

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

**Minutes
October 7, 2010**

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

MEMBERS ABSENT: N. Ford

MTC LIAISON: S. Lempert

STAFF PRESENT: M. Bouchard, B. Doty, B. Fitzpatrick, G. Harrington, C. Harvey, R. Haskin, R. Lake, M. Lee, M. Martinez, D. Miller, S. Murphy, M. Simon

Chair Sean Elsbernd called the meeting to order at 10:04 a.m. Director José Cisneros led the Pledge of Allegiance.

PUBLIC HEARING TO ADDRESS ADOPTION OF UPDATED FEE SCHEDULE

JPB Secretary Martha Martinez said the public hearing was advertised in the *San Francisco Examiner* on September 19 and 26 and the *San Jose Post-Record* on September 20 and 27. She said the public hearing also was publicized through the JPB's printed agendas and the Caltrain website. To date no comments have been received.

Manager, Real Estate and Property Development Brian Fitzpatrick said the fee schedule reflects the costs of staff time for processing requests, particularly permission to enter JPB property. The fee schedule has not been updated since 1994. Mr. Fitzpatrick said staff recommends updating the fees.

Legal Counsel David Miller said staff has presented the item and adequate public notice was given for the hearing and the Board has met all legal obligations.

A motion (Gage/Lloyd) to close the public hearing was approved by all.

AUTHORIZE ADOPTION OF AN UPDATED PROPERTY CONVEYANCE POLICY AND FEE SCHEDULE

A motion (Cisneros/Lloyd) to approve the updated fee schedule was approved unanimously by roll call.

PUBLIC COMMENT

John Murphy, San Francisco, said he is very concerned about his commute tonight with the Giants playoff game at AT&T Park. Mr. Murphy said Caltrain tickets should be available for purchase from the Giants when customers buy their baseball tickets.

Shirley Johnson, San Francisco Bicycle Coalition (SFBC), shared a report written by BIKES Onboard titled "Caltrain Loses Ridership and Ticket Revenue by Denying Service to Cyclists."

Ms. Johnson said the report shows that Caltrain lost more than \$1 million last year by forcing cyclists back into their cars. Ms. Johnson said Caltrain can win these customers back by simply upgrading the remaining 12 consists to 80 bike spaces to stop bumping.

Andrew Ness, San Francisco, said he rides Caltrain daily from 4th & King to Hillsdale, Belmont or San Carlos. He said Caltrain is routinely denying service to paying customers due to insufficient bicycle capacity. Mr. Ness said Caltrain is losing revenue. He said there needs to be 80 bikes spaces per train to meet the demand of paying customers.

Doug DeLong, Mountain View, said whenever there is a special event there is overloading at the ticket vending machines. The use of a Clipper card could be a way out of this overloading because a passenger just has to tap the machine. Mr. DeLong said in the current budget there is \$2 million for transition costs to a potential new operating contractor, but would like to hear if the number may go up or down, if the same contractor is picked.

Greg Conlon, Atherton, said he would like to congratulate management for listening to the public's concerns over High Speed Rail (HSR) indicated by a change of attitude and direction of Caltrain. He said continued vigilance of putting up fences and quad gates along the right of way is necessary.

Jeff Carter, Burlingame, said he is looking forward to Caltrain providing good service for the Giants playoff games. He likes the idea of having the Giants sell Caltrain tickets when people purchase game tickets. He said it would be nice if the Giants would help underwrite some of the Caltrain service.

David Wilcox, San Carlos, said he is a member of the SamTrans CAC. At last night's CAC meeting the committee was asking about a bike committee. He would like to know when and where the committee meets and why don't the bicyclists go to the committee with their issues.

Andy Chow, Bay Rail Alliance, said on Tuesday there was a news article in the *San Mateo Daily Journal* on HSR's response to Caltrain's request to consider phasing. He said people can't always believe what they read in the news. Mr. Chow said the two agencies have different views and it appears to him that one agency understands reality and the other doesn't.

Director Ash Kalra submitted a letter from Forrest Williams thanking the Board for the opportunity to speak at last month's Board meeting and to reaffirm his position that Caltrain should find a long-term solution for South County service.

