

REGIONAL TRANSPORTATION COMMISSION

Transportation Policy Workshop

MINUTES

Thursday, September 16, 2004

9:00 am

Board of Supervisors Chambers

701 Ocean Street

Santa Cruz, CA 95060

Members Present: Jan Beautz Ellen Pirie
 Richard De La Paz Edenilson Quintanilla (Alt.)
 Randy Johnson Emily Reilly
 Scott Kennedy Pat Spence
 Mike Keogh Mark Stone
 Dennis Norton Mardi Wormhoudt
 Dave Murray (ex-officio) (Alt.)

Staff Present: Linda Wilshusen Pat Dellin
 Tegan Speiser Karena Pushnik
 Luis Mendez Gini Pineda
 Kim Shultz

1. Introductions

A roll call was taken.

2. Oral Communications

Katharine Herndon said she was concerned about widening Highway 1 and brought copies of a video titled *Taken for a Ride* for the Commissioners to view. Ms. Herndon read from a brochure describing the pitfalls of too many freeways and highways at the expense of other transit modes.

Elaine Chatkowski read from an article in the *Sentinel* that correlated reduced lung capacity with smog and pollution.

3. Additions/Deletions to the Agenda

Regarding Item 7, Commissioner Wormhoudt said that Executive Director Linda Wilshusen had done an outstanding job during her nineteen year tenure and would be sorely missed. Other Commissioners expressed their regrets at her resignation and the Commission staff and the audience gave her a round of applause.

Commissioner Spence asked that the wording on page 4-3 of the August 19, 2004 Transportation Policy Workshop meeting minutes be changed from referring to a traffic impact on "Metro" lots to "public" lots.

CONSENT AGENDA (Wormhoudt/Pirie) – approved unanimously

4. Accepted Minutes of the August 19, 2004 TPW Meeting as amended
5. Approved Staff Recommendations Regarding Adoption of the FY 04-05 Disadvantaged Business Enterprise (DBE) Program
6. Resolution of Appreciation for the Services of Bart Cavallaro as a Member of the SCCRTC (Resolution 11-05)
7. Accepted Letter from Executive Director Announcing Her Resignation
8. Accepted Information on Rail Diesel Car Demonstration Program
9. Accepted Status Report on Highway 1 Projects

REGULAR AGENDA

10. Public Information Program for Measure J: The Local Transportation Improvement Act (Sales Tax Expenditure Plan)

Deputy Director Pat Dellin said that two informational pieces will be mailed regarding Measure J. The first mailing will be sent to all households in the County and the second mailing targeted to registered voters. Ms. Dellin said that the Commission was being asked to review the text of the second mailing. She stated that the Commissioners (Beautz, Pirie and Quintanilla) delegated to work with staff on the public information program had worked with County Counsel Rahn Garcia to word the document properly. Ms. Dellin said that Mr. Garcia had also responded to questions posed to the Commission at the September Regional Transportation Commission meeting regarding whether it was allowable for public funds to be used to mail an informational item regarding a ballot measure to a targeted audience of registered voters and if a mailing of this kind could be done within 29 days of the election. Mr. Garcia's written response was distributed to Commissioners.

Commissioner Wormhoudt noted that the brochure for the initial mailing states that Measure J sales tax dollars stay in Santa Cruz County, and that while this was true for nearly all the projects, the money targeted for the Pajaro Station would be expended in Monterey County. She said that even though the station would benefit Santa Cruz County residents, the wording could be challenged by opponents to Measure J.

Commissioners discussed how to resolve this issue, agreeing that the point is to assure residents that the state could not appropriate the sales tax revenues for projects elsewhere.

Commissioner Kennedy moved to approve the staff recommendations to:

1. Accept the response from County Counsel to the press release from the Campaign for Sensible Transportation – No on J;
2. Accept the text of the public information mailer on Measure J to be sent to all households and businesses countywide and to select community groups; and
3. Approve the text of the public information mailer to be mailed to voters on Measure J

with the addition to let the Commissioners delegated to work with staff on the public information program make the changes in wording necessary to address the issue raised by Commissioner Wormhoudt. Commissioner Beautz seconded the motion.

Commissioner Wormhoudt pointed out that the brochure says that the lane that would widen Highway 1 was designated for carpool and bus lanes and that this statement could pose a problem since the lane would be a multi-use lane during non-peak hours. She suggested a footnote clarifying this to avoid misunderstanding.

