



High Speed Rail City Council Committee

Special Meeting
February 3, 2011

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

Absent: Price

Council Member Klein announced Council Member Price was at a business meeting in Washington, DC and would not be present at this meeting.

1. Oral Communications

Herb Borock said the Third Appellate District in California had ruled that the Legislator could not dictate the ballot label, title and official summary for statewide measure unless the Legislator obtained the approval of Electorate to do so prior to placing the measure on the ballot. He said the legislative action was the key reason as why it was adopted statewide. He spoke of the findings and declarations of what the court did with the language and questioned what types of transportation should be publicly supported. He said the Valley Transit Authority (VTA) Comprehensive Operations Analysis showed 65 percent of the bus and light rail system riders do not have automobiles and 62 percent had no other alternative means of transportation compared to Caltrain riders whose income was different and had other alternative types of transportation. The question was which systems get how much percentage of public support. He said they should be equal. There were different transportation systems and served different purposes. He urged the Council to keep those issues in mind.

2. Approval of the High Speed Rail Committee (HSR) meeting minutes of November 18, 2010 and December 2, 2010.

Council Member Burt said he would not be voting on the December 2, 2010 meeting minutes since he was not at that the meeting.

MOTION: Council Member Shepherd moved, seconded by Council Member Klein to approve the High Speed Rail Committee meeting minutes of November 18, 2010 and to continue the December 2, 2010 meeting minutes to the next HSR Committee Meeting.

MOTION PASSED: 3-0, Price Absent

MOTION: Council Member Shepherd moved, seconded by Council Member Klein to move Item No. 9 to be heard with Item No. 3.

MOTION PASSED: 3-0, Price Absent

3. Status Reports

A. Caltrain Status Report

Deputy City Manager, Steve Emslie said a Regional meeting was held at Stanford a few weeks prior regarding Caltrain's future, budgetary issues, deficits, labor contracts, and expenses that out-paced the funding source. Caltrain was the Bay Area's only major transit district that did not have a dedicated funding source. The Friends of Caltrain held a Save Our Caltrain Summit Meeting on January 29, 2011.

Management Specialist, Richard Hackmann said the Save Our Caltrain Summit Meeting included discussions on what had to be done to decrease cost and increase revenues. He said there were two panel discussions which were productive in brainstorming ideas on outsourcing, taxing, tolls and alternatives that could lead to a dedicated funding source for Caltrain.

Mr. Emslie said a Caltrain Joint Power Board (JPB) Meeting was scheduled for that morning where an announcement was expected regarding service cuts to help balance the budget. The San Antonio Station was on the list to be closed which was unfortunate because much transit-oriented development had occurred in the area, particularly in Mountain View, which no longer would be served.

Council Member Shepherd asked about weekend service.

Mr. Hackmann said his understanding was there would be service during peak rush hours only and no service during mid-day, night, and weekends.

Chair Klein asked why there were two save Caltrain organizations.

Council Member Burt said Friends of Caltrain was the grassroots organization and consisted of riders and local activists. The Save Caltrain group consisted of stakeholders. Their viewpoints were not identical and had different ways of moving forward. Save Caltrain was lead by a Silicon Valley Leadership group that received contributions from different cities and had spent a fair amount of money on polling.

Chair Klein said Palo Alto would be playing a significant role and needed to decide which way to go. He said he had not seen a political campaign succeed with two different organizations and raised concerns of where to place resources or people-power.

Council Member Burt said the two organizations were not at odds and collaborated with each other. The difference was one group reached out to a wider audience and the grassroots or foot soldiers. The other group was stakeholders with resources and involved in policy-making decisions. He said they did not have identical functions and felt having them act as two different organizations was more effective than merging a grassroots group with a stakeholders group.

Council Member Shepherd needed clarification regarding their differences.

Council Member Burt said the Friends of Caltrain were riders with a different set of viewpoints than the entities that might be looking at transportation on the Peninsula from the perspective of moving Caltrain riders versus those who focused more on service for the Friends of Caltrain.

Council Member Shepherd said one was grassroots and the other was more of private sector.

Council Member Burt said their methods were different but their purpose was the same.

Council Member Burt said if something was to go forward on the ballot it would come from the leadership group who could do sophisticated

polling, analysis, debating and decision-making. The grassroots group would be for enlisting public support. They complimented each other.

