



CITY OF
**PALO
ALTO**

City Council Rail Committee
DRAFT MINUTES

Special Meeting
October 11, 2012

ROLL CALL

Council Member Klein called the meeting to order at 8:30 A.M in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Klein, Scharff, Shepherd

Absent: Burt

ORAL COMMUNICATIONS

None

APPROVAL OF MINUTES

May 24, 2012 June 07, 2012 June 13, 2012 June 28, 2012

MOTION: Vice Mayor Scharff moved, seconded by Council Member Shepherd that the City Council Rail Committee approve the minutes as presented.

MOTION PASSED: 3-0 Burt Absent

3. Report from the Professional Evaluation Group, Inc.

John Garamendi Jr. had weekly update exchanges between Richard Hackmann and Aaron Akin to maintain open communications. Looking ahead to November 16th there was a hearing for an injunction for the California Environmental Quality Act (CEQA) from the city of Madera and the Merced County Farm Bureau.

Vice Mayor Scharff asked if this was a preliminary injunction.

Mr. Garamendi said yes. A lot of new information had come forward since the litigation began. The Fresno Bee had an article reading as the High Speed Rail (HSR) responded to the complaints they admitted they recognized there were challenges in meeting the timelines associated with the funding. The Brady law suit continued to move forward. The upcoming election with Proposition 30 versus Proposition 38 battle which was escalating, the Presidential race determining whether the Republican Party could retake Congress, the House of Representatives was in debate and HSR would be impacted by each of the results. There was a new chairman of the Environmental Committee in the state, Senator Rubio who declared there would be CEQA reform in 2013. What form the reform would take has been quite but he was certain that HSR and water would be part of it. He had met with Assemblyman Gordon's office regarding the clean-up legislation regarding Palo Alto's concerns. Legislatures continue to consider clean-up language based upon the memo written in January. Assemblyman Gordon believed the idea that SB1029 referred to the Memorandum of Understanding (MOU) which would govern how the funds were spend on the end points. He was assured the legislation was working on Caltrain being the lead agency and how the train would travel up the Peninsula. He had invited Assemblyman Gordon and his staff to join any number of the City Council Rail Committee (Committee) meetings to explain their position.

Chair Klein asked where Senator Rubio was from.

Mr. Garamendi said Senator Rubio was originally from Bakersfield, the Lost Hills area.

Chair Klein asked if Senator Rubio was a firm ally of the governor.

Mr. Garamendi said yes, he was very thoughtful and he had a lot of competing interests but water and HSR were two of the largest concerns.

Chair Klein asked if there was hope he would turn away from the HSR.

Mr. Garamendi said he did not believe Senator Rubio would turn against HSR but it may not be on his priority list.

Chair Klein asked if there had been discussions amongst the Governor's staff what tactic would be taken if the tax initiative lost in November.

Mr. Garamendi said no, their concept was not to discuss the downfall of the tax initiative. The trigger cuts were dramatic. He believed there would be a great deal of debate and shuffling on how not to have that happen.

Vice Mayor Scharff asked if there had been polling on Proposition 30 or Proposition 38.

Mr. Garamendi said there was polling, he did not have the exact numbers but proposition 38 was shown as losing and Proposition 30 was less than 5 percentage points which meant it was in the margin of error.

Vice Mayor Scharff said Senator Simitian was attending the City Council Meeting for his annual joint Study Session on the 22nd of October. He asked if there were specific questions he felt should be brought up during the discussion.

Mr. Garamendi said yes, all of them. Senator Simitian was an intellectual person and had thoughtful insights to the situation.

Council Member Shepherd asked if the Clean Up Bill might include water and HSR. She had seen the Governor on a station regarding the Delta Project which he was firmly committed to and behind. Her understanding was the project was \$14 billion to place the Sacramento River under the Delta and rise again. Her understanding was the re-entry point was to be the size of the Chunnel between London and Paris.

Mr. Garamendi said that was correct.

Council Member Shepherd said when the two pieces were put together it required CEQA reform. She asked if the CEQA reform and the Clean Up Bill would go through legislation together.

Mr. Garamendi said the Clean Up Bill was only related to HSR and SB1029. The CEQA reform could be linked together with HSR and the canal. The funding mechanism between the two were different but the

Metropolitan Water and Los Angeles were the primary users and would be heavily taxed. The water issue did not impact the end users as the HSR would.

