



# CITY COUNCIL RAIL COMMITTEE TRANSCRIPT

Special Meeting  
Wednesday, September 21, 2016

Chairperson Berman called the meeting to order at 8:31 A.M. in the Community Meeting Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Berman (Chair), Burt, DuBois, Scharff

Absent:

## Oral Communications

Chair Berman: The first item on our agenda is Oral Communications where members of the public get an opportunity to speak for up to three minutes on anything not on the agenda. I don't see any speaker cards for Oral Communications. We'll close that item.

## Agenda Items

### 1. Caltrain Electrification Status Update

Chair Berman: The next item on the Agenda is Action Item Number 1, which is Caltrain Electrification Status Update. We have three speakers to that item. The first speaker is Morris Brown.

Morris Brown: Good morning, members. I'm Morris Brown from Menlo Park. I just want to make a note that the Staff Report keeps talking about funding from the Federal Railroad Administration (FRA). There's no funding from the FRA on this. This is an FTA, Federal Transit Administration (FTA), project. The references to FRA are wrong. It should be to FTA. I haven't been to one of these meetings in some time, but certainly Palo Alto has been a leader among the Peninsula cities in dealing with and devoting resources and time to examining transit issues, especially High Speed Rail and Caltrain. What I don't understand is why there's a disconnect between Palo Alto and the other cities on the Peninsula that they have questioned the Caltrain modernization program. It seems to be God's gift to the world, and nobody seems to want to question it. Yet, the cost in four years has risen 60 percent from \$1.2 billion to \$1.9 billion. Why aren't people complaining? Nobody's asking questions. Caltrain claims they have funding in hand and has in fact issued a preliminary go-ahead to start the project, but the

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funding is not in hand. The FTA has not yet granted the \$647 million they are counting on. In fact, Caltrain has yet to apply for a grant. They're just beginning to go through the process of preparing to apply for a grant. That money has not even been approved by Congress yet. There's a big disconnect between what Caltrain is telling you and what is reality. We had the \$600 million-plus from the High Speed Rail Prop. 1A bond money. They're never going to get that money for this project. This project is a regional project. It's not a High Speed Rail project. Prop. 1A has all kinds of provisions to keep money from being diverted from High Speed Rail to a regional project like this. This is absolutely silly. Finally, what about the competence of Caltrain to carry out the project? Just a minute about the Planning and Transportation Commission (PTC), the Communications Based Overlay Signal System (CBOSS) program. That program is an absolute disaster. They have budgeted \$231 million for the program. It was to be up and running next month. It is not going to be up and running for months and months and months. They have already spent all of the funds that were allocated to it, \$231 million. That money was at least twice what it should have been when you compare it to other PTC programs in the State. Metrolink has 550 miles of track. They've done their project for \$200 million. Caltrain can't do PTC for 50 miles of track for the same amount of money. We see letters from Jim Hartnett, the Chief Executive Officer (CEO) of Caltrain, threatening to sue the Parsons Brinkerhoff group—not Parsons Brinkerhoff, but Parsons which is the contractor for breach of contract. The project's in deep difficulty. It may be abandoned altogether. If they can't even do a \$231 million contract, how can we expect them to effectively carry out an almost \$2 billion electrification program? Thank you very much.

Chair Berman: (crosstalk). Thank you. The next speaker is Mike Brady.

Mike Brady: Thank you, Mr. Chairman. Mike Brady from Menlo Park. I've been a lawyer in Redwood City for 50 years. I've been involved in litigation trying to prevent High Speed Rail from coming to the Peninsula. That's the precise focus of an organization I'm a member of, CCHSR, Community Coalition on High Speed Rail, trying to prevent High Speed Rail from coming to the Peninsula. Caltrain has recently admitted they are a partner with High Speed Rail. The head of High Speed Rail regionally says they are an integral part of the High Speed Rail program. Caltrain is trying to get for the electrification project Proposition 1A money. That money can only be used for High Speed Rail. Don't fool yourselves. This is not a local, parochial project. This is High Speed Rail. As such, they have to comply with all the requirements of Proposition 1A, if they're going to use Proposition 1A money. Proposition 1A is going to require 20 trains per hour crossing every intersection in Palo Alto and the Peninsula, 10 south, 10 north, 20 trains an

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hour. Right now at peak travel times on your intersections, Charleston, Alma, West Meadow, on those intersections about every six minutes the crossing guards come down. After the electrification project, every three minutes. Are you aware of the traffic nightmare in Palo Alto and Menlo Park? I'm sure you are. Getting your kids to school, getting to the hospital, getting to the clinic, getting to work, coming home from work, a nightmare. Every three minutes. Have you asked Caltrain about this? When there was a meeting about a year ago in Burlingame, 100 people showed up. They all raised this point. What did Caltrain state? "We're currently studying the issue. Incidentally, we have no money for grade separation." No money for grade separation. Maybe the solution for you is to say, "We are not cooperating with you in this project, until you put the money in escrow for grade separation before you start anything. No money, no cooperation until you put the money in escrow." Did you also know that the contracts between Caltrain and High Speed Rail call for Caltrain to give them the 50 miles between San Jose and San Francisco? All of the corridor, give that to the High Speed Rail Authority. Do you think you'll have any control once the land is no longer owned by Caltrain and we, the taxpayers? No. The Authority will go in and build whatever they want to. Be very wary. Make Caltrain answer these questions. Make Caltrain protect your intersections. Thank you.

Chair Berman: Thank you, Mr. Brady. Our next speaker is Herb Borock.

Herb Borock: Thank you, Chair Berman, and good morning, Committee Members. I'd like to talk about the subject of the Staff Report that you have on this Agenda Item. I'd like to make a correction to my letter. The first paragraph, I mention the court case, and I gave the wrong county. The court case on the Caltrain environmental report and project approval is taking place in Contra Costa County. It was originally in San Mateo County, but it was shifted because when there are two government agencies from the same county, either party can request that it be moved, which Caltrain did. The parties agreed that Contra Costa County was a good place, because it had judges who were familiar with environmental law, and also that was convenient for the parties and their attorneys. I don't believe that the Council should be discussing this proposed comprehensive agreement with Caltrain until after there's a decision in this court case. The hearing on the court case was on September 2. The decision will come in enough time for the City of Palo Alto and the Council to be able to consider this agreement after the ruling in the Contra Costa County Superior Court and before the end of the year. In regard to Mr. Brady's comments, as I understand it, this money from the Federal Government could only come if all the jurisdictions have agreements with Caltrain prior to the end of the

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year. I don't believe that the town of Atherton is going to be willing to do that or has done that. You might want to wait until Atherton does that. Finally, if there is an agreement that is a favorable agreement that Superior Court for Caltrain, it might very well be appealed. As part of the agreement, one of the terms of the agreement should be that it would be nullified if a court of competent jurisdiction overturned such a ruling and says that it's no good. I believe this item and the next one is sort of reversing things that should be done. That is, first you need on this item a valid and binding and final decision that there is such a project for Caltrain before you go ahead and start having these kinds of agreements. In regard to the name of the road that intersects El Camino along the creek, that's Palo Alto Avenue. It's not Alma Street. Thank you.

Chair Berman: Thank you very much. Before we get into the Staff presentation, does Staff want to make any replies to any of the comments? Maybe things will come out during the presentation (crosstalk).

Ed Shikada, Assistant City Manager: I think perhaps it'll be most useful for us to give a quick overview on where we are in the discussions with Caltrain. Mike Nafziger from Public Works Department is here.

