

**SAN MATEO COUNTY TRANSIT DISTRICT  
1250 SAN CARLOS AVENUE, SAN CARLOS, CALIFORNIA**

**MINUTES OF BOARD OF DIRECTORS MEETING  
MARCH 9, 2010**

Members Present: O. Ahmad, M. Church, J. Deal, R. Guilbault (Chair), S. Harris, Z. Kersteen-Tucker, A. Lloyd, K. Matsumoto, A. Tissier

Staff Present: J. Cassman, G. Harrington, C. Harvey, R. Haskin, R. Lake, M. Lee, M. Martinez, N. McKenna, D. Miller, M. Scanlon, M. Simon

Chair Rose Guilbault called the meeting to order at 3:02 p.m.

**GENERAL COUNSEL PROPOSAL**

General Counsel David Miller said there is no need for a closed session and the Board will move directly into the public hearing. The subject matter of these proceedings involves a project of the Peninsula Corridor Joint Powers Board (JPB), which operates Caltrain. The JPB is the project sponsor and will be constructing a significant grade separation project in the City of San Bruno. After considerable time, energy, efforts and collaborating with the City and on the design, this project is ready to proceed eminently with solicitation of construction bids. Thirty million dollars from the California Transportation Commission has been allocated to this project and the construction contract must be awarded by June 30, 2010. In order to advertise for construction bids it is necessary for the project sponsor to certify it has control over all real estate needed for the project. There are a number of parcels, most of them very small, that are outside the existing JPB owned and controlled rail corridor and it will be necessary to obtain either possessory rights or ownership rights. This agency has the powers of condemnation and eminent domain, which the JPB does not, and the JPB has asked for assistance with the real estate acquisition program if any circumstances in which negotiated agreements for possession or ownership could not be obtained within the designated timeframe.

Mr. Miller said legal counsel's recommendation is to proceed with four separate public hearings.

Mr. Miller said the parcels in question consist of temporary construction easements totaling of 143 square feet.

He said under the law, before an agency may exercise its power of eminent domain, the agency must make certain determinations: Public interest and necessity require that the particular project be undertaken; the project is planned and located in a manner that will be most compatible with the greatest public good and least private injury: the specific property in question is necessary for the project; an offer has been made to the owners.

Mr. Miller said with respect to the public interest and necessity, the project consists of three grade separated street crossings, three pedestrian undercrossings, a new San Bruno Caltrain Station parking lot and relocation of the station platform. This entire project is a significant safety enhancement. There have been extensive community meetings and discussions with the city and community groups.

a. Public Hearing/Consideration of Resolution of Necessity – Property Owner and Location/APN:

Usman and Fatima Shaikh, 111 San Bruno Avenue 020-121-360

Mr. Miller said, with regards to these two particular parcels, what is involved is the lowering of Huntington Avenue in order to meet the project requirements of grade separating San Bruno and San Mateo avenues. This easement is needed in order to construct an access staircase and reconstruct the sidewalk and pedestrian access.

Finally, an offer must be made to property owners before a resolution of necessity can be considered. An appraisal representing the fair market value must be undertaken and shared with the property owner before an offer is made. An offer based on that appraisal has been made and there have been meetings and discussions with the property owners.

Mr. Miller said notice has been given in writing of the time and place of this hearing. The record is now complete and his recommendation is to move forward with the resolution of necessity.

Director Adrienne Tissier asked Mr. Miller if the Board approves the resolution is there is still time for further negotiations even though an offer has been made and the owners have not settled on price. Mr. Miller said the intent of staff and counsel is to reach agreements on a negotiated basis and the action to file eminent domain proceedings is a protective measure to allow the project to proceed.

The motion (Tissier/Ahmad) to approve the resolution was approved unanimously by roll call.

b. Public Hearing/Consideration of Resolution of Necessity – Property Owner and Location/APN:

Lester and Rhoda Kaplan, Paul and Rita Kaplan, 222 San Bruno Avenue 020-193-360

Mr. Miller said this item involves property owned by Lester Kaplan and Rhoda S. Kaplan, as trustees of the Lester and Rhoda S. Kaplan family trust. There is a tenant occupying this property, Sonic Automotive, Inc. and Melody Toyota. The property interest that the District seeks to acquire from this particular owner includes a piece of both a 1,201-square-foot and a 111-square-foot temporary construction easement. Mr. Miller said for the record and in the interest of time he will incorporate into the hearing the written report that was presented and available to the public. The fundamental findings required for resolution of necessity are incorporated in this report.

He said with respect to the specific property in question, parcel 25A is needed in order to make a right-hand turn from proposed lower San Mateo Avenue to San Bruno Avenue. Parcel 25B is property needed to allow a right-hand turn from lower San Mateo Avenue to San Bruno Avenue. Parcel 25C is a temporary construction easement in order that the existing Melody Toyota driveway conforms to the elevation of the proposed lowered San Mateo Avenue. Parcel 26 is needed because after the alignment of San Mateo Avenue is lowered it will no longer be safe to allow First Avenue to connect to San Mateo Avenue due to sight distance restrictions at San Mateo Avenue. To accommodate this, First Avenue will be converted into a cul-de-sac. This

property, therefore, will provide sufficient space for delivery vehicles to turn around at the cul-de-sac and return south on First Avenue.

