

September 12, 2019

The Honorable Deborah A. Ryan
Presiding Judge
Superior Court of California, County of Santa Clara
191 North First Street
San Jose, CA 95113

(ENDORSED)
FILED
SEP 17 2019
Clerk of the Court
Superior Court of CA County of Santa Clara
BY Britney Huebner DEPUTY

RE: Santa Clara County Civil Grand Jury Report Response

Honorable Judge Ryan:

Larry Klein
Mayor

Russ Melton
Vice Mayor

Gustav Larsson
Councilmember

Glenn Hendricks
Councilmember

Nancy Smith
Councilmember

Michael S. Goldman
Councilmember

Mason Fong
Councilmember

The Sunnyvale City Council received the 2018-2019 Santa Clara County Civil Grand Jury's Final Report *Inquiry into Governance of the Valley Transportation Authority*. The following is the City Council's response to the Findings and Recommendations applicable to the City of Sunnyvale, as required by section 933.05 (a) of the California Penal Code.

The City of Sunnyvale thanks the Civil Grand Jury members for their service and their dedication to evaluating the concerns around the governance of the Valley Transportation Authority.

Response to Findings and Recommendations

Finding 1

The VTA Board, currently made up exclusively of elected officials from the Santa Clara County, Board of Supervisors, the City of San José and the other smaller cities in the County, suffers from:

- A lack of experience, continuity and leadership;
- Inadequate time for the directors to devote to their duties to the VTA Board due to their primary focus on the demands of their elected positions;
- A lack of engagement on the part of some directors, fostered in part by the committee system, resulting in VTA functioning largely as a staff-driven organization;
- Domination, in terms of numbers, seniority and influence, by representatives of the Santa Clara County Board of Supervisors and the City of San José; and
- Frequent tension between the director's fiduciary duties to VTA and its regional role, on the one hand, and the political demands of their local elected positions, on the other.

Response to Finding 1 –DISAGREE PARTIALLY

- A lack of experience, continuity and leadership

Response to Finding 1, bullet point 1 – DISAGREE PARTIALLY

The present structure of the Valley Transportation Authority is set by the Public Utilities Code and was established to provide representation to the cities and County within Santa Clara County. Each jurisdiction is different in how they provide representation to VTA and depending on that jurisdiction, its election cycle and appointments to VTA, there can, at times, be a lack of experience and continuity.

The leadership component will inevitably vary over time based on the makeup of the Board and the Chair. Sunnyvale feels the Grand Jury's finding that the VTA Board "suffers from" ... a lack of leadership to be overly broad. While there will inevitably be differences of opinion with respect to decisions made by the VTA Board, it's not clear that the Board lacks leadership.

- Inadequate time for the directors to devote to their duties to the VTA Board due to their primary focus on the demands of their elected positions

Response to Finding 1, bullet point 2 – DISAGREE PARTIALLY

The representation to the VTA Board is comprised of representatives from various agencies. The Directors have other responsibilities to their jurisdiction and may also be employed (part-time or full-time) separately as well. As such, each representative to VTA is different and depending on the jurisdiction and representative the time devoted to their duties to the VTA will vary.

Overall, Sunnyvale believes that VTA considers issues thoroughly by using its committee structure, and provides ample opportunities for public input before decisions are made. It's not clear that if Board members spent more time on decisions that policy outcomes would be significantly different.

- A lack of engagement on the part of some directors, fostered in part by the committee system, resulting in VTA functioning largely as a staff-driven organization

Response to Finding 1, bullet point 3 – DISAGREE PARTIALLY

The representation to the VTA Board is comprised of representatives from various agencies. The Board members have other responsibilities to their

jurisdiction and may also be employed (part-time or full-time) separately as well. As such, each representative to VTA is different and depending on the jurisdiction and the representative, the time engaged in their duties to the VTA will vary.

The lack of engagement by some Directors does not in itself create a staff-driven organization. The staff is tasked with providing information to the Board to receive policy direction and guidance for the organization. The engagement level of the Directors doesn't directly affect the authority staff has in decision making.

