

STAFF REPORT

SUBJECT: Measure A Administrative Ordinance

MEETING DATE: May 21, 2009

AGENDA ITEM: 6E

STAFF CONTACT: Jim Kemp, Steve VanDenburgh

RECOMMENDATION:

Receive an update on potential changes that could be made to update Local Transportation Authority Ordinance No. 3 prescribing administrative rules and regulations.

DISCUSSION:

Ordinance #3, adopted in April 1990 by the SBCAG board, established the administrative rules and regulations that the agency must follow in its capacity as the Transportation Authority responsible for implementing Measure D. The ordinance will remain in effect for administering Measure A unless repealed or amended by the board. Staff believes that before April 1, 2010 when Measure A goes into effect, the board should examine this ordinance and either confirm that its contents are still relevant, effective, and useful to the agency for the next 30 years or amend it to make it so.

Any changes to the ordinance must be thoroughly vetted with the board and involve input from agency's General Counsel (County Counsel) and the agency's Fiscal Officer (County Auditor Controller). So the potential changes highlighted are at this point merely a starting point for discussion information gathering with the relevant parties.

The substantive ordinance changes that staff will be gathering information on are:

- Section 3. Compensation. The compensation of board members in the ordinance was set in 1990. Staff will survey LTA board member compensation rates and provisions of other similar agencies in the state and agencies within our own county such as LAFCO to determine if this section should be modified. This will include determining if additional compensation should be added for the boardmember serving as chair.
- Section 8(d), Duties of Executive Director, 8(e) Duties of General Counsel and 8(f) Duties of Fiscal Officer. The board may wish to explore changes in the ordinance that better defines the roles/responsibilities of its Counsel and Fiscal Officers including providing for the establishment of an investment policy for SBCAG funds deposited in the Local Transportation Fund.

The adopted Ordinance #3 is attached to this staff report. Other changes to the ordinance in addition to those identified above that should be analyzed should be brought to the attention of staff. Staff would emphasize again that this is the beginning of an information gathering and vetting process which will take a number of months to complete.

RECOMMENDATION

Receive an update on potential changes that could be made to update Local Transportation Authority Ordinance No. 3 prescribing administrative rules and regulations.

Attachment: Ordinance #3

ORDINANCE NO. 3

**AN ORDINANCE OF THE SANTA BARBARA COUNTY LOCAL
TRANSPORTATION AUTHORITY, ADOPTED TO PROVIDE A
CODE PRESCRIBING THE ADMINISTRATIVE RULES AND
REGULATIONS OF THE SANTA BARBARA COUNTY
LOCAL TRANSPORTATION AUTHORITY**

The Santa Barbara Local Transportation Authority ordains as follows:

Section 1 - PURPOSE. The Santa Barbara County Local Transportation Authority (hereafter the "Transportation Authority") is charged with the responsibility of carrying out the purposes and directives of the Legislature as provided for in the Local Transportation Authority and Improvement Act (Division 19, commencing with Section 180000, of the Public Utilities Code.)

Section 2 - MEMBERSHIP. The governing board and the entire membership of the Transportation Authority shall consist of the governing board of the Santa Barbara County-Cities Area Planning Council or organization or agency which is successor thereto.

Section 3 - COMPENSATION. Unless prohibited by law from accepting compensation, each member of the Transportation Authority shall be compensated at the rate of One Hundred Dollars (\$100.00) for any day in attendance to the business of the Transportation Authority, but not to exceed Four Hundred Dollars (\$400.00) in any month, and such necessary travelling and personal expenses incurred in the performance of duties as may be authorized from time to time by the Transportation Authority.

Section 4 - ADMINISTRATION; IN GENERAL. The officers of the Transportation Authority shall consist of the Chair and a Vice-Chair, each of whom shall be a member of the Transportation Authority, an Executive Director, a General Counsel, Fiscal Officer, and other such officers as the Transportation Authority may deem necessary.

