



# CITY COUNCIL RAIL COMMITTEE MINUTES

February 13, 2013  
Special Meeting

Council Member Klein called the meeting to order at 4:35 P.M. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Burt, Klein, Kniss

Absent: Shepherd (Chair)

## ORAL COMMUNICATIONS

Herb Borock noted the Peninsula Corridor Joint Power Board (PCJPB) was soliciting comments on the scope and content for the Caltrain Electrification Environmental Impact Report (EIR). The deadline for comments was 5:00 P.M. on March 18, 2013. He suggested that the Palo Alto City Council (Council) submit comments to Caltrain by that deadline regarding the scope and content of the EIR, preferably on the advice of the City Council Rail Committee (Committee). The latest Council meeting for discussion was March 11, 2013. The Committee needed to make recommendations to the Council in time for them to submit comments by the deadline.

2. 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)
  - Caltrain Local Policymakers

Richard Hackmann, Management Specialist announced that the California High Speed Rail Authority (CHSRA) was going to meet on February 14, 2013. In addition to discussing the update on the Memorandum of Understanding (MOU) with Caltrain as an information item, the CHSRA was going to discuss the recent draft California State Rail Plan.

Aaron Akin, Assistant Planning Director reported the statewide rail study was the first study to fully integrate High Speed Rail (HSR). He expressed concern that this document was used to further California Environmental

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Quality Act (CEQA) exemptions related to HSR. In the past, legislation drafted, CEQA reform mentioned master plans that took the place of future CEQA review. He suggested Staff and the City Council Rail Committee (Committee) monitor this issue closely.

Council Member Burt inquired whether a master plan integrated HSR as well as move CHSRA toward a super agency for State rail programs.

Mr. Aknin felt that could be the ultimate goal; however it was difficult to determine that from the initial documents. The document discussed integrating HSR and local rail.

Council Member Burt believed Staff and the Committee needed to monitor the issue carefully in the context of future control of Caltrain. The revised Caltrain and CHSRA Memorandum of Understanding was intended for HSR to control the Environmental Impact Report (EIR) for the blended system and other possibilities.

### 3. Report from the Professional Evaluation Group, Inc.

John Garamendi Jr., Professional Evaluation Group, Inc. reported the California High Speed Rail Authority (CHSRA) were to meet the following day to discuss the Memorandum of Understanding (MOU). Many people continued to discuss California Environmental Quality Act (CEQA) changes; however, he had not seen proposed legislation. Different alliances were forming, and people realized that they had much to lose if CEQA changed. With regard to Clean-Up Legislation, Senator Hill's staff were told the need for clean-up legislation, primarily citing the promises made prior to the final vote for the hearing held on July 5, 2012 between CHSRA and the State Finance Committee. The document proved the need for clean-up legislation. Senator Hill's staff drafted a proposal requesting input. He believed Senator Hill intended to present the bill.

Council Member Klein inquired whether Mr. Garamendi had more information regarding the clean-up legislation.

Mr. Garamendi stated the proposed clean-up legislation contained basically three parts. The primary part was a memo regarding funding for modernization. The second part concerned the Environmental Impact Report (EIR) and its mention of a two-track system, rather than a four-track system. In the third part, Senator Hill's staff proposed the nine members who signed the MOU for the blended system agree to a study of or expansion from a two-track system to a four-track system. He requested

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the City Council Rail Committee's (Committee) thoughts and input on the proposed legislation.

Council Member Klein understood a change from a two-track to a four-track system could only be triggered once the entire system was complete.

Mr. Garamendi stated that was the Committee's suggestion; however, this was Senator Hill's proposal.

Council Member Burt inquired whether the trigger applied to the blended four-track system or the full four-track system.

Mr. Garamendi read the language from the proposed legislation and assumed it referred to the two-track system only program.

Council Member Burt asked if the Senator Hill seemed to be receptive to including other issues in the proposed legislation.

Mr. Garamendi felt Senator Hill could be receptive, but that depended on the other issues to be included. The leadership group discussing this was not excited about this type of legislation, so Senator Hill was trying to find a solid first step. All issues were not included in the bill but suggestions were made to Senator Hill.

Council Member Burt indicated the proposed legislation did not reflect legislative authority for continued funding of the bookends, should the Central Valley segment not be completed. That issue was different from shifting funding to the Central Valley segment and from legal challenges preventing construction of the Central Valley segment.

Mr. Garamendi was unsure whether Senator Hill included language to continue projects that were supported by Palo Alto, should the whole project fail; he said he could propose that to Senator Hill. California bond money funded the bookends, so the bookends were not tied to the Central Valley project. He was unsure how a successful lawsuit was going to impact this because the lawsuit challenged the legality of the bookends.

