



High Speed Rail City Council Committee

Special Meeting
December 2, 2010

Council Member Klein called the meeting to order at 8:03 a.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Klein, Price, Shepherd

Absent: Burt

1. Oral Communications

Herb Borock spoke regarding the Attorney General's opinion on incompatible offices being held by Curt Pringle. In the Government Code under incompatible offices the person holding the multiple offices was required to leave the first position they held, which, in the scenario was the High Speed Rail Authority.

2. Proposed Palo Alto State Legislative Program for 2011.

Chair Klein confirmed with the lobbyist the goal was to narrow the requests from the City to the Legislature.

Robbie Mehta, Capital Advocates, stated that was correct. The initial packet being submitted should entail more than what was desired therefore granting the room for removal of items.

Council Member Price stated the items had been grouped by sub-headings and listed by priority. She asked his thoughts on the appropriateness of the listing and his opinion on the number of items being presented.

Mr. Mehta stated the goal would be to review the concepts that were of importance to the City then determine whether those concepts should be included in a single legislative notion or separated out. He

noted it was possible that one Legislature may take on an idea or concept presented by the City but not the others, therefore there would need to be a push to contract the other Legislatures to move the remainder of the items.

Council Member Price asked if Mr. Mehta felt the sub-headings were the best approach and his thoughts on the strength or urgency of the titles.

Mr. Mehta stated there was no priority order for the Legislature; the listing was more for the City. Although some of the points were of importance to Palo Alto they may not be to others and although they may not assist directly they may indirectly.

Council Member Price asked his thoughts regarding the bullets under City Design and Analysis.

Mr. Mehta stated bullet number 10 was important since it was in reference to reimbursement of the costs expended by cities. He felt bullet number 9 would be a good bill that had the possibility of tying into the ridership.

Council Member Price noted several cities throughout the peninsula were expending funds for extra consulting support and resources therefore she felt bullet number 10 would be effective outside of Palo Alto.

Mr. Mehta stated that was correct.

Herb Borock felt the appropriate area to seek legal opinion was from the Attorney General and not the California Legislative Counsel or the High Speed Rail Authority as stated in bullet number 4. He noted bullet number 3 was unclear as to what was being requested. He was opposed to bullet number 1 and felt the current bond funds were being misused and did not see the cause to request they receive more.

Chair Klein suggested reviewing the list one item at a time to make any determinations. And he suggested to strike the last sentence in number one.

Council Member Price suggested to defer the concept of consideration under bullet number 1.

Council Member Shepherd felt the current idea was to get the EIR back on track.

Council Member Price agreed to remove the last sentence from bullet number 1.

Chair Klein suggested deleting the last sentence from bullet number 3 and recommended bullet numbers 1 through 3 were similar in their desired result.

Council Member Price stated her interpretation of bullet number 3 was an alternative alignment be considered seriously. With that regard she felt the last sentence provided greater flexibility.

Chair Klein felt the first sentence provided the sentiment without the use of the Altamont project.

Mr. Mehta agreed removing the Altamont project was in the best interest of the end result.

Council Member Shepherd stated she believed AB3034 has the involvement of the Altamont project therefore it was not necessary to be mentioned separately.

Chair Klein stated the last sentence in bullet 3 was repetitive and made the notion Palo Alto preferred Altamont. He suggested changing the word "pick" in the first sentence of bullet 3 to reconsider.

Council Member Price agreed to the language change to reconsider based on information and new analysis.

Council Member Shepherd agreed with the language change. She suggested the Attorney General replaced the named as whose legal opinion be sought in bullet number 4.

Mr. Mehta stated the Legislature had the ability to request the Attorney General to issue an opinion although there can not be legislation passed to require the Attorney General to provide an opinion.

Deputy City Manager, Steve Emslie stated the Attorney General was advising the High Speed Rail and asked whether there would be a conflict with them being an advisory body and providing legal opinion.

Mr. Mehta felt there would be a conflict; however, the Attorney General's office has informed him there were separate divisions providing legal opinion and advising the High Speed Rail.

Council Member Price asked for clarification that in the course of the normal process the Attorney General was engaged and therefore adding the request for legal opinion from them would not be necessary.

Mr. Mehta stated no, what he was conveying was the Legislature did not need ask for the Attorney General's legal opinion. What was needed was to locate a Legislator to formally request an opinion from the Attorney General.

Council Member Price stated bullet number 4 needed to be restated to locate a Legislator to pursue the Attorney General's interpretation of AB3034.

Mr. Mehta stated that was correct.