Section 5 - SELECTION OF CHAIR AND VICE-CHAIR. Unless the governing board of the Transportation Authority shall, by resolution, or by action of a Committee of the Whole, direct otherwise, the chairperson or other presiding officer of the Santa Barbara County-Cities Area Planning Council (or organization or agency which is successor thereto) shall serve as the Chair of the Transportation Authority, to preside at all meetings, and the vice chairperson of the Santa Barbara County-Cities Area Planning Council (or organization or agency which is successor thereto) shall serve as the Vice-Chair of the Transportation Authority, to preside in absence of the Chair.

Section 6 - APPOINTMENT OF EXECUTIVE DIRECTOR, GENERAL COUNSEL AND FISCAL OFFICER. The Executive Director, General Counsel, and such other officers as the Transportation Authority may deem necessary shall be appointed by the affirmative votes of a majority of the members. The Fiscal Officer shall be the County Auditor - Controller of the County of Santa Barbara.

Section 7 - REMOVAL OF OFFICERS. Officers may be removed by the affirmative vote of a

majority of the members. Voting on removal shall take place no sooner than at the next regular meeting following the meeting at which the motion to remove officers was introduced.

Section 8 - DUTIES OF OFFICERS.

(a) **Duties of the Chair.** The Chair shall, if present, preside at all meetings of the Transportation Authority and shall exercise and perform such other powers and duties as may be from time to time assigned by the Transportation Authority or prescribed herein. In any case in which the execution of a document or the performance of an act is directed, the Chair, unless the act of the Transportation Authority otherwise provides, is empowered to execute such document or perform such act.

(b) **Duties of the Vice-Chair.** The Vice-Chair shall perform the duties of the Chair in the absence of the Chair and when so acting, shall have all the powers of and be subject to all the restrictions upon, the Chair.

(c) **Duties of the Chair Pro Tempore.** In the event of the absence, or inability to act, of the Chair and Vice Chair, the members present at any meeting of the Transportation Authority, shall, by order entered in the minutes, by majority vote, select one (1) of their members to act as Chair Pro Tempore. That member, while acting as Chair Pro Tempore, shall have all of the duties and authority of the Chair.

(d) **Duties of the Executive Director** The Executive Director shall be an officer of the Transportation Authority and shall serve as Secretary and as Clerk of the Authority where such is required. The powers and duties of the Executive Director are:

- (1) To administer the personnel system, including contract employees of the Transportation Authority.
- (2) To administer all contracts.
- (3) To cause to be prepared by a Certified Public Accountant and to submit to the Transportation Authority as soon as practical after the end of each fiscal year a post-audit of the financial transactions and records of the Transportation Authority for the preceding year.
- (4) To keep the Transportation Authority advised as to the needs of the Transportation Authority.
- (5) To have full charge of the administration of the business affairs of the Transportation Authority.
- (6) To see that all ordinances, rules and regulations, motions, or resolutions are enforced.
- (7) To provide for secretarial services required by the Transportation Authority, giving notice of all meetings as may be required by law or action of the Transportation Authority, and such other duties as may be prescribed by ordinance or resolution of the Transportation Authority.
- (8) The Executive Director is authorized to take any or all of the following actions in relations to non-contract employees of the Transportation Authority for Santa Barbara County:
 - (i) To hire employees at the appropriate salary range as determined by the Transportation Authority for Santa Barbara County.
 - (ii) Subject to the rules and agreements of the Authority, to promote,

transfer, suspend, with or without pay, or discharge any employee.

(iii) To notify the Transportation Authority of the aforesaid actions at the meeting next succeeding the action taken concerning said employees(s).

(9) The Executive Director is authorized to approve disbursements of funds of the Local Transportation Authority consistent with the annual budget of the Transportation Authority.

