

**Peninsula Corridor Joint Powers Board
Board of Directors Meeting
County Building/Santa Clara Board of Supervisors Chambers
70 W. Hedding Street, San Jose, CA 95110**

**Minutes
April 2, 2009**

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

MEMBERS ABSENT: N. Ford

MTC LIAISON ABSENT: S. Lempert

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

PUBLIC COMMENT

Jeff Carter, Burlingame, said he purchased a monthly ticket from the ticket vending machine at Millbrae and the month is not readable. He said there needs to be a program to ensure the tickets are printed properly.

Jeffrey Oldham, San Jose, said the Board's directive of two bike cars on high demand trains is not being met.

Paul Goldstein, Silicon Valley Bicycle Coalition (SVBC), said these are only solutions to the short-term problem and there are still problems remaining on the trains and the SVBC looks forward to working with staff especially on the new rolling stock.

Pat Giorni, Burlingame, said the Bicycle Advisory Committee (BAC) met last night and the three public members said the BAC needs to be a more formal committee.

CONSENT CALENDAR

The Board approved the following items:

- a) Approval of Minutes of March 5, 2009
- b) Acceptance of the Statement of Revenues and Expenses, February 2009

CHAIRPERSON'S REPORT

Chair Don Gage said the JPB Citizens Advisory Committee (CAC) recruitment begins April 13. Three terms expire on June 30, one from each county. There is an additional vacancy from Santa Clara County.

Two meetings ago it was requested the public comment period of one minute be increased and Chair Gage requested staff to research other transit agencies time limit and found the average is

two minutes. Chair Gage would like to change the public comment period to two minutes. Legal Counsel David Miller said the Rules of the Board allow for amendment to the Rules of Procedure. Mr. Miller will bring this item back to the May meeting as an informational item and voted on by the Board at the June meeting, but will set the next meeting at two minutes.

MTC LIAISON REPORT

Sue Lempert reported:

- U.S. Secretary of Transportation Raymond LaHood said High Speed Rail (HSR) is a favorite of President Obama and a high priority for the administration and California was first in line with a plan. Congresswoman Ellen Tauscher has been offered a job in the U.S. State Department and this is going to be a huge loss to transportation in the Bay Area.
- The Metropolitan Transportation Commission (MTC) had to delay acceptance of the Transportation Plan 2035 because VTA needs to provide more detail on its revenue projections for BART to San Jose and backfilling the cuts in State Transportation Assistance (STA) funds. On April 10 the public comment on the 2035 plan will go back to the MTC Planning Committee for final approval on April 22.
- Ms. Lempert said MTC staff has decided to put the train box in the Transbay Terminal as an advocacy item when MTC goes to Washington, D.C. Ms. Lempert said there has been some disagreement how the train box will accommodate HSR and Caltrain. This project is a high priority for Speaker Nancy Pelosi and U.S. Senator Dianne Feinstein.

REPORT OF THE CITIZENS ADVISORY COMMITTEE (CAC)

Member Bruce Jenkins reported that there was no meeting in March.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Scanlon reported the following:

- Monthly Performance Statistics - February 2009
 - a. Total Ridership was 883,043, an increase of 0.4 percent.
 - b. Average Weekday Ridership was 35,748, an increase of 3.9 percent.
 - c. Total Revenue was \$3,161,847 an increase of 5.2 percent.
 - d. On-time Performance was 97.2 percent, an increase of 7.9 percent.
 - e. Caltrain Shuttle Ridership was 6,059, an increase of 11.4 percent.
- Year-to-date Performance Statistics ending February 2009:
 - f. Total Ridership was 8,574,536, an increase of 11.8 percent.
 - g. Average Weekday Ridership was 40,651, an increase of 11.5 percent.
 - h. Total Revenue was \$28,927,967, an increase of 12.6 percent.
 - i. On-time Performance was 94.9 percent, an increase of 1.8 percent.
 - j. Caltrain Shuttle Ridership was 6,210, an increase of 21.2 percent.
- Fuel has fluctuated from a high of \$4.25 per gallon to a low of \$1.30 per gallon in an eight month period.
- Next month staff will bring a draft Fiscal Year 2010 operating budget to the Board. Each of the partner agencies have been zeroed out of State Transit Assistance (STA) funds and may not be able to fund an annual 3 percent increase in partner funding. Staff and the Board may have to look at service reductions and other options.