Council Member Shepherd suggested moving bullet number 4 into a separate category.

Chair Klein agreed there should be a Legislative category. He requested deleting the last sentence in bullet number 4. He felt the sentence was superfluous.

Council Member Shepherd suggested the second sentence in bullet number 4 be deleted.

Chair Klein agreed.

Council Member Price stated bullet numbers 5 through 8 had similar attributes and asked whether it made clearer sense to group them together as one or keep them separate.

Mr. Mehta stated bullet numbers 5 and 6 should be grouped and bullet numbers 7 and 8 should be grouped together. Bullet number 5 and 6 were similar and bullet numbers 7 and 8 were similar but different than bullet numbers 5 and 6.

Chair Klein noted bullet number 5 requested the increase of Board Members but did not supply a specific number.

Council Member Shepherd stated she recalled the request for removal or replacement of Board Members but did not recall seeing the request to increase before. She asked the purpose of increasing the number of Board Members.

Chair Klein stated the purpose would be to gain more areas of expertise.

Council Member Shepherd stated would the request for the current Board Members to be reseated with a person with a greater expertise not be just as beneficial to adding more.

Mr. Braulik stated in working with the Staff and with Mr. Mehta the thought was to add expertise to the Board. He suggested replacing the current Board Members with subject matter expertise Board Members.

Mr. Mehta stated the current Board Members were representative of the cities. It was difficult to remove seated Board Members so in order to add specific categories thereby increasing the number of Board Members.

Council Member Price state to ensure the Board has the specific areas of expertise and a more comprehensive geographic representation. She asked in this particular case would it be better approached using the language, to ensure Board Members have the following types of qualifications, expertise and a broader range of geographic representation.

Mr. Mehta stated that language may attract a number of supporters although he needed to caution the language being limiting by precluding the possibility by increasing the number of Board Members.

Council Member Price asked for clarification the language was referring to the eligibility for Board Members that issues of technical expertise and geographical representation would be appropriate and required.

Mr. Mehta stated that was correct.

Council Member Shepherd stated one of the large complaints has been the Board has been more political than skilled. Her understanding was a number of seats had expired although that Board Member remains until their seat was replaced. She asked whether it would be more efficient to ask that the newly appointed Board Members become more current with the selected criteria.

Mr. Mehta suggested the language read, to ensure the composition of the Board has certain qualifications and geographic diversity. Leave it at that level and if later there was a need for a amend it could be added to increase the number of Board Members.

Chair Klein suggested the language could read, to increase California High Speed Rail Authority Board Membership by two and assure that Board Members have one or more of the following qualifications; engineer, financial expertise or geographical representation and require Senate approval of all Board Members.

Council Member Price asked how the number of additional Board Members came to two.

Chair Klein stated it was just a number, he shared the concern with Council Member Shepherd of the Board being difficult to manage and with it being much larger the difficulty may increase.

Council Member Price asked if the recommendation was two could the number be amended at a later date.

Chair Klein stated yes.

Council Member Shepherd stated the key appeared to be within the peer review, since it has yet to be formally seated. She felt that group could be strengthened by more technical and engineering expertise.

Mr. Braulik stated the Peer Review Committee had always been required under the Legislation although it had not yet been established.

Council Member Shepherd stated if the Peer Review Committee was to be reviewing the engineering and design work the members needed to be equally as qualified.

Council Member Price clarified a Peer review by definition was technical.

Chair Klein asked whether having the Senate approve the Board Members would change the direction of things.

Mr. Mehta stated that was correct.

Council Member Shepherd asked for clarification on how the Senate participating in the selection process would alter the direction.

Mr. Mehta stated at the present time the Governor had full rights to appoint any one to the High Speed Rail Board. Placing the Senate in a position of selection participation would provide more of an oversight to who was selected.

Council Member Price asked whether there was a possibility to require the Peer Review Committee composition and activity take place by a pre-determined date.

Mr. Mehta there was a pre-determined date in the bill that had been vetoed by the Governor.

Council Member Price asked whether there was an option to reintroduce there be a specified date to the Peer Review Committee to meet.

Mr. Mehta stated reintroducing boundaries was a sensible idea. The bill being proposed would be classified as an urgency bill which meant it would become a law upon signing of the Governor apposed to January 1, 2012.

Council Member Price stated she was in favor of the urgency bill and felt it was a way to tighten the process.

Council Member Shepherd stated there needed to be hard dates outlined with contingencies in the event the budget had yet to be passed there would be a hard date to follow.

Council Member Price clarified Mr. Mehta suggested the gift policy and the conflict of interest be submitted as one legislative item.

