CITY COUNCIL RAIL COMMITTEE

Special Meeting
April 4, 2011

Call to Order

Council Member Klein called the meeting to order at 8:09 a.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Burt, Klein, Shepherd, Price (left at 9:27 a.m.)

Absent: none

1. Public Comment

None

2. Approval of Minutes March 17, 2011

Council Member Price said the following changes needed to be made to the minutes. The meeting adjourned at 10:19 a.m. and not 10:19 p.m. Page 10, bullet number 3 should read “Council Member Price and Chair Klein asked for presentations on electrification by an engineer”.

Council Member Burt referred to page four and said his title was incorrectly listed as “chair”, and the first sentence of that same paragraph should read “Council Member Burt said this was not what the PCC was intended to do.”

Herb Borock spoke regarding the report on the minutes incorrectly listing the City Clerk as a Department Head when she is a Council Appointed Officer.

MOTION: Council Member Price moved, seconded by Chair Klein, that the City Council Rail Committee (CCRC) approve the Minutes from March 17, 2011.

MOTION PASSED: 4-0.

MOTION: Council Member Price moved seconded by Council Member XXX to pull Agenda Item Numbers 5, 7, and 8 to become Agenda Item Numbers 3a, 3b, and 3c.

Chair Klein said he would not support the Motion because he wanted to hear the updates first.

MOTION FAILED FOR LACK OF A SECOND

3. Meeting Updates

- Office Hours, Policy & Technical Working Group (PWG, TWG) Update.

Assistant Director Administrative Services, Rob Braulik said a Technical Working Group (TWG) meeting was tentatively scheduled for the end of this week or during the week of April 11, 2011. No meeting was scheduled at this time for a Policy Working Group (PWG)

- Peninsula Cities Consortium (PCC)

Chair Klein said he attended the Peninsula Cities Consortium (PCC) meeting during Council Member Burt's absence on April 4, 2011. He gave an update of that meeting and said the meeting focused on the new proposed San Mateo organization and PCC members had raised concerns on what was going on. City of Belmont said they would not be joining but would monitor the group. The High Speed Rail (HSR) was considering a 4-track system, 3-tracks wide and one tunneled, or a system that would not require shoefly tracks. Kathy Hamilton from the City of Menlo Park reported on the California High Speed Rail Authority (CHSRA) meeting of March 31, 2011. Quentin Kopp no longer was on the Board and had been replaced with a union person who participated in the meeting. The CHSRA finances were discussed and a member addressed the fact that CHSRA did not have enough monies to do what they had set out to do. Minority groups were threatening to sue CHSRA regarding environmental injustice. He said the next CHSRA meeting was scheduled for May 5, 2011 in San Jose, CA.

Council Member Burt said he was invited to attend the next San Mateo Partnership meeting. Terry Nagel, Central County Representative for the San Mateo County Transportation Authority had invited the San Mateo Public Works Director to attend and confirmed they would be there. He said there was the issue of the Brown Act being triggered if a majority of the PCC members attended.

Chair Klein said the item was on the agenda for Friday and would be continued due to disagreements among the city attorneys.

Council Member Burt said he had spoken to the Palo Alto City Attorney to verify if the PCC was a Brown Acted organization and secondly if the Rail Partnership was also a Brown Acted organization. The PCC did not have a formal membership and was structured to invite all County cities to attend the meeting and those that attended would have a voice at the meetings. There was a political issue of whether to attend or not. He said if all PCC cities and sympathetic cities attended there was a perception that countered to theirs and would not prevail in that organization. He felt it should not be in the interest of all cities to participate and raised concerns that the HSR or Caltrain would be inclined to assume that the Rail Group was being represented by the entire County.

Chair Klein said concerns were raised at the PCC meeting regarding if the Rail Partnership Meeting was a public meeting.

Council Member Burt said he hesitated to accept an invitation to a non-public meeting and was waiting for the City Attorney's advice regarding the legal aspects and a decision from the policy side. He did not know if the CCRC wanted to weigh in on the pros and cons of attending the meeting. He said Chief Executive Officer (CEO) Roelof van Ark of CHSRA would be at the next Rail Partnership Meeting.

