

2003-2004 SANTA CLARA COUNTY CIVIL GRAND JURY

**INQUIRY INTO THE BOARD STRUCTURE AND FINANCIAL
MANAGEMENT OF THE VALLEY TRANSPORTATION
AUTHORITY**

Summary

The Valley Transportation Authority (VTA) faces significant financial challenges. Some are outside of the control of the VTA Board (Board), such as the recent short-term shortfalls of sales tax revenue due to the economic downturn and a less-than-efficient public transportation system due to widely dispersed housing and centers of commerce. Other challenges are the result of decisions made or accepted by the Board, some as a consequence of the structure of the Board itself. These include: low recovery of transit costs from fares; high employee costs per service rendered; over-promising of programs to voters; inefficient timing of expenditures; financial forecasts designed to support program plans rather than evaluate options (and as a consequence not identifying more optimal approaches); and decisions influenced by benefits to local districts rather than to the regional Santa Clara County (County) transportation system. The Grand Jury recommends changes in the size and composition of the Board to provide better governance of VTA finances in the future.

The overriding financial problem facing VTA at present is that it cannot afford the cost to build and operate a BART system to San Jose. Spending limited resources on BART could squander an opportunity to build, maintain, and operate a far larger network of transit options throughout the county as enabled by voters approving the ½ cent Measure A sales tax in 2000. The Grand Jury recommends delaying expenditures for BART to provide more immediate funding for other Measure A transit projects.

Background

In the mid-1950's, the County proposed a plan for a public transportation network throughout the entire region. It was to be an integrated approach, designed to be a convenient and efficient means of transporting people to critical destinations as the county grew in population. The integrated plan was based on local buses as feeders to congregation points for express transport to more distant destinations (either via light rail or buses), which would then also connect to regional high-speed lines such as BART or commuter rail. The plan (with the exception of BART and commuter rail completing the circle around the bottom of the Bay) was well accepted and funded in subsequent years, largely by sales tax levies passed by county voters.

Over the next decades, portions of the system were developed and the master plan was revised roughly every 10 years and updated between revisions. Compromises to the original vision were made over the years on a number of issues, due to funding constraints and politics. The number of users remained below that projected by the master plan, in part because of the incompleteness of the integrated plan, in part because of the reduced effectiveness of the system due to compromises in the constructed routes, and in major part because of the increased affordability and convenience of private motor vehicles and the investments VTA has made in freeways and expressways. Operating costs for the portions of the system that were built far exceeded fare-box revenues, with the rider-paid portion of the costs well below the national average of more than 20%. The VTA average fare box recoveries for 2002 and 2003 were only 11.6% and 12% of operating costs.

The Board of the VTA was authorized in its present form by state legislation in 1994. In the proposal originally presented to the State of California by the County Board of Supervisors, the Board was to be composed of five directly elected members (corresponding to the five County Supervisorial Districts) and eleven appointed members from various elected bodies in the County. The State enabling legislation, however, eliminated the directly elected directors. Instead, the Board membership was to be composed of 12 voting members, 5 alternates, and as many as two ex-officio members, all elected officials appointed to serve on the Board by the jurisdictions they represent. The two ex-officio members are the County's representatives to the Metropolitan Transportation Commission (MTC), the Bay Area transportation authority. The twelve voting members are:

- five San Jose City Council members;
- three city council members (one each from Sunnyvale and Santa Clara for eight out of ten years; the other member position and the remaining 2 out of 10-year slots are filled by Los Altos, Los Altos Hills, Mountain View, or Palo Alto, on a rotating basis);
- one city council member from either Gilroy, Milpitas, or Morgan Hill, on a rotating basis;
- one city council member from either Campbell, Cupertino, Los Gatos, Monte Sereno, or Saratoga, on a rotating basis;
- and two County Supervisors.

Board members serve a term of two years, with some serving more than one term, but not those from the positions that rotate between the smaller cities. Board members are not required to have a transportation background or other relevant expertise.

In the past year, the Board considered revising its composition in order to eliminate some of the rotating Board seats. This would be accomplished by increasing the number of Board seats, with San Jose and County Board members having more than one vote each to retain an equivalent voting weight as at present. This effort has now been tabled until 2005.

Some boards that govern public bodies in the County use board structures that are similar to VTA, that is, individual city councils select one of their own members to serve on a governing board for a different function. Examples of this type of board include the Association of Bay

Area Governments and the joint powers agreement board for the county library system. While these appointees are responsible and interested citizens, they are usually extremely busy with activities in their own city. These board members have neither the time nor the expertise to delve deeply into the problems facing them. The net result of this is a staff-driven organization. Thus, although the board has the ultimate authority for decisions, the specialized knowledge and dedicated time of the staff means that most of the strategy and tactics are set by staff. The staff spends much of its time bringing the board up to speed on decisions that the staff has already made. Board meetings characteristic of staff-driven organizations are generally passive informational meetings interspersed occasionally with strong reactions when staff has veered too far off course in the view of a board member. Alternatively, member-driven boards lead discussions in their board meetings on such matters as how the organization is doing against benchmarks, how to best utilize resources, and setting goals and direction for the staff to implement.

An example of a board in the County that is smaller and more dedicated to its role is the Santa Clara Valley Water District (SCVWD) Board. Five board members are elected to their roles by supervisory district, and two members are appointed by the Board of Supervisors. Although the SCVWD staff is every bit as involved as VTA staff in operating their business, the SCVWD Board does not have other governmental obligations and thus is more focused in providing governance, guidance, and oversight to the staff.

Other transportation agencies in California, as authorized by the state legislature, have a wide range of options for their boards. At least two transportation agencies, Santa Barbara and Stockton, have citizens appointed as board members by county and city governing bodies. Unlike VTA, those board members are not currently elected members of those bodies. Citizen members are chosen for their expertise, their interest in and commitment to transit matters, and their long-term community involvement. A few transit boards such as the board for BART are directly elected to that role. While others require the appointees to be elected officials (like VTA), Bakersfield explicitly requires them not to be elected officials. Board size ranges from 5 to 20 members. One VTA staff member has had previous, positive experience working with appointed citizen boards, and indicated that the members were in general more experienced, dedicated, and interested in transit issues.