- Staff has been implementing the Bikes on Board plan and have issued a contract for engineering and procurement of signage and new gallery car bike racks. Staff is monitoring deployment of two car bike trains and signage for the trains identifying them as such.
- The reading file contains a significant amount of bike correspondence, Safety & Security Report and 2009 Caltrain Giants brochure.
- Annual ridership counts were completed in February and final report will be presented in June.
- Modest schedule changes are being made to evening trains to allow for construction.
- Eight-ride tickets were effective March 2 and after 60 days the cutter will be disengaged on the validators.
- Baseball service to AT&T Park starts tonight with the first exhibition game.
- An agreement between the JPB and California High Speed Rail Authority (CHSRA) is before the Board today. This is a monumental day and a real opportunity to influence how the system gets developed in the area.
- The final Environmental Impact Report (EIR) was submitted to the Federal Transportation Administration (FTA) on March 17.

Director Ken Yeager corrected a comment made by Ms. Lempert regarding VTA's funding coming up short; at their last Board meeting other sources of revenues were found so there will be no shortage.

AUTHORIZE ENTERING INTO AN AGREEMENT WITH CALIFORNIA HIGH SPEED RAIL (CHSRA)

Rail Transformation Chief Bob Doty said in 2004 the JPB signed a Memorandum of Understanding (MOU) with CHSRA. Over the last two years staff has been working with the Federal Railroad Administration (FRA) to run mixed traffic to advance positive train control. Caltrain will be the first agency in the country to qualify for the positive train control. Caltrain has been asked to participate with CHSRA and the FRA in development of a pilot program that will allow the usage of the same European standard equipment which HSR will use.

Mr. Doty said in developing the MOU it was discussed what needed to be protected: Caltrain's future programs, including evolution of the grade-separated railroad, the electrification program and signal system.

In that regard, language was inserted to indicate a four-track railroad would be built, but staff is offering a change to the Board, also supported by CHSRA, that removes the reference to the number of track and refers instead to a multiple track system. Mr. Doty said he cannot guarantee how to build the railroad without disrupting the service or a solution that satisfies everyone, but this agreement makes it possible to achieve the best possible solution, as determined by ridership, the community and requirements based on the service needs. The effort to accomplish this will be as extraordinary, as will be the end product.

Public Comment

Sarah Armstrong, Palo Alto, said everyone has concerns about tracks splitting neighborhoods in half. The level of trust among neighbors is very low as is the communication. She asks that Caltrain work in partnership with the communities so their concerns are taken into consideration.

Jocelyn Tseng, Palo Alto, said Union Pacific (UP) feels they have the right to the corridor, but the neighborhoods have a right, too.

Nadia Naik, Palo Alto, said the taxpayers of three counties own Caltrain and the corridor and the Board are the stewards of the rail. Who among the Board will represent the community to make sure all cities are represented?

Pat Burt, representing the Palo Alto City Council, said they support HSR in principle. Mr. Burt said the other key concern is the MOU does not have a meaningful way for the cities to participate in the negotiation. Caltrain is responsible for providing outstanding rail service up and down the corridor, but Caltrain's role isn't principally to protect the fabric of the community and the cities. Mr. Burt said this project has the potential to alter all cities on the Peninsula.

Zachary Tyson, Los Altos Hills, is an attorney and he represents hundreds of concerned citizens of Atherton, Menlo Park and Palo Alto. He has three major concerns with the Trackage Rights Agreement. The first gives Union Pacific (UP) the right to operate intercity passenger service over the joint facilities; secondly UP has the perpetual and exclusive rights to build or make additions to the joint facility for intercity passenger service; lastly UP and the JPB have to jointly agree before any substantial part of the joint facilities is retired or eliminated. Mr. Tyson said he is concerned the rights of UP in the Trackage Rights Agreement are being ignored or not understood in their totality.

