

Meeting:
DRC Citizen Advisory Panel

Date:
September 19, 2007

Location:
**Menlo Park Senior Center
100 Terminal Avenue, Menlo Park**

Time:
Meeting Start: 7:15 pm
Meeting Adjourn: 9:20 pm

Minutes Prepared By:
Sharon Kyle

Issue Date:
10/12/07

Attendees (sign-in sheet attached)	
<p><u>CAP Members</u> Arthur Ringham, Atherton Chairperson Susan Robinson, Menlo Park Margaret Fruth, Menlo Park Christopher Cabrales, Newark Yen Han Chen, Newark Jim Bigelow, Redwood City Barry Ferrier, Union City</p> <p><u>DRC Staff</u> Howard Goode, Caltrain Paul Matsuoka, Caltrain Wenlin Yang, Caltrain Christine Dunn, SMCTA Iris Star, Parsons Marie Pang, SMCTA</p> <p><u>Presenter</u> Shayna van Hoften, PCJBP Legal Council</p> <p><u>Consultant</u> Sharon Kyle, HNTB</p>	<p><u>Members of the Public</u> Peggy Classen, City of Newark Mike Dubinsky</p>

Item No. Discussion

1. Welcome and Introductions
 - o DRC staff, consultants and members of the public introduced themselves. A guest presenter was also introduced.
2. Roll Call
 - o Arthur Ringham, Susan Robinson, Margaret Fruth, Christopher Cabrales, Yen Han Chen, Jim Bigelow, Barry Ferrier were present. Atherton representative Malcolm Dudley was absent. Fremont representatives Tim Pitsker and Judy Zlatnik were absent. Redwood City representative Bruce Codding was absent (**W. Yang** stated that JPB was informed by Mr. Codding that he is no longer involved but has not been informed by Redwood City). Union City representative Harry Wong was absent. Kevin Mathy who was newly appointed by VTA was absent. To date the City of East Palo Alto has not appointed any representatives to the CAP, and the VTA is still yet to appoint one more representative.
 - o Chair Susan Robinson called a quorum, and the meeting began at 7:15 pm.
3. Information Items

- **S. van Hoften**, PCJBP Legal Counsel, provided a presentation on the Brown Act (public meeting guidelines). She discussed how it provided direction regarding governmental ethics, communication of information, access to public documents, requests for public information, convening meetings, exemptions to the Brown Act, and penalties/enforcement.

- 4. Discussion
 - **S. van Hoften** noted that CAP members had a certain level of accountability because advisory committee meetings are open to the public, and can be covered by both the community and the press. She went on to say that information shared in these meetings was considered public information, and therefore could be requested as a public record.

 - Initial CAP discussion focused on how the meeting agenda should be organized to more adequately cover pertinent topics, but also allow for public input. Several members of the CAP stated that it was important not to overload the amount of agenda topics to be covered in each meeting, in order to allow enough time for meaningful public comment. **S. van Hoften** clarified that the public could comment on agenda and non-agenda items (to allow for broader public input). At the conclusion of the discussion a majority of the CAP supported the idea of formatting the agenda to have a public comment period in the beginning on non-agenda items and then also allow public comment later, on agenda items during the discussion of each agenda item to invite better public and community input throughout the meetings. **H. Goode** suggested that the agenda's could be posted on the San Mateo County Transportation Authority (SMCTA) website to allow for broader public access. **W. Yang** stated that the CAP meeting agendas are currently posted on the SMCTA project website and also at the meeting location 72 hours in advance. Several members of the CAP seemed interested in exploring additional communication venues where the agenda could be made available to the public via some city website or bulletin boards. Chairperson **S. Robinson** and **W. Yang** asked **S. van Hoften** how they could to work together to develop the agenda. She responded that staff could work directly with the CAP Chairperson to develop an agenda prior to each meeting.

 - **S. van Hoften** discussed what constitutes a meeting. She defined it as any place where members are gathered at a regular place and time with the intent hearing discussing or making decisions on any topic related to a jurisdiction or agency. She also clarified the meaning of a quorum, stating that before any meeting can formally begin it must have a majority of its members present. **S. van Hoften** noted that Brown Act issues come into play when a quorum occurs outside a noticed meeting, members have ongoing conversations about an agenda topic, or e-mails are exchanged. Additionally, meetings that occur without proper public notice could potentially be in violation of Brown Act guidelines. **S. van Hoften** addressed the topic of the closed session meetings. She said this type of meeting was the only exception to normal public meeting requirements. A closed session was limited to topics that typically only a Board could address and usually has legal or financial implications, and required special noticing.

