

**Peninsula Corridor Joint Powers Board
Board of Directors Meeting
1250 San Carlos Avenue, San Carlos CA 94070**

**Minutes
November 5, 2009**

MEMBERS PRESENT: J. Cisneros, S. Elsbernd, N. Ford, D. Gage (Chair), J. Hartnett, A. Kalra, A. Lloyd, K. Yeager

MEMBERS ABSENT: M. Church

MTC LIAISON: S. Lempert

STAFF PRESENT: J. Cassman, B. Doty, M. Espinosa, G. Harrington, C. Harvey, R. Haskin, R. Lake, M. Martinez, N. McKenna, D. Miller, S. Murphy, M. Scanlon, M. Simon

PUBLIC COMMENT

Vic Ojakian, Palo Alto, thanked staff for all the work being done on suicide prevention. He said staff needs to pay attention to detail. The 1-800 suicide signs that are along the right of way have some benefit in San Francisco and San Mateo counties because both of these counties are affiliated with the National Suicide Prevention Lifeline (NSPL). Mr. Ojakian said the signs in Santa Clara County are a very different situation because Santa Clara County does not have a contract with the NSPL.

Douglas Clark, San Mateo, said he is a bicycle commuter from San Mateo to San Francisco. He said cyclists are still being bumped daily due to the lack to bike space. The Board directed staff to have two bike cars during commute periods, but many of the Bombardier cars do not have two bike cars as promised.

Jeff Carter, Burlingame, said at the October 21 JPB CAC meeting there was a presentation by Peninsula Rail Program Director Bob Doty on High Speed Rail (HSR). He said this presentation needs to be made to more groups so people understand what HSR is all about. Mr. Carter recognized Deputy Director of Rail Operations Michelle Bouchard on her efforts assisting passengers and directing traffic at the San Mateo Caltrain Station on October 21 because of a bomb threat at the Millbrae Intermodal Station.

Pat Giorni, Burlingame, said she is pleased her bump count letter was included in the bike correspondence packet for the Board to review. She said there is a definite need for a second bike car especially during commute hours.

Irene O'Connell, San Bruno City Council Member, said she is the newest member of the Policy Advisory Committee for HSR and she attended the Content Sensitive Solution meeting yesterday in Burlingame. She said one of the things the committee discussed was the opportunities HSR presented coming through on the Caltrain right of way. Ms. O'Connell said there were a number

of ideas discussed, but two that were not mentioned were using sustainable and recycled materials as much as possible during the building and also considering the use of solar energy for lighting, signals and any other items.

Ed DeLanoy, San Carlos, said back in August he recommended using United States Exchanges for fuel hedging because they give protection in case of contract defaults. He said he was pleased to read in *The New York Times* this idea was also supported.

Director Ash Kalra arrived at 10:19 a.m.

Sally Lieber, Mountain View, said there is some hopeful news that the Board may pursue a study with the Mineta Transportation Institute on fatalities and incidents along the Caltrain right of way. She is very hopeful this study will take into account all of the fatalities, as well as any attempts, that have been made and the location of these incidents.

CONSENT CALENDAR

The Board approved the following items:

- a) Approval of Minutes of October 1, 2009
- b) Acceptance of Statement of Revenues and Expenses for September 2009
- c) Approval of 2010 Board of Directors Meeting Calendar
- d) Authorize Award of Contracts to Bender Rosenthal, Inc., Dana Properties and Diaz, Diaz and Boyd to Provide Real Estate Appraisal Services for an Aggregate Not-to-Exceed Amount of \$337,000
- e) Authorize Award of Contracts to Thomas Ryland and Henry Spoto, Jr. to Provide Real Estate Appraisal Reviewer Services for an Aggregate Not-to-Exceed Amount of \$134,000

CHAIRPERSON'S REPORT

No report.

MTC LIAISON REPORT

MTC Liaison Sue Lempert reported:

- Executive Director Michael Scanlon was appointed Vice-Chair and Director Nat Ford was appointed Secretary-Treasurer at the American Public Transportation Association (APTA) annual meeting.
- MTC started public hearings yesterday on a possible toll increase to finance the seismic retrofitting of the Dumbarton and Antioch bridges. Toll revenue is decreasing due to the increase in unemployment. Under consideration is charging for carpools, increasing tolls by at least \$1 and possible congestion pricing for the Bay Bridge.
- There are 28 transit agencies in the Bay Area and MTC is looking at ways, with the transit operators, to see if there are efficiencies or consolidations, including the consideration of a regional rail system incorporating Caltrain, ACE and Capitol Corridor.