CONSENT CALENDAR

- a. Approval of Minutes of September 2, 2010
- b. Authorize Award of Contract to Transportation Technology, Inc. for Replacement of Caterpillar Locomotive, Separate Head-end (SEP-HEP) Power Units, Spare SEP-HEP Units, Product Support, Mechanical and Electric Spare Parts for a Total Estimated Cost of \$2,873,736
- c. Authorize Award of Contract to West Bay Builders Inc. for the San Mateo Bridges Phase 1 – Foundation Improvements Project in the Total Amount of \$2,674,000
- d. Information on Statement of Revenues and Expenses for June 2010

The Board approved the consent calendar (Gage/Lloyd).

CHAIRPERSON'S REPORT

No report

METROPOLITAN TRANSPORTATION COMMISSION (MTC) LIAISON REPORT

MTC Commission Sue Lempert reported:

- The Clipper card is becoming a big success and the more people use it, the easier it is.
- The two big issues MTC has been discussing are the approval of the Oakland Airport and raising their targets for reducing emissions.

REPORT OF THE CITIZENS ADVISORY COMMITTEE (CAC)

CAC Chair John Hronowski reported on the September 29 meeting:

- The CAC supports the continuation of service to Gilroy and passed a motion in support of the budget proposal recommendation.
- Director of Rail Transportation Michelle Bouchard gave a presentation on the Bike Count and Dwell Time Study and recommendations. An ad hoc committee was created to weigh in on this matter and give recommendations.

REPORT OF THE EXECUTIVE DIRECTOR

Deputy CEO Chuck Harvey reported:

- Executive Director Michael Scanlon is attending the American Public Transportation Association (APTA) annual meeting and was elected chair for the coming year. Director Nat Ford was elected secretary-treasurer.
- A story appeared in local newspapers and on television this week that asserts there has been an overall increase in Caltrain salaries at a time when Caltrain is cutting service and raising fares. Staff has been working with this reporter for several weeks to help him understand how the agency is structured and how we manage and charge for work that is done for Caltrain. In spite of staff's best efforts, the story is fundamentally inaccurate and misinterprets information. Staff acknowledges the complexity in how SamTrans, as the managing agency partner for Caltrain is staffed, and how the resources are allocated for the three agencies that are managed. It is also important to state to the Board and to the public that Caltrain employees did not receive individual pay increases totaling 14 percent between 2007-2010. The difference in total wages applied to the Caltrain operating budget did increase 14 percent during this period, of which 9 percent of this amount is the result of additional staff hours being applied to the Caltrain operating budget. This increase in hours reflects a better accounting of the time agency staff spends on JPB business, which was verified by a cost allocation review conducted by the agency. These changes in operating wages were also reviewed and approved by this Board, as part of the annual budgeting process. The remainder of the increase is attributed to minor salary adjustments that were granted in 2008. Since that time there have been no salary increases for administrative staff. Employees have and will continue to take furlough days, 17 so far. Hiring for all but the most essential positions has been frozen and the San Mateo County Transit District (District) was reorganized to cut costs and employees have been laid off. The amount paid for operating wages to administer the Caltrain budget is a bargain compared to other transportation agencies. SamTrans has a total administrative staff of approximately 275 employees who are allocated to work on the SamTrans bus system, the San Mateo County Transportation Authority and the JPB. The actual staff hours charged to the JPB Operating Budget total between 40-50 full-time equivalent employees out of this total SamTrans staff. Those 40-50 full-time employees manage every aspect of the Caltrain service, from the

Amtrak contract, to marketing, planning, finance, procurement, information technology, human resources, safety and security. The wisdom of the JPB to appoint a managing agency partner that can share overhead costs across multiple business units has resulted in extremely low administrative staffing levels and costs for the JPB. The total cost for wages and benefits for administrative employees for the JPB Operating Budget represents 6.5 percent of the total annual Operating Budget for Caltrain. As a point of comparison, Metrolink operates a system which has the same average daily ridership as Caltrain with a stand alone dedicated administrative staff. Metrolink's administrative staff totals 209 employees. Even if Caltrain included its entire Capital Budget staff the total headcount would be about 100, 50 percent less than comparable commuter rail agency to the south of us. Caltrain has operated with very limited staffing levels and has allowed the JPB to apply a higher percentage of its funding to service its customers since it was formed in 1992. The success of Caltrain, since it was acquired by the JPB and managed by the District is undisputed. Staff runs a lean and effective system. Costs have been cut at every level to maintain services.

Chair Elsbernd wanted to confirm that there have been no salary increases other than the minor salary adjustments in 2008. Mr. Harvey said that is correct. He said starting in Fiscal Year 2009 all administrative employees at the District entered a salary freeze; there was a salary freeze in FY2010 and this freeze was carried over to FY2011.