Mr. Miller said, as noted in the report, an offer has been made to the property owners and there have been extensive meetings with both the property owners and tenants. It is staff's understanding that the modifications of the property, as it relates to Melody Toyota, have been found to be acceptable to the tenant for purposes of continuing their use. The property owners are on record that they are not going to appear today to contest public use of necessity. They have a different view of the valuation of the property and, as was indicated earlier, staff will continue discussions with respect to property valuations. Staff is confident they will be able to reach a negotiated resolution. The fact that there are differences of opinion on value at this time should not impede the consideration of the Board to proceed with this resolution.

He said, for the record, he invites anyone to speak on behalf of the property owner or tenant. Hearing none, Mr. Miller recommended that the Board consider the resolution of necessity.

Director Tissier asked if there is an attempt in the negotiations to relocate businesses. Mr. Miller said it is not necessary and there will be no relocations of the residents or businesses.

The motion (Lloyd/Harris) to approve the resolution was approved unanimously by roll call.

b. Public Hearing/Consideration of Resolution of Necessity – Property Owner and Location/APN:

Artichoke Joe's, 659 Huntington Avenue 020-131-570

Artichoke Joe's, 205 Angus Avenue 020-131-410

Mr. Miller said these parcels are needed for two temporary construction easements totaling 96 square feet. The specific reason for these parcel acquisitions is the requirement for a construction easement to reconstruct the pedestrian curb ramp and sidewalk at this location. In regards to parcel 69, the temporary construction easement is required to reconstruct the existing pedestrian curb ramp to conform to the proposed lowered Angus and Huntington avenues. As was the case in the two prior items, appraisals were obtained for these parcels, offers have been made based on those appraisals and there have been extensive discussions both as to these properties and as part of the next hearing. The record is complete to support a resolution of necessity and would invite any representative of Artichoke Joe's to address the Board at this time.

Alan Titus, attorney for Artichoke Joe's, said he previously received an offer for the whole package and received notice of this meeting. The offer made to Artichoke Joe's involves the whole package and has not been separated out into two. Mr. Titus would like to reserve his rights to contest the whole package.

Mr. Miller assured Mr. Titus that if there is an interest in negotiating separately for the temporary construction easement he will meet with him after this meeting.

The motion (Deal/Harris) to approve the resolution was approved unanimously by roll call.

- c. Public Hearing/Consideration of Resolution of Necessity – Property Owner and Location/APN: City and County of San Francisco, Angus and Huntington Avenue SBE 845-41-5, San Mateo and Huntington Avenues SBE 846-41-5

Mr. Miller said the final public hearing involves property owned by the City and County of San Francisco and is leased to Artichoke Joe's. The property includes a portion of Huntington Avenue as well as land leased to Artichoke Joe's as parking for casino patrons. The District seeks to acquire a fee simple interest in the property, which totals 22,446 square feet.

The reason for the acquisition of these particular parcels is as follows: Parcel 38 accommodates the goal of straightening Angus Avenue by connecting the western portion of Angus Avenue directly to the eastern portion of Angus Avenue, which requires realignment over the subject property. Parcel 41 is required in order to comply with certain Federal requirements, to expand, reconfigure and improve Posy Park and for construction of the entrance to the new elevated San Bruno Station.

Appraisals have been done and offers have been made to the City and County of San Francisco with respect to these particular parcels. A letter was received from the city attorney of the City and County of San Francisco. Staff has worked collaboratively with the City and County of San Francisco to protect the respective potential rights of each party in these proceedings. It should be noted the letter closely resembles, if not duplicates, a letter of similar nature that this Board filed with the City and County of San Francisco in connection with an unrelated proceeding involving a San Francisco Water Department acquisition with an easement in the Dumbarton Rail Line Corridor. This provides a measure of comfort that no significant issues are anticipated before the court on the issue of public convenience of necessity.

In respect to the testimony that the Board will be hearing, there have been extensive meetings and discussions with representatives of both the owner and the tenant regarding the parcels that are the subject of these proceedings as well as the adjacent parcels that cannot be incorporated in the action of eminent domain. Staff believes they need to proceed since an agreement has not been reached for a right of possession from either of the parties or a final agreement.

Mr. Titus said Artichoke Joe's has been in business since 1916 and is a family owned business with 325 employees now being run by the third generation. Parking is the lifeblood for this business and Artichoke Joe's has had this parking lot since the early 1970s. Customers want the parking lot close to the building for safety reasons.

In 1997, Artichoke Joe's entered into a 40-year lease with the City and County of San Francisco at a very substantial rent for empty, unused space. The north lot is being converted for use as a park located across the street is situated on a triangular tip of a triangular block. He said the park is lightly used and mostly by bums so the idea of building a park across the street doesn't serve a great public necessity. Mr. Titus said he has been in discussions with Caltrain but at this point this parcel is not necessary for the project and protests the taking of this parcel.