REPORT OF THE CITIZENS ADVISORY COMMITTEE (CAC)

Chair Gerald Graham reported:

- The committee received an update on the Peninsula Rail Program by Mr. Doty.
- A motion was passed congratulating member Francois Granade on his letter to the *Palo Alto Daily News* regarding the incident at Whipple Avenue with a motorist on the tracks.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Scanlon reported the following:

- Monthly Performance Statistics – September 2009
 - a. Total Ridership was 1,037,076, a decrease of 9.1 percent.
 - b. Average Weekday Ridership was 39,795, a decrease of 9.2 percent.
 - c. Total Revenue was \$3,721,990, a decrease of 3.3 percent.
 - d. On-time Performance was 92.1 percent, a decrease of 2.6 percent.
 - e. Caltrain Shuttle Ridership was 5,768, a decrease of 4.2 percent.
- Year-to-date Performance Statistics ending September 2009
 - f. Total Ridership was 3,196,652, a decrease of 10.6 percent.
 - g. Average Weekday Ridership was 40,265, a decrease of 10.4 percent.
 - h. Total Revenue was \$11,431,189, a decrease of 5.3 percent.
 - i. On-time Performance was 94 percent, an increase of 0.2 percent.
 - j. Caltrain Shuttle Ridership was 5,538, a decrease of 11.3 percent.
- The performance numbers are very consistent with other transit agencies across the country, the economy and the unemployment rate.
- There is an extraordinary opportunity to improve the Caltrain corridor through the partnership with HSR. Electrification, the new fleet and signals hold the key to the future sustainability for not what Caltrain has now, but a much improved service.

Suicide Prevention Update

Executive Officer Public Affairs Mark Simon said everyone is concerned about the suicides along the right of way and the cluster at a local high school. A few weeks ago a meeting was convened with more than 40 people that included staff, mental health officials from all three counties, clergy, conductors and engineers. The purpose was to see if the group could begin to agree on some common places to go and get information. Staff has been in contact with a number of suicide experts who have said the most current data shows that this particular location in Palo Alto has become an issue of means access. This is a place in the adolescent's mind as a place to go to do this type of thing. Staff participated in a conference call with the Palo Alto City Manager and Chief of Police and have a number of phone calls set-up with experts to find out what changing the dynamic means and how dramatic does the change have to be. Mr. Simon said there is a group of residents in the community who are forming a neighborhood watch for this area. Staff will be meeting with them to ensure they understand the safety on the right of way and how to act safely.

Staff has been contacted by a top researcher at the Mineta Transportation Institute who has expressed an interest in doing research on fatality statistics along the right of way. This is clearly a near-term issue and a long-term issue and staff is working as hard as possible on both fronts.

Chair Gage said he has never heard anyone talking about going to the source in Palo Alto and are the teachers trained to recognize mental issue signs. Mr. Simon said the Palo Alto Unified School District is looking at this issue and teachers at Gunn High School are told to look at signs.

Director Art Lloyd said the media is playing a big role on this issue. Mr. Simon said besides the incident of a suicide it causes a delay in service which impacts a lot of people, which then becomes news worthy.

Ms. Lempert said there was an article in the *San Francisco Chronicle* that Japan is having an issue with suicides and trains. Also memorials are not allowed at the sites because kids see them and feed off it. Mr. Simon said this issue has to be attacked by using media that teenagers view and also memorials are not allowed anywhere along the Caltrain right of way.

REPORT OF THE EXECUTIVE DIRECTOR (continued)

- Amtrak has completed the original commitment of 27 gallery cab cars and seven Bombardier cars with eight additional spaces on each of the 34 cars. Additionally, the first of three additional Bombardier cars has been completed and once the remaining two cars are completed there will be two bike cars and 48 bike slots on every Bombardier set.
- October trains that were scheduled to have two bike cars occurred 92.38 percent of the time.
- Staff will determine when the best time is do a full bike count, but an important part of the bike count is the dwell time of getting bikes on and off.
- As of the end of October the horn modification project was completed for all cars in the lead position.
- The Mission Bay Drive Crossing in San Francisco was opened on October 7.
- 2009 Giants baseball ridership was up 12 percent from 2008.
- Sharks season is starting and averaging 244 additional riders per game.
- Stanford football ridership is averaging 529 additional riders for the first four games and the Big Game will be played on November 21 at Stanford.
- The Reading File contains a flyer for the annual Holiday Train on December 5 and 6 and the September Safety and Security Report.