Council Member Shepherd asked whether Palo Alto could facilitate the two groups with a steering committee to avoid a potential division between the two groups. She agreed with Chair Klein's concerns in getting issues passed by having two groups.

Council Member Burt said there was cross pollination between the groups and he was active in both. He said both groups were collaborative. Both parties recognized and had reasons to not be one in the same.

Chair Klein raised concerns over the model not succeeding in a campaign.

Council Member Shepherd said she understood that Caltrain was taking a break from the Peninsula and asked for the status regarding certification of their Environmental Impact Report (EIR).

Mr. Emslie said nine months ago Caltrain was moving toward certification of their old EIR but to his knowledge that was not official.

Council Member Shepherd asked to define old and whether Caltrain would need to go out for anything.

Mr. Emslie said the document was five or six years old and would need to be redone and re-circulated.

Council Member Shepherd said that could be challenged.

Mr. Emslie said there could be grounds for taking further action if the document was recertified and not re-circulated.

B. High Speed Rail (HSR) Status Report

Chair Klein said HSR, CEO Roelof van Ark would be recommending to the High Speed Rail Board that the (Environmental Impact Report) EIR's for San Francisco-San Jose and Los Angeles-Anaheim be extended for a year and have alternatives include a phase implementation, which meant less than a full build-out.

Council Member Shepherd said it would be interesting to see what the build-out would look like if Caltrain proposed a single track with below-

grade alternatives that Peninsula cities were interested in. She asked if Caltrain should be encouraged to move forward with that or if it was too premature to talk about it. She did not trust the ridership numbers which drove the HSR's massive build-out plans for the Peninsula. It would be useful to Palo Alto if Caltrain could support a couple of High Speed Train trips on the corridor once it was completed.

Council Member Burt said two-days ago the Senate Sub-committee on Transportation Funding had a meeting on High Speed Rail. Mr. van Ark was present and Senator Simitian pushed hard on the issue of going forward with the EIR absent the revision to the ridership study. It would be difficult for discussions to move forward without knowing how many tracks would be needed and difficult to argue the need for two tracks without having the HSR data. He spoke regarding an issue with the HSR Authority and Mr. van Ark setting up a peer review committee to review the ridership, not being as independent as many had hoped. It was the chair of that committee that made the original errors. The two issues created the need to reexamine the ridership and having the right mechanism in place.

Council Member Shepherd said Caltrain owned the right-of-way and asked if it would be politically correct to have Caltrain be the driver to reexamine the ridership. She felt this might be a better move at the regional level since Palo Alto had more of a relationship with Caltrain than with the HSR Authority.

Council Member Burt concurred with Council Member Shepherd's idea.

Council Member Shepherd said it would be a realistic request because the future of the right-of-way would be required to secure dedicated funding.

Council Member Burt said it was worth a try.

Council Member Shepherd said an aggressive try.

Chair Klein said it was important to find what the cost would be to Caltrain. He raised concerns about spending funds for Caltrain to complete a mission.

C. High Speed Rail (HSR) Program Environmental Impact Report (EIR)
Litigation Status Report.

Chair Klein spoke to Mr. Metha via telephone and asked for an update on current events in Sacramento.

Ravi Metha, Capitol Advocates said he would be sending an update of the HSR meeting held that morning. He said during the first weeks in January he had conversations with the new and current legislators to see if they would carry the legislation being discussed. All bills were submitted to Legislative (Leg) Council and had until the end of February to get authors. He had spoken to authors to see if they would carry portions or use all of the language that was submitted. Jerry Hill's office indicated he wanted to focus on HSR but did not want to carry in legislation because his focus was more from an oversight perspective, similar to what Senator Simitian had been doing for the past year. Assemblyman Gordon was still interested but wanted to workout some of the details and to see what the other assemblymen were doing. Gordon said he would be talking to Simitian and Hill's office and Mr. Metha would do a follow up. He spoke to Assemblywoman Harkey's office that carried a few bills and were interested, but he did not think she would be a strong author as a Republican. He said there will be a better feel on what will happen as the bills come out of Leg Council in the format legislators like to see them in. There were two budget hearings. The Assembly Budget Committee was engaged and supportive regarding our concerns with respect to the ridership and business plan. They were harsh on the Authority and wanted to see specifics before considering any budget items. The sentiment was the same in the Senate Budget Hearings. Senators Simitian and Lowenthal were angry with the Authority and Roelof van Ark over promises not being delivered. They've raised concerns regarding not being able to do anything without the ridership. He said those were the developments over the month and a half.

