



VENTURA COUNTY TRANSPORTATION COMMISSION

**AIRPORT LAND USE COMMISSION
SERVICE AUTHORITY FOR FREEWAY EMERGENCIES
CONSOLIDATED TRANSPORTATION SERVICE AGENCY
CONGESTION MANAGEMENT AGENCY**

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ADMINISTRATIVE AND FINANCE COMMITTEE AGENDA

**VENTURA COUNTY TRANSPORTATION COMMISSION
LOBBY CONFERENCE ROOM
950 COUNTY SQUARE DRIVE
VENTURA, CA 93003**

WEDNESDAY, MAY 23, 2018

2:00 PM

- 1. CALL TO ORDER**
- 2. PUBLIC COMMENTS**
- 3. RECLASSIFICATION OF POSITION FROM PROGRAM ANALYST TO PROGRAM
MANAGER – PROGRAMMING – PG. 3**
- 4. VCTC FISCAL YEAR 2018/19 BUDGET – PG. 9**
- 5. LEGISLATIVE ACTION: PARLIAMENTARY PROCEDURES – PG. 15**
- 6. ADJOURN**

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Item #3

May 23, 2018

MEMO TO: VCTC ADMINISTRATIVE COMMITTEE
FROM: DARREN M. KETTLE, EXECUTIVE DIRECTOR
**SUBJECT: RECLASSIFICATION OF POSITION FROM PROGRAM ANALYST TO
PROGRAM MANAGER - PROGRAMMING**

RECOMMENDATION:

- Reclassify a current allocation in the Programming Department from Program Analyst to Program Manager - Programming
- Amend the Salary Schedule to reflect the action

The Executive Director has the authority to request classification studies and recommend staffing modifications under VCTC's Personnel Policies and Procedures, Article 6 Classification and Compensation, 6.4 Reclassification that states:

6.4 Reclassification: As position duties and general qualifications change from time to time or the needs of the organization change and new duties are added or deleted, it may become necessary to conduct a classification study or job audit to determine the most appropriate classification for a position. The executive director may authorize studies of such a position or positions that shall determine the most appropriate classification based on the findings and recommendations of such a study. Reclassifications are not subject to employee recruitment and promotion procedures.

BACKGROUND:

The Programming Department's Program Analyst position was created in 2012 to assist the Programming Director with monitoring grants and programming paperwork. It is the only professional position in the department besides the Director and the Programming Department is the only VCTC department with this structure. Due to the proliferation of funding programs especially at the state level, there has been a significant increase of staff time needed to track funding programs and requirements. The Analyst is regularly asked to take the lead in following the requirements and status of those programs. With the workload increase, maintaining familiarity with all of the programs, including the ongoing federal programs, has required a significant focus for both the Director and the Analyst, with each position taking the lead with certain programs as designated by the Director.

New programs created since the Analyst position was approved include the Low-Carbon Transit Operations Program (LCTOP), the Active Transportation Program (ATP), the Trade Corridor Enhancement Program (TCEP), the Solutions for Congested Corridors Program, the Transit Capital and Intercity Rail Program (TCIRP), the SB 1 State of Good Repair Program, and the SB 1 Local Streets and Roads Program. The Analyst position wasn't originally envisioned to have such a degree of responsibility for these programs; the duties are consistent with a Manager level classification rather than an Analyst level, due to the degree of experience and independent judgment required on a constant basis.

The duties and responsibilities of the position have changed significantly and will remain at their current level. The level of responsibility and scope of duties are compatible with VCTC's other Program Manager positions and regularly exceed VCTC's Program Analyst classification. Reclassification will bring the position into proper alignment internally and externally when the position becomes vacant in the future.

Salary Range:

Level	Title	Annual Salary Range
Planner/Analyst	Program Analyst	\$50,100 - \$86,463
Manager	Program Manager - Programming	\$70,132 - \$107,191

The reclassification will be effective with the new fiscal year. As the current and proposed positions' salary ranges overlap there is minimal additional cost to reallocate the position. The Analyst classification is a non-exempt position under the FLSA and the Manager classification is exempt. VCTC's exempt positions are given 40 hours of annual Administrative leave time to offset the uncompensated overtime the positions are required to work.