(10) The Executive Director shall have such other duties, powers and responsibilities as may from time to time be assigned by the Transportation Authority. The compensation of the Executive Director shall be as provided for from time to time by resolution of the Transportation Authority.

(e) Duties of General Counsel. The General Counsel shall be the County Counsel of the County of Santa Barbara or, upon the approval by resolution of the Transportation Authority, a person admitted to practice law before the Supreme Court of California or a firm comprised of same, who shall have been actively engaged in the practice of law for not less than five (5) years next preceding appointment. The General Counsel shall represent and advise the Transportation Authority in all legal matters, actions, or proceedings in which the Transportation Authority is concerned, or interested, or is a party.

(f) Duties of Fiscal Officer. Subject to an agreement, including reimbursement for all costs therefor, the Fiscal Officer, of the Authority shall be the Santa Barbara County Auditor-Controller, who shall, in accordance with the applicable statutes and regulations, be the custodian of funds received from the Transportation Authority from whatever source. The Fiscal Officer shall in accordance with generally accepted accounting practices and such other procedures as may be required for the Authority:

(1) Receive and receipt for all money of the Transportation Authority and place it in an account of the Transportation Authority.

(2) Draw warrants to pay demands against the Transportation Authority when the demands have been duly and regularly approved by the Executive Director.

(3) Prepare or cause to be prepared a report in writing, on or before the fifteenth day of July, October, January and April of each year to the Transportation Authority detailing the amount of money being held, the amount and source of receipts since the last quarterly report, and the amount and recipient of amounts paid out since the last quarterly report and for the fiscal year.

(4) The Fiscal Officer shall keep a full and complete record of all financial transactions and records of the Transportation Authority and shall work with and advise the Executive Director in all fiscal matters.

(5) The Fiscal Officer shall have such other duties and responsibilities as may from time to time be agreed to between the Fiscal Officer and the Transportation Authority.

Section 9 - EMPLOYEES. All employees, other than contract employees, shall be hired pursuant to the policies and agreements of the Transportation Authority by the Executive Director and shall be subject to the Executive Director's control and supervision. Compensation of employees other than contract employees shall be as provided from time to time by resolution of the Transportation Authority.

Section 10 - TECHNICAL ADVISORY COMMITTEE.

(a) **Membership.** There is hereby created the Technical Advisory Committee. The Committee shall consist of members selected as follows:

- (1) One (1) member representing the County Public Works Department.
- (2) One (1) member representing the County Resource Management

Department.

(3) Two (2) members representing each city, one (1) of which shall represent the city's Public Works Department and one (1) which shall represent the city's Community Development or Planning Department.

(4) One (1) member representing the Transportation Authority.

(5) One (1) member representing the designated Consolidated Transit Services Agency.

(6) One (1) member representing the District Director of the California Department of Transportation.

Committee members shall serve at the will and pleasure of their appointing authority. An alternate may be named by each appointee to attend in absence of the appointee. Committee members shall be selected on the basis of their technical and professional qualifications in the field of transportation planning and engineering.

(b) **Function.** Subject to the supervision of the Transportation Authority, the Committee shall provide technical assistance to the Transportation Authority by reviewing and evaluating the various transportation proposals and alternatives within Santa Barbara County. The Committee shall review, comment upon, and make recommendations on such matters as are referred to it by the Transportation Authority.

(c) **Meetings.** In the dispatch of its responsibilities, the Committee may conduct meetings, may appoint subcommittees, and engage in such related activities as it deems necessary.

(d) **Compensation.** Members of the Committee shall serve without compensation.

(e) **Officers.** The Committee shall elect a Chairman and Vice-Chairman from the members thereof, each of whom shall serve for one (1) year and thereafter until a successor is elected. Secretarial services shall be provided by the Transportation Authority staff.

Section 11 - OTHER ADVISORY COMMITTEES. The Transportation Authority may appoint other Advisory Committees as it deems necessary. The Transportation Authority shall determine the membership of such committees, and specify the functions, duties, responsibilities, and terms of service. The Transportation Authority shall give due consideration to recommendations, advice or proposals received from advisory committees but shall not be bound thereby.