Peninsula Rail Program Update

Mr. Doty made the following points:

- Staff finished the alternative analysis which eliminates what can't be done.
- Staff met with the Federal Railroad Administration (FRA) to discuss the alternative analysis and receive guidance about what is and isn't acceptable.
- The final draft waiver request was sent to the FRA for true mixed traffic on the corridor. All technical data has been received and accepted and staff has been asked to wordsmith some of the language. The FRA said they will respond by the end of November and staff will then formally submit in December. The FRA has committed to go to the Safety Committee in December to offer Caltrain a waiver.
- Staff was told that with Positive Train Control it will serve as temporal separation and that mixed traffic is coming alive.
- A Context Sensitive Solution meeting was held yesterday and it was standing room only and lasted over five hours. The meeting was very positive. The environmental process talks about the product that is going to be delivered and the impact of the product on the community. Context Sensitive Solution talks about the process for how you are going to do

what you are going to do and how it affects the product. This program incorporates the environment, the requirements and the community with the technology to create a product.

Public Comment

Pat Giorni, Burlingame, said the presentation Mr. Doty gave to the CAC was outstanding and it should be presented to the Board. She said there needs to be a bicycle advisory committee in place prior to the Request for Proposal (RFP) being issued for the Electric Multiple Unit (EMU) cars.

AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE AN AMENDMENT TO THE APRIL 7, 2009 MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE PENINSULA CORRIDOR JOINT POWERS BOARD (JPB) AND THE CALIFORNIA HIGH SPEED RAIL AUTHORITY (CHSRA) AND ASSOCIATED FUNDING AGREEMENT

Mr. Doty said this is a second agreement between the parties and contains two important items. First, CHSRA has agreed to pick up 50 percent of all costs associated with the development along the corridor. Secondly, the MOU will solidify the authority of the Peninsula Rail Program and the responsibility of the client for the development of the corridor, now for Caltrain, but also for HSR.

Legal Counsel David Miller said on page three of the attachment, when the CHSRA Board took this matter up last month and approved it, they added the word Caltrain's and the deletion of a phrase having to do with the Transbay Transit Center, in so far as the electrification project is concerned. This is not a substantive change and doesn't mean the Transbay Terminal project is not affected or involved, but rather its technical/clerical items that were just brought to Legal Counsel's attention. With these changes Mr. Miller proposes the Board endorse this agreement.

Chair Gage thinks this a great move, but is not sure what is in store for future years in terms of the partner agencies being able to finance capital programs.

A motion (Hartnett/Lloyd) to authorize an amendment to the April 7, 2009 MOU between the JPB and CHSRA was approved unanimously by roll call.

AUTHORIZE EXTENDING THE CONTRACT TERM AND OBTAINING ADDITIONAL CONTRACT AUTHORITY FOR EXISTING ON-CALL GENERAL ENGINEERING CONSULTANT SERVICES FOR A TOTAL NOT-TO-EXCEED COST OF \$50,000,000

Deputy CEO Chuck Harvey said Staff Coordinating Council recommends the Board authorize executing contract amendments to extend services by 18 months of three general engineering consultants/contractors, HNTB Corporation, PB Americas, Inc. and Parsons Transportation Group, Inc. These extensions will allow staff to continue very important capital construction work being done in anticipation of HSR. Mr. Harvey said these contracts were awarded under a competitive solicitation in the past and staff has executed those agreements and used these virtual services to reduce overhead and direct expenses. Staff will be coming back in the future with a program management/construction management type contract for future work that needs to be done.

Director Sean Elsbernd asked why the 18 month timeframe. Mr. Harvey said it was a time period when staff would have a better idea of what stimulus money is available as well as what projects are being done by the CHSRA and what projects would be done by the JPB.

A motion (Lloyd/Hartnett) to extend the contract term and obtain additional contract authority for existing on-call general engineering consultant services for a total not-to-exceed cost of \$50,000,000 was approved unanimously by roll call.