Chair Elsbernd asked for more explanation on the 14 percent not being a pay raise. Mr. Harvey said the difference in total wages for 2007 through 2009 is 14 percent. So someone could make the mistake of saying everyone received a 14 percent wage increase. In fact, it is the difference in staff time charged to Caltrain.

- Monthly Performance Statistics – August 2010 compared to August 2009
 - a. Total Ridership was 1,105,852, an increase of 4.3 percent.
 - b. Average Weekday Ridership was 40,939, an increase of 2 percent.
 - c. Total Revenue was \$4,107,653, an increase of 7.6 percent.
 - d. On-time Performance was 92.9 percent, a decrease of 2.5 percent.
- An extra 5,320 passengers were carried for the 13 Giants games in September and October. Through the 84 home games this year total ridership increased 5 percent over 2009 carrying more than 417,000 riders. Additional service will be provided for the playoffs starting tonight.
- Stanford football service has carried an additional 863 passengers.
- There was an opera at AT&T Park on Friday, September 24 and the last two southbound trains carried an additional 1,450 passengers.
- Regular weekday service will operated on Thursday, November 11 for Veterans Day.
- The triennial onboard survey will be occurring during October. The purpose of this survey is to get a snapshot of who is riding and for future marketing campaigns.
- The redesigned *Caltrain Connection* newsletter received an APTA AdWheel award.
- Chase Bank is finishing up a four-week saturation ad campaign at the 4th & King Station and will be replaced by a saturation by the Hawaii Tourist Board for one month.
- The San Jose Sharks have wrapped a train and Target is in the process of wrapping two full trains.
- In recognition of Rail Safety Month, installation of 250 signs has begun along a 10-mile stretch of right of way between Menlo Park and Mountain View. These signs are part of a national test to study the effectiveness of signs in preventing suicides on the railroad. The phone number on the signs is routed directly to the Youth and Family Services Crisis

Intervention Center in San Carlos. Director Omar Ahmad was thanked for his participation in the event on September 27 where these signs were rolled out.

- A community meeting was held on September 30 in San Bruno to present the grade separation project to local residents. Staff, along with San Bruno City Council and San Bruno staff, presented the overall design, construction staging and schedule. The groundbreaking for this event has tentatively been set for October 26 and staff will update the Board when the time and date are confirmed.
- Chair Elsbernd and Santa Clara Valley Transportation Authority General Manager Michael Burns were thanked for calling staff on the evening of the Pacific Gas & Electric explosion in San Bruno to offer any mutual aid.
- The Bicycle Advisory Committee (BAC) has been formed. In the past year, Caltrain has increased onboard bicycle capacity by more than 30 percent. The impact of that capacity increase was studied and the key findings were presented to the BAC. Staff did note that the capacity issues and denied boardings occurred during peak periods. The train delays are more attributed to heavier overall ridership than bikes alone. There were 10 problematic trains identified during the study that have consistent bike capacity issues with denied boardings. After reviewing the strategies and the existing constraints, including fleet make up, consist turns, safety, operations, scheduling and non-bicycle passenger impacts and funding issues staff determined the best overall option is to eventually convert all gallery consists to two bike cars. The approximate cost for this conversion is \$30,000 per car or \$300,000 in total. The ability to fund these conversions is going to be based on the ability to attain capital money. Staff is going through grants and contingencies from prior projects to find money to do this work. Staff will be reporting back on the progress, but is committed to finding the money to do this conversion. Once the funding is secured, each conversion will take approximately one month with an overall timeframe of one year. In the interim, staff will be working progressively to adjust consist turns where possible to address a couple of the peak capacity trains as a first step in the conversion project.

Director Don Gage asked if the Giants trains are marked as a special train. Mr. Harvey said in the northbound direction none of the trains are marked. He said after the games there are two special trains that depart 4th & King.

Public Comment

Andy Chow, Bay Rail Alliance, said the statement about the staffing level of Caltrain is appropriate and people need to understand that is how government does business considering funding constraints. Mr. Chow said it is good to see Caltrain's ridership is increasing. He said recently the MTC Transit Sustainability Project's preliminary findings showed all transit agencies, for the past 10 years, have increased costs and decreased ridership; Caltrain actually increased ridership in the period and the cost per rider has gone down.

Shirley Johnson, SFBC, thanked Mr. Harvey for explaining the plan to increase bike capacity. She said the SFBC would like to partner with Caltrain to help write the funding applications.