 - **A. Ringham** and **B. Ferrier** had questions pertaining to the public records process, and requests for additional information from sources beyond the project made by the CAP. **S. van Hoften** said this would be considered a public records request (open to any member of the public), and the only exception was a request for draft documents. She stated that any draft printed and circulated at a meeting was covered under Brown Act guidelines. **A. Ringham** asked if panel members could be held liable under the public records act for CAP meeting information requested by the public. **S. van Hoften** responded that the CAP could not be sued, but an agency could be held liable. She added that under the Brown Act, personal penalties could potentially find the CAP liable.

- **S. van Hoften** said that it was important for agencies and advisory committee representatives to understand the Brown Act as fully as possible because they were potentially liable to civil action, penalties and challenges to credibility based on public opinion. Any member of the CAP that had questions about procedures should consult with staff and legal council on how to handle potential conflicts.
- 5. Member Discussion on Role and Responsibility and Future Agenda Items
 - **S. Robinson** asked the CAP to turn to the three advisory committee by-laws samples (Alameda County Transportation Improvement Authority, San Mateo County Transportation Authority and Peninsula Corridor Joint Powers Board) provided in the meeting handout materials. She wanted the CAP members to briefly review the sample advisory committee by-laws to assist with the discussion about CAP roles, responsibilities and procedural duties, as well as information sharing with the PAC.
 - **H. Goode** stated that he wanted to provide some historical context regarding the formation of the Citizen Advisory Panel. He said that the environmental process shapes the role and mission of the CAP. **H. Goode** added that the purpose of scoping meetings in the environmental process is to provide an overview of initial project concepts to the community. It was decided that a CAP was needed to continue to provide a broader perspective to represent community view points and concerns, and to help inform the PAC more fully about the ongoing environmental process. The role of the CAP was an advisory panel to provide a community perspective. **H. Goode** went onto say that it was important for the CAP to clearly determine the breath of their role, but the PAC would ultimately decide the parameters of the CAP role.
 - Several CAP members had questions about what would constitute a quorum with the current membership makeup. **H. Goode** stated that because some CAP positions are still unfilled it makes it more difficult to define a quorum. Originally there were 8 parties invited to appoint two representatives each. The membership structure was amended based on the City's (and agencies) that have officially appointed members as agree by the PAC in July 24th 2007 meeting. Currently, there are 13 appointed members (East Palo Alto has two vacancies, and VTA has one vacancy), so it takes a minimum of seven (7) members present to designate a quorum
 - **J. Bigelow** and **B. Ferrier** inquired about the possibility of the CAP receiving PAC meeting information in advance, for review purposes. Both said it would assist with providing a broader perspective on behalf of the community, allow for comment on policy decisions, more effectively inform the environmental process and provide an opportunity for input regarding the development of the agenda.
 - **H. Goode** said that at the last PAC meeting the topic of electrification was discussed. He shared that a staff report was now being prepared based on the request from PAC to address this issue. **H. Goode** suggested that the CAP look at the report prior to the next PAC meeting to provide their perspective. He stated that staff would apply their best efforts to get the CAP this information prior to next meeting.
 - **S. Robinson** agreed that it would be helpful for the CAP to review PAC agenda items in advance to help inform members. She said that she felt the CAP should meet as frequently as the PAC (one week prior to its meeting), and thought that it might be a good idea to include this CAP role in the by-laws. Chairperson **S. Robinson** proposed that a public comment period be agenized, and that the idea of instituting educational sessions for the CAP be proposed to the PAC (CAP members concurred). She asked if the membership felt that the PAC would want regular status reports from the CAP. Several members supported the idea of putting a mechanism in place to provide the PAC with an update from the CAP—although one member cautioned not to overload the PAC with what could be perceived as an open ended public comment process.