Mike Nafziger, Senior Engineer: Good morning. Just a brief background. Beginning earlier this year, Staff has held meetings with Caltrain project teams to discuss the Peninsula Corridor Electrification Project, PCEP, and the next steps, including technical aspects, design and construction of the system, and what is required in Palo Alto, as well as the agreements and safety standards necessary for the project. Caltrain issued a request for proposal for a design/build contractor to finish the design and complete the construction of the PCEP. This was awarded on July 15, 2016. Construction is due to start in spring of 2017 with revenue service in 2020. Specific to the City of Palo Alto, Caltrain's preliminary design includes overhead contact system, OCS, poles, string and wires for the OCS, which would include temporary at-grade closures; construction of a traction power facility and staging areas. Palo Alto's Staff are also in the process of working with JPB on the comprehensive agreement between the Joint Powers Board (JPB) and the City of Palo Alto and the Caltrain electrification operating requirements. JPB's Federal grant funding is dependent on completing the execution of the comprehensive agreements with the agencies in the corridor. In May, City Staff received an initial draft of the comprehensive agreement. This agreement is to memorialize the parties' consultation and cooperation. Once negotiations have concluded, Staff will bring the agreement to Council for discussion and the submit date is fall of this year. City Staff have met with the Caltrain project team in June to review this draft, provide feedback

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before review by the respective attorneys. City Staff have raised a number of issues. A non-exhaustive list of these issues and related discussions include preserving El Palo Alto and the surrounding area; design review process for OCS poles; cost recovery for City costs including Staff time; hours of construction and the noise impacts; building permit requirements and inspections for the traction power facility; roadway geometry changes at Alma and El Camino intersection; the overlap between the comprehensive agreement and safety requirements; minimizing impact on utility operations, particularly during construction; cost recovery for underground utility relocation. In addition to these issues, Council may wish to consider raising other issues such as landscape, screening, fencing, trail extensions. The City has also been working closely with Caltrain and a joint utility group including Pacific Gas and Electric (PG&E) and Santa Clara to provide feedback on safety requirements that will apply to the electrification. These require PCEP approval. Staff is bringing this to you as a status update but also as an opportunity to raise potential discussion items which you may have questions about or wish to discuss further.

Mr. Shikada: Thanks, Mike. On that point, perhaps just to emphasize this is recognizing the first substantive discussion of both topics, the electrification agreement that Caltrain has brought to us as well as our next item that the High Speed Rail Authority has brought forward to us in terms of reimbursement agreement. Staff wanted to inform the Council of the ongoing overtures we've received from each of those agencies. We solicit your feedback to guide the discussions that we'll be having over the next weeks and months. With that, (inaudible) back to the Committee.

Chair Berman: Thank you very much. We'll open it up to questions and comments from Committee Members. Anybody want to take first crack?

Council Member DuBois: I'll jump in, I guess. You said the design/build happened in July. Does that mean the design is substantially completed?

Mr. Shikada: Not really. Our understanding of the way that the design/build package has been structured is that it's a progressive design that's being done as an entire package. The design, I think, is at the 30 percent—I'm not sure what quantitative measure that's being used as the basis for the costing as well as to proceed with their construction. That said, the fact that they've let a contract really does represent the expectation they're going to move pretty quickly.

Council Member DuBois: Have we seen the options on the pole configuration and height?

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Mr. Shikada: Not that I'm aware of.

Council Member DuBois: I saw one a year or two ago that suggested maybe two potential options. Those haven't been brought up?

Mr. Nafziger: There is a design-related component of the poles with the poles that are nearby the stations. We have not seen any details on it.

Council Member DuBois: I think the community is going to be pretty concerned if they're 40-foot high poles down the length of the tracks. If there's any options for lower height configurations, I'd definitely push for those. What is referred to as the staging area? What would that be?

Mr. Nafziger: Potential area where the contractor needs to store equipment.

Council Member DuBois: Just for construction, not after construction is complete?

Mr. Nafziger: Correct.

Council Member DuBois: Have you guys had any discussions about fencing and landscaping?

Mr. Nafziger: Not at this point, no.

Council Member DuBois: Does Staff have an idea what they would propose?

Brad Eggleston, Public Works Assistant Director: Fencing on the west side has been discussed with Caltrain, between Caltrain and the City separately, but it hasn't yet been part of the discussion for this comprehensive agreement.

Mr. Nafziger: There may be some landscaping issues around the traction power facility, but that hasn't been discussed thoroughly yet.

Council Member DuBois: That's all my questions right now.

Chair Berman: Thanks, Tom. Greg.

Vice Mayor Scharff: It says we might have some temporary grade crossing closures while they string the wires. Are they going to stage them? They're not going to close them all at once, I assume. I'm wondering what we're thinking. How long will they be closed? All that kind of stuff.

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Mr. Nafziger: I don't think we would allow them to close all at once. We don't have any details about the length of time closure might happen. They're still trying to sort out how they're going to logistically perform the operation, whether they bring things in through rail or through trucks. Those sorts of things, for example, that we would want to minimize any closure.

Vice Mayor Scharff: And minimize obviously not just the closure but the times to not disrupt things is minimum. We wouldn't want to close both Charleston and Meadow, even if you're left ...

Mr. Nafziger: Construction hours and the logistical operations are something that we're still discussing.

Vice Mayor Scharff: What is a Peter O Knight Airport (TPF)? Where is the TPF facility, how big is it, what does that look like?

Mr. Nafziger: The size is not really identified. The location proposed to be near the California Avenue station on the JPB right-of-way, adjacent to I believe the recent development. I think it's 2765 Park.

Vice Mayor Scharff: The big apartment complex?

Mr. Nafziger: The whole project.

Vice Mayor Scharff: It's adjacent to that?

Mr. Nafziger: Correct.

Vice Mayor Scharff: Is it going to be noisy and bother the residents there or we don't know?

Mr. Nafziger: Unclear.

Vice Mayor Scharff: Obviously we want it screened and all that kind of stuff.

Mr. Nafziger: I think that's one area where landscaping options are discussed.

Vice Mayor Scharff: I think that's really what I've got.

Chair Berman: Pat.

Mayor Burt: I have a few things. First, the follow-up on some of these more specific issues. The aspects of disruptions and closure, you mentioned that

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these things are still being negotiated. Would they be in the terms of the agreement as to either the specifics of them or who has authority for anything that will be based on latitude subsequently?

Mr. Nafziger: I think we're going to try to put as much detail into the agreement as possible. Having said that, we don't know a lot of the specifics of the closure and the length of time. We're still discussing that.

Josh Mello, Chief Transportation Official: Just to build off that. The crossings themselves are entirely within the Caltrain right-of-way. Technically they have the authority to close them at their will but, given how cooperative they were with the Churchill Avenue closure, they consulted with us before to get feedback from us on school arrival and dismissal times, special events. They did very extensive community outreach in advance. I think they're more than willing to cooperate with us and make sure that impacts are minimized.

Mayor Burt: On the one hand, we could go off of the recent past practice of them being cooperative and appreciating the impacts of a closure. On the other hand, if we enter into an agreement where all that discretion lies in their hands, that could change in the future. They have control of the right-of-way, but they need this agreement. We have the ability to negotiate how they would exercise that control of the right-of-way. My question is in our negotiations are you looking for guidance on this from us or do you already have a concept as to whether you're attempting to negotiate how those disruptions and other undefined impacts would be finalized. Do they get all the authority and we're reliant on their good will or are we going to negotiate that we have to have a joint agreement as those things become more refined than they can be at the outset of the agreement?

Mr. Nafziger: At this point, there are some sections within the agreement under discussion, which require cooperation, require City concurrent approval of the proposal. Design issues for example have to be jointly approved by those agencies. That sort of language could be put into the area of grade crossings.