Peninsula Rail Program (PRP) Update

PRP Director Bob Doty reported:

- There are a lot of significant milestones coming up in the near future. A new and improved website was rolled-out yesterday..

- A Supplemental Alternative Analysis was submitted in August. The 15 percent design will be released at the end of the month and staff is meeting with cities to discuss, in detail, the horizontal and vertical alignment options.
- The Supplemental Alternatives Analysis will be released by the end of the year. Staff will be preparing a document on how to read the Supplemental Alternatives Analysis so people can find information in the document.
- At the October 20 California High Speed Rail Authority (CHSRA) Board meeting the selection criteria for the American Recovery and Reinvestment Act (ARRA) first round funding will be announced. This criteria will be used to identify the initial segments of where money will go. The official announcement is scheduled for November 11 for the HSR board to identify which of the four segments actually gets the first round of ARRA funding to be awarded on January 28, 2011. Some money has already been received for environmental, but this award is the big share and a significant event.

Chair Elsbernd asked for further discussion on the letter that was sent from the JPB to the CHSRA. Mr. Doty said a meeting was setup between Mr. Scanlon and CHSRA CEO Roelof van Ark. He said the actual construction process is always in phases. Mr. Doty said things got misunderstood as something other than that. Mr. Scanlon was suggesting the phased approach as something staff supports because of the potential impact to Caltrain.

Mr. Miller said there is further work and discussions, particularly with the shape and scope of the environmental process to implement the vision that Caltrain has outlined and staff will be reporting back.

Public Comment

Jeff Carter, Burlingame, said he is tired of hearing the fear mongering and lies from the anti-HSR people and the newspapers pick up on this and publish a lot of negative reports. He said the fact is if Caltrain and HSR are running at the surface or on an aerial structure it is going to be much more quieter and pleasant for the cities. Mr. Carter said this is not going to be an eyesore as people are painting it. He said there is a silent majority that supports HSR and people are not hearing from them because the city councils are listening only to the negatives and none of the positives. Mr. Carter doesn't understand why Belmont wants to go underground when it is already up on a berm. He said years ago Belmont/San Carlos held an election and the people voted to put the Caltrain separation on a berm and millions of dollars were spent to do this.

Pat Giorni, Burlingame, asked when this Board is going to move forward and certify the Caltrain [Electrification] Environmental Impact Report (EIR) that was put off a few months ago.

Mr. Miller said staff has been engaged in continuing discussions with those that have expressed some concern about the EIR and issues regarding funding.

ACCEPTANCE OF STATEMENT OF REVENUES AND EXPENSES FOR AUGUST 2010

Deputy CEO Gigi Harrington said farebox and parking revenue for August is slightly over budget, which reflects an increase in ridership. There are savings in both the operating contract and fuel budget expenses.

A motion (Lloyd/Ahmad) to accept the August 2010 statement was approved unanimously.

AUTHORIZE ADOPTION OF SERVICE CHANGES AND FARE INCREASES

Ms. Bouchard made the following points:

- Changes to the Codified Tariff will be implemented as early as October and will be revenue neutral. The changes include the discontinuation of the monthly pass grace period; discontinuing the use of an 8-ride ticket by more than one passenger; redefine youth to 17 years old and younger and allow for the purchase of a monthly parking permit with a single 8-ride ticket.
- In July the Board adopted a FY2011 budget with a \$2.3 million deficit.
- Staffed ticket offices in San Francisco and San Jose were closed effective October 11, which has a net savings of \$600,000.
- The fare and service recommendations will bridge the remaining \$1.7 million Operating Budget gap and be implemented on January 2011.
 - Increase the Go Pass from \$140 to \$155 with a net budget impact of \$150,000.
 - Increase zone fares by \$0.25 with a net budget impact of \$1.4 million.
 - Suspend four midday trains with a net budget impact of \$175,000.
- Staff is proposing a Baby Bullet weekend pilot service for a minimum of three months beginning in January 2011. There needs to be a 10 percent increase in ridership on the weekend for the service to cover the incremental costs.

Director Gage asked if it would be better to do the pilot program during the holiday season rather than starting in January. Ms. Bouchard said staff contemplated trying to get it in before the holiday season. However, this service is going to hinge on staff's ability to promote it and felt it would be best to start in January.

