

CHSRA Board Meeting – November 4, 2009

This transcript is provided by Rita Wespi on behalf of CARRD, rwespi@carrdnet.org.

Audio: http://www.cahighspeedrail.ca.gov/images/chsr/20091106153052_11-5-09_CAHSR.MP3

Video: http://stateofcalifornia.granicus.com/MediaPlayer.php?publish_id=9

Packet: <http://www.cahighspeedrail.ca.gov/library.asp?p=4856&year=2009>

Partial transcript, with gaps. All text in “quotes” is verbatim. The rest of this transcript is either verbatim, close to verbatim, or paraphrased. Use the audio or video links to verify before quoting passages where exact accuracy matters.

Meeting starts at 10:16 a.m., 22:00 minute mark.

Public Comments:

10:20 a.m.

Supervisor Henry ?:

Al Sheeter: Owns ranch in Madera, 7th generation. Understands that HSR is important. Doesn't wish to see it swipe a wide swath across prime agricultural soil. Death by a thousand knives to the families of farmers. Leave it near infrastructure.

Roger Chu: Farm owner, concerned about route. Find a way to use existing ROWs.

Julia Berry: Represents Farmers of the valley. Lot of ancillary benefits to farmland. A train going through orchards at 220mph will affect the crops, for example pollination of the trees. Make herself available in the future.

Richard Kearnan: Sent an email to Q. Kopp. Background in transit & systems engineering, worked for BART, PUC and other commissions. The money isn't going to get us very far. Suggesting to shorten the route. CA must be realistic about what they can do with relatively small amount of money. \$9B is small amount. Main thing is that the line running through major cities ASAP. Spoke with QK before meeting, not going to be any changes. I'll try anyhow. Worried about 220 mph train....

Robert Quotrice, Supervisor of County of Madera. Very proud that people are speaking in 1 voice to support maintenance facilities. Lists few people who speak with 1 voice. Thanks for meetings. Excited about having HSR heavy maintenance facility in Madera County, especially since we won't have a station. We have some of the highest unemployment rate of 13.3, 9.9% in the nation and CA 12%? Thank you!

Mr. Davis: on behalf of ?. Major impact going through farm land. Upgrade existing easements you have. The impact would devastate the farmers. Go to the outskirts and use existing easements.

36:00 Ms. McCarthy: also representing ?: As I spoke to program/project managers, only 3% of design criteria were actually evaluated to determine which alternatives would be thrown out, and that seems like you're not actually evaluating all of the criteria. Some lines were thrown out prematurely. For example, farm lands weren't included. They didn't have time to evaluate, they were told to cut 60 days off their project to meet the deadline. 480 hours to cut – seems like a lot. Please take those considerations – and maybe give the project manager more time!

38:22 Pringle: Various folks are contacted about work in the northern part of the valley. There are 5-7 diff routes originally identified and they're now engaged in eliminating those routes. Community is worried about some routes moving forward and others not. We appreciate that. Our team is focused on ensuring that we're properly prepared for FED Stimulus money as well. We have to have all environmental clearances completed. concerned that we are properly prepared for the time so t hat we receive any funding. Valley lines are important – we submitted not one but two – and if they're not properly cleared in time, it's a problem. So, there are many steps along this process, we're sensitive.

40:00 Morshed: Correcting public statement made. Program mgr's stating that they didn't have enough time – I don't believe any such statement was made; if so it was erroneous. ... We're not going to make hasty decision or analysis based on deadline. We'll make sure all the necessary work & analysis will be done. The deadline being the reason for insufficient analysis is untrue. We'll continue to do all that's necessary.

Pringle: Action items first. Item #5, approval of Sept, Oct meeting minutes.

42:00 Morshed Item #6 – Gateway communities MOU. Southern CA I5 corridor.

[gap] Heavy Maintenance facility.

1:24:30 Item 8, RFQ for procurement. Morshed: recommends withdrawing this item at this time.

Item #9, Communications & Outreach

1:26:00 Morshed: We brought this issue before you; the last time there was some question to the process, the selection. Was not quite adequate so we, Mr. Barker will present.