A recent joint meeting of the VTA Board and the board that oversees the existing portions of BART clearly highlighted the different operating styles of the two groups. Following presentations, the VTA Board asked questions for clarification. The BART Board made suggestions and recommendations. For example, a VTA Board member asked about funding for the BART extension to Warm Springs (obviously required to continue the line to San Jose) and was surprised that it was in jeopardy. The money allocated for that project had been “borrowed” to pay for cost overruns on the BART link to the San Francisco Airport. The loan was to be repaid with operating surpluses from that link, which have not materialized. On the other hand, the BART Board suggested that VTA should prepare a contingency plan, given the shaky finances for BART to San Jose, which initially extends BART only to Milpitas or Berryessa. Even considering such a plan was quickly dismissed by a VTA Board member.

Discussion

VTA Board

The Grand Jury inquiry discovered that the Board, while composed of dedicated public servants, is not functioning well as the governing body for the VTA. It is too large, too political, too dependent on staff, too inexperienced in some cases, and too removed from the financial and operational performance of VTA. Some city council members expressed to the Grand Jury that they have chosen not to be appointed to the Board because of one or more of these problems. Past and existing Board members admit freely that VTA is very much a staff-driven rather than a board-managed organization.

VTA Board membership is not composed of members chosen specifically for their management, transportation, or business experience, but rather is a rotating collection of elected officials appointed from elected bodies in the County. These representatives often do not have business or transportation experience. The primary duty and focus of these officials is to the elected positions in the entity from which they are appointed. Voters would not normally be expected to choose their local elected officials on the basis of whether they have time or ability to represent the region's transportation interests on the VTA Board, even if they were aware of such a possibility for additional responsibility beyond the primary responsibilities of the elected office.

The commitment in time to provide effective oversight as Board members to VTA can be significantly beyond what is possible as a secondary appointment for an elected representative. There are more than 10 hours of public Board and committee meetings to attend each month. Each has staff-supplied material which should be reviewed before each meeting (but because of other commitments may not be reviewed, leading sometimes to elementary questions at the Board meetings). That time commitment is necessary just to be reactive; any proactive attempts at governance would require significant additional commitments in time.

It is important to understand that VTA is a major business with a \$350 million budget, has capital expenditures with major impact on construction jobs in the County, and serves a host of different constituencies. It is also a complex business, covering roads to paratransit, which is managed in other counties such as Alameda by three separate boards.

The Board is to be commended for the breadth and depth of their advisory committees, which collect excellent input from such constituencies as bicycle and rail commuters. However, the time that Board members devote to assessing public input from outside their districts is often the perfunctory acceptance of written reports without comment at meetings and listening to 90-second public comments at Board meetings.

Over the period 2000 to 2003, Board member attendance averaged a respectable 83%. That does mean, however, that on average two of the twelve voting Board members were absent from each of the twenty to twenty-four Board and workshop meetings held each year. Some had perfect attendance records; others were absent from the meetings more than half of the time. Attendance records are similar for the three main Board committees: 77%, or one in four Board members is absent on average at each committee meeting, scheduled once per month (however, as many as

six per year are cancelled). Moreover, the attendance records do not take into account that board members at times arrive late or leave early. Because of time constraints for these heavily scheduled elected officials, meeting discussions are sometimes truncated, even before a crucial topic for the meeting is completed.

A large portion of the monthly Board workshop meeting is spent explaining an overwhelming amount of VTA staff-supplied financial and operational information. At one recent meeting, it was necessary to explain that what appeared to be an improved financial outlook was the result of the use lease/buyback financing to purchase capital equipment, improving the short-term cash position for 2004 but incurring future cash flow obligations. From the questioning, it was not apparent that all Board members knew what the implications for a lease/buyback were or if they recalled that such a financial strategy was to be used to improve the depleted cash reserves of the VTA.

On the other hand, the size of the Board, along with alternates and other advisory members, makes it impractical for VTA staff to spend much time with each individual member to provide information and perspective other than at Board meetings. Consequently, there is very little time left to devote to substantive Board discussion of the management of VTA businesses. An additional problem of any large organization is the dilution of individual responsibility. Each Board member may have good intentions about representing the transportation interests of the County as a region, but also may believe that they need to protect the parochial interests of the local area that they represent. A large number of the issues raised at Board meetings by members concern VTA actions that affect their own local constituencies. It is difficult to build a regional consensus when it appears at Board meetings that some members are primarily focused on issues in and benefits to their local region of the County.

Perhaps because of the political positions of the Board members, frank and open discussions on important matters of policy are rare. The Grand Jury observed a striking example of this reserved behavior at one committee meeting concerning the continued awarding of engineering contracts for BART studies even though some Board members had reservations whether that was prudent, given the recent VTA financial studies that BART cannot be completed in the next 20 years. Discussion was quickly cut short with comments by a Board member that building the full BART system to San Jose and Santa Clara was the only approach to be considered.

An example of the Board not being effective as the ultimate overseer of VTA was a VTA staff response to a request by a Board member, asking for follow-up information on a commentary article in the January 28, 2004 San Jose Mercury News on the costs of VTA bus operations compared to other agencies. The commentary noted that the average cost of operating a VTA bus for one hour is \$134 compared to \$99.20 for peer agencies, 35% more, and that it takes 3.18 employee hours to keep a bus in service for one hour compared to a national average of 1.91 hours. One Board member raised this issue at the January 30, 2004 Board of Directors Workshop Meeting. As described in the minutes:

“Board Member...inquired about the analysis of the expenses and revenue in terms of dollars per person. He further inquired if the data has been summarized and compared to find out if VTA is at par with agencies operating in the same capacity.”

The response from the VTA General Manager was:

“that he, along with the Ad-Hoc Stability Committee, Silicon Valley Manufacturing Group, and other business community members are confident that VTA is managing well in this kind of environment.”

That response contained no substantive answer to a direct Board inquiry regarding VTA operations. It is the fiducial responsibility of the Board, not a committee, a business lobbying group, or business community leaders, to provide oversight and direction. The Board must ensure that staff provide detailed explanations when operations deviate from benchmarks. Moreover, an effective and proactive Board would have been driving decisions in prior years based on early trends in that data.

The Grand Jury followed up on the same question with VTA staff, again did not receive a direct, informative answer, but did receive a VTA response published in the newspaper and a VTA staff memorandum to the Board regarding the commentary article. The memorandum provided information on improvements being made and examples where VTA was not the worst of its peer agencies, but the overall conclusion, that VTA is in serious financial trouble due to high costs, was supported, not refuted, by the memorandum. For example:

“VTA’s experience is driven by relatively high wages, high fringe benefits, and high absenteeism.... In FY02, the average straight wage rose to \$20.32, and the average total wages paid per revenue hour was \$30.61. This rapid growth is the result of the progression in the labor contract and the increasing tenure of the bus operator work force.