Chair Klein asked if Legislators had any interesting criticisms on what was being composed.

Mr. Metha said not criticisms but there were issues such as trying to get a bond measure. The legislatures seemed hopeful but said they were not sure if they wanted to carry it. It was an indirect way of saying this one is not going to happen. With respect to the expansion of the Authority, Gordon's office suggested that if the membership was going to increase by two members for the Governor that there be a proportional increase in the Legislator making a total of four members. Gordon's office suggested one of the Governor's appointees should be the Director of Finance and asked if Palo Alto would take that into

consideration. It was suggested the Director of Finance or a designee look at the numbers. He felt reluctant because he did not know Governor Brown's opinion on the issue and the Director of Finance would do what the Governor wanted.

Chair Klein asked if they knew where the new administration stood on HSR issues.

Mr. Metha said they had not taken an official position yet. He would be contacting the new Governor's Legislative Secretary to bring him up to speed regarding HSR and to find out where the Governor was with HSR. The secretary was appointed last week and they were asked to give him a couple of weeks to settle in. Mr. Metha said he had a list of bills but had not yet prepared a legislative update for the year because there were several more bills coming forward in the next few weeks. None of the bills were being heard at this time because there was a 30-day wait period and some were sent to committees. He had been working the legislators and trying to educate the new members on HSR.

Council Member Burt spoke of two issues. One was regarding ridership and said Elizabeth Alexis, with Californians Advocating Responsible Rail Design (CARRD) had raised concerns regarding Mr. van Ark being allowed to hand pick a peer review committee which could be used to revalidate the method and errors that were done originally and not have an independent review. He viewed it as a challenge and may not be conquered legislatively but thought perhaps Mr. Metha's activities could help focus on because absent people understanding what was going on could rubberstamp what was already there.

Mr. Metha said he agreed. He said Senators Simitian and Lowenthal had figured out that it was nothing more than a ploy about HSR Authority. He said he was pushing for the legislator to support an independent ridership study.

Chair Klein asked if it would be helpful to write a letter to the Legislator or Governor or both to support the composition of an independent review committee.

Mr. Metha said it would be a good idea. Anything written on a city's letterhead was convenient to add and help mount the opposition.

Council Member Burt said he would also raise the issue with the Peninsula Cities Consortium (PCC). He said the second issue was the Authority was continuing to use a capital figure of \$43.5 billion. According to Ms. Alexis' testimony based on public records the cost was exceeding \$65 billion and did not include below-grade along the lines including the Peninsula. It was a significant change in the dialogue around the entire HSR system. Mr. van Ark said the initial \$4.3 billion awarded to the Central Valley that was to be used would only pay for half of the Peninsula cost or two-thirds of the Anaheim to LA cost, however, their books indicated \$5.2 billion for the Peninsula. He said that Mr. van Ark publicly admitted the numbers were erroneous and no one has insisted they be corrected.

Mr. Metha agreed and said that both Assemblymembers from the San Rafael area wanted specifics. He said Mr. van Ark was good at skirting his answers and was being challenged. It would be good to do a fact and myth comparison to give to the legislative members to prepare for challenging Mr. van Ark.

Council Member Burt said Ms. Alexis had detailed technical spread sheets. He said there were members on the assembly side wanting better answers but their questions were not focused. Mr. van Ark would be forced to respond if the questions were clear, explicit, and repeated. The Assembly needed help to frame the question "what is your best current update of the cost of the system for capitol?"

Mr. Metha was in agreement and said now that they were engaged they could ask the right questions if they know how to ask them.

Chair Klein urged Mr. Metha to correct the Legislature or aids whenever the \$43 billion figure was quoted and to start planting the seed.

Mr. Metha agreed.

Council Member Burt added that it was important to add that Ms. Alexis' analysis was based on their documents.

