

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

**MINUTES OF JANUARY 5, 2017**

**MEMBERS PRESENT:** J. Cisneros (Chair), M. Cohen, J. Gee, R. Guilbault, D. Pine, R. Peralez, K. Yeager

**MEMBERS ABSENT:** J. Ramos

**STAFF PRESENT:** M. Bouchard, J. Cassman, A. Chan, C. Fromson, S. Gaffney, J. Hartnett, L. Larano, M. Martinez, N. McKenna, S. Murphy, M. Simon, P. Skinner, S. van Hoffen, N. Vigil

Vice Chair Josè Cisneros called the meeting to order at 10:07 a.m. and led the Pledge of Allegiance.

**SWEARING IN OF DAVE PINE, REPRESENTING SAN MATEO COUNTY BOARD OF SUPERVISORS**

Martha Martinez, JPB Secretary, administered the Oath of Office.

**REPORT OF THE NOMINATING COMMITTEE (GUILBAULT, PERALEZ, COHEN)**

Director Rose Guilbault said the committee met and are recommending Director Cisneros for chair and Director Jeff Gee for vice chair.

Motion/Second: Guilbault/Cohen

Ayes: Cisneros, Cohen, Gee, Guilbault, Pine, Yeager

Absent: Peralez, Ramos

**PUBLIC COMMENT**

Mike Forster, Palo Alto, said he is a retired systems software engineer. He requests the Board consider an alternative technical approach to electrification such as battery operated electric multiple units (EMU) as it could save a significant amount of money to the project.

Jim Bigelow, Redwood City/San Mateo County Chamber of Commerce, said keep the electrification on schedule, keep up the good work on this project and keep it moving. Dave Couch, Director, Project Delivery, is extremely capable for this project.

Roland Lebrun, San Jose, said at the December California High-Speed Rail Authority (CHSRA) meeting there was an independent consultant report on the electrification project and the issues with management, catenary design and safety. In November the Board appropriated \$150 million for EMUs and now \$20 million was reallocated to the South San Francisco Caltrain station. He said this is totally inappropriate and has to stop. He urged the Board to consider if it is appropriate for the San Mateo County Transit District (District) to be in charge of Caltrain administration.

## **CONSENT CALENDAR**

- a) Approval of Minutes of December 1, 2016
- b) Acceptance of Statement of Revenues and Expenses for November 2016

Motion/Second: Gee/Yeager

Ayes: Cohen, Gee, Guilbault, Pine, Yeager, Cisneros

Absent: Peralez, Ramos

## **CHAIRPERSON'S REPORT**

No report.

## **REPORT OF THE CITIZENS ADVISORY COMMITTEE (CAC)**

Chris Cobey, Chair, CAC, said the December meeting was cancelled due to lack of quorum. He has resigned from the CAC as he is moving out of San Mateo County.

Director Raul Peralez arrived at 10:16 a.m.

## **REPORT OF THE EXECUTIVE DIRECTOR**

### **Peninsula Corridor Electrification Project (PCEP) Monthly Report**

Liria Larano, Deputy Chief, Caltrain Modernization (CalMod)/Caltrain Program Delivery, said the electrification contractor performed field work required to locate utilities and investigate soil conditions in Segments 2 and 4. Staff continued to work with Pacific Gas and Electric on the interconnection design at the substations. The vehicle contractor's conceptual design layouts for the EMUs were reviewed. The California Public Utilities Commission (CPUC) adopted Caltrain's electrification requirements, which has helped with the detailed discussions with the utility companies that need to relocate their utilities.

Ms. Larano said the Local Policy Makers Group didn't meet in December and the next meeting is January 26.

### **Status of Full Funding Grant Agreement**

Jim Hartnett, Executive Director, said the JPB has qualified for the Core Capacity Grant Program for PCEP and the project was awarded prior year Federal Transit Administration (FTA) funds during this past year. Access to these funds is contingent on signing the Full Funding Grant Agreement (FFGA) with the FTA. There are a number of requirements that need to be met. The last requirement is a financial capacity analysis to be completed by FTA's financial consultant. This report will be presented to the FTA on January 6. In addition, the FTA has advised staff that they require resolutions for a 10 percent super contingency by San Francisco County Transportation Authority (SFCTA), San Mateo County Transportation Authority (SMCTA), Santa Clara Valley Transportation Authority (VTA) and the Metropolitan Transportation Commission (MTC). Previously staff was informed the sources of funds identified by MTC were qualifying funds, but SFCTA's were qualifying but not for full credit. However, staff have now been informed that both MTC and SFCTA's funds are not. In response from comments from FTA staff has worked out, at the staff level of the four parties, how to accomplish this. FTA will recognize the 10 percent full contingency by the SMCTA and VTA as it is money from sales tax. In order to satisfy the 10 percent, \$200 million, VTA has agendaed for their January 5 meeting action for

\$65 million and the SMCTA's action is for \$135 million. Staff was told by FTA this would satisfy their requirements. FTA staff is supportive of the project and spoke highly of it, but the financial and technical requirements need to be worked through. The last report staff received was FTA will submit to Congress by January 15 for the mandatory 30-day review so the FFGA could be signed by March 1 so the Full Notice to Proceed can be issued.

