

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

**Minutes
August 6, 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. Harrington, C. Harvey, R. Haskin, R. Lake, M. Lee, M. Martinez, N. McKenna, D. Miller, S. Murphy, M. Scanlon

PUBLIC COMMENT

Pat Giorni, Burlingame, said there is a free airport shuttle from the Millbrae BART station to San Francisco airport for airport employees. She said Caltrain passengers are being discriminated on the use of this shuttle and asked how the shuttle is being funded.

Martin Mazner, Menlo Park, said members of the Board and management are destroying community support for Caltrain and mass transit and the train whistle fiasco is one example of this failing leadership. He asked why the new whistles were allowed to be used without being tested, which resulted in children being awoken from their sleep and students being unable to hear their teachers in classrooms. Mr. Mazner said a reasonable response to this failure would be to terminate the managers who approve these changes without testing. He said another failure of leadership is the assumption the High Speed Rail (HSR) project will help pay for grade separations and electrification infrastructure. He said if there was strong leadership Caltrain would have been shovel ready and been able to use stimulus money to pay for the entire project. Mr. Mazner said going forward he hopes Caltrain exercises the leadership and oversight required to maintain public support of Caltrain.

Victor Ojakian, Palo Alto, said he would like to reinforce comments made at the July JPB meeting regarding some type of public process for looking at the deaths on Caltrain tracks. He said it is very important there is a public process on this issue as it impacts not only Caltrain, but the community. He would like the Board to look at the data for a pattern because, according to Public Information Officer Christine Dunn, "there is no pattern." In 2006, JPB Chair Ken Yeager was quoted as saying we can no longer stay silent on suicides.

Chair Don Gage said Executive Officer Mark Simon is working on this issue.

Director Art Lloyd said Operation Lifesaver is becoming involved and the media is part of the problem for playing this issue up.

Chip Taylor, City of Menlo Park, said the city has received numerous complaints on the horn issue. Mr. Taylor has been working with Mr. Simon and is very appreciative of his help. He also is in support of the relocation of the horns.

Donna Largent, Menlo Park, said she lives right next to the tracks, but the last couple of weeks the horn noise has been horrible and is impacting the quality of her family's life.

Jeff Carter, Burlingame, thanked Caltrain staff and Board for the bike signs on the front of the trains indicating the number of bike cars. He said there is no rhyme or reason for each engineer on how long they blow the horns and hopefully the horns can be moved back to their original location or the volume adjusted.

Craig Largent, Menlo Park, said he would like an independent investigation done, without staff's involvement, to find out why the train horns were changed and how this extremely loud noise happened without any testing. He said training needs to be done for the engineers on when, where and for how long they blow the horns. Mr. Largent said staff should investigate replacing the horns to stationary horns that can be blown when the train comes into the station.

Sally Lieber, Mountain View, said she would like to have the Board agendaize a six-month public process to discuss fatalities and injuries on the Caltrain line. She knows staff and the Board are doing everything possible, but in the community there is no vehicle for participation. Ms. Lieber said she started working with staff back in January 2009 and since then there have been 10 deaths. She would like a report made at the next Board meeting of what has been done on this item.

CONSENT CALENDAR

The Board approved the following items:

- a) Approval of Minutes of July 2, 2009
- b) Information of Statement of Revenues and Expenses for June 30, 2009
- c) Authorize Entering into a Real Property Transfer Agreement with Santa Clara Valley Transportation Authority

CHAIRPERSON'S REPORT

Appointment of Citizens Advisory Committee Members Representing San Francisco and Santa Clara Counties

Chair Gage said the Santa Clara representatives recommend Kat Tucker for appointment to the CAC.

A motion (Hartnett/Church) to appoint Kat Tucker was approved unanimously.

Director Sean Elsbernd said the San Francisco representatives recommend John Hronowski for appointment to the CAC.

A motion (Elsbernd/Lloyd) to appoint John Hronowski was approved unanimously.

Director Ash Kalra arrived at 10:20 a.m.

MTC LIAISON REPORT

MTC Liaison Sue Lempert was not in attendance.

REPORT OF THE CITIZENS ADVISORY COMMITTEE (CAC)

Chair Gerald Graham reported at the July meeting:

- Sepi Richardson was elected vice chair.
- A certificate of appreciation was presented to John Hronowski.
- Michael Kiesling resigned at the meeting citing attendance issues.
- In line with the Board's efforts to reduce costs, the CAC will no longer have off-site meetings.

Mr. Graham said train horns are blown to warn people and even possibly change their minds about considering suicide.

