quarter came in at \$288,000 for a total of \$385,000.

Member Gloner remembered that last year it was because of some people/corporations revising their taxes and re-submitting audits. Mr. Doorley said it is primarily corporations that are amending their taxes.

Chair Erickson asked if there was a threshold or, will the County Council decide when the oversight board is no longer needed. Mr. Doorley said that if they are no longer bringing in more than \$100K and projects are near done, all the funding would be utilized by the existing base of projects.

Member Cameron asked if this really supplementing VTA's project budgets and if this money is there that VTA does not have to operate out of their own operating budget. Ms. Jhong said 100% goes to pre-pay an account of VTA and every year the new residual sales tax also adds to that prepaid amount. Mr. Gharaibeh said that it does go to VTA for capital projects.

- Member Cameron also asked if the compliance evaluation of Measure B is evaluated at that point.

Mr. Doorley said absent this funding, VTA would make a decision to either fund out of the general fund or not fund the project at all. There was a discussion at the BOS several years ago when it became clear that there would be additional funding beyond what funded the original projects and the County's management auditor recommended that because of the general tax definition, the County could use it for any lawful purpose. But, the BOS chose not to do that and in discussion with VTA's board and County Roads & Airports Department, to parcel out other projects and to allocate remaining funds and to continue to provide this funding to VTA.

Mr. Cameron suggested that with ramping down, and that the administrative costs are going to be a big percentage of the revenue, perhaps it should be a specific purpose audit of the remaining funds.

Mr. Doorley said that very little County overhead goes into maintaining this process.

Moved by Member Cameron and seconded by Member Gloner to approve the audit for FY 2014, which passed unanimously.

#### **d. Authorize Administration to Publish Report**

Moved by Member Peralez-Dieckmann and seconded by Member Carlson to authorized administration to publish the audit report, which passed unanimously.

### **6. Informational Report on financial closeout of projects:**

Mr. Doorley directed the members to the reports provided in the packet; Transportation Improvement Program Revenues, Expenditures and Changes in Fund Balance. County Roads & Airports Department Projects, Valley Transportation Authority Projects and summarized these reports as follows:

- Transportation Improvement Program: \$6,708,000.00 of the \$7,000,000.00 has already been spent and the funds are down to less than \$1,000,000.00 in the program.
- VTA's report includes the Measure A projects from the ballot measure. VTA estimates to complete \$2,255,000.00 of remaining projects and to complete those projects the County would add about \$1,000,000.00 in unencumbered funds.

Member Cameron asked what comprises the expenses of the \$850,000.00 earmarked for the Coyote Ridge Butterfly Habitat.

Mr. Doorley said that it is a VTA program that the board authorized related to the Highway 101 widening process, which allowed the installation of the lanes including the carpool lanes. Mr. Doorley will research and provide more information to the Board.

Member Gloner asked with the \$7,263,000.00 balance, how will the surplus be handled. Mr. Doorley said that \$6,708,000.00 is already prepaid to VTA and there is no obligation to fund out of County funds. Mr. Gharaibeh added that they are trying to reconcile the numbers that the County has with the numbers that his firm receives. The reconciliation process between what VTA is billing and what was advanced from the County is an on-going process and every June 30 the numbers are tied up. During the course of the year there's always timing differences adding that VTA expends on their side and it takes time to build up the invoice package to send to the County. Member Gloner recommended reconciling the audits and end of the year statements with the actual expenses. Mr. Doorley said attaining that the level of forecast from VTA has been challenging. Member Gloner suggested that perhaps VTA can provide the actual dollars spent on the projects. Mr. Gharaibeh said the VTA invoice package sent to the County is an accumulation of several months and doesn't have to be as of June 30 adding the invoices are received sporadically throughout the year. The County's general ledger reflects invoices that were received from VTA while VTA's accounting records reflect costs-to-date, whether they were invoiced to the County or not and it takes time to confirm balances at years end with VTA. At the conclusion of Measure B two numbers will end up reconciled. Member Peralez-Dieckmann added that delays occur when invoices are lacking information. Member Gloner suggested that VTA provide estimates as of June 30.

Member Nussbaum asked if the money will be spent down to the last dollar or will it be set aside. Mr. Doorley said they only give VTA funds upon invoices that state expenditures paid. The program ends when the County starts receiving invoices for which there are no funds. If there are funds left, then the County would continue to fund approved projects until the fund balance is gone. Chair Erickson added that the BOS would have to approve new projects and the CWC would act in an advisory capacity to the BOS.

Member Mullendore referred to the County Roads Department Cost Summary document asking if there are projects that have come in under budget or, are they still doing preparation to complete projects, and if they have come in under budget are they allocating them to different projects. Mr. Doorley said they are not allowed to allocate to two different projects. All five (5) supervisorial district projects were created at once shown on the doc. If they do come in under, they would ask specific permission to utilize funds for another project or it would potentially go back to the fund. Member Mullendore asked if it was normal to have certain projects not be started by this time, considering the measure ended in 2006. Mr. Doorley said that this was a much newer

project and when it became clear there would be additional money, as pointed out in the in the context of the County Management audit, that there would be indeed more funding than was programmed, \$6,200,000.00 was parceled out to the supervisorial districts with the on-going residual funding to go to VTA.

Mr. Nussbaum ask what the box signifies on the County Roads Department handout. Mr. Doorley said it represents one supervisorial district.

**Adjourn:**

Moved by Member Maitiski and seconded by Member Cameron to adjourn the meeting which passed unanimously. Chair Melissa Erickson adjourned the meeting at 2:22 p.m.

Minutes recorded and prepared by Barbara Crump.