Richard Cline, Menlo Park City Council, said he appreciates the change in the agreement eliminating the reference to four tracks. He said a coalition of cities meets every Friday to talk about High Speed Rail and its impact on urban design and revitalization of cities. He would encourage more attendance at these meetings and more cities to attend. It is crucial it have dialogue.

Jeff Carter, Burlingame, said everyone should trust Mr. Doty's vast experience in this area. Mr. Carter said maybe the Altamont Route should be looked at again. There has been reference of a letter from UP and no one has seen it, but UP has never been passenger friendly.

Mike Brady, Menlo Park, said UP has written four letters to HSR over the years concerning its rights under the Trackage Rights Agreement. He is challenging the legal rights of the JPB to enter into this contract with HSR in light of the existing contract with UP. The JPB represents the citizens of San Mateo County and attention needs to be paid to the detrimental impact of HSR and steps need to be taken to alleviate it.

Morris Brown, Menlo Park, said the JPB doesn't have rights for intercity service only commuter service. JPB doesn't have the rights and UP intends to exercise their rights to this right of way. Mr. Brown asked the Board to not approve the MOU today because UP still owns the railroad.

Jim Bigelow, Redwood City/San Mateo County Chamber of Commerce, fully supports moving ahead with the MOU and get to a rapid transit electrified positive train control system. HSR brings a relationship, some cash and planning to a world-class project.

Vaughn Wolfe, RailPac, said RailPac fully supports moving ahead with the MOU. This investment is for our children and the future and the only way to make this investment a reality is signing the MOU today.

Steve Emslie, City Attorney for the City of Palo Alto, said the city fully supports the changes that were made to the MOU and looks forward to working with staff and HSR.

Bill Dawson, San Carlos, said he has no expertise in trains, but perceives HSR as the only project on the horizon to bring California's transportation system anywhere near the 21st century. Mr. Dawson urged Board approval of the MOU.

Jerry Grace, San Lorenzo, said the HSR MOU was discussed at the last MTC meeting.

Richard Zappelli, San Jose, said the leadership group of District 6 fully supports the MOU. There are some homeowners whose homes back up to the tracks who are very concerned and there are extensive trails in San Jose people don't want disturbed.

Chair Gage concluded the public comment, having noted that Caltrain has had a longstanding relationship with UP and that many successful conversations have occurred between the two parties and that this agreement signifies the beginning stage of the process and that there will be many hours of outreach to the communities.

Mr. Miller said he is quite familiar with the UP agreement. He advised there is no legal impediment to the Board proceeding with this agreement. What is significant for the public to understand is that there is nothing in this agreement that purports to or abrogates or interferes with existing contractual obligations to UP. This agreement constitutes a procedural framework for HSR and Caltrain to plan together. This is the beginning of the process, not the culmination of the process. That beginning anticipates meeting with, the communities. Additionally, staff will be continuing to work with UP relative to its rights and obligations. It is worth noting that there is nothing in the record by which UP has indicated an objection to the Board acting on this agreement. Mr. Miller said the Board is authorized to enter into this agreement, recognizing over time that staff will continue to engage in extensive conversations with UP.

Director Ash Kalra said he understands the reference in the agreement to the "consideration of the cities on the Peninsula" as meaning all cities from South Santa Clara County north and all cities in, but what does "consideration of cities" mean.

Mr. Scanlon said "consideration" is the right word to show the JPB is serious about the concerns of the cities about the impact of HSR and that those concerns should prompt extensive outreach and the opportunity for input. He said the concerns of the stakeholders and cities are legitimate. Staff cannot fully guarantee doing everything everyone wants, but the goal is to reach a win-win situation. Mr. Scanlon said once the agreement is signed then staff can attend weekly meetings with HSR and have a lot more to say on the framework of the outreach effort.

Director Kalra said this is an incredible opportunity, but he too is concerned about the impact of construction on the neighborhoods.

Director Sean Elsbernd asked about the adopted changes and appreciates the four-track removal from the agreement, but wants to make sure these changes don't have any impact on the Transbay Terminal project.