REPORT OF THE EXECUTIVE DIRECTOR

Deputy CEO Chuck Harvey provided the following information on Caltrain horns:

- FRA regulations require that the sounds emit a level of 96-110 decibels measured 100 feet from the equipment and 4 feet off the ground and that they produce distinct, separate, sequential blasts and be able to be turned on and off.
- Caltrain's standard in the noise level during testing is to achieve a 98 decibel rating with a plus two tolerance rating. The horns can't be set at 96 decibels because staff has to account for slight variations in air pressure.
- In 2001 a majority of horns were relocated to the bottom of the vehicles to reduce the dispersion of the sound and "choked" to reduce overall sound level in accordance with the Federal Railroad Administration (FRA) requirements.
- During recent routine safety inspections the safety officer confirmed the horns did not meet FRA requirements concerning distinct, separate, sequential blasts and that the horns had to be restored to the original equipment manufacturer location.
- The result was a dramatic increase in the level of sound produced by the horns.
- Staff immediately began seeking solutions to return the horns to the Caltrain standard of 98 decibels and successfully tested the use of a regulator to reduce decibel levels. Horns were tested and verified to operate as required by regulation at the reduced sound level. The end result was all horn sound levels can be reduced back to the standard of 98 decibel level plus two tolerance.
- As of today 12 horns have been equipped with the regulator. Staff is working to retrofit the remaining equipment and the work should be complete within three weeks.

Director Yeager asked how different is it for people living near the tracks for the horns to sound at 98 decibels in restored position.. Mr. Harvey said now that the horns are 14 feet above the ground versus four feet, sound may carry farther.

Director Yeager asked if there was any monitoring when the horns were put up on top and what did staff think when the horns were at the 100 decibel level. Mr. Harvey said the trains were running within FRA requirements.

Director Art Lloyd asked what the FRA decibel requirement is. Mr. Harvey said the minimum is 96 decibels and the maximum is 110 decibels.

Public Comment

Arnold Techrey, Menlo Park, said according to the presentation, the aim of Caltrain is to have a noise level 66 percent above the federal minimum.

Martin Mazner, Menlo Park, encourages the Board to be leaders and change blowing the horn way before the station.

Craig Largent, Menlo Park, asked what the decibel 25 feet above the ground is and maybe there could be additional testing. He said Mr. Harvey felt compelled to make this change, but not all the trains are done so obviously Caltrain is still out of compliance.

Chair Gage said once an issue is found, reasonable time is needed to correct and be in compliance.

Executive Director Michael Scanlon reported the following:

- Safety comes first to the JPB and always will.
- Monthly Performance Statistics – June 2009
 - a. Total Ridership was 1,032,309, a decrease of 9.9 percent.
 - b. Average Weekday Ridership was 38,979, a decrease of 11.7 percent.
 - c. Total Revenue was \$3,694,926, a decrease of 5.9 percent
 - d. On-time Performance was 93.1 percent, an increase of 6.1 percent.
 - e. Caltrain Shuttle Ridership was 5,807, a decrease of 11.2 percent.
- Year-to-date Performance Statistics ending June 2009
 - f. Total Ridership was 12,691,612, an increase of 6.1 percent.
 - g. Average Weekday Ridership was 40,066, an increase of 5.8 percent.
 - h. Total Revenue was \$43,352,156, an increase of 8.1 percent.
 - i. On-time Performance was 95.1 percent, an increase of 2.4 percent.
 - j. Caltrain Shuttle Ridership was 6,093, an increase of 11.7 percent.
- Like many transit agencies throughout the country, ridership is trending downwards and is attributable to the economy.
- Ridership for Giants service is down for the month of July. Other special services in July included an additional 5,300 riders to the 4th of July fireworks celebration in San Francisco; a Kenny Chesney concert carried an additional 8,600 passengers; and Club American soccer game at Stanford stadium carried an additional 700 riders.
- Bikes on-board conversion has been completed on all 27 gallery cab cars and all seven Bombardier cars. Three additional Bombardier cars will be converted by the fall. This will result in all trains having a minimum of 40 spots for bikes and all Bombardier sets will have two bikes cars and 48 spots for bikes.
- Through June, two bike cars have been on all train sets 97.2 percent of the time.
- There were two fatalities in July for a total of eight for the year.
- Effective August 31 there will be a new timetable reflecting mid-day service changes.
- Parking will increase to \$3 per day or \$30 per month effective August 31 and the GO Pass is \$140 per employee based on a minimum of 70 effective August 1.

Peninsula Rail Program Update

Mr. Scanlon said the California High Speed Rail (CAHSR) Commission is meeting today in Sacramento. He said he wanted to state clearly and strongly three fundamental points where the JPB is right now.