Ms. Lempert asked if the weekend bullet service will be timed with sports events and what will the midday service be like now. Ms. Bouchard said midday service would be every hour. She said in terms of the bullet service existing crews will be used. Staff will be evaluating this service the entire time and if it proves to be successful, it could be expanded and extended into the 2011 Giants season.

Public Comment

Jeff Carter, Burlingame, thanked Ms. Bouchard and staff for coming up with the current proposal and appreciate the fact the early morning trains were kept. He said he doesn't like the elimination of the use of an 8-ride ticket by more than one person and monthly pass grace period. Mr. Carter said it is a nice little perk for the monthly riders and should be retained. He hopes the board approves these changes and is doing whatever they can to find a permanent dedicated funding source before next year's disaster.

Vaughn Wolfe, Pleasanton, said he is in favor of the fare increase and the weekend Baby Bullet service. He said according to the Economic Policy Institute, even if employment grew at the rate that it did during the high point of the 1990's boom, 2.6 percent annually, we wouldn't see a pre-2008 level employment until January 2015. Mr. Wolfe said if people want the service they should pay for it. Mr. Wolfe would suggest the same thing for the bicyclists.

John Murphy, San Francisco, said about a month ago he started an online petition to drum up support for weekend Baby Bullet service and he is very excited to see staff is recommending it, even though he never submitted the petition. He said train 236 is one of the trains being eliminated and staff might consider moving the second bullet stop on train 332 from Menlo Park to Palo Alto.

Andy Chow, Bay Rail Alliance, said he is working with the Friends of Caltrain coalition, former Palo Alto Mayor Yoriko Kishimoto and Caltrain staff to find a long-term dedicated revenue source. Mr. Chow said for any dedicated funding package to be successful, people need to be convinced that Caltrain is a regional asset. He said it is good to see the weekend Baby Bullet pilot program and thinks it will be very successful.

Pat Giorni, Burlingame, said between January-March there isn't much happening to bring people to San Francisco and the weather is bad. She suggested the possibility of extending the weekend Baby Bullet service a couple of months past March and to not expect a 10 percent increase in the first three months of ridership, especially if conditions are not good.

Shirley Johnson, SFBC, said she knows staff had some very tough decisions and she commends them for listening to the public. She supports the closing of the staffed ticket offices, but the bicycle destination tags were available at these offices. Ms. Johnson would like the bicycle destination tags available on the trains and from conductors.

Director Ahmad said he appreciates what staff has done to close the \$10 million gap with \$1.7 million in cuts or 18 percent of the total problem. Director Ahmad would like to caution the riding public that there is a structural deficit and the amount of money it takes to run a railroad in a safe fashion and revenue don't match up. He said the problem Caltrain has is not \$1.7 million, but close to \$30 million and it will come to a head in July. Director Ahmad said he will be voting for staff's recommendations, but wished stronger action was done this year because next year's pain is not going to be acquitted.

A motion (Ahmad/Lloyd) to adopt the service changes and fare increases was approved unanimously by roll call.

STATE AND FEDERAL LEGISLATIVE UPDATE

- Government Affairs Manager Seamus Murphy reported:

STATE

Staff expects the State budget to be approved today. Other than allowing for the sale of infrastructure bonds to proceed, there will be little impact on public transportation. On specific legislation from last session, the governor signed two Caltrain-supported bills. The first one is SB 1371, which allows Proposition 1A connectivity funding recipients to advance spending of their programmed share of those funds and be reimbursed through the Letter of No Prejudice process by the State. The other bill is SB 987, which would extend the area included in a transit village development district from within a quarter-mile to within a half-mile of a transit station.

FEDERAL

Staff has been working on several Federal issues. Most of them were also areas of focus at APTA's annual meeting earlier this week. A bill was introduced in the House that would raise the cap on damages for railroads found guilty of gross negligence or willful misconduct from \$200 million to \$500 million. The cap also would be indexed to reflect the Consumer Price Index and the increase would be retroactive to affect ongoing settlement negotiations between Metrolink and the victims of the 2008 Chatsworth accident. Senator Dianne Feinstein's office has reached out to staff as she intends to introduce legislation in the Senate and asked for our thoughts and concerns. Staff reviewed the House version and determined

the bill would result in insurance premium increases of at least 30 percent for Caltrain and could complicate the agency's ability to procure adequate insurance coverage. Staff is working with APTA and industry peers during the Congressional recess to identify some alternatives to the House bill and will share those with Senator Feinstein so they can be included in her version of the bill she plans to introduce when Congress reconvenes after the election.

