



HIGH SPEED RAIL COMMITTEE

Special Meeting
November 18, 2010

Council Member Klein called the meeting to order at 8:03 a.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Burt, Klein, Shepherd, Price (arrived at 8:05 a.m.)

Absent: None

1. Oral Communications

None.

2. Approval of Minutes

MOTION: Council Member Shepherd moved, seconded by Mayor Burt to approve the minutes of October 7, 2010, October 21, 2010, and November 4, 2010.

MOTION PASSED: 3-0

4. Legislative Goals – 2011

Council Member Klein introduced Steve Palmer with Van Scoyoc Associates, City's representative on Federal matters.

Steve Palmer, Van Scoyoc Associates spoke on the changing dynamics in the Federal and State government sectors. He said several states had indicated they did not want High Speed Rail (HSR) monies. Ohio and Wisconsin asked to redirect the funds to other transportation projects and was told it was not possible. The funds would be rescinded and returned to the Federal Government.

Mr. Palmer said Congressman John Mica was the new chairman of the House

Committee on Transportation and Infrastructure, an advocate for passenger rail in the Orlando, Florida area. He had been on several forums supporting HSR but unsure of how he played out on HSR issues.

Mayor Burt said he thought it was Congressman Mica who made the statement that the Orlando Airport-Theme Parks corridor was a better candidate for Florida's HSR than the Tampa-Orlando corridor.

Mr. Palmer said the Orlando voters did not approve the tax to pay for the light rail to connect to the Theme Parks.

Mayor Burt asked if the allocation for HSR was \$1 billion for the entire country.

Mr. Palmer said it was for the upcoming the year.

Mayor Burt said the local HSR CEO made a public statement that California needed \$2 billion per year for the program and could not go forward absent the \$18- \$20 billion for the next nine years; however, it did not seem the message spread past the Mississippi. He clarified this was based on a \$43.5 billion budget. When the Federal Railroad Administration (FRA) allocation was announced for the Central Valley, \$4.5 billion was acknowledged for the San Jose to San Francisco segment without mitigations.

Mr. Palmer said Washington's climate had changed drastically in the last six months. He felt the Republicans would target their efforts and try to eliminate the HSR funding.

Council Member Price asked if it was possible for the Central Valley segment to get funded and end up with the HSR going nowhere.

Mr. Palmer said it was possible. The speculation would be to build a viable Central Valley corridor and build mitigations around it.

Council Member Price said she understood the thinking but raised concerns regarding the uncertainties.

Mayor Burt said the Central Valley segment could not be built with that allocation and required a longer segment for the HSR to function. The plan was to run Amtrak trains on that segment with the possibility of running heavier freight on elevated tracks but creating a higher cost in construction. They would have the near-term cost of construction for the interim running of Amtrak trains rather than HSR.

Mr. Palmer said there was a lot of speculation that surrounded the project. It was more a comparison from what took place this year and where we will be heading next year. He did not feel there would be sufficient Federal funds in the near-term to advance the HSR.

Council Member Shepherd said the FRA was having difficulty funding Caltrain in the Bay Area and wondered if it was the 120 miles for hour (mph) speed as opposed to 220 mph for HSR.

Mr. Palmer said he was unsure of what they were doing or what they were going to do. There was no dedicated source of funding for the commuter rails and felt they were waiting to see what could or could not be done. Caltrain could be a victim since they did not have the means to help Caltrain.

Council Member Shepherd said they were helping Amtrak since they were going to run Amtrak trains on HSR tracks.

Mr. Palmer said he was not aware of that.

Mr. Klein asked Mr. Palmer for recommendation.

Mr. Palmer said the Peninsula cities were being heard in Washington and recommended they stay on course.

Chair Klein asked Mr. Palmer if he recommend sending the Council Members to Washington 3 or 4 times a year.

Mr. Palmer said yes, but it was important not to overwhelm people with redundancy. There should be a balance for elected officials.

Chair Klein said Council Member Scharff was there a couple months ago and asked for specific recommendations. He asked whether anything needed to be done between now and March.

Mr. Palmer said the President's budget will be the next part of the process and nothing needed to be done between now and then.

Council Member Price asked Mr. Palmer if he had contact with Zoe Lofgren's office and what his thoughts were of meeting with elected officials in their district offices.