Mayor Burt: I would broaden it to be construction impacts in a broad sense, grade crossings being amongst the most important but not the only ones. That's, I think, one important consideration for us. You mentioned the Alma/El Camino potential impacts. On the PCEP, the electrification project, what impacts are anticipated for that intersection? That was mentioned specifically. I'm just not aware of what those might be different from, say, elsewhere in our corridor.



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Mr. Nafziger: I think Caltrain had some potential mitigation measures or readjustments to the geometry of that intersection, which Transportation Division made some comments on. I think the issue was that Caltrain believed they were feasible mitigations; whereas, City Staff believed they're not feasible. We wanted some language adjusted within the agreement to clarify that.

Mr. Mello: It's actually the addition—it's a mitigation measure that came from the Environmental Impact Report (EIR) for electrification. I believe it's adding a right turn-lane on westbound Sand Hill road to southbound El Camino. I can research that, but I think we had some questions as to whether that was actually feasible and/or desired at this point in time because the EIR was conducted quite a few years ago.

Mayor Burt: We've had an interest in establishing quiet zones. The electrification in some ways both helps that—in any event, it is perhaps a right timing for integrating our interest in quiet zones with this agreement. Has there been any discussion around that?

Mr. Shikada: Not that I'm aware of. Josh or Brad, any sense of that?

Mr. Eggleston: I'm not aware of any.

Mr. Shikada: It's certainly a topic we can bring up with Caltrain to understand what their perspective is on it.

Mayor Burt: It has to do with the design of all those crossings at the time of the electrification project and preceding any grade separations.

Mr. Shikada: We can follow-up with them.

Mayor Burt: Mr. Borock brought up the question of what happens if their funding agreement falls apart. It is accurate that they still have significant financial challenges. They have a lot of support for this project from State and Federal and even regional level. I think they have certain contingency plans, but I don't know that they would be enough, depending on which thing drives a bigger hole in their budget. They do need the Billing and Customer Care (CBOSS) system. It's not technically, as I understand it, a part of the PCEP. It's its own project. Is that the correct way to describe it? That it's not part of the PCEP, right?

Mr. Mello: The Cal Mod program has several subcomponents, CBOSS, Path Computation Element Communication Protocol (PCEP). I think there's a third that's related to signalization as well.

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Mayor Burt: The Local Policy Maker Group (LPMG), which I sit on, has one representative elected from each city on the corridor. We got one update back six months ago about significant problems they were having with the contractor, which—both their consultant and contractor basically. These were problems that the stakeholders and members of the public had anticipated and said we're going on and that Caltrain had been denying for an extended period of time. The LPMG really challenged the Board representatives to engage significantly more on that. We got an update a month ago. They made in some ways some progress, and in some ways it becomes more contentious between the parties involved. Aside from the cost overruns, there are other real problems on certainly whether the system will operate as designed even with cost overruns and on what date it will become active. How that integrates with the PCEP I'm not quite so sure. It's a requirement. It's a Federal requirement. Many of the train systems in the U.S. are behind schedule, and Congress has done an extension. It's sort of like the seismic upgrades to hospitals. It's needed, and all these agencies are not being able to meet the Congressional mandate. This is a big, problematic area. I'm struggling to see whether there's really a way in which there is a nexus between what we're considering today and in those problems. At a high level, they're certainly related but not necessarily explicitly. I'll put that out there. Unless Staff has any thoughts on that at this time?

Mr. Shikada: I think that's kind of the big question in terms of context as we're proceeding with the specifics of this agreement, while recognizing lots of (inaudible) around.

Mayor Burt: As Staff mentioned, we're separately involved with Caltrain on the security of the corridor for safety purposes. We have the full secure fencing on the entire east side the length of the corridor. We've been struggling now for, I guess, a year to get them to really come forward with the west side even as we've said that we would be open to some form of cost sharing on that, and we haven't had progress. It seems that there is a clear nexus between the track security and this PCEP process, maybe not a real strong one. I'm interested in—Molly was here earlier.

James Keene, City Manager: Molly's (crosstalk).

Mayor Burt: I was interested in what's the progress there. Maybe the City Manager can give us a little bit of an update. I know he's been working on this continuously with them. That's in addition, of course, to our advanced sensor security system that we're piloting. Where do we stand on what commitments and timing we've received from them? The other question

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related to this is should we be considering linking that to this or are we seeing enough progress and commitment that we don't need to do that?

Mr. Keene: Wait and see what Molly says. I don't know if I need to be on the mic there.

Mr. Shikada: They told us don't touch the mic.

Mr. Keene: (crosstalk) any progress. I think at a minimum the potential for some policy direction along these lines from the Committee could be helpful, even if Molly doesn't have a conclusive answer for you. We have a number of issues always on the railway. One has been getting the west side fencing, as the Mayor mentioned, completed. Caltrain's position has basically been they don't have plans yet for the west side. They haven't had the Request for Proposals (RFP) return that brings the contract firm on that they would use to deploy the contracts. A lot of bureaucracy in a sense. We have, I would say, sort of some minor issues that get to be big ones. The HOBAC [phonetic] project that we've got that is along the Caltrain right-of-way has a condition of approval that required tree planting there as a screen that Caltrain has objected to as potential future interference with electrification. Even at the Staff level, trying to get through that sort of process, even with the idea that we don't think there's an issue, has really had to bump it up to my level, for me to call Jim Hartnett about things like that. We've been trading phone calls on that. What's more even interesting they're going to be lots of these things that are going to be happening also in the years ahead before this project even happens.

Mayor Burt: With that update, the way I would characterize it is that our objective to get the full secure fencing on the west side of the corridor is not progressing. Caltrain, what they're saying today is basically needing to get an RFP for more fencing material. They'd used up the last. This has been going on for certainly more than six months. My concern is that they had objected to doing fencing at all. When they finally agreed to doing fencing on the east side, they objected to the west side under the argument that fencing on both sides is not needed for track security. Those of us couldn't understand what their rationale was. It's their definition of track security elsewhere in the corridor has been to prevent people from crossing the tracks and, therefore, fencing on one side achieves the objective. For reasons that are just baffling on a simple, rational basis, they applied that to our track security issues which are around suicide prevention. It's been difficult for me to even understand how we can hold a discussion with that premise. Once we argue the simple rationality of it, they seem to still be functioning as if they really don't have much intention to actively pursue this

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request. As a result, I think that there wouldn't necessarily be the same agreement as we have before us, but we as a Council may want to link the two, that we want to see a clearer and explicit plan for completing the west side track security by the time this comes back to us for approval.

Mr. Keene: I owe Jim Hartnett a follow-up call, so I'll make that this morning following your meeting.

Mayor Burt: I need to see whether colleagues agree. This final issue is—I don't know if Molly has any thoughts on this. Do we need a back-out clause of some sort, like Mr. Borock brought up, if this falls apart for them for funding reasons as a result of either cost overruns, litigation or other reasons?

Molly Stump, City Attorney: We can look at that issue. It sounds like the type of housekeeping clause that might make sense to have in there.

Mayor Burt: I'm good for now.

Council Member DuBois: I'll do another round if (crosstalk).

Chair Berman: Let me sneak in there real quick. Just a follow up. I had a couple of questions, some of which have been addressed along Pat's point in regards to the fencing issue, Caltrain's inability to understand the different circumstances in Palo Alto versus the rest of the corridor. In regards to these discussions about this agreement, do they seem to be understanding of the fact that the Palo Alto Caltrain corridor is more residential versus in northern parts of San Mateo County it's more commercial and retail? In regards to issues like hours of construction and noise impacts at night and some of these things, are they recognizing that that will have a different impact in Palo Alto and some other cities where it's residential right up against the corridor or are they trying to take this cookie cutter approach of what's good for Belmont is good for Palo Alto?