Council Member Shepherd believed there were no take backs so if the funds were granted to Caltrain but then there was no funding for the Central Valley for lack of ability to meet the timelines was the a way to reverse the funding.

Mr. Garamendi said there was no reverse button on funding but the legislation referred to the MOU which referred to funding. The Clean Up language was to receive a firm commitment as to what those dollars would be.

NO ACTION TAKEN

4. Update on City Staff Work with Caltrain's Technical Staff on the Grade Crossing and Traffic Analysis

MOTION: Chair Klein moved, seconded by Vice Mayor Scharff that the City Council Rail Committee move Agenda Item 4; Update on City Staff Work with Caltrain's Technical Staff on the Grade Crossing and Traffic Analysis, to a date uncertain.

MOTION PASSED: 3-0 Burt Absent

5. Discussion of Possible Revisions and Updates to the Rail Committee Guiding Principles

Richard Hackmann, Management Specialist, noted Staff had been requested to provide revision updates to the background information, add Guiding Principles based on the changes since its last approval, and put existing Guiding Principles and information relevant in the affirmative.

Chair Klein was concerned that the Guiding Principles read as though they were written over a number of years by a number of different authors. It did not have a clear flow and the background section was too wordy. He did not feel the third sentence in the second paragraph of the Background Section was relevant. The inference was the California High Speed Rail Authority (CHSRA) reduced the cost because of the blended system which was not accurate; there were a number

of items altered to achieve the \$68 billion. He believed number 6 of the Guiding Principles referenced AB3034. Had that not already been done and agreed upon.

Mr. Hackmann said the completion was up to interpretation and the influence the CHSRA had over the peer review committee. He felt it was one of the weaker Guiding Principles.

Chair Klein suggested re-writing Principle number 6 to read "Palo Alto supported the existence of an effective peer review." In Principle number 15 the statement of "effectively funded grade crossings", he asked what effectively meant.

Mr. Hackmann said the word effectively could be dropped and changed to crossings were funded and implemented by the lead agency.

Council Member Shepherd said the idea was to have the lead agency pay for the grade crossings.

Mr. Hackmann agreed that was the intent.

Chair Klein said the word effectively weakened the statement.

Mr. Hackmann said previously the use of the word was for appropriate grade crossings and not an elevated structure.

Council Member Shepherd believed some of the language would be superseded once the Rail Corridor Study was approved because at that point it would be part of the Comprehensive Plan. The importance for the Committee was they could make decisions if there was no time to present to Council. She suggested Staff return with whether the Guiding Principles were incorporated into the Rail Corridor Study and if not, how could it be or should it be a standalone as a Guiding Principle.

Vice Mayor Scharff recalled the Council voted to not spend more funds on the Rail Corridor Study.

Council Member Shepherd said the Guiding Principles should coordinate with the Rail Corridor Study. She believed if something was covered in the Rail Corridor Study it did not need to be repeated in the Guiding Principles.

Chair Klein said he did not see the Rail Corridor Study as a dominant document especially since there mandate was not to include anything with regard to the HSR.

Mr. Hackmann asked the Committee if they felt the Role and Authority of the Rail Committee section continued to be appropriate.

Chair Klein said that section was fine.

Mr. Hackmann mentioned the language at the beginning of the Guiding Principles section on the second page was Council approved from the 2011 revision. Two versions of the language were taken to Council, discussed and approved. The basis for why Palo Alto believed the project should be terminated. He asked the Committee if they desired the language to be readdressed.

Chair Klein said yes, the current language did not flow. The message needed to be clear and as long as the message did not change the verbiage could.

Vice Mayor Scharff agreed to rewrite the Guiding Principles to have a better flow.

Herb Borock said on Guiding Principle number 13 Caltrain was the lead agency but there should be additional language reflecting the request for two different Environmental Impact Reports (EIRs); the Caltrain electrification EIR and the HSR corridor project. When Jayme Ackerman from Caltrain spoke previously on electrification it was best for the City to have the electrification EIR be limited without any expansion for the HSR.

Leannah Hutt asked for confirmation that the City Council was not funding the Rail Corridor Study that was referring to the outside consultant work which was a separate issue for the totality of the Rail Corridor.