Commissioners discussed the issue noting that carpool lane use is governed by Caltrans and that the practice of opening carpool lanes to all traffic during non-peak hours was consistent throughout the state. Deputy Director Dellin added that the second page of the brochure states that the lane would be used by all vehicles during non-peak hours.

The floor was opened to public comment.

Piet Canin, Bike to Work, said that the list of projects funded by Measure J in the brochure shows \$23 million going to a coastal bike/pedestrian trail next to the rail line. He said he would like a footnote to clarify that this funding would only be used for the construction of a trail and not for the purchase of the rail right-of-way.

Peter Scott, No on J Committee, said that the proposed mailings clearly advocate passage of the sales tax measure. He said he is concerned that public funds are being used for promotional pieces and said his understanding is that all consequences need to be disclosed and that the intended mailing does not see any bad sides of the proposal.

Dave Wright, Friends of the Rail Trail, said that votes will be lost if there are no restrictions stating that the money designated for the coastal trail will not be used for purchasing the rail right-of-way.

Commissioner Kennedy restated his motion and the motion passed unanimously.

Commissioner Norton asked if Jim Conklin could give an update on the campaign to support Measure J.

Since the matter was not on the agenda for discussion, Commissioner Kennedy moved to re-open Oral Communications, Commissioner Wormhoudt seconded and the motion passed unanimously.

Jim Conklin said the Citizens for Improved Transportation were in the process of organizing their efforts and would kick off their campaign on September 30th from 7-9 p.m. at the Sesnon House. In answer to a question posed by Commissioner Wormhoudt, Mr. Conklin said the committee had registered three years ago and planned to re-register today.

11. Santa Cruz Branch Line Acquisition – Presentation on Draft Business Plan

Executive Director Linda Wilshusen said that Kirk Trost of Miller, Owen & Trost and Paul Sullivan of Systra USA would make a presentation on the draft Business Plan and be available for questions.

Kirk Trost said that when the acquisition negotiations began there was no plan for passenger rail or for freight service obligation. Because the plan has changed in the last two years, the draft Business Plan addresses these two added components.

Mr. Trost emphasized that the plan was a draft only and that there was information that would be necessary for a final plan that has not yet been made available by Union Pacific. He referred to the draft plan as a tool for the Commission to use as a starting point and that the plan will evolve into a more complex document as new information becomes available.

Paul Sullivan, Systra, said that key findings included that a short line railroad could continue freight service profitably and that recreational rail usually does not need public subsidy. He discussed critical issues for ownership including liability insurance, maintenance and repair obligations and property insurance. He said that freight and recreational rail could operate on the same line and advised that the operator for both the freight and recreational service be the same in order to coordinate service and maximize utilization of personnel. Mr. Sullivan explained that revenues would flow to the right-of-way owner from easements paid by utilities and property owners.

Kirk Trost concluded the presentation reviewing the next steps including exploring lower cost rolling stock opportunities, obtaining Union Pacific property and inspection records, analyzing structures and refining the SCCRTC internal management plan.

Commissioner Keogh asked questions about property and liability insurance, ridership assumptions, crossings improvements and the process of upgrading from the current status of “excepted class” to Class I.

Mr. Trost replied that the assumption is that the Commission will carry baseline property insurance and that the operator will provide liability insurance with the Commission listed as additionally insured. He said that the addition of passenger rail did not authorize the Public Utilities Commission (PUC) to impose changes at the crossings but encouraged discussion with the PUC to provide additional safety if necessary.

Mr. Sullivan said that a detailed inspection was made and that to upgrade to Class I, joint bars would need to be replaced. He estimated that \$25,000 would be sufficient to replace the joint bars in the section currently planned for recreational rail, assuming used materials were purchased.

Commissioner Keogh asked if \$15,000 was sufficient to assess the bridges along the track. Mr. Sullivan said that this was an estimate and that a proper assessment could not be made without information from Union Pacific.

Due to time constraints, the meeting adjourned into Closed Session at 10:40 a.m.

CLOSED SESSION

13. Conference with Real Property Negotiator for Acquisition of the Santa Cruz Branch Rail Line Property: Santa Cruz Branch Rail Line from Watsonville Junction to Davenport

- Agency Negotiator: Kirk Trost, Miller, Owen & Trost
- Negotiation Parties: SCCRTC, Union Pacific
- Under Negotiation: Price

14. Conference with Real Property Negotiator for Lease of the Santa Cruz Branch Rail Line Property: Santa Cruz Branch Rail Line from Watsonville Junction to Davenport

- Agency Negotiator: Kirk Trost, Miller, Owen & Trost
- Negotiation Parties: SCCRTC, Sierra Railroad, Santa Cruz Big Trees and Pacific Railway Company and Other Potential Short Line Railroad Operators
- Under Negotiation: Price

OPEN SESSION

Open Session re-convened at 10:55 a.m.