“VTA fringe benefits for bus operators are very expensive. In FY01, it was 58.3% of wages paid to operators; this figure rose to 63.1% in FY02. This is similar to the rates paid by AC Transit. The average for the peer group we considered was between 45% and 50%.

“Low attendance by VTA operators is another reason for high operating costs. In FY01, the annual revenue hours worked per VTA vehicle operations employee (including bus operators, street supervisors, and some management staff) was only 1,214. At AC Transit, the value was 1,320; at OCTA in Orange County the value was 1,351. In San Diego, the value is 1,627...

“VTA’s ratio of active vehicles per maintenance employee was only 1.057 in FY01. This was the lowest of our peer group. Sam Trans, by comparison, was 2.566; AC Transit was 1.739....

“But an older fleet is only part of the explanation for large labor requirements for maintenance. The other, more important, explanation is high absenteeism for bus maintenance workers, similar to the problem with bus operators. The average hours worked by VTA vehicle maintenance employees was only 1,514 hours in FY00 [.] By comparison, the average of the peer group was 1,838 hours.”

The memorandum provides these and other examples of inefficient operations compared to benchmarks such as vehicle maintenance employees away from work an average of 14 weeks during 2000. An active board would be quite concerned about these issues and involved in finding solutions.

VTA Financial Management

The Board allowed the finances of VTA to deteriorate badly during the recent economic downturn before beginning to take some actions. For instance, between 2001 and 2004, revenues from fares (10% of total revenues) and sales taxes (50% of total revenues) declined by 19% while wages and benefits rose by 40%. In fact wages and benefits went from 72% of total expenses in 2000 to 91% in 2004.

Fares as a fraction of operating costs were kept unusually low compared to national averages. Low fares were part of the problem, but not the major problem. The adult cash fare was \$1.10 in 1995, increased to \$1.25 in 2000, \$1.40 and \$1.50 in 2003, and \$1.75 in 2005. Operating costs rose even faster, partly because structural expenses such as wages and benefits increased much faster than inflation and partly because operating expenses were not cut during the downturn in proportion to the recent ridership decline. During the past several years, those actions and lack of actions led to spending down the reserves set aside for contingencies.

With those reserves depleted as far as practical, the Board then took the unusual step of paying for current costs and debt by borrowing \$275 million plus interest against Measure A sales tax revenues not due to be collected until 2006 and later. That action prevented a 21% cut in transit services this year but has not solved the current financial problem. It merely pushed it into the future, creating two additional problems. The \$275 million plus interest will not be available in 2006 and later years, having already been spent (and not all on capital improvements). The second problem is that the structural operating deficit is projected to increase from \$76 million for fiscal year 2003-04 to \$92 million in 2004-05. VTA has delayed a plan to ask voters for an additional $\frac{1}{4}$ cent or higher increase in the sales tax (to 8.75%) until the November 2006 Election to help cover the ongoing deficit.

In contrast, an uncharacteristically good example of management oversight by one Board member occurred in late 2003 with a member's forceful and repeated request for an analysis of when BART could be built to San Jose, given reasonable financial projections. The answer, which VTA had been resisting saying publicly, clearly, and unambiguously since before Measure A was passed by the voters, was that VTA does not have the funds to complete BART anytime in the next 20 years. Shortly after delivering that stark message, which was not welcomed by some Board members, the VTA chief financial officer resigned for a lower-paying out-of-state position. However, the Board has continued to spend money on BART as if that analysis had not been done and has revised the revenue projections to again propose a BART completion by 2014.

In the past, the political structure of the board of VTA's predecessor agency was potentially responsible for the construction of a light rail system that deviated from the original plan. The

present light rail system, mainly a linear route, passes through downtown and does not connect with the airport, as do the rail transit systems in a number of other cities. It was known at the time of the decision that, by choosing a route through downtown, the average speed would drop to 20 miles per hour from the potential for 55 miles per hour. That choice of route seriously compromised the speed of the light rail system, supposedly one of the prime reasons justifying this much more expensive transportation mode over buses. Also, a linear route rather than a network or grid tends to limit the ridership to those whose starting and ending points are both near the linear route. (The original 1950's plan envisioned a light rail network, connected to the airport as well, and used buses on local loops as feeders to the light rail stations.) VTA is adding more spokes to the linear system, but without even more interconnecting lines, travel times between arbitrary locations will still limit it from being a popular transportation choice.

These problems with the utility of the light rail system and other demographic factors contribute to ridership numbers that are below original projections. In 1987, new forecasts were revised downward just as the system was about to be put into operation, predicting 18,000 to 20,000 weekday riders by 2000. During the peak of the recent economic boom from the spring of 2000 through the summer of 2001, ridership on the Tasman West line rose above the minimum projection levels but has fallen below again. Annual ridership numbers for the various transit systems operated or supported by VTA are shown in Figures 1 and 2, the second on a logarithmic scale to reveal the trends in the less-frequented transportation modes. Although the 30% falloff in bus ridership from the peak to this year is striking, the reduction in light rail ridership is more: 43%. Thus, even with the addition of the first section of the Tasman East line, the daily ridership of 14,500 (slightly higher on weekdays) is now below the 1987 minimum estimate and is projected to increase only by 1000 next year after the Capitol Corridor is added.

The lower than projected ridership means that the County's capital expenditures are not being recovered as planned either by fares or by improvements in highway congestion. As gasoline costs continue to rise and the County's population grows, an effective and efficient network of transit options would have been an economic asset to the region.

The proposed BART link has much more severe problems. It again is a linear line, but costs at least twice as much as light rail to construct and operate (see Appendix A and Figure 3). Although it is separated in grade from roads and can travel considerably faster than light rail, stations need to be further apart. That means that local bus feeder routes must be longer and that more parking facilities must be constructed than for light rail. And although faster, it will still be quicker to travel from downtown San Jose to San Francisco via the existing Caltrains line, especially with the new express routes cutting the time to about one hour.

In fact if BART is built, VTA projections show no improvement for travel times by any means from Pleasanton to San Jose. Projections do show a 10-minute improvement in public transit time from Milpitas to downtown San Jose (but still 10 minutes slower than driving alone). The greatest relative benefit appears to go to those who travel from Union City to Downtown San Jose, with a BART time estimated at 43 minutes, a carpool lane time at 45 minutes, and a drive-alone time at 53 minutes. (The reduced traffic due to the completion of BART is projected to improve those driving times by only 2 minutes each).