- Domination, in terms of numbers, seniority and influence, by representatives of the Santa Clara County Board of Supervisors and the City of San José

Response to Finding 1, bullet point 4 - AGREE

The present structure of the Valley Transportation Authority is set by the Public Utilities Code and was established to provide representation to the cities and County within Santa Clara County. It's important to note that all the County Board of Supervisor districts include a portion of the City of San Jose. This results in a total of seven VTA Directors that represent San Jose (at least partially) with only five that represent the 14 other cities in the County.

- Frequent tension between the director's fiduciary duties to VTA and its regional role, on the one hand, and the political demands of their local elected positions, on the other –

Response to Finding 1, bullet point 5 – DISAGREE PARTIALLY

The present structure of the Valley Transportation Authority is set by the Public Utilities Code and was established to provide representation to the cities and County within Santa Clara County. Each Director has a challenge in balancing the needs of the region and the needs of the jurisdiction that they represent. Each jurisdiction is different in how they provide representation to VTA and depending on that jurisdiction, its election cycle and appointments to VTA, there can, at times, be a more difficult struggle to balance those two needs. The frequency of occurrence of this type of conflict is not a constant struggle for the Board, it happens on various occasions, but does not define the decision-making process for the Board.

Recommendation 1c

As constituent agencies of VTA, each of the cities in the County should prepare and deliver to VTA and the County Board of Supervisors a written report setting forth its views regarding VTA governance, with specific reference to the elements

listed in Recommendation 1a. These reports should be completed and delivered prior to December 31, 2019.

Response to Recommendation 1c –THE RECOMMENDATION WILL NOT BE IMPLEMENTED

The Civil Grand Jury recommended that the Valley Transportation Authority commission a study to review the governance structure of successful large city transportation agencies, focusing on such elements as: board size, term of service; method of selection, director qualifications; inclusion of directors who are not elected officials, and methods of ensuring proportional demographics representation. The City of Sunnyvale believes it would be premature and not reasonable to prepare a report regarding the structure of VTA prior to the completion of the study.

Recommendation 1d

Within six months following the completion of the studies and reports specified in Recommendations 1a, 1b and 1c, the County of Santa Clara and/or one or more of VTA's other constituent agencies, should propose enabling legislation, including appropriate amendments to Sections 100060 through 100063 of the California Public Utilities Code, to improve the governance structure of VTA (which potentially could include an increase in the directors' term of service, the addition of term limitations and the inclusion of appointed directors who are not currently serving elected officials).

Response to Recommendation 1d –THE RECOMMENDATION WILL NOT BE IMPLEMENTED

Since the Grand Jury has recommended that VTA commission a study into its governance, the City feels that it would be premature and not reasonable to commit to a course of action before the study is completed.

Recommendation 1e

In order to provide more continuity in the leadership of the VTA Board, within six months following the completion of the studies and reports specified in Recommendations 1a, 1b and 1c, the County of Santa Clara and/or one or more of VTA's other constituent agencies, should propose enabling legislation amending Section 100061 of the California Public Utilities code to provide that the Chairperson of the VTA Board shall be elected for a term of two years rather than one.

Response to Recommendation 1e – THE RECOMMENDATION WILL NOT BE IMPLEMENTED

Since the Grand Jury has recommended that VTA commission a study into its governance, the City feels that it would be premature and not reasonable to commit to a course of action before the study is completed.

While no governance structure is perfect and Sunnyvale supports further study of potential changes, no study of VTA would be complete without recognizing its many accomplishments in recent years including:

- Passage of county-wide Measure B and the successful defense of litigation against the measure;
- Extension of the BART system into Santa Clara County;
- Implementation of high occupancy toll lanes to relieve freeway congestion; and
- Support for Caltrain, which has growing ridership and adoption of plans for significant increases in capacity through electrification

As a partner agency, Sunnyvale welcomes the continued partnership to address the transportation needs and solutions for Santa Clara County.

Again, we thank the Civil Grand Jury for their interest in this important issue. If you have any comments or questions, please contact me or Chip Taylor, Director of Public Works, at (408) 730-7415.

Sincerely,



Larry Klein
Mayor

cc: Valley Transportation Authority Board of Directors
The Honorable Joe Simitian, Santa Clara County Board of Supervisors
The Honorable Dave Cortese, Santa Clara County Board of Supervisors
Kent Steffens, City Manager
Chip Taylor, Director of Public Works
Dennis Ng, Traffic and Transportation Manager
Andi Jordan, Executive Director, Cities Association of Santa Clara County