Mr. Palmer said he had contact with Zoe Lofgren office and felt it was a good plan to meet with elected officials in their offices where a dialogue could be at

lower key level.

Chair Klein added that they needed to be strategic with whom they meet. Perhaps try to meet with congressmen from other parts of the country that might have influence.

City Manager James Keene asked about meeting with the Department of Transportation (DOT) in March.

Mr. Palmer suggested meeting with them on a different angle or something new.

Mayor Burt suggested a new angle. President Obama envisioned the HSR system across the country but the current climate indicated that was less likely to happen. There are now attempts to refocus on the most effective segments and to get something done. Roelof van Ark, at the state level, had talked about connecting metropolitan areas as opposed to connecting Anaheim to San Francisco. If a comprehensive HSR system could not be built in the United States, they would have to determine what would be the most effective direction of advancing rail in the United States. People have argued the focus to upgrade the regional rail where it was highly used for passenger service and for the peninsula that was the Caltrain segment. He said based upon the changes in Washington, if that was enough of a message that it would resonate differently and should be conveyed to a difference audience.

Mr. Palmer said it could. He said perhaps the best time to present the suggestion would be in May or June 2011 when the Appropriation Committee gives the HSR portion to President Obama. That would be a good opportunity to present the idea. Put it on the table as a win for them.

Mr. Keene said the voters did pass a \$10 billion dollar bond. He asked what type of conversation should be had at the regional level regarding Caltrain as a prelude to be eeffective next year.

Mr. Palmer said he wanted to give this further consideration. He said one thing was clear was this was not going anywhere and they should not lose site of the fact that money is there to promote a passenger rail project.

Council Member Price asked where the focus of the conversation would be at a regional and federal level.

Mr. Palmer said the President wants to keep the program going. The DOT and the Administration are the best places to go as they develop their proposals for reauthorization.

Chair Klein asked if it would be a good idea to reach out to the Office of Management and Budget (OMB).

Mr. Palmer said yes. Many people are overreacting to the elections in terms of the budget.

Chair Klein asked if it would be beneficial to talk to OMB.

Mr. Palmer said he would do that.

Mayor Burt said there was a disconnect between what was being budgeted and not funded and the conversation in Washington. He asked if there was anyway we could get a better sense of what the City was looking at and to separate the hope of what was out there and whether the City should continue to go down the same path.

Mr. Palmer said to stay on the same path. Washington was looking for a victory and to stay engaged and to let them know it would cost more but was a solution that could work for the both sides. He said a different tactic could block the City out of the discussion.

Council Member Shepherd asked if questions could be asked regarding what the national standards were on how HSR fit in neighborhoods as opposed to commercial areas.

Mr. Palmer said the conversation should be continued if the budget plays out and HSR investment continues. At this point, it could be lost in the budget discussion.

Council Member Price asked what Mr. Palmer's views were on how Senator Boxer and Feinstein viewed the City's implications and subtleties.

Mr. Palmer felt they needed to be educated more.

Chair Klein said the City would continue to send letters.

Mr. Palmer said it was a good way to communicate constituents' concerns. He asked that copies of the letters also be sent to the lobbyist.

3. Legislative goals—2011

Project Manager Rob kBraulik said Ravi Mehta, with Capitol Advocates, Inc., the City's state legislative advocacy firm and he had discussed the following legislative ideas.

Chair Klein introduced Steve Palmer to Mr. Mehta and asked that he give an overview of the HSR legislative ideas.

Mr. Mehta said he would go over the items briefly and then in detail. Item 1 was a redo of what the Governor line item vetoed. He said Senator Joseph Simitian may want to redo the item during the budget process but there would be a wait until the end of the fiscal year if that process was followed. There was the possibility of getting it through as urgency legislation and getting it signed before Jerry Brown gets into office. It would require a two-thirds vote.

Chair Klein said perhaps Item 1, 2, and 3 could be combined in one legislation.

Mr. Mehta agreed. Item 4 had been discussed but was unsure of the getting the bill through because most CEQA projects do not cover the cost of companies or land owners dealing with landuse issues and may not be successful. Item 5 was discussed at the new ridership hearing at the Legislator. He heard Senators Simitian and Lowenthal were pushing for a new ridership study. His thought was to have UC Berkeley do the study.