- **H. Goode** said he thought it was important for the CAP to be informed and educated. He also clarified that the CAP did not have a review role in the environmental studies process. H. Goode stated that staff could provide the CAP with project information that already existed, as well as specific information which supported the need for education and project understanding. **S. Robinson** said that the PAC needed to understand that being educated and informed about the project was a CAP responsibility. She felt that this may necessitate asking for staff assistance to come up to speed on issues. **S. Robinson** suggested that this be stated clearly in the by-laws.
- **H. Goode** stressed that the PAC did not want the CAP to direct staff to respond to excessive information requests, due to project financial concerns. **H. Goode** suggested that staff provide the CAP with a copy of the budget and status report provided for the PAC (for their advance review). He also suggested a field trip for the CAP to provide an overview of project and potential issues.
- After discussion, the CAP provided a variety of comments and perspectives about how to develop its functional responsibilities. A majority of the panel agreed that SMCTA by-law example should be used to model the CAP by-laws. Chairperson **S. Robinson** directed staff to draft the by-laws for review and discussion at the next meeting. She asked for the draft by-laws to be developed following the basic principles of the SMCTA model, and asked that the format be as basic as possible.
- **H. Goode** wanted to verify if the Wednesday before the PAC meeting (typically on a Tuesday) would be the CAP's regularly scheduled meeting night. He stated that any advance information to be provided to the PAC would need to be distributed at least one week ahead of their scheduled meeting. Potentially staff can provide PAC agenda items on the preceding Friday before the mail out of the PAC meeting material, and this will give the CAP members a weekend to review before they meet on the Wednesday prior to the PAC Meeting. **H. Goode** asked if receiving the information electronically was acceptable to the membership. **S. Robinson** stated that she liked the idea of getting the information out electronically the Friday prior to the CAP Wednesday meeting.
- **H. Goode** said the PAC information package usually contains an agenda, previous meeting's minutes, and staff reports requested by the PAC. He suggested that staff give a brief presentation to the CAP to provide a preview of likely PAC topics of discussion. Staff agreed to do their best to get the PAC information out to the CAP for their review.
- Chairperson **S. Robinson** asked for the CAP's input on what project educational information was needed. The following information was requested from staff by the panel:
 - Simplified project overview presentation, to include an update on project status and decision points, regional planning and impacted cities' perspectives
 - Union City's Transit Oriented Development (TOD) plans, followed with a field trip to provide a multimodal perspective on the project.
 - Ridership and Cost estimates (and an explanation about how these are developed)
 - Explanation of the funding process
 - Information on housing density and how its relation to the project and its alternatives
 - An overview of the environmental review process
 - Background on the Metropolitan Transportation Commission's (MTC) and its role and guidelines, as well as regional rail, high speed rail planning.
- 6. Public Comment
 - **Mike Dubinsky** a resident of Fremont stated that one of the CAP's primary responsibilities was to advise the PAC, but also to be mindful that the public's perspective needed to be represented (including in the development of the by-laws). **M. Dubinsky** asked the members how they would reach out to community to share

project information. He said that many citizens have commented at public meetings that they feel that some decisions have already been made about the project, and they would like to have a mechanism to provide input. **M. Dubinsky** noted that when Union City held public hearing for their intermodal project which impacted Fremont, and people from Fremont came out in mass to comment. He said all cities should have an opportunity to comment in the CAP forum. **M. Dubinsky** added that the project is only one component of the regional rail issue, so it must be clearly understood. He concluded by stating that the project is very complex and the CAP needs to have a good grasp on the "big picture" to be able to represent issues completely.

- **M. Fruth** asked Mr. Dubinsky if he would like to receive information from project the website. **S. Robinson** added that any member of the public can make a written request to be added to the project mailing list (to keep up with the latest information). **B. Ferrier** suggested that a note be added to this effect be added on the website to notify visitors to the project website.
 - The CAP suggested that its future meetings be scheduled the Wednesday prior to the PAC meeting. Next CAP meeting will be on October 17, 2007 at 7:00 pm in Newark (to alternate the meeting between the east and west bay). Staff will inform the location of the meeting.
 - **W. Yang** asked for a motion from the CAP to approve the May meeting minutes. The membership approved the minutes. **W. Yang** also asked for a motion to approve adding public comment period on non-agenda items to the regular meeting agenda items at the beginning of the meeting. The motion was approved.
 - **S. Robinson** stated that the focus of the next meeting will be to, review pertinent information included in the PAC agenda (including budget and project status information), and have staff assistance developing draft by-laws for review/comment. **H. Goode** stated that October 12 will be the date that staff will email CAP members the October 23 PAC agenda package.
7. Time and Date of Next Meeting
- Next CAP Meeting will be on October 17, 2007 at 7:00 pm in Newark. Location to be determined.
 - Staff also noted that the next PAC meeting will be on October 23, 2007 at 2:00 pm in Palo Alto City Hall.
8. Adjourn

Attachments: Sign-In Sheet, Brown Act Presentation, By-Law Templates