Mr. Nafziger: To date ...

Mr. Shikada: (crosstalk) sense in that, Mike?

Mr. Nafziger: To date it's been more of the cookie cutter style. There has been acknowledgement of residential in close proximity, but no real change of plan.

Chair Berman: To me, that's very disappointing. Obviously there are different circumstances all up and down the corridor. I would expect them

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to be more cognizant of that and be willing to—obviously it's easier if everything's just cookie cutter all across. That's just not the situation on the ground. I'd hope that we push back strongly against that.

Mr. Nafziger: The Caltrain project team has made it clear to us that their primary objective is to maintain level of service at all costs during the project, which has led them to the night work proposal.

Chair Berman: That may well be necessary, but let's make sure they're taking extra mitigation measures in areas where that has a greater impact than in the areas where the noise isn't as noticeable to sleeping residents. Without getting into too much of a nuance, it seems obvious why night work would be necessary. It makes me nervous that they're not kind of recognizing that that has a big impact on our residents.

Mr. Nafziger: I think we've discussed some parts of construction that may be able to be done during the day. Maybe some of the more noisy stuff. We're still looking at the real nitty-gritty details.

Chair Berman: That obviously is—from a resident perspective, that's going to be one of the biggest impacts of this project and one of the things that we're going to hear about the most if residents up and down the corridor are kept up all night. That'll make our airplane situation look like a walk in the park. To Mr. Borock's point, I looked on Google Maps. It is Park Avenue and El Camino Real. It's not Alma. Maybe we can just make that factual change. At a macro level, some of the other questions I had got addressed. I agree with Pat that, if we can tie the fencing issue to this as well, we might as well. Tom.

Council Member DuBois: I'm glad you brought up the nighttime construction. I wanted to go back to that too. Again, I can understand why they want to do it. If we can get some of it done during the daytime, great. From a negotiating perspective, I don't know how practical this is. If there is a lot of nighttime construction right near residences, would we push for some kind of partial reimbursement program if people want to move out for a couple of nights to a hotel? I might just highlight the differences along the corridor. Even if we don't get it, just push for something like that. I had another question in terms of other changes that the City might be interested in. In terms of utilities, fiber, changes to intersections, are we going to be able to take advantage of this construction period to do any of our projects? Bike paths.

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Mr. Mello: We're actually in negotiations regarding a bike path connection from the Cal. Ave. train station to Sheridan. They've actually kind of gone the other way in the fact that they don't want to have any other kind of construction out there occurring while they're doing their electrification project. They've actually asked us to delay. They've been a little bit reluctant to enter discussions with us regarding the construction of the bike path within their right-of-way, because the configuration of the OCS system and the traction power substation and all of the elements related to electrification is still so undetermined because it's a design/build contract. I don't think there's—currently, they don't seem open to piggybacking any other kind of projects on top of this because it's a design/build contract and a lot of the design decisions will be made by the contractor as the project advances.

Council Member DuBois: If there's any really difficult projects like utility work going under the tracks or whatever, again a negotiation item to push for, I think.

Mr. Shikada: That's definitely a topic of conversation in terms of the utility impacts to Palo Alto and how that interfaces with Caltrain works. I know that it's been an issue of some frustration from not only our folks but also Silicon Valley Power in Santa Clara in particular, PG&E as well. That's an ongoing point of discussion.

Council Member DuBois: I want to come back to the poles. I thought some of my colleagues might pick up on this because we are so residential along the track. I know in here they're saying we only have influence around intersections. I think we need to push really hard for the entire length of Palo Alto for some kind of low-profile approach. Super industrial-looking, 40 or 50-foot high towers are not going to go over well. I don't know what kind of leverage we have. It seems like they're being pretty assertive in saying we don't have any say on the track away from intersections. To me, if I look at this versus fencing, I think we could do cost sharing on the fencing, and it's kind of more achievable. Influencing these poles, it seems like now is our time to do it, and we should be pretty strong about that. It's going to be an expense. We're not going to have any say after this. That was it.

Chair Berman: Any additional comments?

Mayor Burt: Yeah. I wanted to follow up on this path issue between the Cal. Ave. station and Sheridan. On the one hand, I appreciate that they can't commit to a specific construction collaboration if they have unknowns. On the other hand, if we acquiesce to just giving them full discretion and

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they have no interest in our interests of a bike path there, we're probably going to at best be hat in hand looking for future cooperation. At worse, be turned down. I would say that we want to have a commitment from them that we will be able to do this and something along the lines that, to the extent feasible, we will optimize construction collaboration as opposed to them kind of pushing back and saying, "We basically don't want to have anything." They have one priority. This goes back to the principle that we've had over the grade separations. They and High Speed Rail have the priority of putting their trains in their system. They don't really have the priority of grade separations. They just say, "We'll help if we get a chance." The whole configuration, I agree with Tom that that's an important issue. They've had a long time to narrow their pole configurations. It doesn't seem like they're making much progress.

Vice Mayor Scharff: On the pole configuration, have they given any indication of what the options they might consider are?

Mr. Nafziger: No. We haven't seen the poles in any great detail.

Vice Mayor Scharff: Do we have any sense of what's technically feasible and what's not technically feasible, so we can push for something that's technically feasible?

Mr. Nafziger: We'll have to consult with our utility colleagues, I think.

Mr. Shikada: I'm sure we do actually. That's it. We'll take a look at the issue and see what we can determine and our best advocacy strategy on that.

Council Member DuBois: Can I ask a quick question?

Chair Berman: Yeah. Are you good?

Council Member DuBois: Isn't this public record, the designs that have been submitted?

Mr. Shikada: Right.

Council Member DuBois: How come we don't know what the options are?

Mr. Shikada: That said, as a design/build contract, as I think Josh made reference to the conversations, the limited involvement I've had, they frequently go back to "this will be determined as a part of the package being finalized and that's not there yet." I think there's a bit of—more than a bit

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of elusiveness in that response. Again, appreciate the feedback. These are important points.

Council Member DuBois: As a public document, they must have made budget decisions, kind of cost-related design decisions.

Mr. Shikada: I'm not sure on the poles how finalized those are. That's it. We'll confirm it.

Mayor Burt: Can I follow up on that? My recollection is for several years this pole configuration issue has been a major one. The response to Caltrain up until this design/build argument has been that this would be something that would be done with a public and stakeholder collaboration approach. Now, it sounds as if they're saying they're going to leave it to the discretion of the contractor. I don't understand where the impacts on the communities is going to have a strong voice. Second, if I might. Mr. Brown was indicating he may have something substantive, through the Chair.

Chair Berman: Sure, please. Just come up to the microphone.

Mayor Burt: Go ahead to the mic.

Mr. Brown: Thank you. Are you talking about the height of the poles or where they're going to be?

Council Member DuBois: Mostly the height and appearance.

Mr. Brown: I think the big problem with the height is that they have an agreement with the Union Pacific which still runs freight traffic. There is this H height or whatever is needed so they can piggyback these freight loads on top of cars. They need at least 40 feet or whatever it is to accommodate freight on that line. I don't think you're going to get much leeway in the height of the poles. It's going to be mandated by the Pacific. They can't do anything without their cooperation.

Chair Berman: Thank you.

Mr. Brady: I've got some knowledge about that also.