Mr. Mehta stated yes, it should be one bill.

Council Member Price stated in theory it should not be difficult to receive support for those combined items.

Mr. Mehta stated he would not believe so.

Chair Klein stated he had concerns with bullet number 9. He felt in concept it was feasible although it was not written to be a bill.

Council Member Price stated in a well done Environmental Impact Report (EIR) all of the issues broached in bullet number 9 would be taken addressed. She clarified her concern was within the quality, comprehensiveness and technical details within the EIR.

Chair Klein stated the area he approved in bullet number 9 was in the event the utility lines required moving they would be replaced in the standard of the community in which they were housed in.

Council Member Shepherd agreed with the utility replacement statement and stated that language needed to be added to the Mitigation process.

Mr. Emslie agreed the EIR would spell out the mitigations on what would need to be done; however, there was the possibility of overriding the bills. He stated there may be merit in prohibiting the override considerations.

Council Member Price stated if the overriding considerations approach was taken the bill could be lost completely.

Mr. Emslie stated that was correct.

Council Member Shepherd stated that was an important factor.

Chair Klein asked whether it was doable.

Mr. Emslie stated he had not seen it done although it was an option to be taken up with the City legal Staff.

Chair Klein stated there needed to be a rewording to indicate in the event utilities were required to be moved and placed underground the cost would be their responsibility.

Council Member Price stated bullet number 10 appeared to be out of range although she felt it was one that required the effort.

Council Member Shepherd stated there had been over \$1 million invested to date.

Chair Klein stated the government in Sacramento had resistance to making payments to unfunded mandates.

Council Member Price asked Mr. Mehta whether he felt it would be worth leaving the item on the letter.

Mr. Mehta stated there was a large amount of support from other communities who were also spending large sums of funds. He agreed the Legislature may not accept the request although if it was not attempted Palo Alto definitely would not receive funds.

Mr. Braulik asked for clarification the letter would be combining bullet numbers 1 through 3 in a single bill, bullet number 4 was a single bill, bullet numbers 5 and 6 were a single bill, bullet numbers 7 and 8 were a single bill. Staff would revise the language in bullet number 9 to address the utilities reimbursement concerns and bullet number 10 would stand on its own.

Council Member Price stated that was correct.

Council Member Shepherd asked whether the above mentioned bills would be inner laced into other bills being presented.

Mr. Mehta stated that was correct. He stated whether Palo Alto carried their own bills or their concerns were tagged onto another cities bill did not matter, the goal was to address the agenda. He asked whether Palo Alto would request the Peninsula Cities Consortium to join what Council approved.

Chair Klein stated support from the other cities would be appreciated.

Council Member Price recommended altering the number of Board Members being increased from 2 to 4. She clarified there would be a greater flexibility with the addition of 4 rather than 2.

Chair Klein stated his agreement to the language change.

Council Member Shepherd shared her concern with only a couple of the current Board Members being outspoken. She expressed the desire for the Authority to function as an effective body rather than a political one.

Chair Klein stated this item will be forwarded to the full Council to be agendized on December 13, 2010.

MOTION: Council Member Shepherd moved, seconded by Council Member Price to accept the proposed Legislation as revised.

MOTION PASSED: 3-0 Burt absent

3. Proposed Correspondence

- Roelof van Ark, Chief Executive Officer, California High Speed Rail Authority (CHSRA) dated September 28th, 2010 to Mike Scanlon, Peninsula Corridor Joint Powers Board
- Federal Railroad Administration (FRA) - Supplemental Alternatives Analysis Report (SAAR)
- Representative Mica, Chair, U.S. House Transportation and Infrastructure Committee
- Draft of Letter to be sent by Peninsula cities to Governor, Legislature and High Speed Rail Authority

Council Member Klein addressed the revised letter to Mr. van Ark and sought input from the Committee members.

Council Member Shepherd stated she felt the latest revisions represented Palo Alto more effectively. She asked what the expected result would be by sending the letter.

Council Member Klein stated the letter was to receive clarification on the five points of the letter.

Council Member Shepherd suggested a paragraph at the end of the letter with a stated of specific information being requested.

Council Member Price asked in terms of timeliness, were the five points being referenced still relevant.

Council Member Shepherd asked when the High Speed Rail Authority had been contacted.

Management Specialist, Rob Braulik stated there had been no contact in over thirty days.

Council Member Shepherd asked what the context of the last communication was.

Mr. Braulik stated it was in regard to the rail station.

MOTION: Council Member Klein moved, seconded by Council Member Price to recommend to the full Council the approval of the correspondence to Roelof van Ark of the California High Speed Rail Authority.