Council Member Shepherd said it was interesting that he was talking to the San Rafael members because they had a rail system coming from Santa Rosa that was supposed to go to Larkspur Landing. They already had done a tax sales increase but only had funds to get to Santa Rosa. The costs were coming in at a real time and may find some commonality there.

Mr. Metha said he would research that prior to going to Hoffman's office. He asked for an update from the City's lobbyists on the Washington HSR efforts.

Mr. Emslie said there were none.

Chair Klein moved to 3C and reported on litigation. He said he spoke to Attorney, Stuart Flashman regarding status of the litigation. The technical aspect resulted in a conference with the judges handling the two cases; the original Menlo Park-Atherton case and the second case that Palo Alto joined. It was decided by all parties of the Council that because of legal reasons the Menlo Park-Atherton case would not be the official parties for case number 2. Palo Alto would be the only case and the two cases consolidated and heard at the same time by the same judge. Mr. Flashman reassured that Palo Alto was now alone and the second case would not make a difference. This would be followed up in writing. A one to two-day trial date was scheduled in August or September. The judge had 90 days to make a decision which should be complete by Christmas.

Council Burt said his understanding was the request to consolidate the cases was to assist the court and could have a potential political danger and portrayed as Palo Alto being the only plaintiff and the only complainer. He said that was not the reality and other parties could view it as that. Palo Alto needed to be prepared to correct the record should that occur.

D. (formerly Item 9) – Meeting Updates

- Office Hours, policy maker & Technical Working Group, (PWG, TWG) meetings have been postponed indefinitely.

Deputy City Manager, Steve Emslie said the Technical Working Group (TWG) has not had recent meetings due to the chaos on the High Speed Rail (HSR) team. He said he had done some informal checking and found the TWG would not be able to announce to the public until March when the EIR would have a tentative date for release.

Chair Klein said his understanding was it would be extended one year.

Mr. Emslie said there was much confusion on the issue.

Chair Klein asked if the extension period was welcomed.

Mr. Emslie said it was difficult to say and felt uncomfortable with the leadership void. He said when he checked two weeks ago, Mr. Robert Doty and Mr. van Ark had not discussed what would happen with the Peninsula Rail Team at the local HSR level.

Council Member Shepherd said voids could be useful. She asked for solutions.

Mr. Emslie agreed and said unfavorable alternatives may come forward such as phasing and traffic impacts.

Council Member Shepherd asked if Caltrain would have a louder voice in those issues.

Mr. Emslie said it would give the opportunity to put low-cost alternatives into the document. He informally heard it was a legal requirement to push low-cost alternatives into the document. It raised concerns because California Environmental Quality Act (CEQA) did not mandate low-bids, but rather reasonable alternatives. He later found it was not a legal requirement but if low-cost alternatives were not introduced there could be potential litigation from the community as well as HSR advocates. He felt this was the time to push alternatives to support what the Palo Alto community wanted.

Council Member Burt provided updates from the Policymaker Working Group (PWG). He was told there was no reason to rush the EIR forward. They insisted the EIR would only be delayed until March. Mr. van Ark made a statement at the Senate Sub Committee Meeting that it would be delayed for a year. He said a distinction needed to be made if it was a year from now or a year to completion.

Chair Klein said he understood there would be a written statement from Mr. van Ark.

Council Member Burt said he hoped the statement would be clear. He said he had several conversations with the consultants who ran the PWG along with Mr. Doty. Terry Lightfoot with HNTB was now in charge of the Regional Public Communications and over the PWG. Council Member Burt would be meeting with Mr. Lightfoot later in the day to discuss empowering PWG members. He wanted to discuss the need for clarity on the Environmental Impact Report (EIR) issue and the need for proper ridership information and to discuss whether there was a valid reason to continue the PWG. It was important to

acknowledge that if the spigot ran dry for the Peninsula the consultants would be out of work. Getting an objective answer from them was difficult because they had a vested interest in the EIR and the analysis proceedings. He said with the absence of Mr. Doty, he expressed concern about their agenda.

Nadia Naik said the phased implementation from HSRA perception was not what Palo Alto thought the phased implementation would be. They wanted to build rail up to Redwood City, do nothing for Menlo Park and Palo Alto, and then start again in Mountain View. It was not going from 2-track to 4-track which is what we want to do. She expressed the need to be careful when talking about the different versions and corrected information regarding the ridership contractor. She added that Mr. van Ark told Senators Simitian and Lowenthal he would have a business plan by October 2011 and the EIR would come out at the end of the 2011 calendar year. Rich Gordon was in the same role as Senator Simitian and working on the assembly side.

Council Member Shepherd said she wanted to figure out how to inform the community about the dangling EIR and where it was currently.

Chair Klein asked what Council Member Shepherd was suggesting.

Council Member Shepherd suggested the Committee agendize the topic for the next meeting, to gather information and to be able to come up with a clear statement. It currently was a "no confidence" statement. She would like to be in a position within the next couple of months to be able to advocate what needed to happen and to have it happen via Caltrain and the void and the Authority's chaos.

Council Member Burt asked to frame the letter differently regarding capitol cost. He asked for the letter to indicate the numbers and to attach Ms. Alexis' analysis and for the Authority to acknowledge the \$43 billion was no longer an accurate figure for the San Francisco to Anaheim segment. He suggested composing a fourth letter to surround the EIR timing. They should address what Ms. Naik said about Mr. van Ark's statements two days ago. It appeared he was not talking about a one-year delay; it was one year until completion and whether our case should be delayed indefinitely due to the unclearness of funding.

Chair Klein said a press release or memo to the Board had been generated regarding the issue.

Council Member Burt said it was important to not misunderstand that Mr. van Ark was offering a one-year delay and to make sure that distinction was made regarding delay in the content of the letter.

A member of the audience said he worked with Ms. Alexis in preparing the analysis and wanted to make sure the figures on the spreadsheet were in sync with his and Ms. Alexis figures prior to attaching the spreadsheet to the letter.

Management Specialist Hackmann asked Council Member Burt to restate what needed to be included in the fourth the letter.

Council Member Burt said it was timed with the EIR and included two elements: 1) to critique whatever extension Mr. van Ark proposed today and 2) an advocacy of what we believe should be the indefinite postponement of the EIR given financial realities and the high likelihood it would be stale by the time it was utilized and that it would be detrimental to support Caltrain during this critical time.

MOTION: Council Member Klein moved, seconded by Council Member Shepherd to compose: 1) a letter to legislators regarding the flawed peer review committee on ridership, 2) a letter to the HSR Authority asking if they agreed the cost was now estimated at \$66 billion with a copy to legislators, 3) a letter to the JPB requesting they undertake the independent review of the ridership, and 4) a letter regarding EIR timing.

MOTION PASSED: 3-0, Price Absent

4. Proposed invitation to Supervisor Kniss to discuss her new role as member of the Joint Powers Board (JPA)

Chair Klein felt the only way to address Council Member Shepherd's concerns regarding Caltrain and High Speed Rail (HSR) issues was during a Council meeting. He did not think a public meeting would be beneficial.

MOTION: Council Member Burt moved, seconded by Council Member Klein to invite Supervisor Kniss to a High Speed Rail Committee Meeting to discuss her new role as member of the Joint Powers Board.

MOTION PASSED: 3-0, Price Absent

Chair Klein said he previously had mentioned to Supervisor Kniss the invitation and she was agreeable. He suggested a meeting date of one month from today.

5. Proposal to Change Committee name

Chair Klein said the item was to discuss a Committee name change reflecting that Caltrain was a major consideration.

Council Member Shepherd asked if it would require changing the Guiding Principals.

Chair Klein said no because Caltrain was already incorporated.

MOTION: Council Member Burt moved, seconded by Council Member Shepherd to drop the words “High Speed” from the Committee name renaming it the City Council Rail Committee.

Chair Klein said in talking with Council Member Price, she suggested the name High Speed Rail/Caltrain Rail Committee. He said leaving the word “Rail” raised other issues such Bay Area Rapid Transit (BART) or the Light Rail system which were far beyond the purview of this Committee.

Council Member Burt said there was nothing on the table or on the horizon that related to those to agencies that would impact this Committee. He said this Committee should address any issues that may come forward from those agencies.

Herb Borock said any Motion made should be a recommendation to the Council.

Council Member Shepherd said HSR/Caltrain Committee was also fine with her. Leaving the words “Rail Committee” speaks directly to what they were doing with better efficiency. She said the Council would make the ultimate decision on the change.