Commissioners continued to discuss the draft Business Plan. Commissioner Johnson noted that insurance rates often increase after natural disasters.

Commissioner Pirie asked if the lower expenses incurred by a short line operator was due to hiring a non-unionized crew.

Mr. Sullivan said that was possible but that other factors included lower administrative costs and the flexibility to tailor schedules to meet needs.

Regarding safety speeds and the differences between excepted class and Class I, Mr. Sullivan said that higher speeds require tighter tolerances such as less distance between joint bars and that excepted class meant that the owner guaranteed that the speed is low, whereas Class I needs to report to the FRA and be inspected periodically. Mr. Trost explained that the class is self-designated but that passenger service requires a Class I designation.

Commissioner Pirie asked questions about liability, crew requirements and why the Oregon DOT was selling their Budd cars. Mr. Sullivan said whoever is maintaining the track should accept liability and it is typical for the operator to do so for a short line. He said he had never experienced an insurance company requiring a grade crossing improvement and that there was not an FRA regulation requiring a certain number of crew to operate vehicles on the line.

Director Wilshusen said that the Oregon DOT rail service was authorized as short term Lewis & Clark/Bicentennial service and would be concluded next year.

Commissioner Pirie raised questions about revenue estimates vis a vis ridership estimates, asking if ridership were low would expenses also be less. Mr. Sullivan said that reduced service would lower expenses and pointed out that the operator can take measures to make the business profitable, such as maximizing the income from easements. Senior Planner Luis Mendez added that the City of Santa Cruz currently pays Union Pacific \$27,000 per year to lease property on the right-of-way. Commissioner Norton said that several areas in Capitola lease land from the railroad also.

Commissioner Beautz began a discussion about the proposed trail next to the rail line and asked if the FRA had restrictions on a trail adjacent to an active rail line. Mr. Trost said he was not aware if the FRA had jurisdiction over a trail but said that the Federal Highway Authority had prepared a best practices report on operating rail with trails which was available on-line.

Commissioner Beautz asked Mr. Sullivan to find out if the FRA has any jurisdiction regarding a trail.

Commissioner Beautz noted that mitigations mentioned in the EIR were not included in the draft Business Plan and asked who would pay for them. Mr. Trost said that the Commission would make that decision but that mitigations were usually not the responsibility of the operator. He noted that the plan references potential environmental mitigations as an unknown cost.

Commissioners discussed why a short line could make a profit when Union Pacific operated at a loss. It was commented that continuing to provide freight service at a competitive price was essential and that involving RMC Pacific Materials would be helpful. Mr. Trost said that in general, Union Pacific would pay the short line to run between Davenport and Watsonville and that revenues generated beyond Watsonville would belong to Union Pacific.

Public comment was heard.

Robert Jones said the business plan was inadequate and was really a scoping study. He said there was no actual data from Union Pacific regarding costs and revenues and that Union Pacific sees the Commission “slathering at the mouth over the purchase” and will keep a carrot dangling in front of them. He said running the freight line with a little recreational line posed a huge problem if the freight operator bailed because the Commission would then

be forced into the freight business. He also said that by acquiring the right-of-way and allowing a private company to operate the freight and passenger rail services, the Commission was subsidizing a private company so it could make a profit.

Mike Hart, Sierra Railroad, answered many questions already discussed by the Commissioners asserting that railroad liability insurance is round the clock and that the rates are actually beginning to come down. He explained that if an operator who already had an insured rail line added another service to the policy, the rates for the additional service would be considerably lower than a stand alone policy. He said that the draft Business Plan was very complete given the state of negotiations and that there were no secrets about the track which can be examined by anyone. He said that the FRA was not involved with regulating rail trails.

Mr. Hart said it was critical to combine the freight and passenger services and that an operator must be selected before negotiations with Union Pacific are finalized. He said that a trust could be set up to make money to help the owner pay for the necessary capital improvements to tracks and trestles.