Chair Berman: Sure, that'd be great.

Mr. Brady: One of the fundamental issues ...

Chair Berman: I'm sorry. Just for the record this is ...



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Mr. Brady: Mike Brady. One of the fundamental issues about the whole project is that Union Pacific as a railroad under existing agreements that go back to 1996 has the absolute right to prohibit any High Speed Rail operation on the Peninsula unless they give their written consent. Proposition 1A has been on the deck for eight years. They have never gotten the permission of Union Pacific. It's going downhill in fact. Union Pacific has put them on notice, "You do not have our permission to bring your operation including Caltrain electrification onto the Peninsula. You do not have our permission. We can impose any condition that we want." You talk about poles. Union Pacific in their last letter, commenting on the 2016 Business Plan, said this: We may well require a giant, concrete wall down the entire Peninsula separating our freight trains from your operations, bullet trains, High Speed Rail trains whatever. It's a huge problem. I've been going to countless meetings for many years. When you ask them about this, they say, "We're still talking." That's all they'll say. You've got to ask them these questions. Hold their feet to the fire.

Chair Berman: Thank you, Mr. Brady. If that wraps up the conversation on Item 1 ...

Mayor Burt: Is Staff pretty clear on our feedback?

Mr. Shikada: (crosstalk) substantive areas to focus on.

Vice Mayor Scharff: I think we all raised a lot of really good points. I do think that having some sense of what's technically feasible to ask for, what's not. Even on the fencing, what are the constraints, if any? Are they just being obstinate? I think knowing all of those things would be helpful in terms of us giving direction.

Mayor Burt: They haven't identified specific constraints to my knowledge. That's not what they've been talking about on the west side fencing.

Mr. Keene: If the Committee's also asking, certainly by your next meeting, that we put some meat on the bone about where we are as far as what we've asked for, what they've specifically said.

Mayor Burt: I should qualify that last statement I made. The one thing that they have brought up is in the area where it abuts R-1 housing is needing to make sure that there aren't issues with those residences. We've offered to engage on that. No engagement's happened, and there's nothing happening in the area north of there, where that isn't a constraint.

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Vice Mayor Scharff: I just want us to make sure that we ask for things that—we ask for them in a thoughtful manner that makes sense. On the poles for instance, I think that's a good example that we really need to understand what are the constraints regarding that, so we don't ask for something that's impossible and just get frustrated.

Mayor Burt: On the other hand, they should be simple and clear as to what constraints they have.

Chair Berman: No question.

Mayor Burt: We shouldn't have to be playing 20 questions and figure this out. It's transparent to them what problems they have and issues.

Council Member DuBois: (crosstalk)

Vice Mayor Scharff: Pat, I don't disagree with you. On the other hand, if they're not going to be transparent and they have no history of being transparent and no history of doing what you think they should, which I agree they should do, we're going to then have to ferret it out. Otherwise, it's just going to be a problem.

Chair Berman: If that's the case, that just emphasizes the need to not give them carte blanche in this agreement.

Council Member DuBois: The last thing is just how theoretical is some of this. Is Union Pacific preserving the right for double high cars when they haven't done that in a number of years? It's really negotiation that's going to result in huge towers.

Mayor Burt: My implication, Greg to what you were saying, was that we should simply request of them, "What are your constraints" as opposed to playing a guessing game.

Chair Berman: You guys are both on the same page, I think.

Mr. Keene: If I just might add a follow-up thing with the Committee in relation to the point that was brought up about the construction management, the design/build process and the potential that we could end up in a situation where they don't want to permit contemporary with the project a joint in right-of-way work that we'd like to have done. I would want to tell the Committee that I'm going to ask Josh and our Staff, do we actually pursue sort of formal agreements around these things so that we are clear that once a project is done, if we have to do it after the fact, as the

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Mayor said, it's clear that we have the ability to proceed with those things. We could very well get in a "we're done with this project now," and then there's just hurdle after hurdle that can be put in our way.

Chair Berman: Thank you.

## **NO ACTION TAKEN**

Chair Berman: We'll move on to Agenda Item Number 2 in a second.

Mr. Keene: Coincidentally, I have to leave also. We have a biweekly Caltrain track watch safety meeting that (crosstalk) right now.

Vice Mayor Scharff: Coincidentally, I have to leave too.

Chair Berman: We're going to fly through these next items.

Vice Mayor Scharff left meeting at 9:25 A.M.

2. Recommendation to the City Council Regarding Execution of a Reimbursement Agreement for Costs Associated With the Review of Technical Studies, Legal Documents, and Design Plans for the California High-Speed Rail Project

Chair Berman: Agenda Item Number 2 is recommendation to the City Council regarding execution of a reimbursement agreement for costs associated with the review of technical studies, legal documents and design plans for the California High Speed Rail project. We have one member of the public who would like to speak to this item, which is Herb Borock. Herb, you'll get three minutes.

Herb Borock: Thank you, Chair Berman and Committee Members. This topic seems premature, since it seems to be something that relates to agreements for things that occur after project approval by the High Speed Rail Authority. It also refers to High Speed Rail Authority taking actions after receiving a notice to proceed. The agency that sends a notice to proceed is the Federal agency, which I guess comes after the National Environmental Policy Act (NEPA) review, the National Environmental Policy Act review, and a record of decision. So far High Speed Rail is still subject to the California Environmental Quality Act. To go ahead it would still need that approval, a State level approval. Their position is that they should be exempt due to Federal preemption, but that's still up in the air and it's in court. There's actually a couple of court cases related to that. It went to the Supreme Court. That was fully briefed, I guess, last year and still

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doesn't have oral arguments. There were two Federal appellate court cases which are in abeyance waiting for the State Supreme Court case to go ahead. If all these studies and things have to do with implementing the decision that's not yet made because the environmental review is still in process at the State level for High Speed Rail, it seems to me that's the time to do anything about this and not get ahead of the game. Both Caltrain and High Speed Rail seem to want to rush and do things before it's time to do them and get agreement from us to do those things. I don't think that's the appropriate way to proceed. Thank you.

Chair Berman: Thank you very much. Looks like we have one more speaker. If anybody else wants to speak to this item, please turn in a card right now. This is Mr. Brown, Morris Brown.

Morris Brown: Morris Brown, Menlo Park. Just a quick word. Since this is dealing with a High Speed Rail issue, I'd sort of like to get on the record that we had Representative Anna Eshoo going up and down the Peninsula lobbying all the Councils and lobbying the facilities that not be allowed to hold this recent hearing on High Speed Rail by Representative Jeff Denham and persuaded Councils, not only this Council but other Councils, to not allow the hearing to be held. The argument was she didn't want a High Speed Rail hearing in her district. I think that stinks. The meeting was eventually held in San Francisco. It was held in the basement of the Federal administration building. It was reportedly not very well attended, held at very poor facilities where they had to set up card tables, very poor video. It's too bad that that meeting wasn't better attended and better covered. Just as a point of action. I personally feel that High Speed Rail is a dead issue. We're now seeing that the Authority is willing to grant funds for regional projects. I think that ought to be made more and more aware to the public. Thank you very much.

Chair Berman: Thank you, Mr. Brown.

Mayor Burt: Marc, can I clarify something for the record?

Chair Berman: Please.

Mayor Burt: I certainly was not approached by Representative Eshoo to discourage hosting that meeting, and I'm not aware of any of our Staff having been approached or other Council Members.

Chair Berman: Thank you. Does Staff have a presentation they'd like to make?

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Ed Shikada, Assistant City Manager: We'll review where we are.