ACCEPTANCE OF THE QUARTERLY INVESTMENT REPORT AND FIXED INCOME MARKET REVIEW AND OUTLOOK FOR THE QUARTER ENDED SEPTEMBER 30, 2009

Bill Osher of Tampalpais Wealth Management said the portfolio is doing exceptionally well and outperforming the benchmarks. He said after 11 months the portfolio had a return of close to 6 percent and the benchmark was under 1 ½ percent. The portfolio has a couple of corporate bonds, but these two bonds carry a full faith in credit of the U.S. Government Guarantee and they are guaranteed by the Federal Deposit Insurance Corporation (FDIC) under a program they established earlier in the year to help some of these institutions recapitalize on risk and money. Mr. Osher said the portfolio is essentially all government securities with one of the highest credit qualities. He said the real risk to any bond portfolio is if interest rates were to rise very rapidly. In the portfolio there are very short maturities so if there was an unexpected quick increase in interest rates the portfolio would be set and be able to take advantage of the higher interest rates very quickly. Mr. Osher said next year interest rates might be raised a little bit, but not very meaningful. He said it is nice to see the economy growing again at 3 ½ percent in the third quarter, but a lot of economists say that 80 percent of the growth is due to stimulus and that is not sustainable and a concern people are keeping an eye on.

Director Jose Cisneros asked for the definition of the benchmark. Mr. Osher said the benchmark is 50 percent zero to one year U.S. Government and 50 percent one to three year U.S. Treasuries.

A motion (Elsbernd/Kalra) to accept the quarterly investment report and fixed income market review and outlook for the quarter ended September 30, 2009 was approved unanimously.

DRAFT FISCAL YEAR 2009-2018 CALTRAIN SHORT RANGE TRANSIT PLAN (SRTP)

Manager of Planning and Research Marisa Espinosa made the following points:

- The SRTP is an annual plan required by the MTC covering a 10-year timeframe and this year staff is required to do a “mini” SRTP covering Fiscal Years 2009/2010 through FY2018.
- The SRTP is used to inform and implement the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) and for federal and state funding eligibility.
- The approach gives a snap shot on a needs-based approach and is financially unconstrained.

Sue Lempert left at 11:15 a.m.

- The focus is on system safety, ensuring the state of good repair of the system and maximizing ridership. In the long-term it includes plans to electrify Caltrain,

incorporates the Peninsula Rail Program and will focus on future HSR integration.

- The rail assumptions are:
 - A service level of 98 to 90 trains in FY2010, which incorporates the recent service reductions recently adopted by the Board. Going forward service levels will go from 90 to 114 trains by FY2015, incorporating future electrification and the introduction of EMU rolling stock.
 - No growth in ridership in FY2011 due to the service reductions, as well as FY2013 and FY2014. Minimal growth is projected in FY2012 and FY2015-2018, but a 10 percent increase is reflected FY2015, post-electrification.
 - Revenues reflect recent parking fees and GO Pass fare increases recently adopted by the Board and an approximate 2.5 percent fare increase which keeps pace with inflation.
 - The operating costs reflect the fuel hedging cap that was instituted to manage fuel costs.
- The shuttle program assumptions are:
 - Shuttles will remain free to customers and assume a 5 percent ridership increase per year, except FY 2010.
 - Contracted service will continue with an operating cost of \$2.9 million in FY2010 up to \$3.6 million by FY2018.
 - Costs for the program are shared by the shuttle sponsor, including employers, the JPB and other grant sources.
- Financial projections reflect a structural deficit until electrification. The partner agencies cannot meet expected contributions, but will continue cost containment and reduction measures.
- The Capital Improvement Program (CIP) has a 10-year total need of \$2.57 billion. The key components include the State of Good Repair core program and the Peninsula Rail program.
- The next steps in the process include a presentation to the JPB CAC in November. The draft will be released to the public for a 10-day public comment period on November 9. Staff will seek Board approval at the December JPB meeting.