Katz: While Mr. Barker's coming up – I've been critical in the past of the staff preparation in terms of what we're getting. I appreciate the information, not just on this item but on all the items. This is a much fuller explanation of background material and I appreciate all that information. Makes for more reading, but you have a much better idea of what's going on.

Morshed: I'll take that comment to heart because that comment's probably the last time you're gonna hear anything complimentary coming from you. [laughs]

Katz: No. If you do something good in the next two years, I'll tell him. [both laugh]

1:28:00

Jeff Barker: Often in headlines & when people talk, 'Outreach & communications' get shortened to 'PR' but it's much more. (See slide.) ... Outreach to communities, counties, interest groups. All levels of government. Transparency, accountability. Accurate information, whether that's the media or whether it's meetings like this one. It should be available and uniform throughout the state. ... The need for communications ... largest public trans public works project in U.S. history; change the face of our state and it's a very local thing. 9 billion in bond funds. Communications & Outreach is important.

1:30:00 Slide:

"High-speed trains may collide with L.A. River plans" – Los Angeles Times.

"High-speed rail worries Peninsula residents" – Mountain View Voice.

"Judge issues split ruling on high-speed rail" Palo Alto Online.

Barker: Here are a handful of headlines from local newspapers where I feel a void of information and less outreach than is necessary produced misunderstandings that affected the project. The bigger, broader reasons is prop 1a has changed. Lot more interest in the project. ... It opened up a number of groups looking for a wide range of information. We're going through the env. review. We're obligated to reach out and pass information. It's not optional.

[Slide shows complex organization chart. Greeted with chuckles.]

This is an attempt to describes not only contractual relationships, but also supervisory and direct report relationships, and if my name was on there I wouldn't know what it means or what to do. Not a clue. At is not a model for effective communications. ... We propose contractors reporting directly to the Authority, previously reporting to ? Both regional and statewide team is reporting to Authority, to a position created 3 months ago. Will lead to a clear

This is a very rough look at per person cost for a communications staffer. More discussion in your packet on state staff. Dollars per person, pretty rough. ... The RFP process. 5 member panel, 4 of which had expertise in communications and/or outreach. Went to partner agencies and asked for them to each provide a person. We got 8 proposals, only 7 responded to our request. Only those which received 85% score were invited back. Got 2 we followed up with. After that process, 5 member panel had a clear decision to recommended Ogilvy – wide point spread and was unanimous. Why we chose Ogilvy: ability to expand and contract as needed over course of years. Offices in DC, overseas. They have experience with public dollars and showing accountability with those dollars. Referenced bared out what we'd hoped for. They did augment their team with a couple members of our team which was a smart strategy for continuity, care-over of knowledge from those working on the project for several years. [Described role of contractor.]

1:37:00 Pringle: Capped expenditure ... This may appear to be a \$9M budget but it's really a 1.5M annual based on ... over 5 year period, and the total ceiling may not exceed \$9M. So it's an annual contract.

Barker: Correct, can be negotiated yearly, paid monthly.

Katz: We control the budget annually. Before we do the budget for next year, we ought to be reviewing. We have a 30-day out on this, can cancel it 30 days out. Before we approve next year budget, we should evaluate previous year's. Decide whether to renew yearly.

Schenk: As you all know, I was very critical of the previous process. This one is much better, one I'm more comfortable with it should be the model.

1:39:50 Diridon: Back to previous slide – in the discussion of the objectives, there's one that isn't clear that in my way of thinking was the most serious impediment in the way we were running and that is that the central statewide organization will be controlled from the top down and in most cases in these types of situations we'd like bottom up. But this is one where we need top down control in terms of consistency of message which was a real problem in the past. And I don't see that here as a device, yet.

Barker: That was my attempt to show that ... when you have statewide teams reporting up me and when you have regional teams reporting out and also up to me, that at the top of that heap – that top-down pyramid, that not only is there that clear working relationship but that all of our regional outreach personnel are working closely with our statewide team. And I'll be engaged in that.