Mr. Miller said no one from the City and County of San Francisco was present.

Mr. Miller said there have been extensive discussions and the fee owner of this property is the City and County of San Francisco and is under lease to Artichoke Joe's. Whatever issues may be

raised in these proceedings that bear on the rights of Artichoke Joe's on the properties that are needed would ultimately be a matter of allocation between the owner and tenant. He has no reason to think that negotiations can continue and an offer has been made to the tenant, independently of the larger acquisition of the City and County of San Francisco, that would make amends for any loss of parking..

Chair Guilbault asked if there are alternatives to the parking identified. Real Estate and Property Development Manager Brian Fitzpatrick said the current property line will be moved back nine feet and this can potentially give more spots than currently available.

The motion (Lloyd/Kersteen-Tucker) to approve the resolution was approved unanimously by roll call.

Adjourned to committee meetings at 3:32 p.m.

The Board readjoined at 3:54 p.m.

### **CONSENT CALENDAR**

The Board unanimously approved the consent calendar (Matsumoto/Kersteen-Tucker); Director Ahmad abstained from item a.

- a. Approval of Minutes of Board of Directors Meeting of February 10, 2010
- b. Acceptance of Statement of Revenues and Expenses for January 2010

### **PUBLIC COMMENT**

None

### **REPORT OF CHAIR**

None

### **REPORT OF THE GENERAL MANAGER/CEO**

#### Annual Operations and Maintenance Base Safety Awards

The annual bus transportation award was presented to Superintendent Karambir Cheema of North Base and the annual bus maintenance award was presented to Superintendent Jerie Moeller of South Base.

#### Maintenance and Operator Employees of the Year Awards

Edward Suliguin was honored as maintenance employee of the year and Danilo Gemanil was honored as operator of the year.

Mr. Scanlon reported:

- In the reading file is the American Public Transportation Association's (APTA) *BOARDtalk* featuring an article on Director Zoe Kersteen-Tucker and an opinion piece by Chair Guilbault that appeared in the February 17 *Daily News*.
- Directors Kersteen-Tucker and Ahmad will be attending APTA's Legislative Conference in Washington, D.C.

- Tomorrow four Board members will be going to Sacramento to deliver a message to the legislators about the consequences of diverting transit funding and how this is affecting real lives and people.

Chair Guilbault said it is always a pleasure to honor the men and women of SamTrans for the work they do.

## **COMMUNITY RELATIONS COMMITTEE**

(Accessibility, Senior Services, and Community Issues)

### **SUBJECTS DISCUSSED**

- a. Accessibility Update
- b. Citizens Advisory Committee Liaison Report
- c. Performance Report – Fixed-route Service
- d. Multimodal Ridership Report – January 2010

## **FINANCE COMMITTEE**

### **RESOLUTIONS**

- a. Authorize Assignment of Contract to CSI Capital Management, Inc. to Provide Investment Management Services
- b. Annual Adoption of Investment Policies and Authorization to Invest Monies with the Local Agency Investment Fund
- c. Assessment of the Fiscal Year 2010 Fuel Hedge Program and Authorize Adoption of a Fuel Hedging Program
- d. Authorize the Disposal of 137 Surplus Gillig Buses
- e. Authorize Filing an Application with Caltrans for a Community-Based Transportation Grant Application in the Amount of \$300,000 for the Economic and Housing Assessment for the Grand Boulevard Initiative
- f. Authorize Receiving an Allocation of \$196,867 of Proposition 1B Public Transportation Modernization, Improvement and Service Enhancement Account Funds Through the Lifeline Transportation Program for the Improvement of Bus Stops in Lifeline Areas Within San Mateo County
- g. Authorize Entering into Memoranda of Understandings, File Applications and Pass Through Funds to Lifeline Transportation Project Sponsors in San Mateo County
- h. Authorize Award of Contract to GFI Genfare (GFI) to Provide Automatic Fare Collection System for a Total Cost of \$7,654,475

The motion (Church/Tissier) to approve the resolutions was approved unanimously by roll call.

## **LEGISLATIVE COMMITTEE**

### **RESOLUTION**

- a. Authorize Support of the Local Taxpayer, Public Safety and Transportation Act for California's November 2010 Statewide Ballot

The motion (Kersteen-Tucker/Lloyd) to approve the resolution was approved unanimously by roll call.

### **SUBJECTS DISCUSSED**

- b. State and Federal Legislative Update

**PLANNING, DEVELOPMENT AND SUSTAINABILITY COMMITTEE  
PROCLAMATION**

- a. Support of the 2010 Census

The motion (Tissier/Matsumoto) to approve the proclamation was approved unanimously.

**WRITTEN COMMUNICATIONS**

In reading file.

**BOARD MEMBER COMMENTS**

None

**DATE AND TIME OF NEXT MEETING** – April 14, 2010, at 2 p.m., San Mateo County Transit District, Administrative Building, 1250 San Carlos Avenue, San Carlos, CA 94070.

**GENERAL COUNSEL PROPOSAL**

Mr. Miller said there is no report.

Adjourned at 4:22 p.m.