- While the Caltrain corridor has been selected for High-Speed Rail (HSR), neither the horizontal nor the vertical alignments have been fixed nor has the track profile. The Board will recall that was a concession the JPB made when entering into the MOU at the behest of some of the cities and their representatives.
- Secondly, the future/existence of Caltrain is in jeopardy and the best hope to maintain it is through electrification and the conversion of a commuter rail into more of a rapid transit type of application. This will best be achieved through HSR, positive train control, grade separations and other things that are possible under the American Recovery Reinvestment Act (ARRA) program. Staff is working diligently with HSR, the FRA and the State of California to get Caltrain's programs for the San Francisco to San Jose alignment portion funded under Track 2. The JPB has gone about as far as it can go with its own resources. All three partners are in deep financial problems. Mr. Scanlon said each of the partner agencies has agreed to come up with \$60 million towards electrification and are seeking the rest from ARRA funds. Caltrain's future lies in HSR.
- Finally, staff wants to invite everyone to engage in a healthy community discussion about what to build and how to build. Anybody that is going around telling people there is going to be a 15-foot concrete wall is either uninformed or misinformed. Mr. Scanlon said we owe it to ourselves and future generations of Californians to pursue these HSR funds and to figure out a way to design a system that can co-exist in the communities they serve and move this state forward in HSR, something that exists all around the world. There is no reason why we shouldn't have it here.

Mr. Scanlon said the next couple of months are critical. He said the news of the grants should be coming out of Washington in the early fall and competition is keen. There were 280 applications for HSR when the \$8 billion stimulus program was announced. He said the total amount requested is in the \$100 billion area and Caltrain is well positioned.

Chair Gage asked if at the September meeting Executive Officer Mark Simon could give an update on the suicide issue.

Chair Gage asked if staff is going to schedule community meetings for HSR. Mr. Scanlon said Congresswoman Anna Eshoo will be having a community meeting in Menlo Park on August 26.

Director Yeager mentioned the article on the front page of the San Jose Mercury News and the impact deaths on the tracks have on the engineers and the families. He requested the article be distributed to the Board and posted on the Web.

Director Yeager said electrification is Caltrain's only future and the only way to afford it is HSR.

Mr. Scanlon said Operation Lifesaver is doing a national campaign entitled "Common Sense Use It.com."

Public Comment

Pat Giorni, Burlingame, said she has noticed the amount of bike comments being submitted has reduced tremendously. She thanked staff for converting three additional Bombardier cab cars.

Jeff Carter, Burlingame, commended Mr. Scanlon on the HSR comments and stated there is a lot of misinformation among the community.

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

Bill Osher of Tampalpais Wealth Management said the second quarter was a healing quarter. He said a lot of the imbalances that were in the market started to come out of the market. Mr. Osher said the corporate bond market started to come back and there are signs the economy is beginning to show a bottom and it looks like it is going to improve in the second half. He expects growth in the second half of the year to be close to 2.5 percent and Wall Street to begin moving up their estimates. He said short-term interest rates in the portfolio are quite short and quite safe, but they are going to remain pretty stable for the remainder of this year. Mr. Osher said the portfolio has benefited from good security selection. He said the portfolio is in good shape and perfectly safe.

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

UPDATE OF THE EXECUTION OF THE FUEL HEDGING PROGRAM

Deputy CEO Gigi Harrington said in July the Board approved the transaction to hedge half of the fuel portfolio. The transaction was executed in the middle of July with Deutsche Bank. She said the cost was about 14-cents per gallon and 2,000 gallons of fuel were capped at \$2.00 per gallon. Ms. Harrington said over the last couple of weeks fuel has been pushing up to \$1.90-\$1.95 per gallon. She said this is an eleven-month transaction and staff will come back in March with a recommendation for going forward. Ms. Harrington said staff will give an update during this period if anything occurs. She said staff was pleased with the results of the transaction, which are within budget for the JPB fuel budget. Ms. Harrington said half of the fuel is now at \$2.00 per gallon and the other half is at \$3.50 per gallon.

Mr. Scanlon commended Ms. Harrington and also made a correction that 2 million gallons of fuel were hedged, not 2,000.

Public Comment

Ed DeLanoy, San Carlos, asked if a clearing house will step in if the program fails.

STATE AND FEDERAL LEGISLATIVE UPDATE

Government Affairs Manager Seamus Murphy made the following report:

- The State Court of Appeals ruled that the State no longer can divert public transportation account funds for any use other than mass transit, the result of a lawsuit brought by the California Transit Association (CTA) brought against the state. The CTA has every expectation that the State will appeal this decision to the Supreme Court. The funds on the table include \$3.4 billion in past diversions. In February the State approved a budget

that would defer 100 percent of State Transit Assistance (STA) money over the next four years.