Total capital costs for constructing BART to San Jose beyond that already spent are estimated to be \$4,112 million (in 2003 dollars), assuming no changes to more costly design options. Initial start-up costs could be reduced by \$217 to \$350 million based on delaying the construction of a few stations. These costs do not include the costs of interest on the bonds to begin construction earlier than 2025 and do not assume any large cost overruns such as experienced on other BART projects around San Francisco Bay. The VTA has refused to consider any plan that would greatly reduce the construction costs, such as building BART only to Milpitas or Berryessa and connecting to a light rail grid for travel to other points in the County, including to downtown San Jose.

BART would rely on three key funding sources: \$2,629 million from VTA's Measure A local sales tax and other capital funding sources, \$649 million from the State of California's Traffic Congestion Relief Program, and \$834 million from Federal Section 5309 New Starts funds. None of these funding sources are secure. The state money is on hold and may or may not be restored if and when the state solves its own financial problems. The federal money is on hold because VTA has not supplied a viable financial plan for constructing and operating BART and therefore has been rated as "not recommended." And the amount of local money, a projected pot of funds, has shrunk over the past few years. These monies are needed as well for other projects promised on the Measure A ballot, including a transit link to the airport, which are not fully funded (Appendix B). Some of the money has already been siphoned off to by borrowing money now (\$498 million including interest), before Measure A revenues start, to pay for current obligations.

The 2004 draft environmental impact statement (EIS), which needed to be approved by the Federal Transit Agency (FTA), contains the following:

"Funding to operate and maintain BART would come from a mix of sources such as a county 1/2-cent sales tax, State Transportation Development Act (TDA), State Transit Assistance (STA) Program, passenger fare revenues, Federal Transit Act, Section 5307, and other sources (e.g., advertising, rentals, interest earnings, etc.). Potential new funding sources could include 1/4 to 1/2-cent sales tax, broadening the sales tax base, joint development, benefit assessment districts, Proposition 42, regional gas tax, and Bay Area bridge tolls.

"The financial plan indicates that this extension will need additional revenue in order to be constructed and operated in the time frame described. The Federal Transit Administration is approving circulation of this Draft EIS, with a preliminary financial plan, in recognition of the project's inclusion in the current Metropolitan Transportation Plan financially constrained regional plan and as support for the public dialogue on the project and its financial plan. The financial plan in the Draft EIS is based on financial projections and governmental actions that are not finalized. As part of the New Starts process, a feasible financial plan will need to be prepared to advance the project into Final Design. In addition, the proposed project is dependent on the completion of the BART Warm Springs Extension Project that does not yet have a final financial plan in place."

In late 2003, the FTA downgraded the BART proposal for federal money from “not rated” to “not recommended” due to holes in the VTA financial plans. The VTA can readily understand the FTA’s position considering VTA’s own advice to the Caltrains board:

“The shift to the...scenario should not be made, however, until the...member agencies have reached consensus on a funding agreement to address the \$220 million...shortfall in the...capital program and have identified and committed funds required for the operating subsidy required to operate an increased level of train service. This shortfall would be significantly increased if the projected \$557.6 million in unidentified “other” funds is not secured for the...capital program.

“Caltrains financial strategy should be based on achieving financial stability and should be guided by service demand and financial capacity...rather than relying on undefined and uncertain innovative financing techniques.”

Instead—as outlined in a presentation entitled “Preliminary Engineering – Why Now?” -- VTA continues to spend money on BART for the following reasons:

- Keep faith with voters and those stakeholders who continually support the project and VTA’s overall transportation efforts.
- Illustrates strong and continuing local financial commitment to project.
- If VTA delays now, why would our delegation [congressional and state] keep [the] project as [a] high priority?

A further justification presented, that work should be done now since it would be more expensive later, is not valid based on the time value of money, but the Board did not challenge it.

At times, VTA has attempted to provide a more balanced financial plan by assuming large year-to-year increases in sales tax revenue which then need to be scaled back or extended into the future. Their current projections for sales tax increases exceed those used in plans by the County and the City of San Jose. Various transit advocacy groups have maintained for years that the financials for BART were misleading and incomplete. In fact, there is circumstantial evidence that financial estimates were presented optimistically before key decisions and negative information delayed until after, including the vote approving Measure A.

The incremental costs to operate and maintain BART are estimated at \$65 million, but VTA hopes to recover 71% of that from fares if their ridership projections are realistic. However, in addition, VTA has agreed that it will pay each year to help maintain the BART system as a whole, starting at \$48 million and increasing to \$75 million, which means that, as it affects the taxpayer, the projected fare-box recovery would only be about 35%.

VTA states that the overall purpose of transportation improvements along the proposed BART route is to:

- Improve public transit service in this severely congested corridor by providing increased transit capacity and faster, convenient access throughout the San

Francisco Bay Area Region, including southern Alameda County, central Contra Costa County, Tri-Valley, Central Valley, and Silicon Valley.

- Enhance regional connectivity through expanded, interconnected rapid transit services between BART in Fremont and light rail transit (LRT) and Caltrain in Silicon Valley.
- Accommodate future travel demand in the corridor by expanding modal options.
- Alleviate severe and ever-increasing traffic congestion on the I-880 and I-680 Freeways between Alameda County and Santa Clara County.
- Improve regional air quality by reducing auto emissions.
- Improve mobility options to employment, education, medical, and retail centers for corridor residents, in particular low-income, youth, elderly, disabled, and ethnic minority populations.
- Maximize transit usage and ridership.
- Support local economic and land use plans and goals.

The Grand Jury supports all these goals but has not been convinced by VTA that the plan for the construction of BART is the most efficient and timely way to accomplish them. In fact, implementing the plan may be to the detriment of an integrated transportation network throughout the region. As detailed in Appendix B, VTA's current plan chooses to allocate Measure A sales tax revenue to fully fund BART but to provide only 57% of the funds needed for all other Measure A projects. If BART were given a lower priority, all other Measure A projects could be completed sooner, building a more robust transportation system in the County. (Indeed, VTA does not need voter approval to delay or suspend BART. VTA would then have the capital funds necessary to do many of the items on the regional wish list, as shown in the lower portion of Appendix B and in Figures 4 and 5.)

A scoring system to rank the priority of the various Measure A transit projects was established by prior Board action, but at least two Board members stated that they are uncomfortable scoring system results. A Board member had to ask more than once for VTA staff to supply the detailed numbers that produced the summary scores. Citizen comments at Board meetings have questioned the score that BART gets for financial viability (higher than all but three other Measure A projects) considering only the acknowledged problems.