**Affirmation of Funding Partners' Oversight Protocol for the CalMod Program**

April Chan, Chief Officer, Planning, Grants and the Transportation Authority, said Staff Coordinating Council is recommending the Board affirm the protocol and commit to implementation for the CalMod Program. As part of the 2016 Seven-Party Memorandum of Understanding (MOU) Supplement, the signatories agreed to discuss and agree on program oversight roles and protocol for the funding partners prior to the award of the PCEP contracts. Staff from the respective funding partner agencies have already signed off the protocol, and have implemented them since summer 2016. The purpose of the affirmation by the Board is to record Board acknowledgement and endorsement.

Public Comment

Paul Jones, Atherton, said he cautions the Board to make spending commitments to this project. In December a suit was filed against the CHSRA challenging the constitutionality of Assembly Bill 1889, which could make unavailable, for a period of time, Proposition 1A funds. The second lawsuit was filed against the California Air Resources Board, which charges the use of the Cap and Trade funds to the CHSRA is illegal.

Roland Lebrun, San Jose, said the PCEP schedule shows construction will start in July and will be done in three years. He said \$13 million was spent this month in initial design and field investigations for a total of \$112 million including \$61 million in management oversight. The EMU design continues with no discussion about the loss of 200 seats per train. Mr. Lebrun is unclear why the Centralized Equipment Maintenance Operating Facility is being redesigned since there is no capacity. Staff has spent \$5.3 million on real estate without acquiring a single parcel. On the safety side, the independent consultants have identified track circuit replacement as high risk areas. He would like to remind the Board that Mr. Couch was in charge of capital projects at Washington Metro when track circuit replacements resulted in nine fatalities, including the driver of the train that plowed into the train in front of it. This oversight protocol is a waste of time and needs to be addressed.

Adina Levin, Friends of Caltrain, thanked the Board and staff for getting the electrification project to date and encouraged all parties to come together to address the final conditions to move this project forward.

Motion/Second: Gee/Guilbault

Ayes: Cohen, Gee, Guilbault, Peralez, Pine, Yeager, Cisneros

Absent: Ramos

Mr. Hartnett reported:

- Public meetings are being held on the proposed changes to the Caltrain weekday and weekend timetable. Public hearing and notices have been distributed and are on the Caltrain website.
- Annual Caltrain passenger survey will start on January 17 with completion estimated in February.
- Special event train service includes:
  - 49ers
  - Sharks
  - Pac-12 football championship
  - Holiday Train was extremely successful with a \$15,000 donation to Toys for Tots.
  - A modified schedule was operated on Christmas Day and New Year's Day.
  - A modified schedule will operate on Presidents' Day.
  - The Martin Luther King Celebration Train will run on January 16 departing San Jose Diridon at 9:45 a.m.
- Capital projects include:
  - San Francisco Highway Bridges
  - San Mateo 25<sup>th</sup> Avenue Grade Separation Project
  - Los Gatos Bridge Project
  - The South San Francisco Station Improvements Project is in the final design stage
  - Monitors at 4<sup>th</sup> and King and San Jose Diridon stations
  - The Redwood City Grade Crossing Improvements Project scope is to improve the safety devices at three grade crossings and is funded by the CPUC
  - The Fiscal Year (FY) 2016 Grade Crossing Improvement

### **KEY CALTRAIN PERFORMANCE STATISTICS NOVEMBER 2016**

Michelle Bouchard, Chief Operating Officer, Rail, said:

- Special service on New Year's Eve carried an additional 7,000 passengers.
- Continue to see a trend of ridership decreases, but revenue is up. Staff is looking at what could be causing these decreases. Additional train sets have been deployed to ease on overcrowding and enforcement efforts have been stepped up to collect all fares. The monthly ridership numbers are derived from ticket sales and staff has seen a decrease in ticket sales in all modes except for the GO Pass. GO Pass sales are up 15 percent. Staff will be using the triennial survey and the annual passenger count survey to see if the ridership methodology needs to be adjusted. The new electric fleet cars will be equipment with automatic passenger counters.