Mr. Scanlon said the changes have nothing to do with Transbay Terminal.

Director Mark Church thanked everyone for their input today, but believes the concerns will be addressed as the process unfolds. This is a project that is coming, that will be good for the environment, the economy and it is important to show a strong unified front as the projects compete for state and federal dollars.

Ms. Lempert said MTC is very supportive of HSR. She said the City of San Mateo decided not to join other cities to sign the MOU because they have faith in Caltrain and working with CHSRA in making this work. Ms. Lempert said more is gained working together than starting out with an advocacy against. This agreement will be good for the cities in the long run and gives a degree of local control. Ms. Lempert hopes the Board supports this MOU and listens to the concerns of the public.

Director Jim Hartnett said he is in support of the motion and understands the concerns. The Board needs to represent the concerns of the people who expressed them as well as the opportunity this brings to the area. The MOU brings JPB to the table and puts a local face on a state project with substantial leverage. The Board needs to preserve and protect the Caltrain system and is expected to ensure the survivability of Caltrain service and the survivability of Caltrain, which is not guaranteed. Director Hartnett said HSR can enhance the system or destroy it and if the JPB is not a partner it could destroy it. He fully supports the MOU and the recommended change is a positive one. Director Hartnett said it is very important the Board move forward with the MOU, be a real partner and a great representative for the communities the Board represents.

Chair Gage said he and Director Yeager represent Santa Clara County and when this was passed by the voters there was no money set aside for outreach, but there will be many hours of outreach.

The motion (Lloyd/Church) to enter into an agreement with California High Speed Rail was approved unanimously by roll call.

AUTHORIZE ADOPTING A PARKING VIOLATION FINE SCHEDULE FOR CITATIONS ISSUED ON JPB PARKING FACILITIES

Chief Financial Officer Gigi Harrington said this is a request to increase parking fines for parking citations issued at parking lots along the Caltrain right of way. Previously the parking fines were set according to the County of San Mateo's parking fine structure. Effective January 1, 2009, the state adopted an increase in the surcharge of \$4.50 a citation. Staff is requesting an increase in fines from \$30 to \$45. The \$5 will be passed on to the state and the additional \$10 will go to the JPB.

Sue Lempert left at 11:42 a.m.

Public Comment

Jerry Grace, San Lorenzo, asked about cars left overnight at stations. Director Gage said there is a fine for abandoned vehicles.

Pat Giorni, Burlingame, said the rates should definitely be raised.

The motion (Hartnett/Lloyd) to adopt a parking violation fine schedule for citations issued on JPB parking facilities was approved unanimously by roll call.

STATE AND FEDERAL LEGISLATIVE UPDATE

Government Affairs Manager Seamus Murphy said AB116 is a SamTrans/VTA- sponsored bill, affects Contracts and Procurement and would raise the General Manager's threshold approval from \$25,000 to \$100,000 without Board approval. This would save the District about \$72,000 annually.

Mr. Murphy said the HSR bills have a lot of uncertainty and anxiety on the federal money at the state level. One bill staff is watching would create a new department to be eligible to receive funds for freight or intercity rail and the other would provide more oversight and accountability over CHSRA.

On the federal level Caltrain had approximately \$1.3 million losses due to investment funds held in Lehman Brothers through the San Mateo County Pool and U.S. Representative Jackie Speier and U.S. Senator Dianne Feinstein have introduced bills to use Tax Assistance Relief Program (TARP) money for the recovery of this money. Representatives Anna Eshoo and Speier are holding a local hearing on April 16 to promote the bills to get them approved. Banking Committee Chair Barney Frank also wants to hold hearings later this month in Washington, D.C.

CORRESPONDENCE

Provided in the reading file.

BOARD MEMBER REQUESTS

None.

GENERAL COUNSEL REPORT

No additional item.

DATE/TIME/PLACE OF NEXT MEETING

Thursday, May 7, 2009, 10 a.m. at San Mateo County Transit District Administrative Building, Bacciocco Auditorium, 2nd Floor, 1250 San Carlos Avenue, San Carlos, CA 94070

ADJOURNED

Adjourned at 11:49 a.m.