There are other reasons to consider suspending spending on BART if the project cannot be completed for at least 10 (or more likely 20) years. Commuter rail technology is already cheaper than BART and may be better integrated into a flexible network. High-speed rail from Los Angeles may be constructed along the same corridor, connecting to the existing BART system somewhere on the line to Oakland, as well as making the trip up the Peninsula even faster than Caltrains. Earthquake and security concerns may make vulnerable systems such as BART less desirable than a flexible transit network. Spending more money on BART now serves to make a change in plans progressively more difficult and wasteful.

Anecdotal community support for BART is still high, especially in areas to be directly served by BART. Advocates for BART, however, have not surveyed residents about BART after providing information that BART would require at least two-thirds of the transit construction dollars over the next 30 years, even then would not be completed for more than twenty years, would operate at a deficit which would siphon funds from other transit programs, would be slower than

commuter rail to get to San Francisco and maybe Oakland, would cut commute times on I-880 by at most 2 minutes, that federal and state funding is certainly not assured, and that VTA needs an additional ½ cent sales tax increase to make this plan possible. And this is the situation if there are no unexpected problems. Editorial boards of community newspapers from Milpitas to Palo Alto to San Jose that used to be proponents no longer support the present BART plan. The VTA has been receiving letters from some city councils recommending reevaluation as well.

Conclusions

The VTA Board has not reacted to the present budget problems with diligence, has depleted the financial reserves in the system, and has borrowed against future tax revenues rather than resolving an ongoing operational deficit. The Board has allowed personnel costs to expand more rapidly than revenues.

The Board is too large, too transient, and too occupied with other duties to provide direction and effective oversight to the staff in running VTA. The Board should be reconstituted as a smaller, dedicated board by enabling legislation, perhaps along the model of the SCVWD, with members appointed to serve that role as their primary public service. Recommendations to the County's state legislators for enabling legislation might come from any of several sources such as the VTA Board itself or any of the cities or towns in the County. However, the County Board of Supervisors was involved in the original enabling legislation and may be best suited to represent the County as a whole and the interests of transportation for the entire region.

The Board needs to reevaluate its strategic plan for how the various parts of its system will serve the County, how funds are to be split between various capital projects by year, and what operating subsidies are required now and in the future.

The Grand Jury supports public transit and understands the urgent need for improving transit in the I-880/I-680 Corridor. The Grand Jury would have been delighted to have received a logical and financially compelling justification for putting BART at the head of its priority and funding list from VTA. It did not. The VTA needs to discuss what the County transportation system sacrifices in order to gain the benefits of BART. Voters need to be more demanding of information before voting for financially unrealistic promises.

Finding I

The VTA Board, as currently constituted of appointed members from elected bodies in the County, does not provide direct voter representation on transportation issues, makes accountability remote, provides for conflicts in responsibilities, and overextends Board members performing both their elected and appointed responsibilities.

Recommendation I

The current structure of the VTA Board should be made more responsive to the needs and financial management of the regional transportation system as a whole by providing for, via enabling legislation, members dedicated to transportation that are either directly elected, appointed as their main public service responsibility, or some combination of the two. The enabling legislation should be sponsored by one or more of the major constituent agencies in the VTA, such as the County Board of Supervisors.

Finding II

The VTA Board as currently constituted is too large and its members too transient to efficiently provide management oversight to VTA. As a result, the VTA Board has not reacted to the present budget problems with diligence, has depleted the financial reserves in the system, and has borrowed against future tax revenues rather than resolving an ongoing operational deficit.

Recommendation II

The current size of the VTA Board should be reduced, via enabling legislation, to a smaller Board of 5 to 7 members that would be more involved in and accountable for the financial and operational management of VTA. The enabling legislation should be sponsored by one or more of the major constituent agencies in the VTA, such as the County Board of Supervisors.

Finding III

The VTA Board has proceeded with a transit capital improvement plan that cannot accomplish all that was promised in Measure A.

Recommendation III

The VTA Board should delay expenditures for BART and provide more complete funding for other transit options. If VTA wants authorization of this change in plans by the voters, this should be done after a clear explanation to the public of the relative costs of the various transit options, and before a request for an additional ½ cent sales tax increase.

PASSED and **ADOPTED** by the Santa Clara County Civil Grand Jury on this 27th day of May 2004.

Richard H. Woodward
Foreperson

References

Documents

Bay Area Rapid Transit website: <http://www.bart.gov/about/bod/bodmembers.asp>.

Board of Directors Meeting and Workshop Meeting Minutes, 2003 and 2004.

Don Gage, Chair, Board of Directors, VTA, letter to the Peninsula Corridor Joint Powers Board, February 11, 2004.

Greg Perry, VTA Policy Advisory Committee, "VTA Costs Are Out of Control," San Jose Mercury News, January 28, 2004.

"LRT Ridership Projections," Transportation Agency Transmittal Memorandum, June 17, 1987.

Measure A ½ Cent Transit Sales Tax, Official Ballot for the November 7, 2000, County General Election.

Peter Cipolla, VTA General Manager, VTA Memorandum entitled "Opinion/Editorial article regarding VTA in January 28, 2004 San Jose Mercury News," January 29, 2004.

Silicon Valley Rapid Transit Corridor – BART Extension to Milpitas, San Jose, and Santa Clara Draft Environmental Impact Statement/Draft Environmental Impact Report/Draft Section 4(f) Evaluation [signed by VTA (1/27/04) and the Federal Transit Administration (3/2/04)].

"Transportation Injustice – Why BART-to-San Jose cost overruns will devastate bus and rail service," Transportation and Land Use Coalition, March 6, 2003, <http://transcoalition.org/>.

Interviews

County Supervisor, September 11, 2003.

County Supervisor, October 10, 2003.

County Supervisor, November 6, 2003.

County Supervisor, May 20, 2004.

Executive Director, Mineta Transportation Institute, November 6, 2003.

Executive Director, Transportation and Land Use Coalition, Oakland, CA, January 20, 2004, and May 13, 2004.

Interviews - Continued

Research Director, Mineta Transportation Institute, October 1, 2003.

San Jose City Council Member, December 12, 2003.

San Jose City Council Member, December 18, 2003.

VTA CFO, September 16, 2003.

Meetings Attended

VTA Board and committee meetings.

VTA Chief of Staff, Chief Operating Officer, Deputy Director of Service and Operations Planning General Counsel, Transportation Policy and Program Manager, Board Secretary, Controller, Principal Transportation Planner Congestion Management Program, Director Marketing and Customer Service, BART Deputy Project Manager, April 12, 2004.