Council Member Shepherd asked if a methodology could be requested on the ridership study as opposed to calling on consultant service.

Mr. Mehta felt it was a good idea and perhaps the UC Berkeley methodology could be used.

Mayor Burt said he did not think a new ridership study was the description. He thought they were advocating in the near-term to take the foundation of the data that was obtain and UC Berkeley could rerun the data and reevaluate it through a simpler means rather than a full new ridership study.

Mr. Mehta said the term "new" could be removed depending on what the Legislator thought was the method that could provide the most reliable ridership study.

Mayor Burt said the agency or the entity to do the study was the Berkeley institute created by the legislator for the purpose of being the academic agency to advise the Legislator on Transportation issues which was done 50 years ago.

Mr. Mehta agreed. He said the statement was made by Senator Lowenthal who

had a lot of confidence in that institute.

Mayor Burt said it also moved to determine who would redo the study.

Mr. Mehta said on Item 6. There had been discussion on the makeup of the Board. He presented the idea of increasing the number of board members to get more representation from smaller communities. Another option was to at least make the fourth qualification to include individuals with expertise whether or not there was an increase in members. In addition he included having prohibition of anyone serving on the transportation authority.

Chair Klein said that Richard Katz had resigned from the Authority yesterday. He asked if the Governor would be filling Katz's positions and what the status was of the members with expired terms and have not yet been reappointed.

Mr. Mehta said historically governors will fill all of the vacancies. The reason Katz resigned sooner than later was to give Governor Schwarzenegger the opportunity to fill his position before he leaves his office. He may make appointments before he leaves but might collaborate with Jerry Brown on a number of appointments but was not sure if the HSR Authority would rise to that level.

Chair Klein asked if he had heard who may be interested on being on the Authority Board.

Mr. Mehta said he had not. They may start appointing people based on the desire to appoint people quickly because they do not have the time to do their due diligence.

Council Member Price asked if there was a way to accelerate consideration of the composition of the Board.

Mr. Mehta said it would take legislative action to mandate a change in the Board. We could always encourage the Governor's office to appoint certain individuals with certain qualifications. He spoke of the requirements for Senate approval of all CHSR Board Members. The only Board Members that were subject to senator confirmation would be the gubernatorial appointees. The Senate and the Senate appointees are appointed by the Speaker or the President Pro Tem without senate confirmation. Item 7 was in response to the Fair Political Practices Commission (FPPC) laws that stated individuals could not receive anymore than \$420 for the current year in gifts. It could change next year according to Customer Price Index (CPI.) The Authority's conflict of interest code had a band on Board Members receiving gifts. The FPPC does not

have the authority to enforce the band on the Authority. He said because of the magnitude of the project, he suggested placing an absolute band on any one working for the HSR Authority. A loop hole would be that gifts can always be made to a governmental entity and the entity could dole out the gift to anyone they want. Any gift should be approved by the Senate and to use whatever methodology on deciding who gets the gift also needed to be approved by the Senate. The process would be monitored to assure there were no conflicts of interest.

Council Member Shepherd asked how long it would take to get the Senate's approval.

Mr. Mehta said the Political Reform Act passed in 1975 could be amended under two circumstances: 1) in the furtherance of the Act, and 2) under two-thirds vote with bill. Two-thirds vote can be an Urgency Bill because it took the same number of votes. If the bill is introduced in January and pushed through, it could be signed by the Governor and become law within months and effective immediately and not have to wait for the following year to become law. In terms of Item 8, there are two revolving door provisions under the government code. 1) a temporary ban stated under California law, if an individual worked for an agency, they were banned for one year from coming back and lobbying for that agency, and 2) a life time ban did not allow an individual who had worked on an issue to return and work on that issue again for their entire life. He focused on the revolving door ban. Because of the magnitude of the project and the dollars and various types of consultant, he suggested a three year ban that would prevent a Board Member to hold a position and a year later represent one of the stock companies. There would be no incentive to try to do things for consultants in hopes of getting future business or favors later. Item 9, Prop 1A stated that one-fourth of the segment needed to be built from San Francisco to Los Angeles. He used the Altamont Pass as an example; however, specific verbiage could be used to focus on Peninsula cities to direct the Authority to build or do certain things or to use certain corridors.