Council Member Shepherd asked if Council Member Burt would be attending the San Mateo Rail Partnership meeting that was not open to the public.

Council Member Burt said previous meetings were not open to the public but the upcoming meeting had yet to be determined. He felt the meeting would be used to imply a consensus between San Mateo County and the HSRA even though it was only a selected perspective of the cities that shared a viewpoint. He said he needed direction from the CCRC whether he should or should not attend.

Chair Klein said the issue should be agendized for the next meeting. He said he had expressed at the PCC meeting his disapproval of a letter that was sent out by the partnering cities. Palo Alto was not mentioned as a recipient and there was no mention of the PCC's existence. Ms. Nagel defended the letter and understood her as citing Council Member Burt's quasi-acceptance of the invitation with implications of questioning the validity of the partnership but would attend.

Council Member Burt said four cities had signed the letter and felt that only those cities should assume the content of the letter.

Council Member Price agreed that the item should be agendized for the next meeting since some of the Committee members were unfamiliar with the issues.

Chair Klein asked if the next meeting was scheduled for April 20th.

Mr. Braulik said that was correct.

Chair Klein said the issue would be added to the discussion.

Council Member Burt spoke regarding the CHSRA meeting. He said the Board had overruled the Chief Executive Officer's (CEO) recommendation regarding the reduced allocated portion of Prop 1A monies for the next Federal fund application. There was much discussion regarding the money used to get Federal funds and Prop 1A dollars being depleted long before building a $43 billion system. He said it was the first time for this major issue to be aired publicly.

Chair Klein said a member of the public had testified that Board Director Crain was the most critical regarding the issue.

Council Member Burt said Mr. Crain was the most vocal but other board members concurred and voted to amend the application. He said either branch of Congress could nullify the funds allocated to California.

MOTION: Council Member Klein moved, seconded by Council Member Shepherd to pull Agenda Item Number 8 to become Agenda Item Number 3a.

MOTION PASSED: 4-0

3a. (Formerly Agenda Item Number 8) Setting of Regular Committee Meeting Schedule

Chair Klein asked if it was still acceptable to hold the regular City Council Rail Committee (CCRC) Meetings on Thursday mornings.

Council Member Price said she had Board meetings on the second Thursday of the month.

Council Member Shepherd said she had City/School Committee meetings on the third Thursdays of the month.

Chair Klein suggested holding the meetings on the fourth Thursday.

Mr. Braulik said the next CCRC meeting was scheduled for Thursday, April 28, 2011.

Council Member Price said she might be conflicted for the months of May and June as vacation days.

Chair Klein asked if all were in agreement of having regular Committee meetings on the fourth Thursday of the month.

Council Member Price asked if there was an interest for the first Thursday of the month.

Council Member Shepherd said the CHSRA held their meetings on that day.

Chair Klein confirmed the CCRC would meet on the fourth Thursday of the month.

MOTION: Chair Klein moved to pull Agenda Item Numbers 4 and 5 to be heard together as item number 3b

3b. (Formerly Agenda Item Number 4) Status Reports and (formerly Agenda Item Number 5) Consideration of Advocacy Position Relative to Proposed Caltrain Service Reductions.

Status Report

- High Speed Rail (HSR)

Chair Klein announced there was no additional information to be added to the HSR Report

- Caltrain

2010 Caltrain Annual Passenger Counts

- Caltrain Stations Proposed for Closure Transit Oriented Development (TOD)

- Summary

Assistant Director Administrative Services, Rob Braulik said Caltrain had indicated the latest annual passenger count would be out within a few weeks. All cities, except for one, had responded to the proposed station closures and the Transit Oriented Development (TOD) summary in order to balance the budget.

Council Member Shepherd said she understood there was a major development planned for the Lawrence/Sunnyvale Station which was different from the information provided in the Staff Report.