Cliff Walters, Roaring Camp and Big Trees Railroad, said he thought the plan was pretty good and agreed with Mr. Hart that the ridership, operating and revenue numbers were conservative, adding that he had originally provided the figures. He said that the corridor was very scenic and that many tourist lines actually traveled through industrial areas. He said that Roaring Camp and Big Trees charged \$20 per roundtrip for adults and \$15 for children.

Bob Yount asked what locomotives would be used to transport freight from the short line to the Union Pacific line in Watsonville. Mr. Hart said that his company could provide two or three locomotives which would be operated by biodiesel fuel.

Bill Comfort distributed a letter criticizing the draft Business Plan noting that there was no provision for mitigations and that the cost of the improvements would end up being more than cost of right-of-way.

Jeff LaPierre said the draft Business Plan was inadequate, that there was no provision for an advertising budget and that a 50 year commitment to rail service was a huge risk.

Ken Kanegaard, RMC Pacific Materials advised to consider the costs of demurrage.

Commissioner Spence said it was hard to understand the draft Business Plan and that there was no balance sheet so it was not clear when the funding will fall into place or when the hazardous materials tests would be done.

This item was for information only.

12. Amendment to Contract with Miller, Owen & Trost for Rail Line Acquisition Negotiation Services (continued from September 2, 2004 meeting)

Senior Planner Luis Mendez said that the additional information which had been requested by the Commission at the September 2, 2004 Regional Transportation Commission meeting was added to the staff report, including sub-consultants to the Miller, Owen & Trost (MOT) contract along with the funds budgeted and spent by each through July 31, 2004. He noted a correction to page 12-11.

In answer to questions posed by Commissioner Keogh, Mr. Mendez indicated that the funding for the lease investigations would come from federal funds and that the going concern appraisal was included in the appraisals contracts.

Commissioner Wormhoudt moved to approve the staff recommendations that the Regional Transportation Commission adopt the attached resolution adding \$155,000 in allocated, earmarked federal funds to the Santa Cruz Branch Rail Line acquisition services contract with Miller, Owen and Trost, increasing the hourly rates on the contract, extending the term of the contract to December 31, 2005, and authorizing a Fiscal Year 04-05 budget amendment consistent with this action. Commissioner Norton seconded.

The motion (Resolution 12-05) passed with Commissioners Johnson, Kennedy, Norton, Stone and Wormhoudt voting in favor of the motion and Commissioners Beautz, Keogh and Spence voting against it. Commissioners De La Paz, Pirie, Quintanilla and Reilly were absent from the vote.

13. Recreational Rail Environmental Impact Review - Amendment to Contract for Additional Technical Studies

Executive Director Linda Wilshusen reported that in accordance with Commission directive, discussions with environmental and legal consultants were held and it was determined that noise measurements studies and additional air quality analyses could be performed at a cost of \$7,000.

Commissioner Spence remarked that noise level measurements in another area would not be accurate because the area is different from Aptos. Ms. Wilshusen explained that population density did not affect the level of noise emitted from the rail car itself.

Commissioner Norton moved and Commissioner Wormhoudt seconded to approve the staff recommendation to approve a resolution adding \$7,000 in already-allocated Proposition 116 funds to the existing contract with Public Affairs Management for the additional technical analyses needed to complete the response to comments and Final EIR for Recreational Rail Service between Capitola and Aptos, based on the letter from consultants Public Affairs Management.

The motion (Resolution 13-05) passed unanimously.

16. Next Meetings / Adjournment

The next regular Commission Meeting will be held Thursday, October 7, 2004 at 9:00 a.m. at the Santa Cruz City Council Chambers, 809 Center Street Santa Cruz, CA.

The next Transportation Policy Workshop will be held Thursday, October 21, 2004 at 9:00 a.m. at the SCCRTC Office, 1523 Pacific Avenue, Santa Cruz, CA.

Respectfully submitted,

Gini Pineda, Secretary

ATTENDEES

Pat Spence
Jan Kampa
David Wright
Bob Yount
Les White
Katharine Herndon
Jeff Lapierre
Donna Ziel
Cliff Walters
Piet Canin
Robert Jones
Ken Kannegaard
Joan Anderson
Peter Scott
Mike Hart
Jim Conklin
Bob Scott

SCMTD

Friends of the Rail Trail
E&D TAC
SC Metro

Commission Alternate
Santa Cruz Big Trees & Pacific Railway
Bike To Work
SCCARRED
RMC Pacific Materials

CFST
Sierra Railroad Co.
Santa Cruz Business Council
SCCRTC Consultant