### Public Comment

Roland Lebrun, San Jose, said automatic passenger counters need to be installed now on the Bombardier cars and at the 4<sup>th</sup> and King Station. Now that there are more cars in the fleet ridership should start increasing.

**APPROVAL AND RATIFICATION OF THE CALMOD INSURANCE PROGRAM AT A TOTAL PREMIUM COST NOT TO EXCEED \$4,305,769 FOR A SIX-YEAR TERM**

Shannon Gaffney, Interim Chief Financial Officer, said the program is comprised of two parts: \$175 million in general liability insurance, which is in addition to the \$25 million purchased by Balfour Beatty, and \$25 million for railroad protective liability insurance. The general liability insurance is in addition to the JPB's existing general liability insurance, which covers the day-to-day operations.

Director Gee reiterated this premium is for the duration of the project only. Ms. Gaffney said the general liability 10 years after construction is completed for any outstanding construction claims.

Motion/Second: Guilbault/Gee

Ayes: Cohen, Gee, Guilbault, Peralez, Pine, Yeager, Cisneros

Absent: Ramos

**AUTHORIZE EXECUTION OF A FUNDING AGREEMENT WITH THE CALIFORNIA STATE DEPARTMENT OF TRANSPORTATION FOR A \$20 MILLION TRANSIT INTERCITY RAIL CAPITAL PROGRAM GRANT**

Peter Skinner, Manager, Grants and Fund Programming, said this allows for entering into an agreement for funds, which will be used for the electrification project. The funds were awarded last year and are included in the PCEP funding plan. The program is a competitive grant program that funds transformative transportation projects throughout California.

Motion/Second: Peralez/Yeager

Ayes: Cohen, Gee, Guilbault, Peralez, Pine, Yeager, Cisneros

Absent: Ramos

**AUTHORIZE AMENDMENT TO INCREASE THE FY2017 CAPITAL BUDGET BY \$600,000 FOR THE CALTRAIN STATION MANAGEMENT TOOLBOX PROJECT FOR A TOTAL CAPITAL BUDGET OF \$526,585,568**

Ms. Gaffney said this is a planning project to develop tools related to transit oriented developments and multimodal access improvements at Caltrain stations. The idea is to have a methodology in which alternatives can be evaluated and measured against one another and then prioritized. The agency has received \$600,000 in FTA funding toward this project and the remainder comes from the District and VTA.

Motion/Second: Yeager/Guilbault

Ayes: Cohen, Gee, Guilbault, Peralez, Pine, Yeager, Cisneros

Absent: Ramos

**AWARD CONTRACT TO MOOVEL NORTH AMERICA, INC. FOR A CALTRAIN MOBILE TICKETING SOLUTION AT AN ESTIMATED TOTAL COST OF \$643,733 FOR A TWO-YEAR TERM**

Nita Vigil, Acting Director, Contracts and Procurement, said this is for the development, deployment and hosting of a Caltrain mobile ticketing solution. This application will provide the JPB with a solution for Caltrain riders that will provide an alternative fare media purchase process. The contract consists of three phases. The first two phases will be part of the base term and once the services are deemed to be developed will go

into optional terms with the vendor. This procurement was a Request for Proposal (RFP) solicitation, which means it was a qualifications-based procurement where factors other than cost were considered. Five proposals were received, four were responsive and three were in the competitive range and invited for interviews. Staff have completed negotiations with moovel and are confident with this award.

Ms. Vigil said after the issuance of the notice to issue an award a protest was placed by Bytemark. Staff feels the appropriate process was followed and that some of the issues by Bytemark had no impact or any merit that would warrant staff to select another vendor. Staff investigated the protest, spoke to moovel on some of the questions presented by Bytemark, and feels very comfortable with moovel's responses and that the protest has no merit.

Joan Cassman, Legal Counsel, said protests are rare and there are very clear procedures on protests. Staff very carefully reviewed what was presented. The Board has a copy of the Bytemark protest letter in their reading file, the letter from moovel in response to Bytemark's comments and JPB's letter to Bytemark rejecting the protest. This is a not an opportunity for Bytemark to re-propose or represent their product, but an opportunity to present arguments to the Board that the staff may have overlooked relative to the issues that are in their protest letter.