Josh Mello, Chief Transportation Official: Josh Mello, Chief Transportation Official. Good morning, Chair and members of the Committee. This item is related to a reimbursement agreement that has been submitted to us by the California High Speed Rail Authority. They approached us back in June along with all the other cities along the Peninsula and gave us a very brief presentation on their intent to enter reimbursement agreements with all the jurisdictions along the Peninsula. These agreements would be a mechanism for us and other municipalities and counties as well to capture some planning funding that the High Speed Rail Authority has been allocated through the Federal U.S. Department of Transportation (USDOT). It would enable us to bill them directly for reviews of any technical documents or studies related to the High Speed Rail project. After we received the presentation by the High Speed Rail Authority's consultant, I called a meeting here at City Hall with all of the other cities along the Peninsula. We had great attendance. I think we had about ten representatives from all along the Peninsula. We discussed some of our concerns about these reimbursement agreements. A lot of our concerns were shared mutually. There's a list of those concerns in the Staff Report. Some of them include first and foremost whether executing this agreement implies tacit support for the project and elements of the project. There's some indemnification language in there that was concerning for some of the City Attorneys. We also heard a lot of concern around the cost to actually invoice the High Speed Rail Authority and track Staff time and whether it's worth the reimbursement that we would receive. Tentatively, depending on the scope of the project, the High Speed Rail Authority consultant said that the typical reimbursement agreement would have a not to exceed number of somewhere around \$30,000. This is intended to just be the very first agreement in order to kind of execute other agreements. Reviewing those agreements such as a right-of-way of agreement or anything else that would be required, the time that it would take to prepare those agreements could actually be billed to the Authority under this first initial reimbursement agreement. This is not intended to be the catchall agreement. It's just the first step in the process. The recommendation in the Staff Report is to direct Staff to negotiate with the High Speed Rail Authority and come back to Council with a reimbursement agreement. Some of the things that we can do are—in the case of Atherton, they actually carefully crafted all of the recitals in the agreement to ensure that they weren't offering support for the project itself. They were only executing the agreement in order to capture some of the costs associated with review and comment.

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Chair Berman: Has the Atherton agreement been entered into or is that still in draft?

Mr. Mello: Atherton Town Council authorized staff to execute the agreement. Gilroy, Morgan Hill and San Jose are also moving forward with their agreements. Some of the other cities on the Peninsula are waiting for us and waiting for the results of the meeting that we had, because we agreed to share all of our agreements with each other.

Chair Berman: The High Speed Rail Authority accepted the recitals that ...

Mr. Mello: Yes, that Atherton drafted.

Chair Berman: ... Atherton drafted. Got it.

Mr. Mello: Related to this is—coming to Council on October 4 we're going to have our rail program management services agreement. That'll be an agreement to kickoff all of our planning associated with grade separations. They'll also be charged with serving as our kind of technical expert in all of the High Speed Rail documentation and study. We'll potentially be able to bill some of that work to the High Speed Rail Authority if the tasks fit within the reimbursement agreement.

Mr. Shikada: When we test their knowledge of electrification stuff.

Chair Berman: Sounds like it. Thank you very much. Kicking it off to colleagues. Tom.

Council Member DuBois: Seems like I always go first.

Chair Berman: I'll let you go last also.

Council Member DuBois: I'm glad we had this meeting. I wonder if you could give us a little more flavor of what other cities are thinking and comments you heard.

Mr. Mello: Brisbane is probably not going to enter a reimbursement agreement, because they're concerned about the maintenance facility that could be located within their city limits. They're a little more adamantly opposed to the project on the basis of the location of the maintenance facility. City and County of San Francisco is going to execute what's called a comprehensive agreement, because they have several different agencies and authorities. Instead of doing one for each agency, they're going to do a comprehensive agreement that covers all of the city and county agencies

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and departments. Belmont said something interesting. They're treating it just like they would any development project, where costs that city staff incurs related to reviewing a development project or a private development. They're looking at it the same way that they look at that. They don't have any issue with entering the agreement, because they want to recoup staff time and staff costs. Menlo Park is in the same place we are. Atherton's already moving forward with the agreement. San Jose, Gilroy, Morgan Hill, they're fairly excited about the High Speed Rail project, so they're moving forward with their agreement. San Jose actually removed any mention of right-of-way from this reimbursement agreement, because they didn't want to sully the waters around right-of-way. They want to deal with that later because, I guess, there's potentially some big right-of-way impacts in San Jose. The Authority's been relatively cooperative with the different jurisdictions in drafting an agreement that they were happy with. I think they just really want to encumber the Federal planning funds and get these agreements in place.

Council Member DuBois: Again, thanks for calling that meeting. It sounds like a good thing to do. Again, I read this—it seems prudent to me to recover a cost. We're not indicating support of the project. When you said \$30,000, was that total or per reimbursement?

Mr. Mello: The scope would be negotiated between the City and the High Speed Rail Authority. \$30,000 is about what they've allocated for each jurisdiction. As I mentioned, this is just the very first kind of framework agreement that would lead to additional agreements that could have additional funding attached to them.

Council Member DuBois: If you didn't do this agreement, can you still do future agreements?

Mr. Mello: Yes, but the Staff time that we spend reviewing those agreements would not be—we wouldn't be able to recoup that from the Authority.

Council Member DuBois: Were any of the cities concerned about just going through this whole process and it's capped at \$30,000?

Mr. Mello: That's not a cap. That's just kind of the average that they've allocated. I think that they recognize that some cities will be more complicated than others and may need additional funding. Some cities have traction power—will have maintenance facilities, passing tracks, other things that are going to require quite a bit of Staff time to review and negotiate. I

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think the \$30,000 is just kind of the average that they've allocated based on the multiple jurisdictions.

Council Member DuBois: Given that amount, I'm curious why we're even discussing this. I guess this is something that Council needs to get involved in or is it just really the policy issue about supporting High Speed Rail that brought it here?

Mr. Mello: Yeah.

Council Member DuBois: Again, if we're sharing contracts, I assume you guys are picking the best of the contracts. If Atherton was pretty careful about not indicating support, that would be a good contract to look at.

Chair Berman: Next.

Mayor Burt: My questions really are about—I hadn't appreciated this \$30,000 average that they're anticipating. When I look at the scope of activities, it seems like it's potentially a lot more. Is there anything in here related to grade separations?

Mr. Mello: The scope of this agreement has not been negotiated yet. The intent of this agreement is kind of to serve as the first phase framework agreement, that all other agreements would originate from. I could certainly see potentially having some kind of agreement around the development of grade separations. In order for us to bill time negotiating that agreement, we would need to have this agreement in place. \$30,000 is really just kind of the first—would just be for this agreement. They've said all along that there'll be multiple agreements most likely oriented around the different elements of planning, design and construction.

Mr. Shikada: To the Mayor's point, I think certainly from City Staff's perspective we would expect to try to recoup as much as possible in terms of reimbursement on the planning and studies necessary for grade separations.

Mr. Mello: Just to build off that. We have our rail program management services contract coming forward to Council in October. There's several tasks in that contract that could potentially be subject to reimbursement under this agreement. We would actually try to negotiate probably a number much higher than \$30,000, because I think those tasks will far exceed \$30,000. I don't know that the Authority is—how open they are to going above that. That would certainly be our intent.



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Mayor Burt: They have for San Mateo—because they have a passing track scenario there related to grade separations that San Mateo is far along on, they're doing major funding for not only design but construction, I believe, of those grade separations. Depending on how critical they think a given city's land issues are and they seem to have a very wide latitude in terms of what they're funding, in particular related to grade separations. One thing is that my understanding is that they still have not removed the three-track/passing track alternative that would potentially occur in Palo Alto. When the passing track options were being studied—I don't know—3-plus years ago, principally through Caltrain, they got a lot of pushback and Caltrain backed off on the three-track. More recently they have, my understanding is, said no, it's not off the table. Do we know anything about their considerations on passing tracks and should that be in anyway part of our willingness to do this agreement?