The staffing proposal provides for flexible staffing which allows the Executive Director to make an appointment at any point of the specific position's salary range. A flexibly staffed classification pattern allows qualifying individuals to promote upwards when the required level of knowledge, skills, and abilities has been reached. By filling at the lower classification level or a lower step of the salary range, VCTC can control personnel costs and still provide employees upward career mobility and staff development.

ACTION/DISCUSSION:

It is requested that the Commission reclassify the Program Analyst position in the Programming Department to a Program Manager – Programming position.

Attachment:
Program Manager – Programming job description

Ventura County Transportation Commission
Job Description

Program Manager – Programming

Definition

Under general direction, performs professional level transportation planning, programming and funding of transportation projects in the region; oversees various transportation programs, such as the Federal Transportation Improvement Program, Jobs Access Reverse Commute, Advanced Mobility of Seniors and Individuals with Disabilities, Active Transportation, and Low-Carbon Transit Operations programs. The Program Manager works closely with other departments and Commission members; acts as a liaison with state and federal funding agencies; and does related work as required.

Distinguishing Characteristics

This single-position management-level classification reporting to a department head, and has primary responsibility to ensure the smooth functioning of the transportation funding programs designated by the Director. This position exercises independent judgment and discretion in formulating, managing, and overseeing the programs. It is distinguished from the next higher level position of department head, in that the latter has greater responsibility for a wider variety of programs and functions.

Typical and Important Duties

Duties may include, but are not limited to, the following:

- Maintains current information on state and federal funding programs including guidelines and regulations.
- Provides recommendations to the VCTC executive management and to Ventura County transportation fund recipients, regarding transportation project priorities and funding strategies.
- Monitors project statuses to advise local jurisdictions and other transportation grant recipients regarding compliance with federal and state grant requirements particularly reporting requirements and delivery deadlines.
- Supervises professional staff and provides oversight of consultant contracts and ensures adherence to scope, schedule, and budget. Coordinates planning activities with internal departments and external agencies.
- Maintains databases and spreadsheets to track project funding information and statuses; researches, compiles, analyzes and summarizes information, prepares information.
- Reviews federal and state funding guidelines under development and provides comments on behalf of VCTC as appropriate.
- Works with project sponsoring agencies and funding agencies to resolve issues and facilitate project approval.
- Represents VCTC to the professional community, including making oral and graphic presentations or preparing materials for presentation to the Commission, committees, staff, and interested groups related to transportation planning and modeling issues. Oversees the preparation of Commission reports by professional staff.
- Supervises the work of professional staff to ensure adherence to project scope, budget, and schedule requirements. Provides periodic status reports and resolves issues in a timely manner.
- Collaborates with other managers and staff members in order to formulate and implement policies, procedures, goals, and objectives.
- Plans, directs, and reviews the work plan for the Department, meets with staff to identify and resolve problems; assigns work activities, projects, and programs, monitors work flow; reviews and evaluates work products, methods, and procedures.
- Participates in the development and administration of the department/division annual budget; scopes of work, grant proposals, and grants.
- Provides responsible staff assistance to the department director; prepares and presents staff reports and other necessary correspondence.
- Represents VCTC in statewide and regional transportation programming policy meetings.

- Plans, coordinates and facilitates a variety of policy and planning committee and public participation meetings to present information, to promote programs and services, to stimulate discussion and/or facilitate consensus.
- Plans, schedules and prioritizes programming activities; communicates status of projects to executive management and works cooperatively to schedule activities according to established and specific operational priorities.
- Develops and administers program budget; oversees expenditures.
- Represents the Agency in meetings with other governmental agencies; makes presentations before commissions, boards, professional organizations, business organizations, community organizations, and the general public.
- Performs related duties and responsibilities as assigned.