Council Member Burt understood a court decision affected it, but said that was different from legislative authorization for funding of Caltrain electrification, even if the Central Valley segment failed.

Mr. Garamendi was happy to propose that.

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Council Member Kniss believed that funding for electrification was agreed upon.

Mr. Garamendi agreed and believed Council Member Burt was referring to keeping funding, should the entire High Speed Rail (HSR) project fail.

Council Member Kniss asked how HSR could fail.

Mr. Garamendi meant if the legal challenges stopped the project.

Council Member Klein indicated that was not what he meant.

Council Member Burt noted Senator Hill's proposed language stated that funding for bookends was not diverted to the Central Valley; however, the language did not state that those funds continued to be used for electrification, if the Central Valley project failed for whatever reason.

Council Member Kniss asked Mr. Garamendi's whether the language should be that specific.

Mr. Garamendi said he could propose specific language but the proposed legislation would change as it moved forward. He said it was easier to insert language at the beginning of the process and understood funding for Caltrain occurred quickly.

Council Member Kniss was surprised to hear that funding was in jeopardy because Caltrain anticipated funding being delivered by summer.

Mr. Garamendi agreed.

Council Member Kniss inquired about the political climate regarding support for clean-up legislation.

Mr. Garamendi reported there was reluctance for clean-up legislation after the Bill passed in the fall of 2012 because there was a good chance the legislation was going to pass, as long as it was not hijacked in the process. Senator Hill did not like to propose legislation if he thought it was going to fail.

Council Member Kniss inquired whether legislative leadership agreed with the proposed clean-up legislation.

Mr. Garamendi answered yes.

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Council Member Klein noted the Committee was discussing Agenda Item Number's 3 and 4 together.

## 4. Discussion of Proposed SB 1029 Clean-up Legislation

Morris Brown reported his letter to the California High Speed Rail Authority (CHSRA) asked them not to proceed at this time because Senate Bill 1029 (SB) was illegal. He said it was approved by the Legislature without conforming to the restrictions in Proposition 1A, a proposition that approved the issuance of \$9.95 billion of general obligation bonds that funded an 800-mile high speed train under the supervision of the CHSRA. CHSRA was obligated to approve a funding plan for an initial appropriation of the project and asked to submit it to the Legislature, and other groups, 90 days prior to considering an appropriation. There were no funding plans that he was aware of, or that were approved by CHSRA which covered this appropriation. Clean-up language was submerged under a new appropriation Bill that was needed.

Herb Borock stated the deadline for introducing legislation was prior to Caltrain and CHSRA's approval of any new Memorandum of Understanding (MOU). Proposed legislation that referred to existing MOU's needed to be amended to refer to the proper MOU. At the prior City Council Rail Committee meeting (Committee), he questioned the terms "temporary" and "account management purposes" and said he was satisfied by Senator Leno's definition of "account management purposes;" he requested a definition for "temporary."

Council Member Klein reported the topic for consideration was Senator Hill's proposed legislation with two additions. The first addition was that he wanted CHSRA to be considered a four-track system, and to have architecture with the consent of all parties to the 2012 MOU. The second addition was proposed by Council Member Burt. The questions for the Committee were whether or not to endorse the proposed legislation and whether or not to add conditions if the Committee did endorse the proposed legislation.

Council Member Burt was interested in whether the Committee wished to consider any elements listed in Staff's table. He requested Staff's recommendations for elements that were most important and most feasible for inclusion.

Richard Hackmann, Management Specialist did not believe the most important elements aligned with the most feasible elements. With regard to the four-track system, he viewed it as an additional hurdle for CHSRA;

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however, it was possible for CHSRA to get over it easily. One approach was to request further definition and refinement that was "substantially within the right-of-way." If they were willing to provide a better definition, then Palo Alto would agree to include the additional language regarding the four-track system.

Council Member Burt recalled that the intention of funding electrification was for electrification to enable a future blended system. The proposed legislation indicated funding implemented a rail system consisting of a two-track system. He said it might not make a difference because there was no funding or authorization for a blended system. Language in the proposed legislation was somewhat contradictory and was to Palo Alto's detriment.

Mr. Hackmann reported Senator Simitian stated SB 1029 did not allow book-end funding to be used for a four-track system. He requested clarification that no future funding go towards a four-track system and that future appropriation Bills not allow the construction of anything beyond the blended system. He said Jeff Morales, High Speed Rail Chief Executive Officer agreed to that.