Congressman John Garamendi has introduced legislation that would eliminate or change many of the waivers and exceptions granted to transit agencies for Buy America regulations. APTA is working with the House Transportation and Infrastructure Committee to provide specific information on how this legislation would affect transit agencies and staff will be participating in the process. It is unlikely that the Garamendi bill will move this Congress, but changes to Buy America legislation is something staff thinks Congress will look at when they reauthorize Surface Transportation sometime next year.

ARRA includes a provision that increased the monthly amount that employers can offer in pre-tax benefits for transit riders to make the benefits equal to the benefits that employers offer for parking. Staff has contacted our delegation to urge them to extend those benefits at the existing level, ensuring that transit incentives are equal to parking incentives.

The Federal Housing Finance Agency has issued a draft guidance that would greatly restrict the imposition of private transfer agreements, which require that a percentage of the sale of private property in specified developments be collected and used to fund various transportation infrastructure, improvements and environmental mitigation. At least one Bay Area transit agency benefits from these agreements: BART, receives a percentage of the sale of each unit in a development near the Dublin/Pleasanton station. Staff is preparing comments that acknowledge the need for further regulation in this area, but also is urging the Federal Housing Finance Agency to preserve the ability of transit agencies to benefit from these agreements.

AUTHORIZE CALLING ON CONGRESS TO APPROVE LONG-TERM SURFACE TRANSPORTATION REAUTHORIZATION LEGISLATION

Mr. Murphy said this action is a result of APTA's petition to Congress. Tens of thousands of citizens around the country signed this petition urging Congress to approve long-term surface transportation reauthorization and staff wants to help in this effort. The administration, for the first time, included a vision for long-term reauthorization and staff feels now is the time to compel Congress to act on this legislation.

AUTHORIZE OPPOSITION OF PROPOSITION 23 ON CALIFORNIA'S NOVEMBER 2010 STATEWIDE BALLOT

Mr. Murphy said Director Ash Kalra requested staff bring this issue before the board. Proposition 23 would suspend implementation of AB 32, the Global Warming Solutions Act, until unemployment dips below 5.5 percent for four consecutive quarters. If Proposition 23 passes, it is unclear whether the provisions of AB 32 would ever be implemented due to the stringent nature of the unemployment level thresholds that need to be met.

A motion (Lloyd/Church) to call on Congress to approve long-term surface transportation reauthorization legislation and oppose Proposition 23 on California's November 2010 statewide ballot was approved unanimously by roll call.

CORRESPONDENCE

None

BOARD MEMBER REQUESTS

None

DATE/TIME/PLACE OF NEXT MEETING

Thursday, November 4, 2010, 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

Mr. Miller said in the Board's reading file is the result of the case that was filed against the CHSRA and the JPB. The plaintiffs in the suit were Mr. Brown and MOAVCO, Inc. and they were alleging there was waste being committed in connection with the planning for HSR between this agency and HSR. This follows on the heels of an earlier suit that legal counsel reported on, brought by the same attorney on behalf of other plaintiffs, alleging the same theories. In that case, the allegation was the JPB committed waste by entering into the agreement to plan for HSR, in conjunction with HSR. As previously reported the Peterson case against the JPB was dismissed by a Sacramento County judge and an agreement was reached with the plaintiffs that they would not file an appeal in return for waiver of cost. The matter before the Board is the second of those suits. This one is challenging on the same theory that the JPB entered into an agreement with HSR to enter into the right of way owned by the JPB without having taken the appropriate action to protect the interests of Caltrain. Nothing is further from the truth and that has been confirmed by the court, which also has dismissed this suit. Legal counsel has now negotiated with the plaintiff and they will not appeal and the judgment is final.

Closed Session: Pending Litigation Pursuant to Government Code Section 54956.9 (a) Celia Rea, Individually, as Successor in Interest of Decendent Anthony Rea and Personal Representative of the Estate of Anthony Rea, and Dean Rea v Peninsula Corridor Joint Powers Board

Adjourned to close session at 11:25 a.m.

Reconvened to open session at 11:38 a.m.

Mr. Miller said the Board met in closed session to hear a report from counsel on a matter of litigation as listed on the agenda, Rea v. Joint Powers Board. Appropriate direction has been given to General Counsel with regards to this matter.

ADJOURNED

The meeting was adjourned in memory of Assistant District Secretary Nancy McKenna's mother and Director Ken Yeager's father.

Adjourned at 11:39 a.m.