Mr. Braulik said Staff had gathered the information directly from the cities that were polled.

Council Member Price asked if the project was in the process of being approved.

Mr. Braulik said a plan to move forward with the project may already have started.

Council Member Price confirmed discretionary approval had been made on the plans.

Mr. Braulik agreed.

Council Member Shepherd said the Lawrence Station was not yet approved, but a major development was planned for that site. She asked if there were other cities in the same situation.

Deputy City Manager, Steven Emslie said the Cities of San Bruno and Belmont were in the same situation. He asked Staff to see if the cities had had pending projects.

Council Member Burt said the San Antonio Station was the 18th of 29 stations with the highest number of ridership and was being considered for closure. He asked if Staff knew what the cutoff point was to determine closing a station.

Mr. Braulik said the proposed stations for closure were listed in the TOD list of the packet.

Council Member Klein noted there were on-going issues with the page numbering in the new agenda packet process and asked that the Clerk's office be notified to fix the problem.

Council Member Burt said the list lacked ridership ranking on the proposed stations for closure and felt the information should be added to the report.

Council Member Shepherd recommended the cities be separated and ridership totals provided for both the remaining and proposed closure stations.

Council Member Price wanted to know what the criteria were for closing a station.

Council Member Klein said the intent for Agenda Item No. 5 was whether the CCRC should take a position at Thursday's meeting relative to the proposed service reduction. He said it would be appropriate to not take a position if there was insufficient information.

Council Member Burt said it was his understanding that Caltrain staff would be presenting the revised intentions according to the new Metropolitan Transportation Commission (MTC) budget and would vote at the same time during Thursday's meeting. He said that was a fundamental processing issue. The decision should not be made at the same time since the public and member cities would not have the opportunity to respond. He felt the process was a breech in responsibilities. He advised Palo Alto to not take a position since the recommendation was unknown at this time. It was up to Caltrain's staff to proceed in this matter and the Caltrain Board should be the primary audience for the City of Palo Alto's comments. Caltrain's staff appeared to continue to operate in a way to circumvent participation of member cities and the public. He said recent newspaper articles noted that the Caltrain Board had not made one dissenting vote in several years and that the Board Representatives should be challenged to do a better job in representing Palo Alto.

Council Member Price said the statements should be sent to both the Chair of the Board and key staff. She said she did not know the extent of outreach on proposals and felt it was important to get the communities' input. The San Antonio Station had a TOD development in the immediate area and should be researched to see if it had reached its potential capacity in ridership. The California Avenue and Mountain View stations could benefit on the ridership numbers if San Antonio Station should close. She agreed with Council Member Burt that Palo Alto should not take a strong position at this time.

Mr. Braulik said Caltrain had three public meetings on closure proposals. He contacted the MTC several times since the last CCRC meeting regarding closure proposals but was unable to get the information. He said the item consisted of one page and no report was provided for Thursday's agenda. MTC said the presentation would be verbal. He suggested bringing these issues to the attention of Supervisor Liz Kniss.

Council Member Price asked if the Board could be asked to not act on the recommendation until more work is done on these issues.

Mr. Braulik said that could be done.

Council Member Shepherd said in terms of station ranking, it was her understanding that Caltrain would be stopping at the Diridon Station and not continuing to Gilroy which would eliminate several stations. She felt the report was not accurate since Gilroy was in the process of getting funds from Valley Transit Authority (VTA) to determine a location for an HSR train station. Regarding an advocacy position, she encouraged asking Caltrain to put more time in to this prior to the Board voting and to develop a methodology on long-term strategy to bring issues back when the TOD begins to materialize. There was no incentive for a developer and a city to organize around a train station if it should close. Developments were starting to get approved when the stations were closing. It did not take into consideration ongoing issues with SB375. These issues need to be brought to the Caltrain Board in a specific manner to create some type of advocacy towards a strategy. She asked how the Committee could proceed in getting clarity on an advocacy position.