Council Member Burt indicated the language in Senator Hill's proposed Bill allowed the first funds to go toward a blended system, but the first funds were meant for Caltrain electrification only. He said obtaining clarification should not be difficult because funds were not available for a blended system. He saw clarification for that in another document. Funds were for building electrification that was consistent with the future blended system, not for a blended system.

Mr. Hackmann suggested the Committee ask for a statement indicating \$600 million would be used for electrification to enable a future blended system.

Council Member Burt believed there was language to that effect in SB 1029.

Council Member Kniss suggested the language include a year when a decision needed to be made, perhaps 2030, 2040, or 2050.

Mr. Hackmann indicated the CHSRA reported High Speed Rail (HSR) could occur in the late 2020s, if everything went as planned. Anything to do with a four-track system in the corridor was likely a long way off. His concerns focused on additional assurances for the blended system as a result of that. The wording the Committee agreed to was significantly better than the proposed language.

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Council Member Kniss said "primarily" and "substantially" were the two operative words.

Mr. Hackmann felt that, because the four-track system was so far out on the horizon, gauging the environmental impact on the future was difficult. Refining the definition of "substantially" and "primarily" provided benefit to the community because it protected property close to the Corridor in future Environmental Impact Reports (EIR).

Council Member Kniss stated electrification had to include the opportunity for a blended system because it was difficult to visualize the future need for a four-track system at this point in time.

Mr. Hackmann agreed.

Council Member Klein reported his first priority for recommended changes was defining "substantially" and "primarily." He was concerned about the approval mechanism for a four-track system because it allowed San Jose and San Francisco to approve the MOU and approve a four-track system. He suggested a veto occur if the majority of the cities in Santa Clara or San Mateo County voted no.

Council Member Kniss asked if he meant to put that language in the proposed legislation.

Council Member Klein responded yes. The Legislature looked for things that were easy to implement.

Council Member Kniss did not believe that language was acceptable to the Legislature.

Council Member Klein stated another advantage was noting Palo Alto's disagreement with the present governance giving control to San Francisco and San Jose.

Mr. Hackmann believed assurances concerning the four-track system were not strong, and a four-track system was far in the future. Realistically, the City was only able to make a limited number of recommendations and changes to the proposed Bill. He asked if the Committee wished to take a position on the four-track system or if they wanted to focus on other things.

Council Member Klein was comfortable endorsing the proposed Bill with increased specificity on right-of-way. He wished merely to state that the

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veto was not meaningful, but Palo Alto would accept it because it was so far in the future.

John Garamendi Jr., Professional Evaluation Group Inc. reported the Committee would encounter problems with defining "substantially within the right-of-way." He said that kind of specificity could run the risk of losing the whole Bill and for it not to be considered entirely.

Council Member Klein stated Mr. Morales agreed to a 5-10 foot right-of-way.

Mr. Garamendi felt Mr. Morales would be retired before that issue came forward. He recommended that change if the Committee wanted it.

Council Member Kniss suggested recommendations be simple. She admired his zeal but said the recommendations needed to be politically realistic.

Council Member Klein indicated the Committee had to consider how much was gained by the proposed legislation and considered it being only a marginal improvement. He did not disagree with Council Member Kniss' comments.

Council Member Kniss felt that recommendation was not politically feasible. She inquired whether there were other recommendations that were likely to fail.

Mr. Garamendi stated the leadership believed legislation was complete, and leadership did not have to negotiate on legislation. He expressed concern about pushing on the substantial right-of-way. He said funds would go to Caltrain soon; therefore, ensuring the funding remain in the proposed legislation was good. With regard to Council Member Klein's suggestion of a mechanism other than the nine-member vote, he said they would probably balk at having a special election.

Council Member Klein clarified that he did not say special election, because that would be balked at that.

Council Member Kniss noted Council Member Klein spoke of permanent funding.

Council Member Klein meant the sales tax election occurred for permanent funding of Caltrain, not HSR.

Council Member Kniss thought Council Member Klein was attempting to incorporate that concept into the proposed legislation.



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Council Member Burt suggested approaching CHSRA and asking them to collaborate on inclusion of items in Senator Hill's Bill, as CHSRA's support of the Bill diminished any opposition.

Council Member Kniss indicated that was an interesting idea.

Mr. Garamendi reported Senator Hill included CHSRA and Caltrain were part of all discussions. There was some debate regarding the project-level EIR documents being consistent with the blended system. At the current time, Senator Hill had a broad coalition. He understood CHSRA and Caltrain were endorsing the Bill, but that depended on the final Bill.

Council Member Burt stated it was one thing to seek CHSRA's approval of changes, and another to remind them of their previous commitments to these changes. He inquired whether Senator Leno supported the proposed legislation based on his prior commitments.

Mr. Garamendi replied yes.