Micah Bergdale, Bytemark CEO, said Bytemark has implemented mobile ticketing globally and have extensive knowledge of mobile ticketing applications. The procurement challenges are more of a process issue. Bytemark received notification on September 22 to make a presentation on September 26. The issue was the procurement officer sent e-mails to an inactive e-mail address. They were offered to present via Skype, but there were technical challenges within the room that would prevent people from hearing the presentation. One of the concerns is the amount of time given to the other presenters to be able to present versus what Bytemark was given. The presentations were limited to 30 minutes and then a 30 minute question and answer period. This is entirely inadequate to do a thorough analysis. On average agencies allow for two to three hours for presentations. The person assigned to this procurement was removed a few days after the presentations were made and this created a lack of communication on follow-up from the presentations. Bytemark is the lowest cost bidder and feel they are the lowest risk bidder as nothing is charged to Caltrain until the solution is launched. Bytemark is a certified PCI Level 1 Service Provider. Mr. Bergdale said there have seen some delivery challenges from moovel. Moovel was awarded a contract to Orange County in 2015 and they have yet to deliver an application. San Diego awarded a contract in March 2016 and there still is not an application. Dallas awarded a contract to moovel and they failed to deliver and the contract was terminated.

Nat Parker, moovel CEO, said moovel is very excited to be a partner with Caltrain for a mobile ticketing application. This is not his first opportunity to refute claims by Bytemark. The delay in San Diego was due to a similar protest by Bytemark. The company is the nation's leader in mobile ticketing and mobile payment for transit. They have 17 transit agency clients. He said the Orange County Transit application went live in June 2016 and is operating very well. As to PCI certification, moovel uses a PCI Level 1 certified vendor to process encrypted transactions. No credit card information is ever stored on

their servers. They have a cyber-security vendor who does an annual audit on their system. He remains very confident that moovel has the best team and integrity for this contract.

Ms. Cassman said there was some miscommunication in the e-mail used, but was clarified in time when interviews were scheduled to allow Bytemark time to be present. According to staff's records Bytemark had two less working days than the other proposers invited for interviews, but the week of interviews were made clear in the RFP and pre-proposal conference. Bytemark didn't get the exact date and time. Ms. Cassman said staff offered Skype or another date to Bytemark and they declined.

Ms. Cassman said Bytemark's proposal was a lower cost than moovel. This is an RFP and cost is given 30 points and a formula is applied to the cost criterion and the lowest price proposer gets the full point value and Bytemark got the full point value. Despite that their ranking was not the highest and staff is proposing the Board award the contract to moovel.

Director Peralez said accidents happen with the e-mail and appreciate staff working to correct and offer another date and Skype. The week was noted ahead of time to all bidders. It was stated that Orange County was set to meet the dates and moovel said the application has been delivered.

Mr. Parker showed the Orange County bus application on his phone and stated that it was launched last year. An update was done in October of 2016 which involved all fares available through the application. Validators have also been deployed and the client is very happy. This contract was a phased-in implementation of functionality. Full mobile ticketing is available today, however there are additional features around trip planning and validators being deployed on buses.

#### Public Comment

Roland Lebrun, San Jose, said Caltrain is a Proof-of-Payment and this type of application bypasses Clipper and now MTC doesn't know where people are riding on a regional issue. Innotrans is the largest transportation exhibition in the world and occurred the week that interviews were held. Caltrain staff knew of this convention as staff attended.

Adina Levin, Friends of Caltrain, thanked the Board for moving forward with a mobile ticketing application. This will help with the experience for riders who are not commuters. She hopes there is an independent evaluation of the additional features as the trip planning market is very competitive. Clipper 2.0 is looking at mobile ticketing as a potential feature.

Chair Cisneros thanked staff and legal counsel for providing the input.

Motion to reject Bytemark protest.

Motion/Second: Cohen/Yeager

Ayes: Cohen, Gee, Guilbault, Peralez, Pine, Yeager, Cisneros

Absent: Ramos

Motion/Second: Yeager/Peralez

Ayes: Cohen, Gee, Guilbault, Peralez, Pine, Yeager, Cisneros

Absent: Ramos

## **2017 LEGISLATIVE PROGRAM**

Casey Fromson, Manager, Government and Community Relations, said the Program establishes the principles that will guide the JPB's legislative and regulatory advocacy efforts through the 2017 calendar year, including the second half of the State legislative session and the first session of the 115<sup>th</sup> Congress. The Program has three primary objectives: Direct Engagement, Coalition-based Engagement and Media Engagement.

Director Ken Yeager left at 11:17 a.m.