Nadia Naik asked what the radius was on the TOD. She said Assemblywoman Fiona Ma had a bill to extend the TOD radius that could result in getting more people based on a new wider number. She said the Friends of Caltrain, which Californians Advocating Responsible Rail Design (CARRD) was part of, sent an action alert to their entire membership stating Caltrain said all the information would be available at the meeting which was found to be unacceptable. She said she had sent a message to Supervisor Kniss to help delay the vote. She urged Palo Alto to make a strong statement regarding the process and needed clarification on the station situation south of the Diridon Station. She said there were two stations being looked at in the Gilroy area but were outside of Caltrain station area.

Council Member Price stated the station question was irrelevant if the system doesn’t operate.

MOTION: Council Member Price moved, seconded by Council Member Burt, that Palo Alto issue a strong statement to the Peninsula Corridor Joint Powers Board (PCJPB) urging deferral of the discussion and vote until there is additional, clear information available to the public to allow an informed discussion.

Chair Klein supported the Motion.

Council Member Burt said there were three public meetings on the original cuts that were less, but it was unclear on how much less. He raised concerns regarding the meetings and felt they were designed to be political in nature to rally opposition to the cuts and to make substantial decisions with minimal public input. It was a pattern that seemed to not value the participation of member cities and stakeholders. It appeared the meetings were to further their own predetermined political purpose and not have a genuine participation.

Council Member Price said there was the need to look at both the elected officials and Staff members. The elected officials needed to be held accountable. She said Caltain Staff should not operate as independent agents. The entire PCJPB needed to receive a copy of the process.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER for the letter to specify the information that should be disclosed would include the process of methodology, an explanation regarding the planned and pending TOD by the City Stations involved, and a clear and open meeting process allowing stakeholders to understand the discussion and respond.

Council Member Price agreed.

Council Member Burt agreed. He wanted to ensure the Motion was sent directly to each Board Member. He clarified that Caltrain Staff should not work independently He said any communication that was taking place between the Board Members and Staff and not made public was an outrageous procedure.

Chair Klein was not in favor of making references to the TOD recommendations as they could detract from taking a strong position. The message should stay on track.

Council Member Price agreed with Chair Klein comments and suggested to include them in the methodology discussion.

Council Member Shepherd was in agreement.

Chair Klein said there could be a push back from Caltrain Staff stating they were out of time and the excuse of having to make a decision on April 7, 2011. He did not think all PCJPB members were elected officials.

Council Member Price confirmed that several of the members were elected officials.

Council Member Shepherd said she was trying to capture this in her Amendment to remove the issue out of the political process and to have a clear methodology for the stakeholders to follow and interpret. She did not mind using specific words.

Council Member Burt said any proposal made to the Motion would be a proposed amendment.

Council Member Shepherd asked if the CCRC wanted Caltrain to acknowledge their process and that it was political in nature.

Council Member Burt said no and to only state the minimum necessity.

AMENDMENT TO MOTION: Council Member Klein moved, seconded by Council Member Shepherd, to direct Staff to write the letter, the Rail Committee Chair to edit the letter, and that the letter to be sent the following day.

MOTION PASSED AS AMENDED: 4-0

Council Member Shepherd said 24 stations were listed in the ridership information. She said the five stations south of the Diridon station were not included and she assumed they would be closed.

Mr. Braulik said the focus was on the peninsula stations and Caltrain's list did not include the five stations.

MOTION: Council Member Klein moved, seconded by Council Member Shepherd to pull Agenda Item Number 7 to become Agenda Item Number 3c.