- Staff worked with Caltrans to submit a pre-application to be included in their submittal to the FRA for ARRA funds for HSR. The pre-application included about \$22 billion in projects for intercity rail and HSR around the state. Included in that number is \$5.2 billion for the San Jose-to-San Francisco section and that includes Caltrain projects. CAHSR will be in charge of submitting the ultimate and final application for the Track 2 funding and staff is working to ensure Caltrain's projects are a high priority in that application.
- The House and Senate have both marked up their Appropriation Bills for FY2010. Staff made numerous requests for project funds and some were successful for Caltrain. On the Senate side there was \$1.2 billion for HSR and intercity rail which is about \$200 million greater than the president asked for in his budget. For Caltrain specifically there is a \$500,000 request made by Senator Dianne Feinstein for positive train control and there is also \$50 million for nationwide positive train control included in the Senate's appropriations bill. On the House side staff hopes Caltrain will receive \$1 million for positive train control included in the bill on the House side. When Congress returns from recess in September they will consider both bills and meet in conference to decide what the actual levels will be.

CORRESPONDENCE

General Counsel David Miller spoke of a letter addressed to the Board from the Mission Bay Citizens Advisory Committee concerning the crossing waiting to be opened at Common Street in San Francisco. He said staff understands the objective that has been expressed to effect the opening of the crossing and staff shares that objective. Mr. Miller said there are two important outstanding issues that need to be resolved. First, the California Public Utilities Commission (CPUC) approval of the crossing. The CPUC has requested the City and County of San Francisco to submit a request under PUC General Order 88B to approve a modification of the rail crossing. That is because the actual geometry of the crossing differs somewhat from what was proposed in the city's initial formal application. Mr. Miller said the JPB has volunteered to assist San Francisco in preparing the necessary documents for the CPUC, given the JPB's experience with rail related matters and its experience with CPUC. He said yesterday notification was received from the Department of Public Works that they have accepted the JPB's offer of assistance and staff will be proceeding immediately to prepare the documents necessary and hopefully will get CPUC approval on an expedited basis.

Mr. Miller said while the CPUC process is proceeding it is also essential that the JPB, San Francisco and the developer resolve some outstanding issues that involve conveyance of property rights at crossings nearby the Common Street crossing. He said this element of the project was negotiated many years ago and it was envisioned as part of the opening of Common Street that there would be other real estate exchanges. Mr. Miller said approvals from the City and County of San Francisco and the Port of San Francisco to provide durable property rights has been a slow one. JPB staff has been trying very hard to get all the parties together to discuss the details. The letter from the Mission Bay CAC makes reference to the long-term objective that is embodied in the agreement to obtain an approval of an easement from the State Lands Commission. Mr. Miller said all of this property is subject to a public trust and the State Lands Commission has jurisdiction and is the agency that needs to approve to give a formal easement.

He said he recognizes this process is a slow one, but it is very important to correct on the record any assumption that obtaining State Lands Commission approval is a prerequisite to opening the crossing. That is not the case and that is not what staff has proposed. Mr. Miller said what has been requested is the City and County of San Francisco and the Port exercise legal rights they have to convey a durable property right in the form of a franchise or long-term lease to make sure the JPB is protected in case the State Lands Commission does not finally issue its approval as hoped.

Mr. Miller said the letter from the CAC at Mission Bay suggests a temporary or revocable license as an alternative. That is not an acceptable approach. A property request of longer term is essential.

Ms. Grace Kwok of the San Francisco Department of Public Works has just advised that a meeting will be held in the mayor's office next week and subsequently with the Port of San Francisco to address this matter. They then will convene a meeting with all parties together to see if a process can be found through the Board of Supervisors and the Port to take the actions that are needed.

Mr. Miller said he is optimistic and wanted to make sure the community and members of the Board are of aware of the fact that staff is working very hard on this issue and will keep everyone posted.

BOARD MEMBER REQUESTS

None.

GENERAL COUNSEL REPORT

Mr. Miller commented on Mr. DeLanoy's comment on the fuel hedging protection. He said the JPB is legally protected with the project. This was a competitive process and the fact that Deutsche Bank was the successful bidder is not based upon some preference. He said there are protections for the JPB in the event of default that were carefully tailored by bond counsel, Orrick, Harrington and Sutcliffe.

DATE/TIME/PLACE OF NEXT MEETING

Thursday, September 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

ADJOURNED

Adjourned at 11:26 a.m.