Section 12 - EXECUTIVE COMMITTEE. There is hereby created the Executive Committee composed of three (3) members of the Transportation Authority selected by the Chair. Subject to the supervision by the Transportation Authority, the Executive Committee shall oversee staff functions and make recommendations to the Transportation Authority regarding

staff positions, job descriptions, salaries of employees and regarding the employment of the Executive Director; and perform such other duties as may be prescribed by the Transportation Authority. The Executive Committee shall also develop, review and provide for the maintenance of bylaws or rules of order for the Transportation Authority, propose amendments to adopted bylaws and rules as necessary. The Executive Committee shall review the annual budget for the Transportation Authority as proposed by staff; follow-up Transportation Authority allocations with financial management and performance audits; and perform such other duties as may be prescribed by the Transportation Authority. In the performance of their duties and responsibilities, the Executive Committee of the Transportation Authority shall submit all matters coming before it to the Transportation Authority for its consideration.

Section 13 - RULES AND REGULATIONS. The Transportation Authority may from time to time, by ordinance or resolution, adopt rules and regulations for the administration of its affairs and to carry out the purpose and directives of the Local Transportation Authority and Improvement Act (Public Utilities Code §180000, *et Seq.*).

Section 14 - MEETING AGENDA. Matters to be placed on the Agenda for any regular meeting may be filed with the Executive Director of the Transportation Authority by any member of the Transportation Authority by the tenth day before such meeting. The Agenda for each regular meeting shall be prepared by the Executive Director. The Executive Director shall cause copies of the Agenda to be mailed or delivered to each member and the General Counsel no less than five working days prior to the regular meeting date.

Section 15 - REGULAR MEETINGS. Regular meetings of the Transportation Authority shall be held in the Board of Supervisors hearing room in the County Administration Building, located at 105 East Anapamu Street, Santa Barbara, California, or at such location as may be provided for at any public meeting by the Transportation Authority on the third Thursday of the month at ten o'clock unless such day is a holiday, in which case the meeting shall be held on the next succeeding Thursday. Regular meetings may be cancelled by majority vote of the Transportation Authority at a regular or special meeting prior to the meeting to be cancelled. A regular meeting may also be cancelled by the Chair upon notice of a pending lack of a quorum. Notice of such cancellation shall be given to each member at least 24 hours prior to the time for the meeting.

Section 16 - SPECIAL MEETINGS. A special meeting may be called at any time by the Chair, or, in absence of the Chair, by the Vice-Chair, or by any four (4) members by delivering personally or by mail written notice to the Executive Director and each member. Such notice shall be so delivered at least 96 hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be transacted at such meeting. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the Executive Director a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as

to any member who is actually present at the meeting at the time it convenes.

Section 17 - QUORUM AND VOTING REQUIREMENTS. A majority of the members of the Transportation Authority shall constitute a quorum for the transaction of business, and all official acts of the Transportation Authority shall require the affirmative vote of a majority of the members of the Transportation Authority.

Section 18 - RALPH M. BROWN ACT. All meetings of the Transportation Authority shall be called, noticed, and conducted in the manner prescribed by the Ralph M. Brown Act (Chapter 9, commencing with §54950, Part 1, Division 2, Title 5 of the California Government Code.)

Section 19 - ADDRESSING TRANSPORTATION AUTHORITY ON AGENDA ITEMS. No person shall address the Transportation Authority at any meeting until he or she has first been recognized by the Transportation Authority Chair. The decision of the Chair to recognize a person may be changed by vote of a majority of the members of the Transportation Authority present at the meeting. The Transportation Authority Chair, may in the interest of facilitating the business of the Transportation Authority, limit the amount of time which a person may use in addressing the Transportation Authority.