Chair Klein said he could go either way.

Council Member Burt asked if the Committee Members would want a proposal of Light Rail coming to Palo Alto or BART conversation to Caltrain to fall under this Committee or would it be subgroups of rail. He did not think they would and that Rail Committee would cover all of it.

Council Member Shepherd said the only transportation agency she felt would come to Palo Alto would be the Valley Transit Authority (VTA).

SUBSTITUE MOTION: Chair Klein moved, seconded by Council Member Burt to recommend the City Council change the name of the City Council High Speed Rail Committee (CCHSR) to City Council Rail Committee (CCRC)

Council Member Shepherd said that would eliminate the first Motion.

SUBSTITUE MOTION PASSED: 3-0, Price absent

6. HSR City Council Committee Meeting Frequency Discussion

Chair Klein said Council Member Price suggested meeting once a month on the first Thursday and to only meet on the third Thursday of the month when needed.

Council Member Shepherd recommended the opposite in order to allow information coming in from the Authority meetings since their meetings were held at the same time.

Nadia Naik said both the Joint Powers Board (JPB) and the High Speed Rail Authority held their meetings on the first Thursday of the month.

Council Member Shepherd said the second Thursday could also be reviewed.

MOTION: Council Member Shepherd moved, seconded by Council Member Klein to meet on the second Thursday of the month.

Council Member Burt raised concerns of the effectiveness in scheduling the meetings. He questioned how this Committee would feed into or report back on the other meetings. The PCC meetings were held on the first Friday of the month and the Caltrain JPB meeting may become increasingly important in the interaction that the Committee had.

Ms. Naik confirmed the JPB meeting was the first Thursday of the month.

Council Member Shepherd asked what the turnaround time would be for the four letters.

Chair Klein was in favor of the second Thursday of the month.

MOTION PASSED: 2- 1, Shepherd no, Price absent

Council Member Burt asked if the next meeting would be held five weeks out.

Council Member Shepherd said a special meeting should be considered to accommodate Supervisor Kniss visit.

Deputy City Manager, Steve Emslie said Staff would coordinate that with Supervisor Kniss.

Council Member Burt noted second Thursday in April would be during a school break week and he would not be available.

Mr. Emslie said the next meeting was scheduled for March 10, 2011.

Council Member Shepherd said she would not mind a separate meeting with Supervisor Kniss.

Management Specialist Hackmann said he would research her availability and report back to the committee.

7. Contracts update

- Capitol Advocates (Contract expires February 28, 2011)

Chair Klein said the Capitol Advocates contract would expire at the end of February.

Deputy City Manager, Steve Emslie said Staff recommended to extend the contract for six months and to bring the item back to the Council. There was the need to keep a steady contact in Sacramento during the change in administration and new legislators.

Chair Klein asked what the recent billing was.

Mr. Emslie said he had not reviewed a recent bill but were kept under the retainer's allocation.

Council Member Shepherd said the contract stated "not-to-exceed" a certain amount.

Management Specialist Hackmann said he could get the most recent, updated invoice.

Council Member Shepherd assumed the entire amount had not been spent for a couple months since there had been no movement in Sacramento. She asked to see that information.

MOTION: Council Member Shepherd moved, seconded by Council Member Klein to extend the contract for six months with a “not-to-exceed” amount, a 30-day notice to continue the current terms, and the item brought back to the Council with billing information.

MOTION PASSED: 3-0, Price absent

8. Legislative Update (covered in conference call to Mr. Metha in Sacramento, Item 3c.)

9. Meeting Updates (moved to Item 3)

Future Meetings and Agendas

Chair Klein said the next meeting was scheduled for March 10th unless there was a need for a special meeting date to accommodate Supervisor Kniss’ visit. He said the meeting with Supervisor Kniss should include a status on Caltrain, Palo Alto’s concerns regarding Caltrain, the electrification program, and EIR.

Council Member Shepherd said if the High Speed Rail (HSR) comes to Silicon Valley with a minimal construction design, it would not add aesthetic value to the community. In the event of chaos with HSR or funding needs for Caltrain, she hoped to have a better handle on the situation and for it to work for the Peninsula as a primary commute rail service, as well as be aesthetically pleasing.

ADJOURNMENT: Meeting adjourned at 9:45 a.m.