Mayor Burt suggested using the verbiage from Item 5 to change Item 9 to have the Authority use the revised ridership information to select the most effective route for the system.

Mr. Mehta agreed that was a good solution. Item 10 would require the least impact of method in building the tracks by either cut and cover or tunneling and to specifically indicate that in the language.

Mayor Burt said for Item 10 may not be successful to have a carve out. He suggested adding language that said in areas where the rail passed through

dense residential area that those cities would have the ability to buy in on designs that went through their communities.

Mr. Mehta said that can be drafted to benefit Palo Alto and other communities. He did not think there was anything in Prop 1A prohibiting allocation certain portions of the \$10 billion bond for aspects of HSR. He suggested adding language that allowed affected communities to recover the cost of tunnels and trenches out of Prop 1A funds.

Council Member Price said the issue did not address construction only but to assist the cost for true mitigations. Our concerns in projects of this magnitude were mitigations that are "like" rather than "real" mitigations that addressed concerns and were appropriate. She asked this be emphasized in the language.

Mr. Mehta agreed.

Council Member Burt said going back to Item 5, cut and cover or 2- or 4-tracks would affect the ridership study. He suggested adding verbiage to not allow environmental approval process. He said they should not proceed until completion of the revised ridership study and determination of track requirements.

Mr. Mehta concurred.

Council Member Price said some of these issues may come to fruition and asked how an expanded EIR will be paid.

Mr. Mehta said it would come for from the \$42 billion.

Council Member Shepherd asked if below grade options were included in that cost.

Mr. Mehta said the Authority would need to pay for the option they agree to put in. Additionally, the Authority should pay for the alternative that has the lowest impact on the community and any added cost. Communities that are impacted should not have to be burdened with additional expenses and should be spread throughout California.

Mayor Burt asked to add an Item 13 to clarify the definition of the plan requirements before the Authority can go forward with construction expenditures.

Chair Klein said it was unclear what Mayor Burt was trying to accomplish.

Council Member Shepherd said Mayor Burt was trying to interpret Prop 1A as it was versus how the Authority wanted it redefined. She asked if it should be handled through the court and not the Legislature.

Mayor Burt said the language should define and create consistency with the general interpretation, until Mr. van Ark imposes his interpretation. Legislative clarification would be the best tool.

Chair Klein asked about the deadlines on the Legislative calendar.

Mr. Mehta said Legislators would be sworn in on December 6. Many bills will be introduced in January and in Legislative Council by the third week in January. No bills can be sent in after that date to allow time to get them into formatting for consideration. There is another bill deadline in the third week of February which is the very last day to introduce any legislation. Authors are the only ones who can submit language to the Legislative Council. He said the process would be to first, determine which of the 13 items the City wanted to consider for legislation, draft up language, then shop for a legislator to write the bill. The author will submit the items to the Legislative Council. The final language will be reviewed after it comes back from the Legislative Council for accuracy. The author will then resubmit to Legislative Council.

Chair Klein asked for a deadline.

Mr. Mehta said it should be moved forward between Thanksgiving and Christmas. January will be hectic and a difficult time for legislators.

Chair Klein said the HSR Committee has a meeting scheduled in two weeks and should have final action on that meeting but would require the City Council approval the week after. He asked if the Cities of Menlo Park, Atherton, and Pico Rivera were going through the similar process.

Mr. Mehta said he did not know but guessed the Cities of Menlo Park and Atherton may follow Palo Alto's lead. He spoke to the City of Pico Rivera about legislation but did not get any feedback but felt they would be supportive.