Council Member Klein asked when Senator Hill would file the proposed legislation.

Mr. Garamendi believed he would file the legislation in the following week if there was some agreement; he was going to announce the legislation toward the end of the following week.

**MOTION:** Council Member Klein moved, seconded by Council Member Kniss to support State Senate Bill 1029, Clean-up Language as it was written, but not to support the veto.

Council Member Klein felt this was not the main battle, and the City needed to take what they could get out of it.

Council Member Kniss agreed.

Mr. Garamendi believed this action kept the debate in front of the Legislature and motivated them to oversee the project; he thought this may be the only piece of legislation on HSR.

Council Member Klein indicated it would be returned to the Legislature in a few years.

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Council Member Burt understood the City would accept this improvement, and inquired whether conversations regarding other elements were going to continue.

Council Member Klein stated Mr. Garamendi was already authorized to do that.

Council Member Burt felt it was important to clarify that the City hoped to keep the conversations alive.

Mr. Hackmann noted at the July 5, 2012 hearing, Mr. Morales, Senator Leno and Senator Simitian made it clear they were not comfortable with changes to the California Environmental Quality Act (CEQA) or the National Environmental Policy Act (NEPA) being associated with SB 1029, and the funding approval. It was important to remember this was on the record.

Council Member Klein indicated the Legislature would hear more about HSR when CEQA reform was proposed.

Mr. Garamendi agreed.

Council Member Klein felt that would be the appropriate time to discuss that.

**PASSED:** 3-0, Shepherd Absent

Mr. Garamendi assumed that the Committee would be willing to host an announcement in Palo Alto.

Council Member Klein agreed.

Council Member Kniss heard that Governor Brown hoped to make this a highlight of his career and inquired whether Mr. Garamendi agreed with that assessment.

Mr. Garamendi replied yes and said Governor Brown was asked about that recently, and stated that he was not concerned about legacy. He felt the Governor was committed to this project.

Council Member Kniss explained it affected how the State Committees reviewed the proposed legislation.

5. Discussion of the Planned Updates to the Existing Peninsula Corridor Joint Powers Board/California High Speed Rail Authority Memorandum of Understanding

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Casey Fromson, Government Affairs, Caltrain Modernization Program at San Mateo County noted she worked as Congresswoman Anna Eshoo's Legislative Director prior to joining Caltrain.

Richard Hackmann, Management Specialist reported the Memorandum of Understanding (MOU) was a step forward in terms of providing additional assurances about how the system was implemented. Today was the deadline for comment on the MOU. The MOU would be an informational item on California High Speed Rail Authority's (CHSRA) agenda the following day, and an action item at the March meeting. Caltrain stated they would be the lead agent for the Electrification Environmental Impact Report (EIR). For the blended-system EIR, the CHSRA was the lead agent, but Caltrain had the final approval of design as owner of the corridor. Any potential improvements that might occur between the Electrification EIR and a blended-system EIR were run by Caltrain. The intent was not to give CHSRA greater control over the corridor, but to allow CHSRA to be the lead agent regarding the blended-system EIR. Nothing in the MOU precluded Caltrain from making corridor improvements as long as improvements were consistent with the future blended-system vision.

Council Member Kniss stated funding for electrification did not equate to funding for operations. She inquired whether the City Council Rail Committee (Committee) discussed funding.

Mr. Hackmann reported the Committee was aware of and concerned by Caltrain funding. The Committee's approach was to recognize that a dedicated funding source for Caltrain was a regional effort. The Committee discussed coupling a dedicated funding source for Caltrain operation through a ballot measure with a realignment of the Peninsula Corridor Joint Power Board (PCJPB) composition.

Council Member Kniss did not recall whether there was support from the three counties for a tax measure, and had not heard anything further.

Mr. Hackmann had not heard anything either.

Council Member Burt related the history of Caltrain in crisis, collaboration with the Silicon Valley Leadership Group, and polling regarding funding for Caltrain.

Council Member Klein indicated the issue was not on the Agenda.

Council Member Kniss requested the topic be placed on a future Agenda.

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Council Member Burt agreed the topic was not on the Agenda, but wished to answer Council Member Kniss' question.

Council Member Burt recalled the MOU did not address the issue of local concurrence regarding grade separation decisions. He inquired whether the MOU contained language establishing the role of the municipality with regard to grade separations.

Mr. Hackmann did not know of any language in the MOU that set forth those parameters. The MOU was specifically related to Caltrain electrification followed by the blended system. At this time, Staff did not know whether grade separations were necessary.