Vice Mayor Scharff said that was correct.

Chair Klein said in the Background section the last sentence on the first page mentioned inconsistent analysis. He did not believe the analysis had inconsistencies but he requested the word be changed to inadequate or inefficient.

Vice Mayor Scharff believed the use of the statement numerous flaws was too strident and the idea could be achieved by simply using the statement "the flaws identified."

Council Member Shepherd asked the importance of having the Background section in the document.

Mr. Hackmann said originally it played an educational role for the community. It would be a policy decision to remove the section in the document.

Chair Klein preferred to leave the history and background information but reduce it to 1 paragraph.

Mr. Hackmann accepted the direction.

Chair Klein said the second sentence under the Background section of the fourth paragraph referring to grade-separated HSR track did not include the cost for catenary wires. It did not include the cost of electrification in general. To electrify there were catenary wires, booster stations, substation, and transition stations.

Mr. Hackmann agreed to change the sentence from catenary wires and train sets to electrification.

Chair Klein noted train sets was an interesting phrase to use. The Committee utilized it because they were familiar with the terminology and uses but there may not be a differential to the community.

Mr. Hackmann agreed to change the language from train sets to trains.

Chair Klein said guiding Principle number 16 read "Under no circumstances should HSR or Caltrain be exempted in any way from California Environmental Quality Act (CEQA) or National Environmental Policy Act (NEPA) including amendments. He believed the idea was to have both entities subject to the laws as that presently existed.

Mr. Hackmann stated as it was presently written it achieved more than what was accomplished.

Vice Mayor Scharff recommended the wording be; HSR and Caltrain should not be exempt in any way from the current California

Environmental Quality Act (CEQA) and the currently National Environmental Policy Act (NEPA) requirements.

Leannah Hutt spoke regarding the Governor considering a total revision of CEQA.

Chair Klein said during the beginning of the meeting Mr. Garamendi discussed the matter.

Vice Mayor Scharff was concerned with Guiding Principle number 12 because it appeared the Guiding Principles had not made the determination on whether or not the City supported the electrification. It should be removed or the vote needed to be confirmed in support or not of Caltrain modernization including electrification.

Chair Klein asked if there was a timetable for a confirmed vote.

Mr. Hackmann said the last meeting it was discussed for the first quarter of 2013 leading into the second quarter for discussion and vote. The goal was to have it completed prior to any release of the Caltrain EIR on electrification. Staff could return with a precise timeline for review of the Committee desired. The intent of number 12 was to reflect the conversation had not been had.

Steve Emslie, Deputy City Manager, stated Staff would agendaize the matter for the next meeting.

Chair Klein agreed with Vice Mayor Scharff that the wording was not accurate and his suggested language include brackets with the timeline inserted.

Vice Mayor Scharff agreed with the bracket idea.

Council Member Shepherd agreed with the points made however felt the Rail Corridor Study would capture some of the Guiding Principles like Guiding Principle number 2. She believed the concept of the Rail Corridor Study was a way to communicate with the community on how the City was going to manage the decisions around the changes through the rail corridor. The community had come forward and supplied their input into the Rail Corridor Study and once it was placed in the Comprehensive Plan it would be a legal document and use the Guiding Principles as how the Committee operated.

NO ACTION TAKEN

6. Discussion of a Memo Updating the Community of Where Rail Issues Stand

Richard Hackmann, Management Specialist, provided a draft outline of the updated correspondence to the community on the status of the rail issues. Staff was preparing a report for the City Council Meeting on November 5th inclusive of all rail issues to date.

Herb Borock believed it was a positive step to have an update in writing but the community deserved a more real-time update on the various litigations. He explained the Superior Court documentation was available but with the Appellate Court there was no data with dates of when information was presented. He requested to have the brief available online for the public to review if they wished.

Chair Klein was pleased with the outline and felt it captured the direction given.

Vice Mayor Scharff agreed with the path the outline was taking.

Council Member Shepherd asked if the Overview section could somehow specify whether Alma Street would be taken over by HSR. She wanted the community to be aware of where the City began on the project and how far they had come.

Chair Klein said the language needed to be carefully written to not mislead the community into a false victory.

Mr. Hackmann said he would amend the Overview section to include language referencing why the City continued to work on the HSR issue and he would address CEQA, he approved funding, and their intentions.