Motion/Second: Cohen, Guilbault

Ayes: Cohen, Gee, Guilbault, Peralez, Pine, Cisneros

Absent: Ramos, Yeager

## **LEGISLATIVE UPDATE**

Ms. Fromson provided the following update:

- State
  - On January 4, the Legislature will reconvene in Sacramento to begin the work of the 2017-18 Legislative Session. There will be a number of new faces in Sacramento, including one new delegate representing San Mateo County, Assembly Member Marc Berman (D-Menlo Park). Assembly Members Kevin Mullin (D-South San Francisco) and Phil Ting (D-San Francisco), along with Senator Jerry Hill (D-San Mateo), also continue to represent the county.
  - In late December, the leadership announced committee chairs for the 2017-18 session. Senator Jim Beall (D-San Jose) will continue to chair the Senate Transportation and Housing Committee and Senator Bob Wieckowski (D-Fremont) will chair the Senate Budget Subcommittee #2 on Resources and Transportation. In the Assembly, Assembly Member Jim Frazier (D-Oakley) will continue to chair the Assembly Transportation Committee and Assembly Member Richard Bloom (D-Santa Monica) will also retain his post as chair of the Assembly Budget Subcommittee #3 on Resources and Transportation.
  - As staff reported last month, on November 30, the Legislature officially adjourned the Special Session on Transportation and Infrastructure without passing a transportation funding package. Just before adjournment, Governor Jerry Brown and legislative leadership announced that a deal could not be reached in the special session, but committed to tackling transportation funding in the next session, possibly early in 2017. The Governor has indicated a renewed interest in transportation funding, so we could see a revised funding plan with the release of his proposed 2017-2018 State budget on January 10. Both transportation committee chairs introduced bills on December 5, representing a \$6 billion funding



package for local streets and roads, State highways, goods movement, and transit.

- Federal
  - On December 9, with less than an hour until the deadline, the Senate voted 63 to 36 to pass a continuing resolution (CR) (H.R. 2028) funding the Federal agencies at current funding levels until April 28. Since the CR is funded at FY2016 funding levels, programs will not see the funding increases for highways and transit that were included in the Fixing America's Surface Transportation Act.
  - During the campaign session, Donald Trump promised a \$1 trillion infrastructure bill, but in recent weeks he has publically said that his administration will not make infrastructure a priority.
  - The 115<sup>th</sup> Congress was sworn in on January 3 and the inauguration of the next president will be on January 20.
  - Senator Kamala Harris, who replaced retiring Senator Barbara Boxer, received her committee assignments. She will be on the Environment & Public Works Committee. The Environment and Public Works Committee is an important transportation related committee in the Senate.

#### **CORRESPONDENCE**

No discussion.

#### **BOARD MEMBER REQUESTS**

None.

#### **DATE/TIME/PLACE OF NEXT REGULAR MEETING**

Thursday, February 2, 2017, 10 a.m. at San Mateo County Transit District Administrative Building, Bacciocco Auditorium, 2<sup>nd</sup> Floor, 1250 San Carlos Avenue, San Carlos, CA 94070.

Director Yeager returned at 11:20 a.m.

#### **GENERAL COUNSEL REPORT**

##### **Closed Session: Conference with Legal Counsel - Anticipated Litigation Pursuant to Government Code Section 54956.9(d)(2): Two Potential Cases**

Recessed to closed session at 11:20 a.m.

Reconvened to open session at 11:37 a.m.

Joan Cassman, Legal Counsel, said the JPB and Union Pacific Railroad Corporation (UP) have negotiated and entered into agreements in settlement of potential disputes associated with the JPB's PCEP and other matters that relate to the ongoing operation of passenger and freight operations in the peninsula rail corridor. The agreements will (1) pave the way for JPB construction and future operation of an electrified rail system in the corridor without objection on the part of UP and (2) enable the JPB to proceed with construction of its South San Francisco Station Reconfiguration Project, including rearrangement of UP's freight yard at that location. This project will enhance safety by

enabling removal of the hold-out rule at that station. Additionally, JPB and UP have agreed to explore the potential for a third party to take responsibility for the freight operations along the peninsula rail corridor pursuant to a competitive process to be initiated by UP with selection subject to approval by both UP and the JPB. Consistent with longstanding JPB policy, ongoing freight service in the corridor will be assured. The Agreements also contemplate and provide the basis for transfer at no cost to the JPB of UP's intercity passenger rights between San Francisco and Santa Clara junction. Additional agreements will be entered into in the coming months to implement the comprehensive understandings that have been reached following a thoughtful and deliberative negotiations process that transpired over the course of the past several years.

Ms. Cassman said on the other item the Board gave direction and authority to the Executive Director and legal counsel to initiate litigation. Details regarding the action, the defendant or defendants and any other parties, and other particulars will be disclosed in accordance with the Brown Act.

Adjourned at 11:40 a.m.