Council Member Burt stated grade separations would potentially be necessary in limited locations before the blended system could occur. If grade separations were driven by the blended system, then a separate EIR and presumably a separate MOU were needed. He asked if it was important to have language in the MOU regarding grade separations that were needed for capacity under electrification and the control or role of the local jurisdiction.

Council Member Klein indicated the MOU's role was discussed in the Staff report.

Aaron Akin, Assistant Planning Director noted that the Staff report also discussed aerial options.

Council Member Klein said aerial options were not under discussion.

Council Member Burt believed the language in the Staff report was similar to the language in Senator Hill's legislation and he thought the language was acceptable.

Council Member Klein felt the language was the best the Committee could hope for.

Council Member Kniss agreed.

Council Member Klein inquired whether the Committee wanted comments on the MOU.

Council Member Kniss felt there was nothing further to be added.

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Council Member Klein was agreeable to the substantial improvements made to the MOU.

Herb Borock reported someone could interpret "supported" to mean financially supported. The City's position was that money came from another source. He thought the language needed to be clarified so it was clear it did not mean dollars from the cities.

## **NO ACTION TAKEN**

### 6. Agenda Setting

Richard Hackmann, Management Specialist announced the next meeting was February 28, 2013; the meeting time was 3:30 P.M.

Aaron Akin, Assistant Planning Director noted it was the same day as the scoping meeting.

Mr. Hackmann noted Caltrain and consultants for the Environmental Impact Report (EIR) were going to be at the City for a scoping meeting.

Council Member Burt indicated the San Francisquito Creek Joint Power Board (JPB) was also going to meet that day.

Mr. Hackmann noted the scoping meeting was scheduled from 6:00-8:00 P.M. The City Council Rail Committee (Committee) meeting was going to have greater implications.

Council Member Burt thought there was going to be a conflict.

Mr. Hackmann requested the time of the JPB meeting.

Council Member Burt said it was at 4:00 P.M.

Council Member Klein inquired whether the Committee wished to move the meeting time to 8:30 A.M.

Council Member Kniss asked why the meeting time was 8:30 A.M.

Council Member Burt explained the reason was to accommodate Council Members with fulltime employment.

Council Member Kniss inquired if the meeting on February 28, 2013 was to begin at 9:00 A.M.

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Council Member Klein answered yes.

Council Member Kniss inquired whether the Caltrain scoping meeting was scheduled for that evening.

Council Member Klein replied yes.

Mr. Hackmann reported Staff ensured the Agenda included any items pertaining to the scoping meeting. Staff provided historical responses regarding EIR scoping.

Council Member Kniss inquired where the scoping meeting and the Human Relations Commission (HRC) meeting was to be held.

Mr. Hackmann believed the HRC would be held in the Council Conference Room, and the scoping in the Council Chambers.

7. Future Meetings and Agendas
  - Discussion of touring the Stanford Research Park by interested Staff, Legislative Advocates, and Rail Committee Members
  - Discussion of inviting Governor Brown to Palo Alto for a tour of the Stanford Research Park
  - Discussion of Palo Alto grade separation issues
  - Discussion of below grade alternatives for Palo Alto

Richard Hackmann, Management Specialist added a future Agenda Item for discussion entitled 'Dedicated Funding for Caltrain'.

Council Member Kniss requested the discussion include reorganizing governance for better representation.

Council Member Klein felt the two topics meshed.

Council Member Kniss preferred to differentiate between the topics.

Mr. Hackmann noted an update regarding efforts to obtain dedicated funding was on the Agenda for the next meeting.

Council Member Klein suggested it would be useful to reach out to the Silicon Valley Leadership Group because they supported dedicated funding the past two years.

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Council Member Burt recalled the funding issue was not instigated by Caltrain.

Council Member Kniss agreed.

Council Member Klein indicated Senator Hill was interested in the topic.

Council Member Kniss emphasized that Vice Mayor Shepherd wanted Governor Brown to receive an official invitation to tour the Research Park. She did not know why that was on the City Council Rail Committee (Committee) Agenda.

Mr. Hackmann reported the Vice Mayor had concerns regarding the impact of increased train traffic in the corridor and gate down times on traffic to and from Research Park.

Council Member Burt added Vice Mayor Shepherd was also concerned by the lack of appreciation in Silicon Valley as an economic engine.

Council Member Klein felt it was appropriate to invite the Governor; however, the Mayor did not need action by the Committee to invite the Governor for a tour. It was unlikely that the Governor was going to tour Research Park; however, an invitation was issued.

Mr. Hackmann said he would follow-up.

## FUTURE MEETINGS AND AGENDAS

February 28, 2013, 9:00 A.M.

ADJOURNMENT: The meeting was adjourned at 5:58 P.M.