MOTION PASSED: 3-0 Burt absent

Council Member Klein addressed the revised letter to Mr. LaHood and sought input from the Committee members.

Council Member Shepherd asked whether there had been prior communication with Department of Transportation and if so, what was the context.

Mr. Braulik stated yes, there had been previous communications with regard to the "No Confidence Resolution" and the phase implementation.

Council Member Shepherd stated the revised letter appeared to me more direct which she felt would be more helpful in achieving a result.

Council Member Price felt the second point requesting a delay should have a more defined time as to when to begin.

Chair Klein stated the rationale behind the indefinite delay was due to there not being a definitive time to begin.

Council Member Price stated the end of the delay should be reflected by a credible ridership study, and a defensible technical and comprehensive analysis. Those items were implied but not defined.

Chair Klein stated he was looking for a shorthand.

Council Member Price stated under the second point, the fourth bullet she felt the order of the sub-bullets should be rearranged. The business plan should be the first priority.

Chair Klein stated he agreed with the suggested change.

Council Member Shepherd asked whether the term "reset" in the final paragraph was being used to define where Palo Alto wished to go and

if so, should the concept not be first brought up in the beginning of the letter.

Chair Klein stated he was not concerned with defining terms.

Council Member Price stated the letter thanked the recipient for their time and consideration without a request a formal response.

Chair Klein stated the request for response was within the final paragraph.

MOTION: Council Member Price moved, seconded by Council Member Shepherd to recommend to the full Council the approval of the correspondence to the U.S. Department of Transportation.

MOTION PASSED: 3-0, Burt absent

Chair Klein asked for discussion on the letter to the Chair of the Transportation and Infrastructure Committee, John Mica to introduce ourselves.

Council Member Price stated her appreciation for attachments with the letter. She felt it would bring Mr. Mica up to date with Palo Alto's position on the matter.

Council Member Shepherd stated the letter was well written and made a good introduction.

Mr. Emslie asked whether Mr. Mica's district included the Tampa High Speed Rail project.

Chair Klein stated no, he represented the northern suburbs of Florida whereas the High Speed Rail was presently coming from the western suburbs.

Council Member Shepherd asked whether the letter was the most current version.

Mr. Braulik stated it was.

Council Member Price suggested listing the sub-categories in the letter addressed to Governor-Elect Jerry Brown in the similar fashion to the letter to the State Legislature. She stated if the current version had

been reviewed by other cities and the main points were evident then she was satisfied with its current format.

Council Member Shepherd asked whether the HSR Committee was able to input on the letter or was it more informational for review.

Chair Klein stated the HSR Committee was in review of the letter to authorize Mayor Burt to sign.

Council Member Shepherd stated her recommendation would be to move item number 5 to become number 1 and item number 3 to become number 5. Those changes would provide introduction to the EIR dilemmas and then move into what support there was.

Chair Klein felt constrained making too many alterations considering the letter was authored by Mayor Burt and he was not present to discuss the proposed changes. He suggested leaving the letter as it was written and present it to the full Council so Mayor Burt would have input to the suggested changes.

Council Member Price stated her concern with the phrase grounded in reality in item number 2.

Council Member Shepherd suggested grounded in sound data sounded more appropriate.

Chair Klein recommended the Committee members write their comments down and present them to Mayor Burt for review prior to the December 13, 2010 Council meeting.

Chair Klein clarified the letter to Governor-Elect Jerry Brown would be placed under Action for discussion and the other three letters would be placed under Consent for the full Council.

4. Contracts Update

Management Specialist, Rob Braulik stated the Hatch Mott McDonald contract was the one being discussed this evening. The incurred costs of \$44, 643 for the current work leaving approximately \$76,000 for the balance of the contract. The contract was initially for peer review of the Supplemental Analysis Report and Staff anticipated contracting with them to perform the review of the Project EIR once it was released which was anticipated for March 2011.

Chair Klein stated there was a possibility the Project EIR would be delayed beyond March of 2011 which raised the question whether the funds should be utilized elsewhere.

Deputy City Manager, Steve Emslie stated there would not be funds expended on Hatch Mott McDonald until the Project EIR was released or there was a need for a technical response.

Mr. Braulik stated HNTB was the company working on the High Speed Rail section between San Jose and San Francisco. They were the group working on the drawings and as they were completed Hatch Mott McDonald was reviewing them. He stated to reduce costs; Staff could have Hatch Mott McDonald discontinue their review of the drawings.