MOTION PASSED: 4-0

~~4. Status Reports~~

~~High Speed Rail (HSR)~~

~~Caltrain~~

~~2010 Caltrain Annual Passenger Counts~~

~~Caltrain Stations Proposed for Closure Transit Oriented Development~~

~~(TOD) Summary~~

~~5. Consideration of Advocacy Position Relative to Proposed Caltrain Service Reductions.~~

3c. (Formally Agenda Item #7) Matters for the Agenda for the Special Committee Meeting of April 13, 2011

Chair Klein suggested Supervisor Kniss' part of the program would cover Caltrain's financial picture both short- and long-term, with more detailed input regarding the Metropolitan Transportation Commission (MTC), and the organization's transparency procedures. Item 2 would be a discussion Caltrain's long-term plans including a description of electrification. For example, how electrification would work independently or in conjunction with High Speed Rail (HSR) and grade separations. Item 3 would be the alternate visions of Caltrain's future. He hoped the meeting would open discussions regarding Caltrain. He said nothing needed to be decided by the City Council Rail Committee (CCRC) that day, but they would have to in the future determine a stand regarding the existing Environmental Impact Report (EIR), certification and to discuss other potential issues.

Council Member Shepherd said she viewed Supervisor Kniss as a Board representative with a political voice for the organization.

Chair Klein said he viewed Supervisor Kniss as a new Board member but not the spokesperson for the organization. He said she could have critical views and wanted to invite her personal views and knowledge.

Council Member Shepherd said the financial picture had been in the Press and discussion could move quickly. She wanted clarity on the current status of the HSR Memorandum of Understanding (MOU) and was not sure if that would be covered by Supervisor Kniss or by a staff member. She wanted to get an update on the electrification EIR.

Chair Klein said he would not include that in the Agenda.

Council Member Shepherd said she wanted to know Caltrain's interpretation of how they were moving forward with High Speed Rail (HSR). She asked if the purpose of the meeting was to help Palo Alto develop an understanding on how to advocate moving forward with both Caltrain and HSR. She wanted to know if the meeting would start with an explanation regarding the purpose of the meeting or how to go about obtaining an update on the EIR.

Chair Klein said that was under the long-term plans.

Council Member Shepherd asked that the requested information be brought forward in a clear manner. She hoped it would be a PowerPoint presentation with visuals containing specific information that would apply not only to Palo Alto but to the entire peninsula.

Assistant Director Administrative Services, Rob Braulik said Staff conveyed to Caltrain what the CCRC had requested from the previous meeting. Caltrain would provide a draft of the PowerPoint by mid-week. He said any recommendations made at this morning's meeting would be incorporated into the presentation.

Council Member Shepherd suggested that Supervisor Kniss make comments after the information was presented.

Council Member Burt said the purpose of the meeting would be to have a substantive informational meeting and to have a second meeting at the end of the month for the CCRC to discuss positions the Committee wanted to take. He said there would be broader participation at the end of the month since he along with some of the public will be on Spring Break.

Chair Klein agreed with Council Member Burt's comment that the meeting should be informational and expressed the need to be brought up to speed on Caltrain issues. The CCRC could take the information from the April 13th meeting and use the April 28th meeting to determine positions the Committee would take.

Council Member Shepherd agreed. She asked if a report was going to be provided regarding their MOU with HSR's and wanted it to be part of the meeting.

Mr. Braulik said the CCRC indicated at the last meeting that the April 13th meeting would be about Caltrain and not HSR. This was conveyed to the Caltrain Staff who would be coming to the meeting to discuss Caltrain. The CCRC could make a directional change if they desired.

Chair Klein added that the MOU with HSR was a Board decision and used as their Staff direction.

Council Member Shepherd asked whether Supervisor Kniss should be asked to be prepared to address the MoU issue.

Chair Klein said the Committee could give her a heads-up that she might be asked that question.

Council Member Shepherd asked if Caltrain staff were being asked to bring forward specific information and update the consideration of their own EIR, and whether that would be part of the presentation.

Mr. Braulik asked if the Committee wanted the current status of the MOU.

Chair Klein said he did not want that to be included.

Council Member Shepherd said she wanted to secure the fact they will be asked to present the status of the EIR.

Mr. Braulik said that would be added along with the electrification on the EIR and the question for Supervisor Kniss in regards to Caltrain's relationship with HSR going forward.

Council Member Price said it needed to be clear that the electrification EIR data was old and not certified. She was in agreement with the agenda. She said the alternatives examined in the EIR needed to be reviewed and wanted to know who would address alternative visions of the future or technologies in an expert manner.

Mr. Braulik said he was working with an individual who previously worked for Caltrain and another who was referred through the Californians Advocating Responsible Rail Design (CARRD).

Council Member Price asked if these were individuals with high expertise to bring to the table for informational purpose.

Mr. Braulik said Staff was working on getting these individuals for the meeting.

Council Member Burt said the Committee needed to discuss the City's procedure on how to proceed with the EIR. The impact on grade crossings was severe for Palo Alto. He suggested two agenda items for the April 28 meeting: 1) whether the EIR adequately looked at alternatives. He said one of the problems of electrification was the capacity increase during peak hours and the ability to make bigger or smaller trains throughout the day were both an efficiency issue and could increase capacity without increasing the number of trains per hour. 2) Caltrain, an imminent issue. He said a few years back there was a lack of open substantive discussion between stakeholders and others regarding the agreement. Palo Alto had two major disagreements with the language: 1) Caltrain agreed it would be a 4-track system. Palo Alto prevailed and convinced them to change the proposal. They forcefully resisted right up to the Board meeting. 2) they had language to strongly protect the interest of Caltrain. He said the present agreement was to look after the interest of the communities along the peninsula. They do not align those interests equally. Their unwillingness to adopt Palo Alto's positions factored into the Council's decision to join the challenge to the EIR certification. He said it was time to revisit that issue with their Board in a transparent substantive manner.

Council Member Shepherd suggested placing Supervisor Kniss second on the agenda in order to see the entire picture.

Chair Klein said elected officials should be heard first as a matter of courtesy.

A member of the public spoke regarding the MoU and the electrification being explored and the EIR as it was prepared by Caltrain.

Chair Klein advised the speaker that the Committee was focused on agenda items for the meetings and not the substance.

Council Member Shepherd suggested the entire City Council should be invited to attend.

Chair Klein said a member of the City Council could attend the meeting but not speak.

Council Member Shepherd said they could notice the meeting for the full Council, or to ensure Staff invite them so they could hear what was going on first hand.

Council Member Burt advocated that the full Council should understand what the meeting was about and should be invited, but the policy that constrained participation should be made clear.

Chair Klein said he would comment on that at the next City Council meeting.

No Motion Required.

6. Reconsideration of Previously Approved HSR Letter regarding the Peer Review Group

   Revised CHSRA Ridership Peer Review Group Letter

Chair Klein spoke regarding the letter and felt it was an improvement from the previous letter. He proposed striking paragraphs that were personally critical of Chief Executive Officer (CEO) Roelof van Ark and to make the letter more of a statement of facts. The letter contained two facts in the last two paragraphs on the first page. He suggested editing the first paragraph, striking the second and third paragraphs, retaining the fourth paragraph, heavily editing the fifth paragraph, retaining the sixth paragraph, and editing the final paragraph.

Council Member Shepherd agreed the letter should not be about Mr. van Ark.

Council Member Burt said it was principally about the composition but felt it was not necessary to use a blunt hammer to convey that there was a secondary issue which was the CEO of HSR had made misrepresentations to the Legislature. The Legislature needed to understand that they were not getting the correct information from an important position. It appeared the letter still retained the substance regarding misrepresentation.

Bill Warren suggested the letter should also be sent it to Senators Lowenthal and Simitian as they were on the HSR Selection Committee operating in parallel with these committees. He encouraged adding a comment stating The Peer Review Committee was authorized under AB3034 and reported to the Legislature. This was a body inside the HSR. It was not a Peer Review Committee but rather a team formed by the CEO which was not independent. The subtlety would be missed by the Senators.

Chair Klein said that was an excellent point.

Nadia Naik said two out of the five Peer Review Members, placed on the team by Mr. van Ark were involved with the creation of the model. They said it would take two years for them to complete the work and would use the same data but would adjust the model. There were data problems in the model to begin with. She suggested pointing out in the letter that the job would be of no use if it took two years to complete. She suggested sending the letter to the California Governor, Congresswomen Anna Eshoo and Jackie Speier to make them aware of the situation.

Council Member Burt felt recipients of the letter should be much broader and include the Caltrain's JPA Board, all regional State Legislatures, to the Chair and all committee members of the Legislator. He said the letter should be concise and still have the key points. The timeframe rendered very little value and was unnecessary.

Chair Klein said he needed to see it in print.

Council Member Burt said the CAHSRA documents were available on the Californians Advocating Responsible Rail Design (CARRD) website. He confirmed there were currently no CCRC recommendations. He said one key recommendation should be that the Peer Review Committee reconstitute and report directly to the Legislature and their scope and time frame of its task be re-determined. One of the alternatives that could be suggested was that the Ridership Peer Review Committee could report to the Independent Peer Review Committee on HSR to simplify the process of the Legislature. They empowered the Review Committee created by AB3034 that was in existence. He volunteered to help the Chair finalize the letter to avoid an extended delay.

MOTION: Council Member Burt moved, seconded by Council Member Shepherd that the Rail Committee finalizes the letter and rewrites to incorporate the changes as discussed.

MOTION PASSED: 4-0

~~8. Setting of Regular Committee Meeting Schedule~~

9. Contracts Update

- Capitol Advocates, Inc. (CAI)

Assistant Director Administrative Services, Rob Braulik said the contract would go to the Council on April 11th. The City Council Rail Committee (CCRC) recommended that a new revised Amendment #3 be approved with the following conditions. To include a monthly retainer of $5,000, reimbursable expenses up to $500, a $5,000 contingency fund that would cover expenses incurred during the Washington DC trip in March 2011. The prior contract expired in February 2011 and included a $5,000 monthly retainer fee. The contract was a tri-county agreement with the City of Menlo Park and the Town of Atherton. Both cities paid the $5,000 per month with reimbursable expenses. Amendment #2 did not include reimbursable expenses and the consultant requested that be included since his expenses were divided between the three cities. The latest invoice reflected a $30,000 balance for the past six months which was for the $5,000 per month fee. The $5,000 contingency would cover unexpected expenses.

Chair Klein asked if the $5,000 per month fee was being addressed.

Mr. Braulik said yes and it was a flat monthly fee.

Council Member Shepherd said the contract that expired in February was "not-to-exceed" and her understanding was that the consultant would be billing hourly. She asked if that was correct.

Mr. Braulik said the consultant was billing the City a monthly retainer of $5,000 a month.

Council Member Shepherd confirmed the contract stated a monthly retainer fee of $5,000. She asked if the City would be paying the monthly retainer as well as expenses not-to-exceed $500 and no backfill during the timeframe when the consultant did not incur expenses.

Deputy City Manager, Steven Emslie agreed.

Council Member Shepherd said she did not vote to send the consultant to Washington, DC and asked if under the new contract, the Committee would need to make that action before the $5,000 was spent.

Mr. Emslie said anything beyond the $5,000 monthly retainer would need to come back for approval.

Council Member Shepherd asked if the Washington, DC trip in March would go into the extra $5000 since this contract did not go into effect until March.

Mr. Braulik clarified Amendment #2 expired in February. The consultant took the trip and incurred expenses in Washington, DC in March 2011. There was not a contract in place during that time.

Council Member Shepherd asked how the consultant would get paid for March.

Mr. Braulik said the consultant would get paid when the new contract was in place.

Council Member Shepherd asked when the new contract would go into effect.

Mr. Braulik said March 1st and would be for six months.

Council Member Shepherd asked if the $5,000 contingency would cover the trip to Washington DC.

Mr. Braulik said no. What was being proposed was that the new contract have a $5,000 contingency, plus additional funding to pay for the Washington, DC trip. The consultant's time and expense was approximately $5,000. $1,000 was for expenses and the remainder was for time. The same was charged for the City of Menlo Park and the Town of Atherton. Amendment #2 included a monthly fee of $5,000, plus any additional services requested by the City. Amendment #3 would include a monthly fee of $5,000 plus reimbursement of expenses of a maximum of $500 per month, plus fees for any additional services requested by the City Manager or designee.