Mr. Mello: They're doing a little bit of a—they're conducting their environmental analysis in a little bit of an unorthodox way. They're actually going to release a preferred alternative this fall that should identify passing track locations as well as the maintenance facility location and other elements of the project. I think we'll know a lot more than as to what's still on the table. They're going to release a preferred alternative, and then the environmental process will follow. That alternative may eventually get ruled out. They're doing it a little differently than a study is typically done. We'll actually know more upfront about where they're going with the project. The group that convened here actually decided to meet again after that preferred alternative is released to discuss that. I think we'll be coming back to the Rail Committee immediately following the release of that preferred alternative to discuss that. How it relates to this agreement, I don't think the draft scope that they have included in this doesn't get into the design details. It's just kind of a high-level "we will reimburse you for a review of technical studies and things of that nature."

Mayor Burt: Here's what I'm thinking. One, I don't think it's the likelihood that they're going to have the three-track through our section as the preferred alternative. That's where it had been left off around 3 years ago that it was almost ruled out, but they don't completely rule it out. Should they decide that that's their preferred alternative, would we have a very different view to engaging with the Authority and helping to essentially facilitate their progress, if that was the alternative and we had real objections to that? I tend to think we probably would. That would be a huge issue in our community. We'd have to reexamine our positions on all matters related and how strong—basically we've in recent years said that we support Caltrain modernization. We know that there are issues on their

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modernization funding related to the agreement that they have with High Speed Rail. That's their issue. We're saying that we support Caltrain modernization. If instead that whole collaboration resulted in a preferred alternative that had severe impacts on our community, I think we'd have a real different and serious discussion that we'd have to have. I'm a little hesitant as to whether we go forward with this agreement before knowing whether the preferred alternative includes that. You said this fall. We don't know when this fall. When would we need to have an agreement like this signed before it would have any impact?

Mr. Mello: We're already pretty far behind the schedule that High Speed Rail was hoping for on the reimbursement agreement. They were a little bit anxious when they first came to us to get this executed. We told them clearly we needed to think about it and consult with other communities. I think from their perspective the sooner the better. We're anticipating that once we get the approval to negotiate, it'll take about a month to bring it back to Council. In regard to your point, perhaps we put some kind of clause in there that allows us to terminate the agreement immediately if the project starts to go in a way that we no longer want to be a part of it. That's something we could probably get into the agreement.

Mayor Burt: That would be a good alternative. Another one might be that they may not be prepared to tell us what the preferred alternative is, but they might be at a point where they've decided what it isn't and whether this three-track in our community has been ruled out. Maybe that's something that we can ask them prior to their release of the preferred alternative, can they let us know that this needn't be a concern of ours. They may not be willing to say that. I wouldn't be surprised if they're actually at that point in their decision making.

Council Member DuBois: Just to clarify your point, though. If we have a decision point in the future, why would we not go for reimbursement now and then just change it in the future?

Mayor Burt: Yes. I'd like to know if they can tell us now that it's off the table.

Chair Berman: If we can use this opportunity. That was a question I had. This is just an agreement on reimbursement for staff review of certain things. I didn't understand when you said Brisbane has decided not to participate. By entering into this agreement, we're not necessarily saying that we agree with any future components of the project. We're just saying we want to get reimbursed for any ...

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Mr. Shikada: For any costs along the way.

Chair Berman: If Atherton's on board ...

Mr. Mello: Atherton actually put recitals in there that expressed their opposition to the project, but still executed the agreement.

Chair Berman: Obviously that's ...

Mayor Burt: For cities, it's one of the few leverage points that they have because the Authority needs these agreements.

Chair Berman: For Federal funding. I don't have any additional questions, I don't think, to ask. Everybody good? Do we need to have a Motion to ...

Mr. Shikada: No. We don't actually have the agreement yet.

Mr. Mello: No. You're directing us to negotiate the agreement and then bring it back to Council for ...

Mr. Shikada: We could probably bring it directly to Council based on the feedback that we have and incorporate the provisions that the discussion has highlighted.

Chair Berman: Does that work for the Committee?

Council Member DuBois: Yeah.

Chair Berman: Yep. That closes Agenda Item Number 2, which brings up Status Updates.

## **NO ACTION TAKEN**

### Other Status Updates

3. Local Policy Group
4. Rail Program Manager
5. Other

Chair Berman: Agenda Item Number 3 is a status update on the Local Policy Group. Before we dive into that, we have one member of the public who would like to speak to that item. Herb Borock, you'll get three minutes.

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Just a time check. We typically try to end this at 10:00 A.M., but sometimes it goes over a little bit.

Mayor Burt: I'm on a pretty tight ...

Chair Berman: Budget, timeline. If you could keep it under three minutes, that'd be fantastic.

Herb Borock: It'll be probably easier to do after Mayor Burt gives the status update. Let me try to be brief. The Local Policy Maker Group (LPMG) was originally an information exchange body that flowed out of the Peninsula Cities Consortium, and a similar group in San Mateo County. This year, it's had alternating meetings covering the Cal Mod program under Caltrain and the blended system under High Speed Rail. Most recently it's become a decision-making group. We have a set of guidelines for this Committee and how it operates, but the Council has never had to address the situation where we have a representative to the Local Policy Maker Group that's now, at least for the Cal Mod meetings, a decision-making body. They made their first decision in August to elect a vice chair. They're set at the next meeting to make a decision about seeking funding for grade separations from Metropolitan Transportation Commission, that Mayor Burt advised the Council a few days after that formal meeting. For tomorrow's meeting, which is on High Speed Rail, the Authority's memo says the Authority will partner with Metropolitan Transportation Commission, Caltrain, LPMG and cities and counties along the Peninsula Corridor to develop a long-term grade separation strategy. In the presentation that they have, that's also been provided, is that Metropolitan Transportation Commission (MTC) (inaudible) scope is completely separate from the San Francisco to San Jose project section EIR/EIS analysis regarding grade separations. The way they look at it is the same way that Caltrain does, which is grade separations are not their thing to do, and it's not part of their environmental review as far as they're concerned. It seems to me two things need to be done. One is the Council needs to set a process policy for how to handle, now that we have a representative on a decision-making body, similar to the way it's done for this Committee, so they get information on a timely basis and delegating whatever authority as an agenda item before the Council. The second is what the appropriate position to take on this kind of funding and its relationship to who's responsible for it. It's nice that there's somebody else who's got the money to give it, so we can ignore that it's Caltrain's or High Speed Rail Authority's obligation to do it. It's that kind of thing. It seems that a proposal is well enough along among LPMG members who have been discussing this outside of the LPMG meeting and are bringing this proposal. They know some sense of how much money it is, \$950,000 to \$1 million for

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MTC. The voices I recognized are Mayor Burt on the audio and Mountain View Council Member Lenny Siegel. The third person I'm not sure, but it might be Director of Transportation Policy for the San Francisco Mayor, Gillian Gillett. Thank you.

Chair Berman: Thank you, Mr. Borock. Pivoting quickly to Staff, do they have anything? Then, obviously, I'll kick it to Mayor Burt.

Ed Shikada, Assistant Manager: Only to note that for these items—in fact Josh already spoke to the rail program manager. We just wanted to provide an opportunity to give you an update on a few items of note. Whether it be the LPMG, Local Policy Maker Group, or program manager or Dumbarton as the case might be.

