



SEPTEMBER 2011 LEGISLATIVE ACTION COMMITTEE & BOARD MEETING SUMMARY

LEGISLATIVE ACTION COMMITTEE MEETING:

- **Jim Gustafson**, Engineer from the City of Los Altos, reviewed the process in which speed limits are set according to the Manual on Uniform traffic control Devices (MUTCD), the 85% rule on speed limits, radar enforcement of speed limits, the proposed modification of radar enforcement, and AB 529 (Gatto).
- Currently, jurisdictions can set speed limits at what they deem appropriate but the speeds cannot be radar enforced unless they are set according to the 85th percentile speed.
- The 85th percentile speed is the speed at which 85% of motorists travel at, or below, during free flow conditions. According to the current law. Speed limits must be rounded to the nearest 5mph increment of the 85th percentile speed. For example, if 85 % of motorists travels at 38.8 mph, the speed limit should be set at 40 mph to be radar enforced.
- Cities should have more authority to set speed limits according to what is deemed safe for their neighborhoods and motorists and be able to enforce the speed limits by radar.
- New legislation, AB 529 (Gatto), will allow jurisdictions to round down when setting speed limits. It is currently being reviewed in the current legislative session and is expected to pass and be sent to the Governor for his signature.
- There was a consensus that AB 529 resolves part of the issue that jurisdictions face in setting speed limits and radar enforcement, but not enough. It was recommended and unanimously approved by the Legislative Action Committee (LAC) that jurisdictions consider support of AB 529 and submit letters to the Governor expressing their support before October 9th. However, the LAC should wait and see what happens and further consider pursuing new legislation that would give cities more authority in setting speed limits and radar enforcement. Assembly Member Rich Gordon has expressed interest in supporting such legislation.
- Future Agenda Items:
 - Review of AB 57 (Beall) MTC Representation for support, Thursday, October 13, 2011, 6:30 pm.

BOARD OF DIRECTORS MEETING:

- **Santa Clara County/Cities Managers Association (SCCCMA), Tom Haglund and Ed Tewes**, presented a policy paper on public sector compensation recently developed and adopted by the City Managers' Association. The policy paper addresses the recent focus of public discussion and debate on public sector compensation, including executive compensation. The policy paper was designed to serve as a compilation of issues and topics that can be pursued by individual agencies or groups of agencies in collaboration. It is offered as a tool and set of guiding principles for elected and appointed officials in the region to work with each other and collaboratively with employee groups in addressing this important public policy issue. This paper supplements the previous position paper on pension plans of the SCCMA and the San Mateo County City Manager's Association, which was adopted and supported by the Cities Association in September of 2009. The policy paper on public sector compensation is available for review at [http://www.citiesassociation.org/files/12\)SCCCMA%20Comp%20Position%20Paper.pdf](http://www.citiesassociation.org/files/12)SCCCMA%20Comp%20Position%20Paper.pdf). The Board made the following recommendations/action plan: 1) a city attorney should review the policy paper to ensure legality; 2) SCCMA should provide feedback on the first recommendation; 3) the paper should be shared with various labor groups for feedback and to ensure their awareness of this potential regional policy paper on compensation; and 4) the Board is to consider the policy paper for final adoption in November 2011. Motion to approve the recommendations was passed 13 to 2.
- **Scott Haywood, on behalf of VTA**, reviewed VTA's new governance structure for 2012 and the timeline for cities to select new directors for the coming year. The new groupings do not affect the other groupings: San Jose (5 seats, 1 alternate) and County of Santa Clara (2 seats, 1 Alternate). The New City groupings are as follows:

North County – 1 Seat

Los Altos
Los Altos Hills
Mountain View
Palo Alto

North East – 2 Seats

Milpitas
Santa Clara
Sunnyvale

South County – 1 Seat

Gilroy
Morgan Hill

West Valley – 1 Seat

Campbell
Cupertino
Los Gatos
Saratoga
Monte Sereno

Thus far, one director has been selected. The final selections need to be submitted by November 1, 2011. The selection process is up to each city grouping.

- Subcommittee on Transportation (Margaret Abe-Koga, Cat Tucker, Marshall Anstandig)** - The Subcommittee invited Cal Train to make a presentation **Marian Lee, Interim Director, from Cal Train**, presented on the modernization plan of Cal Train and the proposed “blended system” of Cal Train and High Speed Rail (HSR). The Caltrain Modernization program is based on a partnership between Cal Train, Stakeholders, and High Speed Rail. Cal Train is currently working on electrification of its trains and advanced signal upgrades. Ultimately, this will increase the number of trains traveling through its system. Regarding HSR, they are currently updating their business plan. The segment from San Jose to San Francisco has been put on hold. The focus segments include Merced to Fresno and Fresno to Bakersfield. Recently, local elected’s, including Senator Simitian, Congress Representatives Zoe Lofgren and Anna Eshoo, have called for a “blended system” and issued a press release proposing a system that would support both Caltrain and HSR. Caltrain has begun work on a capacity analysis to test whether or not the “blended system” is feasible. Multiple operational factors to consider include infrastructure, cost, ridership, Prop 1A requirements, and CEQA/NEPA requirements to name a few. Preliminary findings show that the blended system concept has merit. Potentially, the system can allow 10 trains/per hour/per direction. However, more development is needed to address grade crossings and passing tracks. Several cities (e.g. Mountain View, Palo Alto, Sunnyvale) expressed concerns about HSR and the “blended system.” Palo Alto, Menlo Park, and Atherton have filed a lawsuit against HSR challenging the EIR. HSR’s business plan has been criticized by the Legislature; their upcoming revised business plan is crucial and should be available on October 3rd. The complete presentation is available on our website at [http://www.citiesassociation.org/files/16\)Cal%20Train%20Presentation.pdf](http://www.citiesassociation.org/files/16)Cal%20Train%20Presentation.pdf).
- Subcommittee on Transient Occupancy Tax Ordinance (Melinda Hamilton, Jac Siegel, Jose Esteves)** presented an update on the Board’s consideration of a regional ordinance on Transient Occupancy Tax. Currently, online travel companies charge “taxes and fees” on the retail price of a hotel room, but then remit only the tax on the wholesale price of the room, thereby cheating cities of the difference in the tax. Cities which try to recover the full amount of the tax by ordinance (redefining what the tax is) have found their hotels “missing” from the online travel sites. Many other cities are fighting this in court but the cases are still pending. The proposed action was to consider that all cities in the county try to pass an ordinance to define what constitutes the price on which the tax must be collected, figuring that the travel sites could not possibly pull all the hotels in the entire county from their databases. To make sure that there are no legal ramifications, Melinda first checked in with her city attorney, David Kahn, who took it to the monthly meeting of all the city attorneys in July. Their recommendation is to not pursue such an ordinance for the following reasons:

 - 1) Trying to pass an ordinance on TOT falls under Prop. 218 and therefore requires a vote of the people to pass. So each city would have to craft an ordinance and then pay to put it on the ballot, which is an expense many**

cities may not be willing to pay at this time. And, of course, there is no guarantee that it would pass.

- 2) There is a lawsuit that is currently being watched quite closely that pits the cities of Los Angeles and Anaheim against the OTCs. If there is a positive outcome in that case, then it would most likely apply to all cities as well. But if cities have rewritten their existing laws - which are similar to the ones down south - then that provides a loophole for the OTCs to contend that the ordinances were not strong enough to compel the OTLs to have to pay the full amount in the first place. Basically, if cities believe that they should be getting their money now on the retail rate, then they shouldn't be rewriting their laws, and doing so could jeopardize any benefits gained from a successful outcome of the trial down south.

Given the analysis of the situation, the Subcommittee recommended to the Board to forego the issue in favor of waiting for the outcome of the current litigation and revisit it again if necessary. There was a consensus on the Committee's recommendation.

- **Subcommittee on Medicinal Marijuana Dispensaries Update (Sam Liccardo, Joe Pirzynski, Kris Wang)**, Raania presented a report on the status of cities whom have adopted the Cities Association Resolution on Medicinal Marijuana Dispensaries calling for consistent state and federal regulation of marijuana as a drug. Thus far, 6 cities have adopted the resolution (Sunnyvale, Mountain View, Morgan Hill, Saratoga, Los Gatos, and Santa Clara); 2 cities have it on a future agenda (San Jose and Campbell); 6 cities have not yet responded or have chosen not to take action (Los Altos, Cupertino, Monte Sereno, Milpitas, Palo Alto, Los Altos Hills); and 1 city, Gilroy, took it to council but it did not pass. Larry Klein (Palo Alto) noted that the city of Palo Altos has an MMD initiative on the upcoming ballot and thus this may be something the city may want to consider. Sam Liccardo and Howard Miller reminded representatives that adopting the resolution is an opportunity to stand in solidarity with fellow cities in our region.
- **Nominating Committee for Executive Board 2012**, President Melinda Hamilton announced that four people have expressed interest in serving on the Executive Board for 2012. Members interested in serving on the Executive Board as Secretary/Treasurer, Director-at-Large, or LAC Chair should communicate their interest to them or Raania by October. A Recommendation to the Board will be presented in October, for voting to occur in November.
- **CSC Report:** Airport Land Use Commissioner Steve Tate of Morgan Hill introduced his new proxy, Mark Van Wyk. His former proxy on the commission had a conflict of interest and had to resign from the position. Mark Connolly, who staffs the ALUC, presented a brief report on recent activities. The ALUC recently adopted the San Jose International Airport Comprehensive Land Use plan (CLUP). They were then sued by the City of San Jose and now both parties have come to a settlement. The Moffet Federal Airfield CLUP has been drafted. The Moffett Federal Airfield and its surrounding areas will be included in the activities of the ALUC and will thus need representation from the cities of Sunnyvale and Mountain View. The

Moffet Federal Airfield CLUP is scheduled to be adopted in Q1 of 2012. Representatives from Sunnyvale or Mountain View are eligible for a position on the ALUC beginning in May 2012, when the term of current Commissioner Kansen Chu expires.

- **Legislation Report:** Betsy Shotwell of San Jose briefly reported to keep an eye on the state budget and to stay tuned for more updates next month since the last day of the legislative session is tomorrow, September 9th.
- **Introduction of League of California Cities (LCC) Peninsula Division Representative: Jessica Stanfill** introduced herself as the new LCC Peninsula Division Regional Public Affairs Manager and announced upcoming LCC activities to include: 1) Annual Conference, September 21-23; 2) Peninsula Division Breakfast at which new officers will be voted in, including Steve Tate of Morgan Hill as the new President, September 23rd; 3) Peninsula Division Dinner, October 27th; 4) Strong Cities, Strong State web portal is available for all cities to participate through the League's website.

Joys and Challenges

- Sam Liccardo announced that Forbes.com declared the City of San Jose to be the geekiest city in America; and San Jose has also topped a list of U.S. cities where residents enjoy the longest life spans.
- Jason Baker announced that Campbell is the 24th best city in the nation to be young, rich, and single.

Announcements

- David Casas announced that California Common Sense is a new organization promoting government transparency. They have bipartisan support. More information is available at www.cacs.org.
- David Casas announce an upcoming JVSU Wireless Symposium at SCU, November 4th.
- Melinda Hamilton announced SVLG's "Game Changers" event, which is taking place of "Projections," on Tuesday, September 13th.