Appendix A

Metrics for Four Options for Increasing Capacity in the I-880/I-680 Corridor

	Daily Riders		Cost per New Rider		Capital Cost (\$M)		Oper. Cost/Yr (\$M)	
	MTC	VTA	MTC	VTA	MTC	VTA	MTC	VTA
Rapid Bus Service to Fremont, Etc.	5,000	6,800	\$10	\$30	\$20	\$379	\$12	\$28
Light Rail to meet BART at Warm Springs	8,500	37,661	\$22	\$15	\$500	\$1,514	\$14	\$42
Expanded Commuter Rail	4,600	24,354	\$35	\$23	\$470	\$1,521	\$10	\$38
BART to San Jose	11,500	39,300	\$100	\$33	\$4,053	\$4,112	\$18	\$65

Ridership and cost figures for adding transit capacity to the I-880/I-680 Corridor are from the MTC as referenced in a TALC document, and were updated by VTA to provide more equivalent scenarios. The numbers are very dependent on the assumptions used and can be skewed by differences in details and biases in the comparisons. For instance, a large portion of the difference in the ‘Cost per New Rider’ for the ‘Rapid Bus Service’ is the inclusion in the VTA model of the construction of dedicated highway fly-overs for buses.

Appendix B

VTP2030 Transit Investment Plan

[amounts in millions of dollars, after loans and operating subsidies]

Federal &

Measure A Funds Allocation	Total Cost	State Funds (on hold)	Measure A Funding	Unfunded Cost	% Funded
BART to San Jose & Santa Clara	\$4,112	\$1,590	\$2,453	\$69	98%
Downtown East Valley	\$550		\$550	\$0	100%
Bus Rapid Transit	\$50		\$33	\$17	66%
Caltrain Service Upgrades	\$171		\$155	\$16	91%
New Rail Corridors Study	\$1		\$1	\$0	100%
New Rail Corridors (TBD Phase 1 funded)	\$1,220		\$188	\$1,032	15%
Airport People Mover Connector	\$400		\$222	\$178	56%
Caltrain - South County	\$100		\$61	\$39	61%
Rt. 17 Bus Service Improvements	\$2		\$2	\$0	100%
Dumbarton Rail	\$278		\$44	\$234	16%
Palo Alto Inter-modal Station	\$200		\$50	\$150	25%
ACE Upgrade	\$22		\$22	\$0	100%
Caltrain Electrification	\$650		\$233	\$417	36%
Totals	\$7,756	\$1,590	\$4,014	\$2,152	72%

Non-Measure A Funds Allocation	Total Cost	Regional Funding	Discretionary Funding	Unfunded Cost	% Funded
STIP funds allocated to BART above	\$0	=\$107-\$107	\$0	\$0	-
Zero Emission Buses	\$277		\$277	\$0	100%
Highway Projects	\$1,852		\$446	\$1,406	24%
Expressway Projects	\$416		\$150	\$266	36%
Local Streets	\$288		\$230	\$58	80%
Intelligent Systems	\$140		\$28	\$112	20%
Sound Walls	\$10		\$10	\$0	100%
Paving	\$510	\$202	\$100	\$208	59%
Bicycle	\$85		\$32	\$53	38%
Pedestrian	\$113	\$37	\$0	\$76	33%
Landscape	\$0		\$0	\$0	-
Totals	\$3,691	\$239	\$1,273	\$2,179	41%

Totals	Total Cost	Outside Funding	VTA Funding	Unfunded Cost	% Funded
ALL Funds	\$11,447	\$1,829	\$5,287	\$4,331	62%
BART	\$4,112	\$1,590	\$2,453	\$69	98%
All Except BART	\$7,335	\$239	\$2,834	\$4,262	42%
All Measure A Except BART	\$3,644	\$0	\$1,561	\$2,083	43%
Totals without funding BART	\$7,335	\$239	\$5,287	\$1,809	75%
Measure A without funding BART	\$3,644	\$0	\$4,014	(\$370)	110%

Figure 1

VTA Ridership History

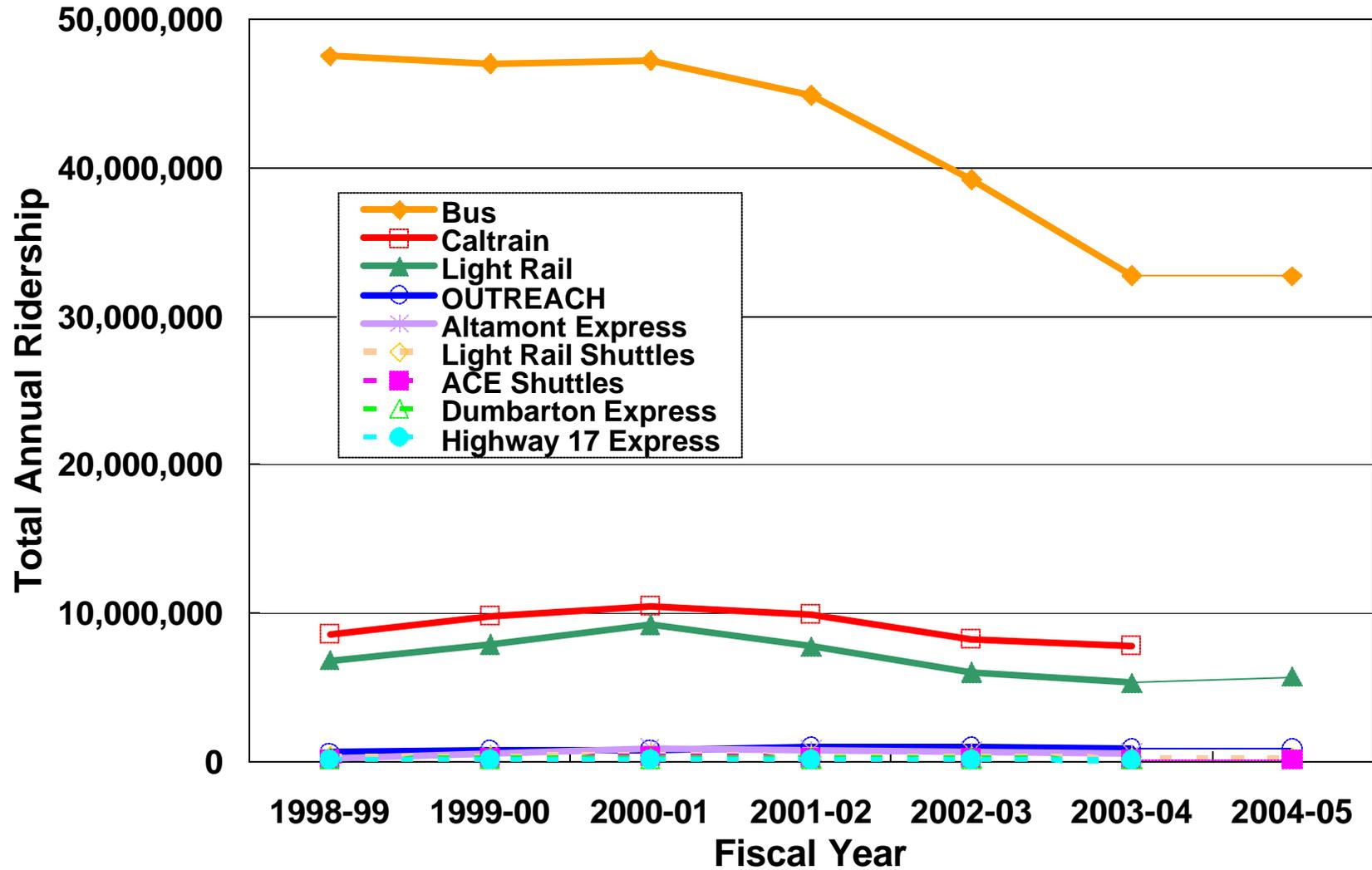


Figure 2

VTA Ridership History

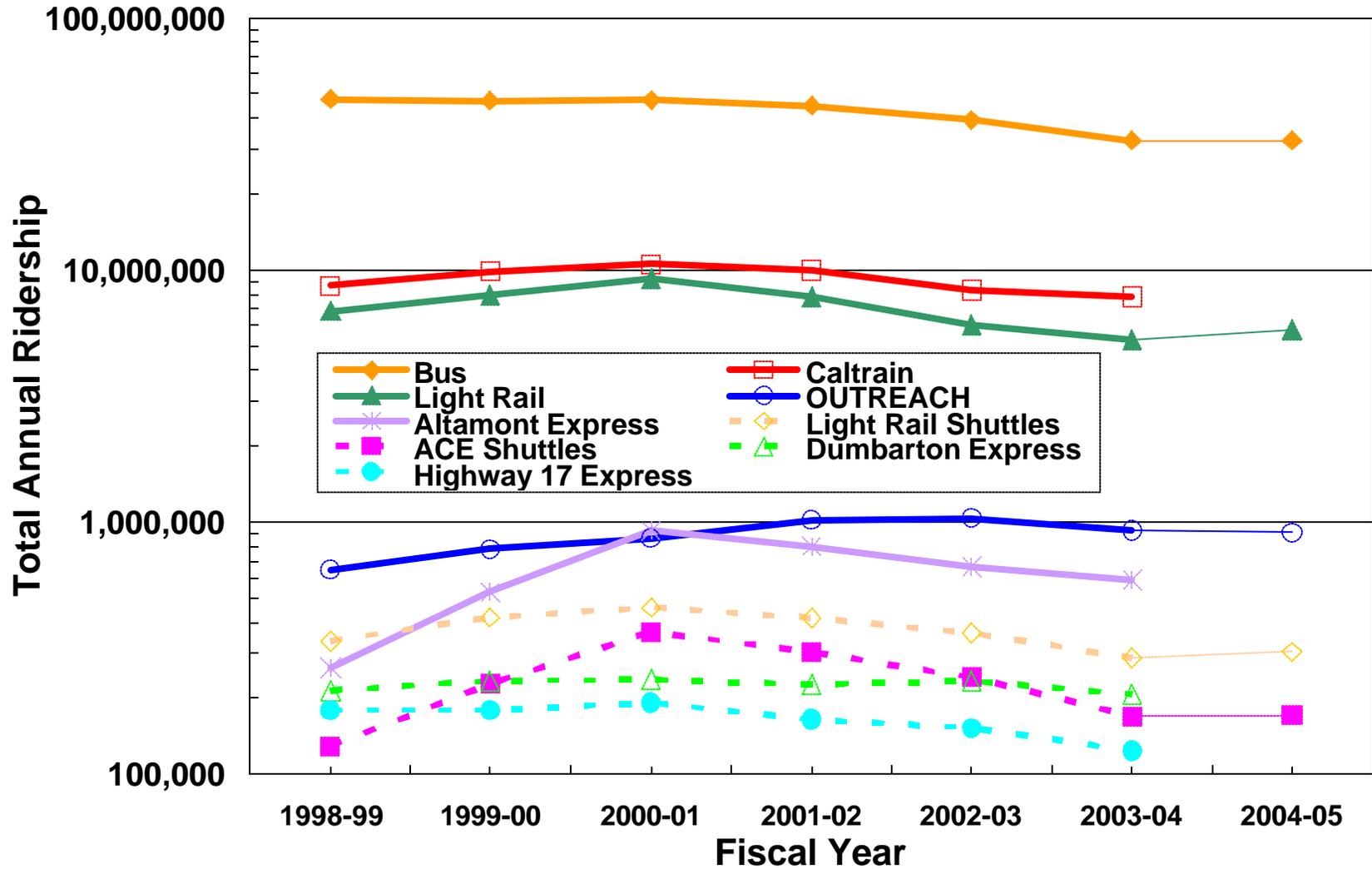


Figure 3