Chair Berman: Sure.

Mayor Burt: Just following up on Mr. Borock's comments. The LPMG, which was set up as purely an advisory group to Caltrain Staff, has pushed back in the last year. It's a body where we have one official from each city. In almost all cases, it's an elected official. In the case of San Francisco, they have their Mayor's Chief Transportation Official, Gillian Gillett. That is the third person who was in the meeting conversation. The particular item—it's not a decision-making body according to the authority that has been given to us by the Caltrain Board. What we have now adopted is rules and, with their consent, we can vote on our recommendations. Those recommendations go as a body rather than a bunch of individual comments. If there is a majority or super majority, then it carries that weight as a recommendation. On this one particular item, which was the initial concept that was pushed by Mayor Lee's representative, Gillett, is that we go to the MTC for a grant to have a system-long grade separation study. A lot of cities have either done grade separations or are in varying phases of their own particular ones, but there's no template for these issues. There's no integration in the planning. There's no one city can be putting in grade separations and the adjacent city, it may affect them and there's nothing in the process to do that. The concept is something that would begin to do those things and draw off any learned best practices from those cities who have already gone through the grade separations as well. It's kind of a systems approach to develop somewhat of a template for cities going forward. The question is whether the LPMG will be the client for this study and work closely—this was advocated really to empower the cities as opposed to Caltrain staff or the Caltrain Board, which in the case of our county we have no representatives north of San Jose. That's a typical scenario. Our interests are not particularly well represented on the Caltrain

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Board. That's the notion behind it. It does raise an issue. This is why I brought it immediately to the Council, to see if they viewed it as consistent within our rail guidelines or if anyone wanted to agendaize it for a Council discussion. We had none, so the intent was to proceed based upon its consistency with our rail guidelines. I will say that the other issue that's been alluded to in the prior item and is one that I think is really important is how can we move forward with imposing on Caltrain and High Speed Rail an ownership or a responsibility, whether it be shared if not wholly but at least shared responsibility, for the necessity for grade separations resulting from the number of trains per hour that they have planned for the system. As of right now, both parties basically say, "We really want to see you get grade separations. We'll help you as best we can," but it's not viewed as being a responsibility of those parties, and a necessity. It's not viewed as a necessity that they occur no matter who has the responsibility. They won't acknowledge it because they don't have the funding to make it happen. Now we in Santa Clara County, if our Santa Clara Valley Transportation Authority (VTA) tax passes, we should have \$700 million for what now looks to be six grade separations between Sunnyvale and Palo Alto, given that Mountain View is closing off Castro. Those are very significant dollars, but not the entirety of the dollars that would be needed. That's a big issue. We can't settle it today, but I just wanted to frame it.

Chair Berman: Appreciate the context and explanation. Tom.

Council Member DuBois: I'm wondering if we can kind of talk about these three items together.

Chair Berman: I don't know how that works.

Council Member DuBois: I don't have anything specific on the Local Policy Group.

Chair Berman: Can I just ...

Mr. Shikada: Jessica's not ... She's not raising any concern.

Council Member DuBois: It looks like we're going to run out of time.

Jessica Brettle, Assistant City Clerk: We're right on—sorry. Are you talking about under the other status updates?

Chair Berman: Yeah. We just want to kind of open up all those items.

Ms. Brettle: Okay.

# TRANSCRIPT

Chair Berman: Those items are now all open.

Council Member DuBois: Related to this discussion and the sales tax, I hope Staff is talking about the Transportation Tax and getting projects as close to shovel-ready as possible. I think other cities are. Again, we're talking about this money as being there. I don't want to lose out if it's a race to spend the money. I think this idea of a system-wide grade separation study sounds really interesting. It sounds like the right thing to do. Simultaneously, I'm curious to hear about our Rail Program Manager coming on board and then getting plans ready for funding. When you talk about large projects, I think the financing is probably less clear for larger projects than small projects in general. Having kind of seed money or a big chunk of it coming from the sales tax is great. We should start to look at how we piece together funding. We may need to start without seeing where all the funding is coming from. Maybe it's the nature of a large project like that.

Mayor Burt: I realize I should have added one other thing on this potential MTC grant. It's not all clear that a majority of the LPMG will support going forward with it. There were cities that hadn't thought it through and had, in part as a result, different reservations. Some said, "We already have our grade separations. Why should we do this?" Others questioned whether the LPMG should be the entity that would be the client on this. Others were confusing the role of being the client versus managing it. There's a number of issues that will be discussed tomorrow night. I don't know whether we'll get the support to go ahead or not.

Council Member DuBois: Kind of bottom line of my thinking is you need to start to creating momentum around a project like this without having all the answers. Hopefully this is a place to start.

Chair Berman: Just a quick follow-up on that. My recollection was with the VTA tax that it was not necessary for projects to be shovel-ready. It wasn't going to be a first-come-first-serve in that sense. More factors would be taken into account for how the funding gets allocated.

Josh Mello, Chief Transportation Official: That was our position all along.

Chair Berman: I don't disagree with what Tom said.

Mr. Mello: That was our position all along. We'll continue to reinforce that as they develop the guidelines for the program, which will be happening over the next ...

# TRANSCRIPT

Council Member DuBois: (crosstalk) been set. When push comes to shove, somebody's ready.

Chair Berman: No, we don't want to—no reason to not be ready if we can be.

Mr. Shikada: Sorry. Just to reinforce that point. That is reflected in the fact that we're bringing forward the rail program manager. We're going to try to get our projects moving as far along as quickly as possible.

Mr. Mello: That contract includes the preparation of project study reports and environmental documents and preliminary design for our grade separations. That work will all be completed by mid-2018, which will get us ready to enter design and construction after that.

Mayor Burt: The real difference—we're still calling it a rail program manager, which is what the Council had thought was where we were headed. My understanding is it's a rail program management firm, and that's a difference. We haven't really had the brief explanation of that. I assume it's because we really couldn't find that we would fulfill the objectives through an individual. Instead, we're engaging with a firm.

Mr. Mello: We advertised for both. The RFP was structured in a way that an individual could respond or a firm. We did not get any responses from any individuals. We only got a response from the firm that was eventually selected. We'll be talking more about that on October 4th.

Council Member DuBois: There was only one response?

Chair Berman: We only had (crosstalk).

Mr. Mello: Yes, one proposal, yes. We did preclude proponents from having any kind of relationship with the High Speed Rail Authority. That ruled out quite a few.

Mayor Burt: Almost everyone.

Chair Berman: By design on their part. Do we need any other Staff updates?

Mr. Shikada: I think that's it.

**NO ACTION TAKEN**



# TRANSCRIPT

## Future Meetings and Agendas

Chair Berman: Future Meetings and Agendas.

Ed Shikada, Assistant City Manager: We did want to propose a special meeting for the Committee (inaudible) I just realized I don't have my note on what that date is. I think it's October 12th, if memory serves

Chair Berman: That is a Wednesday. That is Yom Kippur.

Mr. Shikada: Then I believe it was the 19th and 26th. We were trying to poll to get confirmation on which of the dates would work.

Chair Berman: I have us ...

Mr. Shikada: I'm showing the 19th.

Chair Berman: ... on the 19th.

Council Member DuBois: I do too.

Mayor Burt: I wrote it down.

Mr. Shikada: We'll have a special meeting on the 19th with the hopefully ability to introduce the program manager at that time.

Chair Berman: With that, we are adjourned.

ADJOURNMENT: Meeting adjourned at 10:03 A.M.