Section 20 - COMMITTEE OF THE WHOLE. At any regular meeting not held because of a lack of a quorum, the members present, if less than a quorum of the Transportation Authority, may constitute themselves a "Transportation Authority Committee of the Whole", for the purposes of discussing Agenda matters or any other matter of interest to the members present. The Transportation Authority Committee shall automatically cease to exist if a quorum of the Transportation Authority is present at the meeting.

Section 21 - SUCCESSION. The Transportation Authority has perpetual succession and may adopt a seal and alter it at its pleasure.

Section 22 - LITIGATION. The Transportation Authority may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

Section 23 - CLAIMS. All claims for money or damages against the Transportation Authority are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

Section 24 - ACTS BY MOTION, ORDER, RESOLUTION AND ORDINANCE. The acts of the Transportation Authority shall be expressed by motion, order, resolution, or ordinance. All ordinances shall take effect upon the thirtieth day following final passage except those ordinances:

- a. calling or otherwise relating to an election;

- b. specifically required to take immediate effect;
- c. fixing the amount of money to be raised by taxation, or the rate of taxes to be levied;
- d. for the immediate preservation of the public peace, health, or safety which shall contain a declaration of the facts constituting an urgency;
- e. specifically relating to the adoption or implementation of a memorandum of understanding with an employee organization; and,
- f. relating to salaries and other compensation of officers and employees.

Section 25 - ENACTING CLAUSE, EXECUTION. The enacting clause of all ordinances shall be as follows: "The Santa Barbara County Local Transportation Authority ordains as follows:" All ordinances shall be signed by the Chair or by the Vice-Chair of the Transportation Authority.

Section 26 - PUBLICATION. (a) Except as provided in subdivision (c), before the expiration of fifteen (15) days after the passage of an ordinance, it shall be published once, with the names of the members voting for and against the ordinance, in a newspaper published in the County of Santa Barbara. A certificate of the Executive Director or Secretary, or order entered in the minutes of the Authority that the ordinance has been duly published is *prima facie* proof of the publication.

(b) The publication of ordinances may be satisfied by either of the following actions:

(1) The Authority may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. The summary shall be prepared by the Executive Director or General Counsel. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the County Clerk of the County of Santa Barbara at least five days prior to the Authority meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, the Authority shall publish a summary of the ordinance or amendment with the names of the members voting for and against the ordinance or amendment and the Executive Director shall post in the office of the County Clerk of the County of Santa Barbara a certified copy of the full text of the adopted ordinance or amendment along with the names of those Authority members voting for and against the ordinance or amendment.

(2) If the Executive Director determines that it is not feasible to prepare a fair and adequate summary of the proposed or adopted ordinance or amendment, and if the members of the Authority so order, a display advertisement of at least one-quarter of a page in a newspaper of general circulation in the county shall be published at least five (5) days prior to the Authority meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within fifteen (15) days after adoption of the ordinance or amendment, a display advertisement of at least one-quarter of a page shall be similarly published. The advertisement shall indicate the general nature of, and provide information about, the proposed or adopted ordinance or amendment, including information sufficient to enable the public to obtain copies of the complete text of such ordinance or amendment, and

the names of those Authority members voting for and against the ordinance or amendment.

(c) If the Executive Director fails to publish an ordinance within fifteen (15) days after the date of adoption, the ordinance shall not take effect until 30 days after the date of publication.

Section 27 - WAITING PERIOD FOR ORDINANCES; READING. Ordinances shall not be passed within five days of their introduction, nor at other than a regular meeting, an adjourned regular meeting, or special meeting called for that purpose. An urgency ordinance may be passed immediately upon introduction at a regular, adjourned, or special meeting. Except when, after reading the title, further reading is waived by regular motion adopted by unanimous vote of the Authority members present, all ordinances shall be read in full either at the time of introduction or passage. When ordinances, other than urgency ordinances, are altered after introduction, they shall be passed only at a regular or at an adjourned regular meeting held at least five days after alteration. Corrections of typographical or clerical errors are not alterations within the meaning of this section. This section shall not apply to ordinances which by statute can be passed only after notice and public hearing.