Nadia Naik spoke regarding Item 5 and the ridership. She said in talking with Senators Simitian and Lowenthal, Palo Alto should be the bases for the engineering and environmental work. The Authority focused on just the business plan which was a fundamental problem and ignored the ridership at the program level. Regarding Item 6, she raised concerns of how information was flowing from the Authority to the Board. She asked if there was a

legislation to cut out layers of consultants. Item 7, regarding Conflict of Interest regarding gifts, she said contractors should be added and not be allowed to receive gifts. Meal allowance should be looked at. The State allowed \$18 for dinner and should be adhered to. She noted travel expenses amounted to \$13,000 for a week in Germany and questioned how they arrived at that figure. People traveling should be reporting back. Item 9 should promote financing the Altamont Rail Corridor. Once funds are put into the project and the ridership numbers are ran, it may become a more attractive option. Item 10, to consider residential density along with a study on noise and vibration standards. Include legislation for the Authority to match Palo Alto's existing utility systems. Ask the Legislative Council for their opinion on what AB3034 is meant to say to help clarify if there was a plan or if money was actually in place. She suggested reaching out to pro rail people when seeking authors to write legislations. It would help move the project forward and could be seen as more positive and help improve relations.

Mr. Mehta said those were all good ideas.

Chair Klein said to strike out Item 12 since it was taken care of.

Council Member Shepherd asked if there was a way for the EIR process to take its own course of time to properly manage the project.

Chair Klein asked Council Member Shepherd to draft the language. He asked Mr. Mehta how many Bills the City was allowed.

Mr. Mehta said it would depend on how many the authors would want to carry the Bills. It would be better to have more than one or more Bills moving forward from a strategic stand point. If one bill dies, the language from that bill could be funneled into the next. Ten bills maybe too many to push through and most likely could get an author to carry two to three bills. He suggested maximum of three to four Bills and there will be others out there that can be piggybacked onto. Additionally, to work on the concepts the City wants to move forward with and to consolidate. He will check to see if the City's language could be included on to other Bills.

Council Member Price asked should we give Mr. Mehta a cluster of our discussion or have Mr. Mehta come up with four numbers or was there a timeliness that we need to give direction now of what we want him to work on.

Mr. Mehta said what would work best is to come up with the concepts that the City wants to move forward on. He will decide the best way to move the concepts forward. Sometimes it is easier to piggyback on someone else's

legislation rather than be the sponsor of a Bill.

5. Letter Discussion

Mayor Burt spoke regarding Letter 5d. He recently met with City of Menlo Park Mayor Rich Cline and Congresswoman Anna Eshoo and several Peninsula Mayor and Council Members and their message was Peninsula cities needed to get a better consensus of what they were asking. The response was to do the project right and to come up with billions of dollars more to have the analysis and construction of the preferred alternatives on the peninsula. He along with Peninsula Cities Consortium (PCC) members drafted a letter to be presented at this evening's Policymaker Working Group (PWG) meeting as a template for other cities to consider. The letter included cities' issues and request. It basically stated the Authority could not move forward with an EIR or an alternatives analysis unless it was based on an understanding on the amount of trains and tracks required to determine: 1) ridership, 2) assuring the plan is well founded, 3) freight issues integrated into the discussion, 4) assure that less impact for alternatives be included in the alternatives analysis, and 5) the EIR not to race forward at this time because there was no reason to do so and to not do so without being on a sound foundation.

Chair Klein asked Mayor Burt if he was asking the HSR Committee's approval and to inform the PWG that it was approved in concept.

Mayor Burt said yes and the draft letter would be returned to HSR Committee for revisions or changes.

MOTION: Council Member Klein moved, seconded by Council Member Shepherd to approve the draft letter in concept.

Council Member Price said regarding Number 5 of the letter, suggested to replace "with comprehensive analysis of impact."

Mayor Burt said the City will have the opportunity to make changes when it comes back for adoption from the different members of the PWG.

Council Member Shepherd asked to move Number 3 as the last item.

Mayor Burt asked to put off the City's changes for the next HSR Committee Meeting.

Chair Klein said he approved of the draft letter and the effort in getting more voices heard. He was not in favor of Congresswomen Eshoo and

Congresswoman Speier's comments and felt their priorities was getting more money into the area and promoting more jobs. The City's first priority was for no harm to come to our city. He raised concerns if the Peninsula cities were not heard as one voice.

MOTION PASSED: 4-0

Chair Klein said all items were not covered during this meeting and was aware that would be the case.

Mayor Burt said the other letters may not need discussion for approval.

Chair Klein said not all letters were completed and needed editing.

Mayor Burt said final edits can be made and sent off.

Mr. Braulik said to forward letters to him and will finalize for signature.

ADJOURNMENT: Meeting adjourned at 9:52 a.m.