Council Member Shepherd asked if the March trip to Washington DC was approved by the City Manager.

Mr. Emslie said technically it was and was requesting the expense be backfilled.

Council Member Burt asked about the frequency of when the Committee would be having the Council High Speed Rail update meetings.

Mr. Emslie said a meeting was scheduled for either the last week in April or first week in May.

Council Member Burt was concerned that the Council had not changed the policy regarding the frequency of updates. He did not want to wait until May for an update meeting that was owed to the Council several months ago.

Council Member Shepherd asked if they could be included in the next Monday's Council Meeting agenda along with the explanation of April 13th

Chair Klein clarified the meeting on April 13th was not about High Speed Rail (HSR).

Council Member Burt said the prior commitment to the Council was on HSR rather than all rail matters.

Mr. Emslie agreed that it was supposed to be a monthly update to Council.

Council Member Klein said to agendize the update when it would fit, it did not necessarily have to be on the April 11th.

Council Member Burt said the contract was already on the agenda for April 11th and could also include the update item.

Mr. Emslie said Staff could try to include it on the April 11th agenda, but it could be pushed out to May 2nd.

Council Member Shepherd asked if the update could go on the Consent Calendar.

Herb Borock raised concerns regarding Agenda Item No. 9. He said he was concerned about the processing of the contract. It was being presented in a way where the Rail Committee and City Council were unable to participate in making decisions. There was a discussion in the September meeting about how the contractor was being paid. The Committee and the Council were given the opportunity to decide in an open process whether to continue the contractor's engagement. At that time, Staff said after that Amendment expired, it would be given the opportunity to do so, but instead of having an Amendment that ended in December, it went into February 1st. The Washington, DC trip cost $5,000. He said Mr. Emslie repeatedly referred to a cap and a $5,000 cap was discussed in the September 7th meeting. He said a cap was a limit and not a floor. He felt more time was required if there was going to be coordination with two other cities.

Council Member Shepherd said she assumed the contract would be on Consent Calendar and could be removed from the Consent if two Council Members so desired. She requested that the former contracts be included in the Staff Report in order to see the changes.

Mr. Braulik agreed.

10. Legislative Update

Assistant Director Administrative Services, Rob Braulik said a hearing was scheduled for AB952 on April 11, 2011 at 1:30 pm. A hearing for AB953 was scheduled for April 25, 2011. They were Palo Alto bills regarding ridership (AB953) and ethics and transparency (AB952) co-sponsored with the City of Menlo Park and the Town of Atheron. Capitol Advocates recommended one or more Council Members attend the hearings.

Council Member Shepherd said both dates might conflict with City Council Meetings.

Chair Klein said the 25th should be fine unless a Special Meeting was scheduled. The April 11th hearing should be an easy and would try to find someone to attend.

Mr. Braulik said Senator Lowenthal's Bill, SB517, was scheduled to be heard on April 26th which would put High Speed Rail under the management of the California Department of Transportation.

Council Member Burt said the prior letter with proposals regarding ridership peer review could not be acted on without legislation and could not direct the California High Speed Rail Authority (CAHSRA) to take certain actions. He asked if the Committee wanted to modify the bills. Bills could be amended to fold in the recommendation for the ridership peer review to be reportable to AB953 while being processed through the system.

Chair Klein said the item could be discussed with Capitol Advocate.

Council Member Shepherd said she would try and make the April 11^{th} meeting.

Mr. Emslie said a Staff Member should attend as a backup in the event Council Member Shepherd needed to leave.

Chair Klein said he would try and make the April 25^{th} meeting.

Council Member Burt said he might be able to attend the meeting on the 25^{th}.

11. Future Meetings and Agendas

NOT DISCUSSED

ADJOURNMENT: Meeting adjourned at 10:08 a.m.