Section 28 - GENERAL POWERS. The Transportation Authority shall have the power and authority to do any and all things necessary to carry out the purposes of Division 19 (commencing with Section 180000) of the Public Utilities Code.

Section 29 - CONTRACTS. The Transportation Authority may make contracts and enter into stipulations of any nature whatsoever either in connection with eminent domain proceedings or otherwise, including, but not limited to, contracts and stipulations to indemnify and save harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers authorized by law or by this Ordinance. The Transportation Authority may contract with any Department or Agency of the United States of America, with any public agency (including, but not limited to, the California Department of Transportation or any Transit District, County or City), or with any person upon such terms and conditions as the Transportation Authority finds is in its best interest.

Section 30 - CONTRACTS FOR SPECIAL SERVICES. The Transportation Authority may contract for special services for its use or on behalf of the any of the following public entities: the county, any county officer or department, any city within the county, any officer or department of any city within the county, or any district within the county. Such contracts shall be with persons specially trained, experienced, expert and competent to perform the special services required. The special services shall consist of services, advice, education or training for such public entities or the employees thereof. The special services shall be in financial, economic, accounting, engineering, legal, medical, administrative, architectural, or building security matters, maintenance and janitorial services. The Transportation Authority may pay from any available funds such compensation as it deems proper for these special services.

Section 31 - ANNUAL BUDGET. The Transportation Authority, after holding public hearings, shall annually, on or before June 21st of each year, adopt a budget for the succeeding Fiscal Year and, upon adoption, forward such budget to the County Auditor - Controller.

Section 32 - FISCAL YEAR. The fiscal year for the Transportation Authority shall be from July 1 to June 30.

Section 33 - PUBLIC HEARINGS; BUDGET. The Transportation Authority shall hold public hearings prior to the adoption of its budget. Notice of time and place of such hearings shall be published pursuant to Section 6061 of the Government Code and shall be published no later than the 15th day prior to the date of the hearing.

Section 34 - PUBLIC INSPECTION; BUDGET. The proposed annual budget shall be available for public inspection at least fifteen (15) days prior to the hearing.

Section 35 - AUDIT. The Transportation Authority shall make, or cause to be made annually as soon as practical after the end of each Fiscal Year, a post-audit of the financial transactions and records of the Transportation Authority for the preceding year. Such post-audit shall be made by a Certified Public Accountant.

Section 36 - EFFECTIVE DATE. This ordinance shall take effect and be in force at the expiration of thirty (30) days from and after the date of its passage, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of the members of the Santa Barbara County Local Transportation Authority voting for and against the same in a newspaper of general circulation published in the County of Santa Barbara.

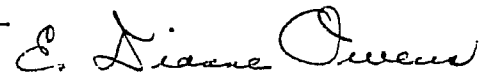
PASSED, APPROVED AND ADOPTED this 25th of April , 1990.

AYES: Supervisors Ochoa and Owens; Mayor Hobbs; Councilmembers Miller,

NOES: Hays and Sanchez.

ABSENT: Supervisors Rogers, Wallace and Miyoshi; Mayor Loney; Councilmember Lawrence.

David G. Lawrence, Chair
Santa Barbara County Local
Transportation Authority



Dianne Owens, Vice-Chair
Santa Barbara County Local
Transportation Authority

Attest:


Gerald R. Lorden, Secretary

I, Gerald R. Lorden, Secretary of the Santa Barbara County Local Transportation Authority do hereby certify that the foregoing is a true copy of an ordinance adopted by the Santa Barbara County Local Transportation Authority on by the vote stated above, which said ordinance is on file in the office of the Santa Barbara County Local Transportation Authority.

Dated:

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Approved as to form:

