



City of Palo Alto

City Council Staff Report

(ID # 10633)

Report Type: Action Items

Meeting Date: 9/9/2019

Council Priority: Grade Separations

Summary Title: Revised Recommendations for Rail Blue Ribbon Commission

Title: Revised Recommendations for City Council Direction on Establishment of a Rail Blue Ribbon Commission to Advise the City Council on the Selection, Funding, and Support for Grade Separation Projects, and Possible Further Direction on the Role and Structure of the Expanded Citizen Advisory Panel

From: City Manager

Lead Department: City Manager

Recommendation

Staff recommends that the City Council provide direction to staff on establishment of a Rail Blue Ribbon Committee ("RBRC") to supplement current community engagement and develop recommendations to the City Council on the selection, funding plan, and strategies for local and regional support of rail grade separations. Council may also provide additional direction on the role of the Expanded Community Advisory Panel ("XCAP").

Background

This report replaces report #10572, continued from the City Council meeting on August 19, 2019.

Palo Alto is proactively working to address a critical impending need – maintaining crosstown access and safety – given the ongoing Caltrain electrification project and expected increasing frequency of train preemption at Charleston Road, Meadow Drive, Churchill Avenue, and Palo Alto Avenue¹. Given that addressing this need requires multiyear planning and construction of grade separations with costs in the hundreds of millions, the effort to date has been an extensive and complex technical and community planning process.

¹ The Council has directed that Palo Alto Avenue be removed from this decision making process and addressed in a separate process focused on the Downtown area.

The complexity of the decision-making ahead is driven by numerous factors, such as:

- **Localized and Neighborhood Impacts** – All grade separation options are major construction projects that have a wide range of localized impacts. The existing Community Advisory Panel (CAP) has been instrumental in ensuring that the technical analysis of options addresses the issues of concern in a manner that can be clearly understood by neighbors.
- **Physical and Engineering Constraints** – The City has engaged AECOM, a leading engineering consultant, in the technical evaluation of options. Working with City staff, AECOM is currently evaluating options that can meet Caltrain operating requirements and other engineering criteria within the tight physical constraints of each crossing.
- **VTA Funding Decisions** – Santa Clara County’s 2016 Measure B provides \$700 million for grade separations in Palo Alto, Mountain View, and Sunnyvale. VTA has begun the process of implementing Measure B across all funding programs, and establishing criteria for allocation to each city. The amount and timing of Palo Alto being able to access these funds is unclear, and represents a competitive environment given interests among the cities as well as other VTA funding priorities that at some point could threaten the fulfillment of Measure B’s commitment to grade separation funding.
- **Caltrain Long-Range Plans and Approvals Required** – Caltrain is currently undertaking a long range business plan, identifying operational, financial, and governance considerations for its long term sustainability. Caltrain’s role in the completion of grade separation projects, of which there may be 42 along the corridor, is unclear and will impact the cost and timing of construction, as well as ultimately requiring Caltrain approval for all grade separation projects.
- **Local Funding Options Under Consideration** – The City Council Finance Committee has initiated evaluation of possible local funding methods such as a business tax for a portion of the funding needed for grade separations as well as other needs. State law limits cities’ ability to place local tax measures to council election cycles, which means the City can only advance a measure in November 2020 or 2022.
- **Criticality of Construction Management** – After local decisions are made on preferred alternatives and funding, cooperation agreements will be required between the City, VTA, and Caltrain that define roles and responsibilities through environmental clearance, final design, and construction. As multiple public works projects that will extend over several years, it will be critical for these agreements to reflect a commitment to minimizing the disruption and other impacts that such major construction could have throughout Palo Alto.

Given these complex and interrelated considerations, the City Council has expressed an interest in revisiting the role of a community working group to support development of a longer term strategy for the decision-making needed on rail grade separations.

Discussion

To date, the City has relied on a Community Advisory Panel (CAP), recently expanded and referred to as the Expanded Community Advisory Panel (XCAP), to provide neighborhood-level feedback to the technical analysis of grade separation options. The XCAP has ensured that the grade separation options being considered are evaluated in a comprehensive and balanced manner that addresses neighborhood concerns, as well as presented to the community in a manner that is clear and supports resident engagement. Given this role, the XCAP is advisory to the City Manager and comprised of community members selected by staff. The XCAP is not subject to Brown Act rules nor Fair Political Practices Commission (FPPC) conflict of interest screening.

Current participants on the XCAP include residents from various neighborhoods: Greg Brail, Phil Burton, Tony Carrasco, Inyoung Cho, Megan Kanne, Larry Klein, Patricia Lau, Nadia Naik, Keith Reckdahl, and David Shen, as well as a few organizational representatives: Barbara Best (PAUSD), Adina Levin (Friends of Caltrain) Billy Riggs (PTC), and Judy Kleinberg (Chamber of Commerce).

The XCAP provides invaluable input to staff on the development and communication of highly technical and potentially contentious issues. XCAP members have also dedicated significant personal time over the past year to meet with neighbors and increase awareness and understanding of the options and complex tradeoffs that must be considered in the decisions ahead for the city.

While on June 24 the City Council approved an amendment to the contract with AECOM to continue the selection of preferred grade separation alternatives ([Report #10463](#)), the city manager acknowledged and councilmembers expressed interest in a more comprehensive community engagement approach. This included questions regarding the XCAP and revisiting an advisory role directly to the City Council.

Recognizing the range of issues involved with the work ahead, the council has expressed interest in a more robust approach to support not only the selection of alternatives, but also developing the community support needed to successfully obtain voter approval on a local funding measure as well as the advocacy needed to ensure regional and other external funding.

In order to accomplish this goal, staff has developed an option for the City Council to consider: establishing a new panel to directly advise the Council on grade separation decisions, with consideration to the community-wide benefits and impacts, local and regional political considerations, and financing strategy for implementation. For

discussion, we refer to this new panel as the “Rail Blue Ribbon Commission (RBRC).” This reflects a connection to the successful model used several years ago with an Infrastructure Blue Ribbon Commission (IBRC) for the development of recommendations that led to the Infrastructure Plan projects approved by Palo Alto voters and currently being delivered throughout the city. The goal of the RBRC would be to provide the City Council with strategic recommendations that recognize the interplay of issues that range from neighborhood-specific concerns with grade separation options to the need for citywide voter support and the regional competition for funding and project commitments.

The decisions on whether to proceed with an RBRC, its role and composition, relationship to the XCAP, or replacing the XCAP is entirely within the discretion of the City Council. The City Council’s direction, however, may have implications on the timeframe in which products can be expected as well as who can participate on the RBRC. In order to provide a foundation for the City Council’s decision, this report elaborates on the rationale for staff’s recommendation that the RBRC be established as an additional advisory body, distinct from the XCAP, in its role as advisory to the City Council. Staff has developed this proposal in response to the City Council’s interest in a more robust community engagement process leading to City Council decisions on preferred grade separation alternatives and funding strategies.

In concept, decision-making on grade separation alternatives can be described as involving three overlapping, yet distinguishable phases:

- Understanding the Options – Through engineering analysis and stakeholder input, we have been building an informed understanding of grade separation options at Charleston Street, Meadow Road, and Churchill Avenue, as well as likely implications for nearby streets such as Embarcadero Road. Effectively building this understanding has involved translating engineering concepts into layperson terms, as well as understanding sensitivity to certain options leading to the development of others. With the guidance of the CAP/XCAP, this has been an iterative (arguably “context sensitive”) approach to the development and evaluation of options.
- Community Conversations – Our understanding of the options and ability to adequately communicate potential impacts has informed community feedback. In some cases, recognition of the likely negative impacts of particular options has resulted in City Council decisions to discontinue their evaluation. This was the case with the citywide tunnel option. The upcoming completion of conceptual engineering for all the remaining options will better inform community discussion of tradeoffs and priorities among established decision-making criteria.
- Decision-making – The City Council will ultimately make decisions to advance preferred alternatives to the next phase of development, detailed engineering and environmental review, representing multimillion dollar investments. These decisions

will take into account community concerns among the options, as well as recognize that funding will need to be secured, and that support and approvals will be required from VTA and Caltrain, among others, for the projects to proceed.

Applying these phases, to date the CAP/XCAP has been instrumental in the first phase – ensuring that public engagement material is clear and effective. The CAP/XCAP has also been a forum for some community feedback, helping to ensure that our understanding of options reflects the concerns of specific neighborhoods affected by nearby neighborhoods – entering into the second phase. The XCAP has not, however, taken on a decision-making role by recommending for or against particular options.

As proposed, the RBRC would be additional to the XCAP and distinct in the following aspects:

- The RBRC would not evaluate technical aspects of grade separation options; instead it would rely on the understanding of options developed by staff and the XCAP. Notably, staff has not assumed that our engineering consultant contract would be amended to support the RBRC. While the City Council would set the RBRC's specific charge, staff envisioned the RBRC would provide the primary venue for community feedback on both grade separation and funding strategy options, leading to the RBRC's formulation of recommendations to the City Council.
- The RBRC would be selected by and report directly to the City Council, and as such be subject to Brown Act and, depending on its structure and role, applicable conflict of interest rules. This could effectively preclude individuals with real estate or financial interests potentially affected by the alternatives or funding strategies. RBRC meetings would be open to the public and supported by staff.
- The RBRC would provide advice to the City Council that reflects an understanding of the political environments locally and regionally, and the advocacy viability of options in light of these considerations.
- The RBRC would require some parameters to conduct its business, such as selection of a chair/vice chair and voting on recommendations.

Staff recommends that the XCAP be retained, through completion of the AECOM contract, in order to continue its valuable role ensuring that neighborhood perspectives are reflected in understanding the options – the development and evaluation of the grade separation alternatives. It is likely that there would be little overlap between the XCAP completing its work and the RBRC beginning its work. Should the City Council approve proceeding with the RBRC, staff will review and revise the current community engagement workplan to reflect incorporation of the RBRC into the City Council's decision-making process.

Councilmembers have also expressed an interest in revisiting the role of the XCAP, potentially modifying its role to be advisory to the City Council and enabling election of

a chair and vice chair. Staff will respond to proposals as needed, recognizing that modifying the XCAP's role could have schedule and cost implications, as well as affect the relationship between the RBRC and XCAP.

The timeframe for the RBRC to conduct its work remains at the City Council's discretion. In order to cleanly transition from the understanding of options to decision-making, the XCAP could proceed with its workplan to be completed prior to the end of 2019, while RBRC organization to proceed with the goal of engaging this fall with a goal of much of its work completed in the spring of 2020.

With the basic concepts outlined above, staff originally recommended that the RBRC be comprised of former Palo Alto mayors or city councilmembers. These individuals have direct experience in balancing the complex and competing issues presented here, but would also, as a body, demonstrate to regional stakeholders the significance of the grade separation issue to Palo Alto. However, recognizing that there appeared to be little interest in pursuing this approach at the August 19th City Council meeting, alternative approaches can be pursued such as an application process with stated desirable characteristics.

Subject to City Council approval to pursue this approach, staff would also recommend that the City formally request the following organizations actively participate in RBRC discussions in a non-voting capacity:

- Palo Alto Chamber of Commerce,
- Stanford University,
- Caltrain,
- VTA, and
- Silicon Valley Leadership Group;

as well as any other organizations the Council feels essential to informed decision-making and setting the groundwork for subsequent steps.

The willingness of these organizations to participate with the RBRC will likely depend on their role as defined, as well as the number and duration of meetings. Staff proposes that these organizations be invited in order to provide direct input to Palo Alto's decisions. While recognizing that their input would not commit any organization to supporting the resulting decisions, this would ensure that each is given a substantive opportunity to provide input to the decision-making process.

If the City Council approves this approach, staff requests City Council direction on two key elements: (1) the RBRC's scope of assignment, and (2) its composition and selection of individuals.

Scope of RBRC Assignment

The core role of the RBRC would be to advise the City Council on the selection of grade separation alternatives. What may be less certain is the role the RBRC should play in

the development of a funding strategy for implementation. At one level of involvement, the RBRC's role could be limited to making recommendations on dollar amounts that should be targeted for city ballot measure funding, without regard to the type of measure. At a higher level, the RBRC could be tasked with recommending a dollar target, timing, and parameters of a city ballot measure (such as a general or dedicated business tax) as well as next steps for regional and other external funding. Similar to the prior IBRC, the City Council should provide the RBRC with a specific charge and/or questions to address.

A greater level of RBRC involvement in development of the funding strategy would likely involve the RBRC in the design of polling as well as a community awareness campaign leading to decisions on a ballot measure.

Composition and Selection of RBRC Members

The selection process and total number of members on the RBRC will drive the magnitude of staff effort required to organize and support the RBRC. As such, staff would recommend the group consist of 10-15 voting members; however, staff will support whatever composition the City Council deems needed. Options for identifications of individuals to serve could include:

- each Councilmember selecting 1-2 individuals to serve,
- referral to the City Manager to return to council with a recommended slate of members,
- an open application process with candidates to be interviewed by the City Council, or
- some combination of the above.

Staff requests City Council direction on the approach most appropriate to advance the City's interests.

Timeline, Resource Impact, Policy Implications

The current timeline for the evaluation of grade separation alternatives is designed to support a City Council decision later this calendar year. If the City Council approves the establishment of an RBRC as proposed, the current workplan could proceed to the point of identifying all the relevant considerations for alternatives, and possibly elimination of some alternatives, while keeping open the final decision on preferred alternatives. The RBRC could then use this information in the formulation of its recommendations through Spring 2020 in anticipation of a potential city (and other regional transportation ballot measures) in November 2020.

Other timing considerations include the ongoing decision-making processes at VTA and Caltrain, recognizing that Palo Alto will be in a better position to advocate for funding allocations once locally preferred alternatives are selected.

In addition, the Palo Alto Avenue crossing at the northern city limit is also on hold with

plans for a comprehensive study of downtown/University access to begin at a later date.

Environmental Review

The decision to establish a Rail Blue Ribbon Committee is not a project as defined by the California Environmental Quality Act (CEQA).

Attachments:

- Attachment A - Councilmember Questions

ATTACHMENT A

Councilmember Questions Following August 19, 2019 Council Meeting

Questions from Council Member Lydia Kou

1. Has City Staff actually surveyed the former electeds and identified those who are willing and able to serve on the RBRC? **Staff has not surveyed former elected officials; proposal dropped.**
2. Why do you feel the former electeds would have more knowledge about rail and grade separations than the present electeds? **Proposal dropped.**
3. How can two groups, both focused on the same objective, be more productive than a single group? How can the inevitable duplication of effort, finger-pointing, “jurisdictional” disputes, and buck-passing be managed? **Please see revised report.**
4. Why is formation of a separate group preferable to simply adding people with the requisite skills to the XCAP? **Please see revised report.**
5. Among former electeds, are any known to have detailed expertise with Caltrain operations? With passenger rail planning in general? **Proposal dropped.**
6. Does the Staff envision the proposed group, RBRC, addressing Palo Alto Ave as well, or just Meadow, Charleston and Churchill? **Staff envisions the XCAP and the RBRC to advise on Meadow, Charleston and Churchill, consistent with prior Council direction.**
7. Why waste money and time on a XCAP meeting (September 5th) that is driving towards a fake charette? If we are going to go through all this money and effort, it should at least be done well. **Please see description of XCAP role in revised report.**
8. The next XCAP meeting, the 3rd one, still has unanswered questions or rather conflicts with Council direction as I believe the XCAP reports to council and it should have chairs/co-chairs. **Council may provide further direction on the XCAP role.**
9. How can voters hold members of the RBRC responsible for their role in these decisions? **Decisions will ultimately be made by the City Council. The screening and meeting rules described in the revised report is intended to ensure RBRC advice to the City Council avoids conflicts of interest.**
10. Isn't it the role of the Council to lend their support to the resulting recommendations, to add the necessary gravitas to these recommendations? **The RBRC as proposed would support City Council decisionmaking.**
11. This is a process I question as to its public meeting violation of the Brown Act and transparency to the general public. **Comment noted.**
12. Discussion for both the RBRC and XCAP scope should be discussed on Sept. 9th Council meeting. **Council may provide further direction on the role of both advisory bodies.**

Questions from Council Member Tom DuBois

1. Is it true VTA disbanded the Measure B TAC of northern cities? Did they claim it was too expensive? **VTA maintains a working group for cities included in the Measure B grade separation category and convenes meetings as VTA determines appropriate.**
2. With Caltrain adopting its business plan, do we need to plan for 4 tracks at Cal Avenue station? Will we direct the XCAP and RBRIC to consider 4 tracks in grade separation alternatives in South Palo Alto. **Caltrain staff has characterized four-track scenarios as a consideration that should not be precluded in grade separation planning, but not specifically addressed. As such this is not a part of Palo Alto's scope of work.**
3. We've asked Stanford and Caltrain to participate several times before - why do we think they'll participate in the RBRIC? Why is this different? **Prior invitations were to participate with the XCAP, where expectations of their ability to engage real-time on engineering and cost issues were not practical. As proposed, invitations to participate with the RBRC would request engagement on policy issues. Please see revised report for other considerations.**
4. Guidance on conflict of issues **The City Attorney will advise the Council on specific issues as they are identified.**
5. It appears from the staff report that the XCAP will represent community issues and the RBRIC will look at regional cooperation/regional funding. Is that the intent? **Please see revised report.**
6. In June before passing the AECOM contract we discussed bringing the XCAP back to council in August to clarify that Council's previous motion was to have them report back to both the CM and Council, and to be able to select a chair/co-chair to represent them. Will you also include this followup when RBRIC returns to Council? **Council may provide further direction on the role of both advisory bodies.**
7. Does the scope of the Rail Blue Ribbon Committee include all needed rail improvements including necessary station improvements? Or is it the Grade Separation committee? Will the RBRIC seek funding for Palo Alto Avenue as well? **Staff envisions the RBRC to advise on Meadow, Charleston and Churchill, consistent with prior Council direction.**
8. The rules around conflict of interest are unclear. The staff report suggested that the XCAP will not be subject to conflict of interest rules but the RBRIC will - is that still the intent? **Please see revised report. As advisory to the City Manager, the XCAP would not be subject to conflict of interest and Brown Act rules. As advisory to the City Council, the RBRC would be subject to the Brown Act. Council direction on role will determine applicable rules regarding conflicts of interest.**

Questions from Council Member Greg Tanaka

1. How will this integrate into XCAP? **Please see revised report.**
2. Could this be sent to Policy and Services for better vetting so that this committee can work through some of these conflicting concerns? **Council will direct next steps.**