Experience and Training

Any combination of experience and training that would provide the required knowledge, skills, and abilities would be qualifying. A typical way to obtain the knowledge, skills, and abilities would be:

Experience: Five years of progressively more responsible professional-level experience in urban, regional, transit or transportation planning or engineering, including at least two years managing transportation planning or funding programs.

Training: A bachelor's degree from an accredited college with major coursework in regional, urban or transportation planning, community development, public policy, political science or a related field; and five years of public agency experience in urban, regional, transit or transportation planning.

Job-Related Qualifications

Knowledge of:

- Organizational and management practices as applied to the analysis and evaluation of contracts, policies, and operational needs, project management principles and concepts.
- Principles and practices of budget development and administration.
- Pertinent Federal, State, and local laws, codes, and regulations, particularly related to Federal and State Departments of Transportation.
- Local state and federal transportation funding mechanisms.
- Effective public speaking and presentation techniques.
- Applicable local, state, and federal laws and regulations, particularly fund program guidelines.
- Governmental procurement and contracts management requirements.
- Standard administrative practices and procedures, including the use of modern office procedures, standard computer software systems and equipment.
- Business letter writing and the standard format for reports and correspondence; report preparation and record keeping techniques.
- Organization and function of local, state, and federal public agencies as they relate to transportation issues.
- Accounting principles and practices.

Ability to:

- Provide administrative, professional leadership, and direction for the division.
- Research, analyze, and evaluate new service delivery methods, procedures, and techniques.
- Perform complex program management work with significant initiative and minimum supervision.
- Assign, direct, coordinate and evaluate the work of professional and technical staff.
- Analyze difficult problems, identify alternative solutions, project consequences of proposed actions, develop a positive course of action and implement recommendations in support of goals.
- Demonstrate sound professional judgment, reason logically, and think creatively.
- Research and interpret applicable federal and state rules and regulations as well as Agency policies. Interpret and apply the policies, procedures, laws, and codes, and regulations pertaining to programs and functions.

- Communicate effectively in writing, orally, and with others to assimilate, understand, and convey information, in a manner consistent with job functions.
- Prepare and present clear, effective, and accurate reports, correspondence, policies, procedures, and other oral and written materials.
- Make effective public presentations.
- Establish and maintain effective relationships with those contacted in the course of the work.
- Represent the Agency effectively in contacts with elected and other officials, representatives of other agencies, and the public, occasionally in situations where relations may be difficult or strained.
- Organize own work, set priorities, meet critical deadlines, and follow-up on assignments with a minimum of direction.
- Work in a safe manner modeling correct Agency safety practices and procedures.
- Maintain confidentiality regarding sensitive information.

Skill in:

- Using a personal computer and associated applications.

Licenses and Certificates

All licenses and certificates must be maintained as a condition of employment.

- A valid appropriate California driver's license may be required.
- Maintain a satisfactory driving record.

Special Requirements

Essential duties require the following physical skills, abilities, and work environment:

Physical Skills: Able to use standard office equipment, including a computer and other electronic equipment; arm, hand, finger, wrist, leg, or foot motion repetitively; firmly or lightly grasp items as needed; sit for prolonged periods; stand, walk, kneel, and maintain sustained posture in a seated or standing position for prolonged periods of time; vision to read printed materials, a computer screen, and to work in a typical office environment; hearing and speech to communicate in person, over the telephone, and to make public presentations; lift and carry 30 pound boxes, files, and materials.

Ability to: Travel to different sites and locations; drive safely to different sites and locations; occasionally works protracted and irregular hours and evening meetings or work unusual hours for meeting attendance or participation in specific projects or programs.

Work Environment: Mobility to work in a typical office setting.

Approved:

Revision Dates:

Former Titles:

Status: Exempt/Mid-management

ADA Review:

DOT: No

Physical: No

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Item #4

May 23, 2018

MEMO TO: VENTURA COUNTY TRANSPORTATION COMMISSION

FROM: SALLY DEGEORGE, FINANCE DIRECTOR

SUBJECT: FISCAL YEAR 2018/2019 BUDGET – PUBLIC HEARING

RECOMMENDATION:

- Conduct Public Hearing to receive testimony on the Fiscal Year 2018/2019 Budget.
- Approve a two and one-half percent cost-of-living adjustment effective July 1, 2018.
- Adopt the Fiscal Year 2018/2019 salary schedule (Attachment 1 of this item and Attachment C in the Fiscal Year 2018/2019 Budget) effective July 1, 2017.
- Adopt, by resolution 2018-07, the proposed Fiscal Year 2018/2019 Budget.

DISCUSSION:

The proposed Fiscal Year 2018/2019 Budget is divided into two main sections: the Main Budget and the Program Task Budgets. The Main Budget contains the program overviews and projections and is intended to provide a general understanding of VCTC's budgeted activities and programs for the coming fiscal year. The Program Task Budgets contain task level detail of the projects including objectives and accomplishments. This task driven budget is designed to provide fiscal transparency and clarity of VCTC's programs and services to the region.

The Budget is in many ways a "continuation" budget for the majority of VCTC programs and projects. However, after reviewing VCTC's accounting and financial reporting including its measurement focus and basis of accounting and researching industry practice, Governmental Accounting Standards Boards (GASB) 34, and other related pronouncements, the budget now includes an additional special revenue fund. VCTC management determined that VCTC should present the activities of the Santa Paula Branch Line as a special revenue fund based on the research and in an effort to provide more transparency of the activities on the branch line. Another change to the Budget document is a new section providing comparative information by revenue fund.

At \$74,708,483, the Fiscal Year 2018/2019 Budget is \$6,191,016 or 9% higher than Fiscal Year 2017/2018. This budget, while balanced, invests little in the future due to funding restrictions. The proposed budget contains six programs consisting of the Transit and Transportation program at \$23,353,000, the Highway program at \$5,374,200, the Rail program at \$10,181,127, the Commuter Assistance program at \$539,300, the Planning and Programming program at \$34,163,956 and the General Government program at \$1,096,900.

Personnel costs for Fiscal Year 2018/2019 are budgeted at \$3,066,900 or 4.1% of the budget, which is an increase of \$500 from the previous fiscal year. The budget also contains a position level change from program analyst to manager of programming. This budget currently contains one vacant position that is fully burdened until the actual costs are known. The wage cost of \$2,081,700 includes approximately a \$28,500 pool for merit increases for employees not at the top of their range and \$49,000 for a cost-of-living-adjustment. Benefits account for 1.3% of the Draft Budget. Further information about personnel can be found within the Personnel Section of the budget.

Below are some of the additional changes to the Final Fiscal Year 2018/2019 Budget as compared to the Draft Fiscal 2018/2019 Budget. Additional details of these major changes, as well as smaller changes to all budgets, can be found within the individual budget tasks. The major changes are:

- All budgets contain slight adjustments for personnel and indirect costs as information was finalized.
- The Transit Grant Administration budget increased \$3.7 million with the inclusion of new pass-through projects.
- The VCTC Intercity budget decreased \$0.5 million as the pilot college pass program was moved to the Regional Transit budget.
- The Metrolink budget increased just under \$0.2 million for operational and capital rehabilitation adjustments as additional information was provided by SCRRA.
- The Regional Transit budget increased \$0.5 million for the pilot college pass program that will provide free rides to college students who attend one of the three Community Colleges, Cal State University Channel Islands or Cal Lutheran.
- The TDA Administration budget increased by \$0.4 million for additional pass-through funding to local agencies.

The major changes that were presented with the Draft Budget from the previous fiscal year were:

- The Fare Collection/APC Systems and Transit Stop Enhancement budgets were combined into a new Regional Transit Technology budget. This combined budget decreased by \$2,776,450 as most of the CAD/AVL equipment needs were purchased in Fiscal Year 2017/2018.
- The Transit Grant Administration budget decreased by \$3,125,200 as pass-through projects were completed, but it is expected to increase with the final budget when new pass-through funds to local agencies are included.
- The Valley Express budget decreased by \$184,100 due to changes in service and the completion of the purchase of the farebox equipment
- The VCTC Intercity Service budget increased by \$3,716,000 due to the anticipated purchase of 3 buses and increased operator costs
- The Callbox System budget decreased by \$228,600 for the partial completion of the ADA upgrades and lower contract costs.
- The Highway Project Management budget increased by \$3,990,800 as the U.S. 101 PAED study begins.
- The Metrolink Commuter Rail budget increased by \$3,985,651 largely due to the capital rehabilitation projects funded by SB1/State of Good Repair funds and increased operating costs.
- The Santa Paula Branch Line budget decreased by \$271,752 largely due to a reduction in legal, staffing and unanticipated repairs.
- The Regional Transit Information budget increased by \$17,400 for additional costs associated with staffing needs.
- The Rideshare Program budget decreased by \$169,000 due to lower staff costs associated with outsourcing some of the ridesharing tasks.

- The Regional Transit Planning budget decreased by \$43,800 largely due to the completion of consultant studies.
- The Regional Transportation Planning budget increased by \$39,200 for new studies and an increase in staffing.
- The Transportation Development Act budget increased \$612,550 due to increased pass-through funds to local agencies.
- The Community Outreach and Marketing budget increased by \$64,500 due to additional events and increased consultant and staffing costs.
- The Management and Administration budget increased by \$27,400 for staffing costs as well as additional hardware/software needs.
- The VCTC Office Building budget was removed from the budget as the Camarillo building is no longer being pursued.

The estimated ending Fiscal Year 2018/2019 fund balance (after contingency set aside and adjustments for capital and accruals) is expected to be \$13.4 million. The Commission's available General Fund balance is estimated at \$44,764. The other funds are restricted and the estimated fund balance are \$57,613 for the Local Transportation Fund, \$10.3 million for the State Transit Assistance fund, \$3 million for the Service Authority for Freeway Emergencies fund and a zero balance for the Santa Paula Branch Line, VCTC Intercity Services and Valley Express funds.

As provided with the Draft Budget, It is important to note a few reasons the STA fund balance is at \$10.3 million. First, the STA fund balance is used for on-going cash flow needs when State and Federal grants are delayed. Also, the STA fund balance includes the \$3.2 million for the Camarillo office building that was not used and, thus, remains in the STA fund balance. Finally, \$1.5 million of the new STA/SB 1 funds are placed in reserve pending the unknown outcome of a potential ballot measure to repeal SB 1. SB 1 allows VCTC to continue its current level of bus and Metrolink operations; however, if SB 1 is repealed, the reserve will allow VCTC the ability to smoothly transition to a lower level of service because of lack of funding.

As required by the VCTC Administrative Code, the proposed Draft Fiscal Year 2018/2019 budget was submitted to the Finance Committee for review on March 28, 2018 in advance of being presented to the full Commission which included a public hearing at the meeting on April 6, 2018.

The proposed Fiscal Year 2018/2019 Budget is a balanced budget and is a separate attachment to the agenda. After the Fiscal Year 2018/2019 Budget is approved by the Commission, the budget will be printed and made available to the public in addition to being available on the VCTC website at www.goventura.org.

As required by the VCTC Administrative Code, the proposed Final Fiscal Year 2018/2019 budget is being submitted to the Finance Committee (Chair Parks, Vice-Chair Minjares, and Past-Chair MacDonald) for review. At the May 23, 2018 Finance Committee meeting, the proposed Budget will be discussed and a recommendation from the Finance Committee will be needed.

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**RESOLUTION NO. 2018-07
A RESOLUTION OF THE
VENTURA COUNTY TRANSPORTATION COMMISSION,
THE VENTURA COUNTY AIRPORT LAND USE COMMISSION,
VENTURA COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES
VENTURA COUNTY CONSOLIDATED TRANSPORTATION SERVICE AGENCY
VENTURA COUNTY CONGESTION MANAGEMENT AGENCY AND THE
ADOPTING THE FISCAL YEAR 2018/2019 BUDGET**

The VENTURA COUNTY TRANSPORTATION COMMISSION, the VENTURA COUNTY AIRPORT LAND USE COMMISSION, the VENTURA COUNTY SERVICE AUTHORITY FOR FREEWAY EMERGENCIES, VENTURA COUNTY CONSOLIDATED TRANSPORTATION SERVICE AGENCY and the VENTURA INTERCITY SERVICE TRANSIT AUTHORITY, (hereinafter collectively referred to as "VCTC" or the "Commission") hereby finds and determines:

WHEREAS, the VCTC budget for Fiscal Year 2018/2019 has been presented to the Commission who has conferred with the Executive Director and appropriate staff in public meetings, and has deliberated and considered the proposed budget; and

WHEREAS, the budget was made available to the public and a public hearing was held by VCTC prior to this adoption as required by section 12, subsection f, of the VCTC Administrative Code;

NOW, THEREFORE, the Commission hereby resolves as follows:

Section 1. The Commission hereby approves the Fiscal Year 2018/2019 Budget and authorizes expenditures of \$74,708,483. Included in the budget adoption is the approval for all identified estimated revenues, expenditures and transfers between funds as well as the schedule of salary ranges for the fiscal year.

Section 2. The Executive Director and/or his designee is authorized to make payments as herein above set forth commencing on/or after July 1, 2018 in the manner and to the extent authorized by the VCTC Administrative Code.

Section 3. The Chair of VCTC is hereby authorized to execute this Resolution on behalf of VCTC and the Clerk of the Commission is hereby authorized to attest to the signature of the Chair and to certify the adoption of this resolution.

Section 4. This Resolution shall take effect immediately upon its adoption.

Adopted this 1st day of June 2018.

ATTEST:

Linda Parks, Chair
APPROVED AS TO FORM:

Donna Cole, Clerk of the Commission

Steven T. Mattas, General Counsel

Attachment 1
Ventura County Transportation Commission
Salary Schedule
Fiscal Year 2018/2019

Department/Position	FTE	Annual Range Bottom	Annual Range Top	Exempt vs. Non-Exempt
TRANSIT AND TRANSPORTATION				
Transit Director	1.0	109,108	147,921	E
Program Manager, Regional Transit Planning	1.0	70,132	109,871	E
Program Manager, Transit Contracts	1.0	70,132	109,871	E
Transit Planner	1.0	50,100	88,625	NE
Transit Specialist	1.0	43,827	63,545	NE
Lead Customer Service Representative	1.0	43,827	63,545	NE
Customer Service Representative	2.0	24,960	40,331	NE
Administrative Assistant	0.6	43,827	63,545	NE
Transit and Transportation Subtotal:	8.6			
PLANNING AND TECHNOLOGY				
Planning and Technology Director	1.0	109,108	147,921	E
Information Technology Systems Analyst	1.0	70,132	109,871	E
Program Manager, TDM	1.0	70,132	109,871	E
Program Analyst	1.0	50,100	88,625	NE
Planning and Technology Subtotal:	4.0			
PROGRAMMING				
Programming Director	1.0	109,108	147,921	E
Program Manager	1.0	70,132	109,871	E
Administrative Assistant	0.4	43,827	63,545	NE
Programming Subtotal:	2.4			
FINANCE				
Finance Director	1.0	109,108	147,921	E
Senior Accountant / Analyst	1.0	50,100	88,625	NE
Accounting Technician	1.0	43,827	63,545	NE
Finance Subtotal:	3.0			
ADMINISTRATION				
Executive Director	1.0	0	248,843	E
Clerk of the Board/Public Information Officer	1.0	70,132	109,871	E
Receptionist/Secretary	1.0	43,827	63,545	NE
Administration Subtotal:	3.0			
Total Budgeted Positions	21.0			
APPROVED POSITIONS NOT BUDGETED				
Intern	1.0	24,960	40,331	NE
Analyst	1.0	50,100	88,625	NE
Program Manager, Highway Capital	1.0	70,132	109,871	E

MEMORANDUM

Item #5

DATE: May 17, 2018
TO: VCTC Administrative Committee
CC: Darren Kettle, Executive Director
FROM: Steve Mattas and Naree Chan
RE: **Legislative Action: Parliamentary Procedures**

Introduction:

Our office was asked about parliamentary procedures for reconsidering a legislative or policy action previously considered by the Ventura County Transportation Commission ("Commission"). The specific question arose in the context of the Commission voting twice on an issue involving whether the Commission should express a position on potential state legislation that would lower the vote requirement to adopt a countywide transportation sales tax from 2/3 approval required to 55% voter approval required.

Short Question and Answer:

Whether the Commission may vote again at a subsequent meeting on a legislative matter that the Commission previously voted on at prior meeting?

Yes, if the previously considered item concerns prospective legislative action and does not impair contractual or vested rights.

Analysis:

1. Legislative/Policy Nature of Decision to Support or Oppose Prospective Legislation

The Commission has express authority under the Public Utilities Code in the areas of transportation planning, transportation funding including taxation and project construction funding; provision/funding of transportation services and award of contracts related to transportation matters. The authority in these areas includes the authority to take positions on proposed legislation that may impact the provision of transportation services and infrastructure. An action by the Commission to express a position on proposed legislation involves the Commission acting in its legislative or policy capacity as distinguished from adjudicatory capacity when it applies existing law to a particular action before it (i.e. when the Commission makes a land use compatibility determination in its role as the Airport Land Use Commission). When the Commission is acting in a legislative or policy capacity, the Commission may modify policy positions taken by a prior commission or even modify a position that a particular Commission has previously taken to the extent such an action does not impair either a contractual right or a vested right that may otherwise exist. A decision to consider whether to support legislation does not involve either contractual or vested rights and thus the Commission may modify a position at any time, regardless of whether the Commission has previously acted on the matter.

2. VCTC Parliamentary Procedures Related to Reconsideration of a Prior Action:

In addition to the inherent authority to express a position on legislative matters that may differ from prior action by the Commission, the Commission may use formal parliamentary procedures to revisit a prior action or direction. As set forth in the Commission adopted VCTC Administrative Code, all meetings of VCTC and VCTC Committees are subject to the parliamentary rules set forth in Roberts' Rules of Order unless otherwise determined by VCTC or the committee as the case may be.¹ Robert's Rules of Order recognizes and authorizes both a Motion to Rescind and a Motion to Reconsider.

Procedurally, a Motion to Rescind requires a 2/3 vote at any later meeting and can be made by any member. Substantively, a Motion to Rescind is used to nullify a previously adopted motion and may strike out an entire motion or resolution. However, a Motion to Rescind is not in order when any action has already been taken as a result of the vote (e.g. a contract that has been executed by both parties, etc.)

In contrast, a Motion to Reconsider only requires a majority vote but in general must be made as part of the same meeting when the item was considered.² If successful, the motion places the item back before the body for consideration. Further, a Motion to Reconsider must be made by a member who voted in the majority on the original motion. Alternatively, a Motion to Reconsider may be made a member who did not vote at all on the original motion or was even absent.

Conclusion:

Amendments to the VCTC Administrative Code are not required to incorporate new rules or parliamentary procedure because: (1) the nature of a prospective legislative/policy decision that does not affect contractual or vested rights is that the decision may be changed by subsequent action of the Commission and (2) the currently applicable Robert's Rules of Order recognizes both a Motion to Reconsider and Motion to Rescind. However, if the Commission wishes to clarify the adopted VCTC Administrative Code that legislative action can be subsequently reconsidered, we recommend the following language be included in Article IV, Section A of the Administrative Code:

Notwithstanding and in addition to any applicable procedures set forth in Robert's Rules of Order for reconsideration or rescission of a prior Commission determination, for actions on prospective legislative/policy matters, the Commission retains the discretion to reconsider or modify any prior action or decision and may also consider any potential prospective policy decision it may have previously considered but which was not adopted due to the failure to obtain nine affirmative votes.

2964769.1

¹ Article IV(A) "Conduct of Meetings" of the VCTC Administrative Code.

² However, the body may vote to suspend the rules by a two-thirds majority and allow the Motion to Reconsider to be made at another time.