Chair Klein stated Mr. Diridon was of the impression there would not be significant movement in the progression of this section of the High Speed Rail for approximately ten years.

Council Member Price asked the level of design percentage that has been completed.

Mr. Braulik stated at the present time they were working to reach 15 percent.

Chair Klein asked when the contract with Mr. Mehta ended.

Mr. Braulik stated his contract was up in February of 2011.

Chair Klein asked when the next meeting was scheduled for and he suggested December 16th not be a meeting date.

Council Member Price stated she agreed to take the 16th of December off. She proposed meeting once per month as needed.

Chair Klein stated logically the next meeting would be January 6, 2011 although there may be different Committee members.

Council Member Price stated she understood although still felt the High Speed rail Committee did not need to meet more frequently while the project was in a state of limbo.

Council Member Shepherd asked if there would be use for the High Speed Rail Committee to write a State of the Union for the full Council

in order to explain what had been accomplished to date and where issue were standing.

Mr. Braulik stated in reviewing the updated information to the Council since November 2010, other than what had been widely publicized in the media, there were no further updates to be presented.

Council Member Shepherd asked whether this was a time when the High Speed Rail Committee should be more active in working with other cities in preparation of when something did happen the Peninsula cities would be ready.

Mr. Braulik stated the Peninsula Cities Consortium had been discussing the issue of Caltrain with the location and modernization of their operation.

Mr. Emslie stated the Caltrain conversation would best be done with the full Council in a comprehensive discussion after the first of the year. He thought it would be a good time to provide a comprehensive presentation with the Caltrain and the High Speed Rail updates as to what had occurred the past year and the direction both situations were heading.

Chair Klein confirmed the cancellation of the meeting of 16th.

Mr. Emslie stated yes, the next meeting will be on January 6, 2011

Council Member Shepherd suggested adding an agenda category to update the results from the Peninsula Cities Consortium meeting.

Chair Klein stated there was a summary update at the end of the agenda.

Council Member Shepherd felt the updated information would be more productive in the beginning of the High Speed Rail meeting.

Chair Klein stated the high Speed Rail Committee had difficulty completing its agenda items, therefore adding a summary update in the beginning would be counter productive.

Council Member Shepherd stated her concern was there were meetings occurring outside of the High Speed Rail Committee where the remaining members were unaware of the information being discussed.

Council Member Price stated there had been so many items on the agenda it was difficult to discuss them all in the time allotted. She suggested in the future placing time limits on the items.

Chair Klein stated the Committee determined the order of the agenda. If there were updated information from another group that was relevant to the agenda item it could be discussed prior to the Agenda Items.

Mr. Braulik asked whether the High Speed Rail Committee was receiving the meeting minutes from the technical working group.

Council Member Shepherd stated she had not received a set of minutes from any group.

Council Member Price confirmed she had yet to receive meeting minutes either.

Mr. Braulik requested a confirmation whether the summary update needed to be moved to the top of the High Speed Rail agenda or remain the last item.

Chair Klein stated the section should remain the last item.

Council Member Shepherd stated her preference would be to move the section up and to receive the information prior to the meeting so the Committee could review without taking time away from the High Speed Rail agenda.

Council Member Price agreed the section should be moved to the top.

5. Legislative Update

None

6. Meeting Updates

- Office hours, Policymaker & Technical Working Group

Updates

Management Specialist, Rob Braulik stated the Caltrain station on San Antonio would be moving approximately 200 feet north from its current location.

Council Member Price asked whether the station was moving closer to the Palo Alto boundary.

Mr. Braulik stated no. The move would be to further the station into Mountain View. He noted the HNTB Staff indicated with the factoring in of the right-of-way costs and the property impacts, the differential between aerial, at-grade and open trench was narrowing significantly and may not be as wide of a gap as they initially anticipated.

Herb Borock stated there had been discussion for Mr. van Ark to meet with the Council regarding High Speed Rail information although the meeting had yet to occur.

Chair Klein stated the meeting had been scheduled although the dates were not acceptable for all parties.

Herb Borock stated Council member Shepherd had mentioned a meeting held with Mr. van Ark where Chair Klein and Mayor Burt were in attendance.

Chair Klein stated there was a meeting where Mr. van Ark was in attendance although that took place approximately 6-months prior to today's discussion.

Mr. Braulik stated there was a continued interest in a meeting between the full Council and Mr. van Ark although there had not been a date set as of yet.

7. Future meetings and agendas

- December 16 - HSR Committee meeting, City Council Conference Room-CANCELLED
- January 6, 2011

The meeting was adjourned at 9:37 a.m.