I-880/I-680 Corridor Mass Transit Options

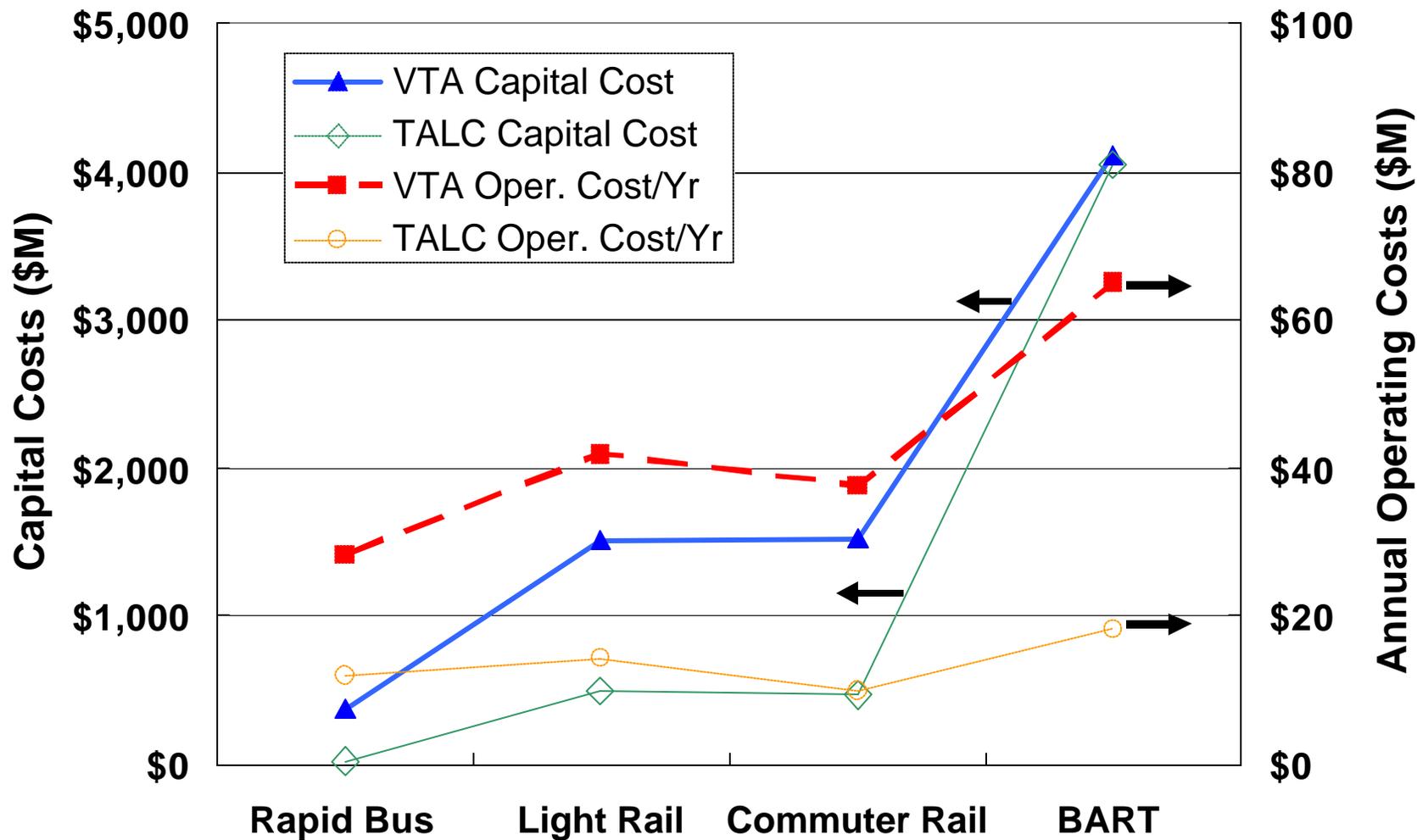


Figure 4

VTA 30 Year Funding Allocation

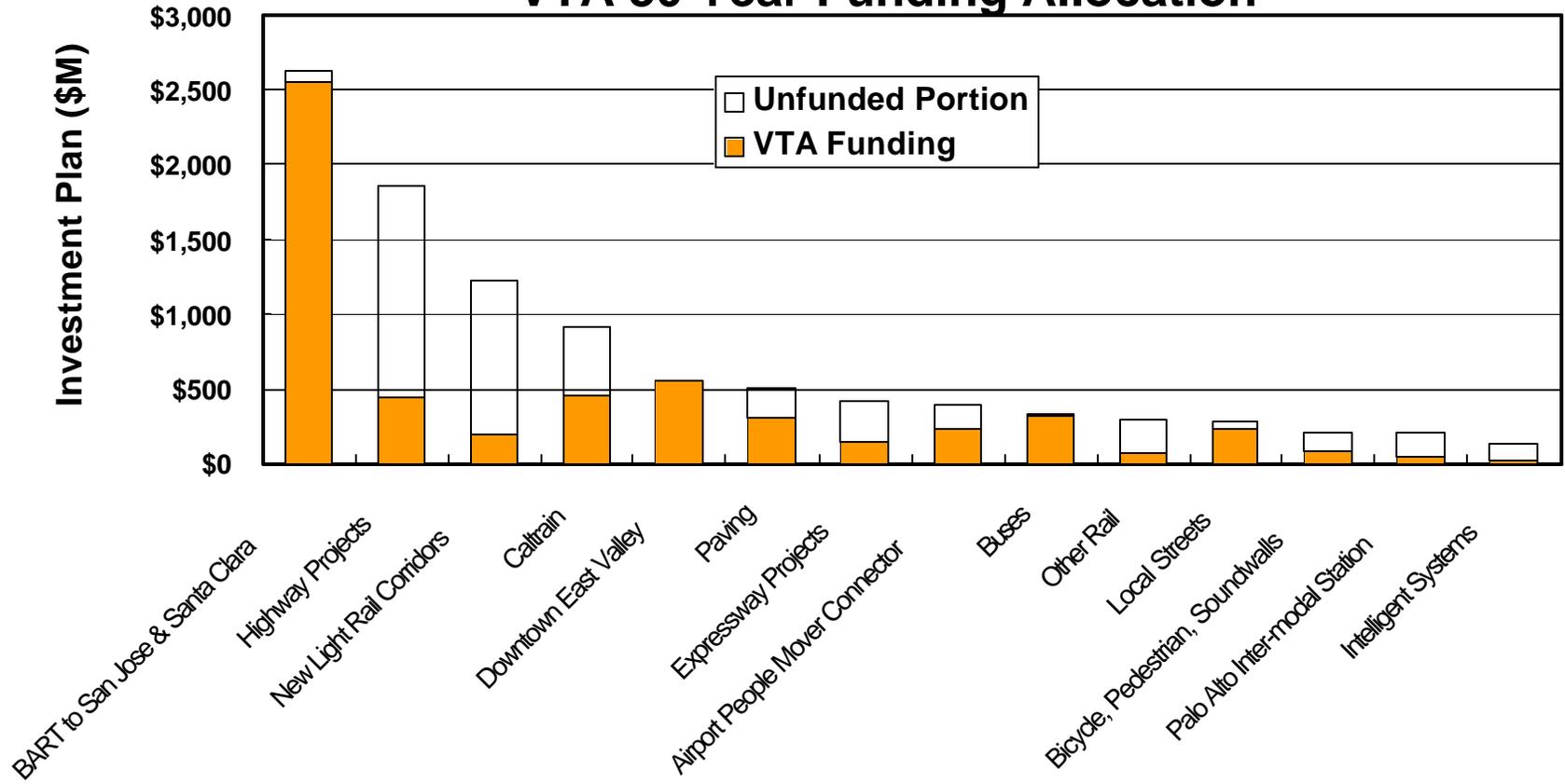


Figure 5