NO ACTION TAKEN

7. Discussion and Update on the Status of the Peninsula Corridor Joint Power's Boards 2009 and 2012 MOU's

Richard Hackmann, Management Specialist, said the question had arisen as to the relationship between the 2004 agreement between the

California High Speed Rail Authority (CHSRA) and Caltrain and the 9-party Memorandum of Understanding (MOU) that established the funding mechanism for the blended system. The City was informed by Caltrain the 2004 agreement would be updated to reflect the conditions that had changed since its inception including the establishment of the 9-party MOU. Neither the agreement nor the MOU would have precedent and each agreement served a unique but supplementary purpose.

Marian Lee, Caltrain Modernization Program Acting Director, stated Mike Scanlon and Jeff Morales regarding the manner in which to move the early investment program forward. The early investment program was \$1.5 billion modernization program and they discussed the policy framework that needed to be put into place. What came out of the conversation was the acknowledgement that the agreement needed to be updated. Caltrain staff had been tasked with reviewing the following Documents; 2004 MOU and the 2009 agreement with the amendment to the 2004 agreement. Staff had reviewed the outdated information to see what needed to be updated. The 2004 MOU was fairly generic but the outdated areas were in the agreement itself. There were three areas of concern; the HSR 2008 Business Plan where the Joint Powers Board Authority (JPA) supported the blended system in the latest agreement, the reference to the large full project and what was contemplated as a much higher level of service than what was being contemplated for the blended system, and the Peninsula Rail Program organization when there was shared resources between the two agencies which was no longer in play. Staff was trying to locate the correct venue to receive input on the existing MOU's and agreements. She requested the key points of concern to Palo Alto that could be reviewed by the Caltrain staff. The timeframe was to present to the JPA in November to inform them how the assessment was progressing. There was a local policy meeting with a general consensus to meet on a monthly basis to share information and to provide a venue for the 17 cities and 3 counties to collectively share their concerns in a formalized arena.

Council Member Shepherd was grateful for the Policy Advisory Committee (PAC) being put together; it was clearly a missing link. She reviewed the 2004 agreement and it was notably relaxed.

Vice Mayor Scharff asked how Caltrain saw the input proceeding.

Ms. Lee said the JPA resolution referenced the implementation of the early investment program which was not a part of the 9-party MOU. The focus was on solidifying the arraignment between the two entities. Staff had been tasked with determining the effects the cities were concerned with given the opportunity to update the agreement. The update would reset the baseline foundation for the new arrangement and she anticipated there would be many specific amendments.

Vice Mayor Scharff said it seemed there were clear items that needed to be changed. But the process appeared to be opened for input of specific changes per city. Was the process such that the immediate and necessary changes would be implemented and then smaller not so urgent matters would be entered as amendments.

Ms. Lee said it seemed a logical approach but with so many cities providing input the best manner to move forward with the comments was to receive, collate the concerns and comments, coordinate them in categories and present them to the JPA. When staff meets with the JPA they inform the Board of all of the comments received whether within the scope or not and then provide them with the logic as to what changes made it into an agreement or MOU.

Chair Klein asked if Caltrain had discussed this process with the CHSRA.

Ms. Lee said not yet but there was a meeting necessary once they have met with the JPA Board.

Chair Klein said the issue of who was in charge on the Peninsula. He had been assured that Caltrain would be in charge and now he felt it may not be the case. He asked if Mr. Morales was pushing back on Caltrain being the lead agency.

Ms. Lee said no, there was absolute agreement that the JPA was leading the project. The agreement merely acts as an official document.

Chair Klein understood both agreements had merit and supplemented each other. He worried about the two segments because of the

possibility of conflict. In the event of a conflict he asked which agreement would prevail.

Ms. Lee said the 9-party MOU was an agreement between 9 parties that said there would be work on a blended system and prioritized the Caltrain modernization program. The updated MOU between the JPA and the HSR needed to capture the same language because there was not regional agreement to do more than that. The 9-party MOU needed to be a framework for the updated MOU because they did not have the authority to do anything different. Staff would need to work closely with the legal team to ensure the agreements were consistent with one another and could not be interpreted in a different way. The intent was for the existing 9-party MOU and the updated 2004 agreement to capture the same issues.