STATE AND FEDERAL LEGISLATIVE UPDATE

Government Affairs Manager Seamus Murphy made the following report:

State Update

- The most important issue at the State level is the filing of a ballot measure by a coalition of local government, transportation and public safety groups. The initiative is called the Local Taxpayer, Public Safety and Transportation Protection Act of 2009 and it would prevent the State from borrowing or diverting revenues that fund local services including transportation and transit. Revenues for local transportation and transit services that would be protected include the excise tax on gasoline and diesel fuel, which many cities use to fund their public works departments. The historical flow of Public Transportation Account (PTA) funds to the State Transit Assistance (STA) program would also be protected under the measure. Once the measure receives a Title and Summary from the Attorney General's office the coalition will be free to collect signatures needed to qualify the measure for the November 2010 ballot.

Federal Update

Last week Congress was forced to approve another stopgap funding measure for both FY2009 appropriations and SAFETEA-LU. This time the extensions will last through December 18 while they work to approve the FY2010 appropriations bill in conference and continue efforts to reach some agreement about the timing of a long-term surface transportation reauthorization. The House leaders have favored short term extensions to keep pressure on Congress to approve a long term bill as soon as possible. The Senate leaders favor a longer term extension and a delay of full reauthorization. It appears now that key members of the Senate may be willing to compromise on a six-month extension instead of the 18-month version that has already been approved in committee. House leaders have been unwilling to consider any extension longer than three months and instead are promoting a full reauthorization that is front-loaded so that transportation funding would act as a second stimulus and help reduce growing unemployment around the country.

Staff has received more details on the Climate Change bill on how the Senate's proposed legislation will impact transportation funding. Senators Barbara Boxer and John Kerry revealed how cap and trade emissions allowances would be allocated in their bill. The bill would provide an average of 2.5 percent of allowances to public transportation. This amount means about \$1.4 to \$3 billion annual investment depending on the market value of the credits. Fifty percent of these funds would be distributed by established formulas and 50 percent would be part of a discretionary fund awarded as a multi-modal competitive grant program. This bill is currently scheduled for markup in Senator Boxer's Environment and Public Works (EPW) committee, but several members of the Committee have refused to participate in these hearings until the bill receives a full cost analysis from the Environmental Protection Agency (EPA). The allocation for transportation is a great improvement over the House climate bill which provided no guaranteed funding for transportation, but it still doesn't reflect the 10 percent recommended in the CLEAN-TEA legislation. Staff will continue to work to ensure that funding levels are maintained or increased as it makes its way through EPW and the other committees, particularly the finance committee, which is where the bill will head next.

The Close the LILO-SILO Loophole Act would protect transit agencies from investors seeking to collect penalties from lease-back transactions in technical default due to the failure of financial guarantors like American International Group (AIG). Over the last month staff has been working with a coalition of transit agencies to seek co-sponsors for the bill and among the Caltrain delegation, Senator Dianne Feinstein and Representatives Anna Eshoo, Mike Honda and Zoe Lofgren have all joined as co-sponsors.

CORRESPONDENCE

None.

BOARD MEMBER REQUESTS

None.

DATE/TIME/PLACE OF NEXT MEETING

Thursday, December 3, 2009, 10 a.m. at San Mateo County Transit District Administrative Building, Bacciocco Auditorium, 2nd Floor, 1250 San Carlos Avenue, San Carlos, CA 94070

GENERAL COUNSEL REPORT

- a. Closed Session: Pending Litigation Pursuant to Government Code Section 54956.9 (a) Russell J. Peterson et al vs. Peninsula Corridor Joint Powers Board, et al.
- b. Closed Session: Significant Exposure to Litigation Pursuant to Government Code Section 54956.9 (b)(1) (One Potential Case)

General Counsel David Miller said for the record the purpose is to discuss one matter of pending litigation listed as Russell J. Peterson versus Peninsula Corridor Joint Powers Board and the California High Speed Rail Authority and the other item is a matter of potential litigation.

Adjourned to closed session at 11:29 a.m.

Reconvened to open session at 11:35 a.m.

Mr. Miller said the Board met in closed session to discuss a matter of pending litigation as listed on the agenda. A report was given by counsel and no action is to be taken.

Legal Counsel Joan Cassman said the second item involved a significant claim that was lodged against the JPB by Amtrak in the amount of \$5.7 million. The parties have agreed to settle this claim for \$500,000. This claim is for retroactive wages that Amtrak was due as a result of a collective bargaining issue they have faced over the past six years.

ADJOURNED

Adjourned at 11:40 a.m.