Vice Mayor Scharff asked what the term Caltrain modernization meant to Caltrain.

Ms. Lee replied there were 3 components to the \$1.5 billion Caltrain modernization. The advanced signal system project Communications-Based Overlay Signal System (CBOSS), the electrification of the corridor; the poles, wires, and traction facilities, and the conversion of the diesel vehicles to Electric Multiple Units (EMU).

Vice Mayor Scharff asked how the phasing would occur.

Ms. Lee said the signaling project was scheduled for completion by the end of 2015 and the other two would be in place by 2019.

Council Member Shepherd questioned the intent of the 2004 agreement and the 9-party MOU. She understood the concentration was getting funding to Caltrain and advance the modernization. If money went to the Metropolitan Transportation Commission (MTC) but did not go where it was intended, was there an ability to intersect or guarantee the funding would be there for Caltrain.

Ms. Lee said all of the concerns were on the table to see what ensured Caltrain to receive what the 9-party MOU slated for them to receive.

Chair Klein asked what the timeline was completing the updating of the agreement.

Ms. Lee said over the next few months the goal was to create venues to receive input from various cities. The primary objective was the local policy maker meeting but they would supplement that if there were individual cities who wished for a separate meeting. Bring some level of information to the November JPA meeting. If there was general consensus and it appeared to be going smoothly the end result was for a completed update as soon as possible.

Chair Klein hesitated because Caltrain had yet to meet with the HSRA staff.

Ms. Lee acknowledged it was an ambitious timeframe.

Chair Klein meant the overall timeframe including the negotiations with the HSRA.

Ms. Lee said staff had just been tasked with the project and at the present time they were laying out the process. The discussions with the cities as well as the HSR would occur in parallel. When a draft was completed both groups would be informed.

Chair Klein said discussions in parallel were understandable but he believed it was an iterative process. Caltrain may start with a specific position on an issue and the HSRA may disagree; therefore Caltrain needed to return to the cities for further discussion.

Ms. Lee wanted to gather and understand the cities concerns and need for changes. She did not anticipate significances between Caltrain and HSR. Under the leadership of Jeff Morales there has been agreement on implementation of the Caltrain modernization program.

Chair Klein asked how wide of a path would need to be cleared of trees for the electrification. The previous discussion ended with Caltrain to return with a reply. He asked if there was an answer.

Ms. Lee said they had been working on the reply and has yet to finalize it.

Council Member Shepherd asked what funding had been received from the MTC agreement.

Seamus Murphy, Manager of Government Affairs for Caltrain, some of the local funding was available and had been available from the local sales tax from all 3 counties. He was not certain on the exact dollar amount had been spent. As for the state funding committed through the MOU they had received \$40 million through the Metropolitan Transportation Commission (MTC) for the advanced signaling system, \$16 million in federal HSR funding for the implementation of the advanced signaling system, there was Proposition 1B funding that had been programmed but not allocated for the electrification project.

Council Member Shepherd asked what the cost was for the CBOSS.

Mr. Murphy said \$231 million.

Council Member Shepherd said Caltrain was some distance from the financial end goal.

Mr. Murphy said they were on track for the 2015 deadline.

Council Member Shepherd asked if the HSR project fell apart in the Central Valley would the \$16 million return to the federal government.

Mr. Murphy said the \$16 million from the federal budget would not be returned but the \$705 million from the Proposition 1A was tied together by legislative statute.

Council Member Shepherd said the full funds had not been received from the Proposition 1A.

Mr. Murphy said no, they had received the \$40 million.

Council member Shepherd said the \$40 million would be returned.

Ms. Lee said unless the funds were spent they would need to be returned.

Council Member Shepherd asked where the spending of the funding currently sat.

Ms. Lee said the initial phase was the critical design which was in conclusion then move into the final phase of final design.

NO ACTION TAKEN

8. Discussion of the Timeline and Process for how the Rail Committee will respond to the Rail Corridor Task Force Final Report

Richard Hackmann, Management Specialist, provided an outline of the timeline. The City Council directed the Rail Corridor Task Force Report to be reviewed by the City Council Rail Committee (Committee) prior to its return to the Council. Staff felt the amount of time required for a thorough review should be a Study Session of its own agenda. The thought was to schedule the Study Session for after November 5th City Council meeting where the discussion would be on the update on rail issues.

Vice Mayor Scharff asked if there could be Motions made or directions given at the Study Session.

Mr. Hackmann suggested rather than a Study Session the Committee hold a meeting with the report being the only agenda item.

Vice Mayor Scharff felt there should only be one meeting regarding the report and not have a Study Session and return for Motions.

Aaron Aknin, Assistant Director of Planning & Community Environment, confirmed the review of the report would be a dedicated meeting.

Mr. Hackmann noted the meeting would take approximately 2 hours or so.

Vice Mayor Scharff suggested the meeting would be 3 hours in length.

Council Member Shepherd said the Committee's time could be used more effectively if Staff were to explain what the Committee was reviewing the report for, were there specific areas such as the grade-crossing statement.

Mr. Hackmann introduced Elena Suzuki, the Staff liaison to the Rail Task Force. Staff intended to provide an evaluation of the comments heard at the City Council level for the initial discussion.

Chair Klein intended to read the Rail Corridor Task Force Report carefully and bring up matters he felt required more discussion.

Council Member Shepherd felt if Staff had caught a mistake or an issue and repaired it simply notifying the Committee of the corrected error was sufficient.

Mr. Hackmann said depending on the number of suggested comments and changes Staff could provide a second dedicated Committee meeting.

Chair Klein said that determination would be at the end of the November meeting.

Elena Suzuki, Senior Planner and Staff Liaison to the Rail Corridor Task Force stated Staffs' understanding from the last Council meeting was there was consistency with the City's position on Caltrain modernization, Guiding Principles, and concerns regarding the rail crossings. The intent was to return with an edit of the Rail Corridor Study to bring it into alignment with the Guiding Principles. If the Council or Committee saw further concerns she requested they be forwarded to her for further edits.

Vice Mayor Scharff thought that would be a helpful process but did not feel the members should be limited to a timeframe.

Chair Klein noted with all of their time constraints outside of the Committee and Council duties it would be difficult to provide comments or concerns further out than a couple of days prior to the meeting.

Mr. Aknin said if there were comments received Staff would include them in a redlined version.

NO ACTION TAKEN

9. Reports on Meetings

- California High Speed Rail Authority (CHSRA)
- Peninsula Corridor Joint Powers Board (PCJPB)
- Peninsula Cities Consortium (PCC)
- San Mateo County Rail Corridor Partnership (SMCRCP)

Richard Hackmann, Management Specialist, noted the California High Speed Rail (CHSRA) and the Peninsula Corridor Joint Powers Board (PCJPB) were scheduled on November 1st. There was nothing

significant to report from either group at the moment. The Peninsula Cities Consortium (PCC) meeting was scheduled for the 12th of October and the San Mateo County Rail Corridor Partnership (SMCRP) did not have a meeting scheduled but did have the Local Policy Makers Group intended to meet monthly without a set schedule as of yet.

FUTURE MEETINGS AND AGENDAS

Richard Hackmann, Management Specialist, said the issue being faced was the next two months meetings were scheduled during holiday times. He requested input from the City Council Rail Committee (Committee) members. He asked if they were requesting a secondary meeting in November outside of the dedicated meeting for the Committee's Response to the Rail Corridor Task Force Final Report. Should there be a reconvening for the adjustments to the Guiding Principles prior to the report being agendized for the Council on November 5th.

Vice Mayor Scharff asked if there needed to be two meetings in November.

Chair Klein suggested the 3rd Thursday of November as a date with the Guiding Principles and Rail Corridor Task Force Final Report agendized with an 8:00 a.m. start time.

Council Member Shepherd noted the Cubberley Policy Advisory Committee began at 10:30 a.m. in the same location as the Committee meeting.

Chair Klein requested the update on the election outcomes from the Professional Evaluation Group, Inc. as a third item on the agenda.

Aaron Aknin, Assistant Director of Planning & Community Environment, mentioned Staff had planned for a follow-up discussion for the 2nd week of December.

Vice Mayor Scharff suggested December 13th for the second meeting schedule. He believed the post-election discussion may take close to an hour.

John Garamendi said the timeline would be difficult to predict.

ADJOURNMENT: The meeting adjourned at 9:59 A.M.