1:41:10 Diridon: "As an element of that I'm going to say something that might sound pejorative to our engineers and I don't intend it to be. But there's a tendency for the media to misquote us given the least opportunity. And that happens probably a little more readily when we have technical people communicating in a political context. And it has indeed happened as in a couple of cases, and if it continued, might even prejudice the viability of our environmental review. In that the media inadvertently, or the individual inadvertently might communicate something that might suggest that a direction that had not yet been taken by the [] overall organization or not be recommended even by the data, but could be rather the opinion of the individual. But that opinion is then turned over by the media as policy of the HSRA Board. *Somewhere in this process your communications people need to be working with our engineers in a manner that would help them not to make those kinds of mistakes or even allow their comments to be interpreted in a mistaken way by the media. And that's a very delicate process. **And again I don't mean to be pejorative to our engineers, I think you've all been misquoted, and we just have to figure out a way to say things that can't be misquoted.** But that's probably the responsibility in terms of guidance and education from the communications people to the engineers. How do you do that?"*

Barker: Well, I completely agree with you. I mentioned not just the danger of the news media misquoting or mishearing something it's also

Pringle? interrupts: Don't mention Board Members! Don't mention board members.

[Laughter]

Barker: It's also our [goal] to reach out to regional transportation agencies and [?] who could hear something the wrong way as well, and that is part of what we'll do ... a statewide assessment of what we currently have and if we need to do some training with our engineers and some of the folks who are

doing presentations, we'll do that. If we need to ensure that we have certain outreach people always in those meetings, we can do that as well.

Pringle: Mr. Diridon?

Diridon: No, thank you, and by the way, in regard to board members, if a board member says something that you think might be prejudicial, you need to communicate with us.

Pringle: And please talk to Mr. Diridon privately.

[Hearty laughter.]

1:43:50

Kopp: [inaudible]

Pringle: Dude, your mike's not on. David, do your job!

Kopp: Did you hear me?

Barker: I did hear you. [answers Kopp's question.] Outreach teams, and yes, I'm talking about the Section Managers.

Pringle: Please proceed with the presentation.

Barker: [introduces members of the Ogilvy team.]

Christy Blackman. Jamie Muller, based in DC office. Michael Law, West Coast Operations, Mandy? Fletcher, overseeing public affairs; Steve Smith. Kris Deutschman will join Ogilvy team, [one more person named.]

[Ogilvy presentation.] Put a spotlight on visible support from broad range of stakeholders. First thing we'll start with is research. Must assess what you don't know before you move forward. Create specific protocols. Technical presentations include ones to community organizations that support HSR so they can effectively communicate the message. Website. Make sure outreach materials are updated.

1:51:00

Schenk: I'm in San Diego and with all respect to Northern California, we have a problem in San Diego – are you aware of it, do you have a plan to address it?

Blackman: We'll be very much interested in talking with you [implies they're starting in N. CA, then applying what they learn in SD.]

Kopp: [talks about termination clause.] Are there any other subcontractors other than Deutschman Communications Group? Nacatomi? Associates (Santa Monica), Imprenta (LA).

Kopp: How about the Bay Area?

Blackman: Both do statewide work. Also Richard Robertson in Bay Area doing community engagement. Also part of team being brought over. [will provide Kopp with list of all subs.]

Kopp: Who's the strategic advisory group?

Blackman: [] Dan Schnurr, [lists a few more names]. Tony Russo.

Kopp: What is their responsibility?

B: Discussions, prodding, brainstorming and arguing the position themselves, and availing themselves to the board themselves.

Kopp: Not a compensated group?

B: Each are subcontractors, yes.

Kopp: Memorandum as noted by other members is the kind of info that was previously lacking on this matter and others. And it certainly accurately reflects on page 3 a couple examples of inadequate public relations efforts. There are others as well – the 2 pending law suits where we got swamped - routed. I'm going to in my view take a chance on approving the proposed contract. But I want to make clear that if there isn't improvement I will specifically act to rely on the termination clause as is on every one of our agreements. I hope that I am happily persuaded that this is indeed a material improvement, but if it is not, I'm gonna act accordingly.

1:59:00 Pringle?: Thank you Mr. Kopp. I want to say Mr. Kopp's point is a very interesting way to welcome a new contractor into service. But I think if I could receive the liberty of expressing that the entire board has had challenges and frustrations of the way messages have been delivered and how we responded and how we've served the public. I think that was evident when the Executive Director said we need to have someone who has official responsibility within the Authority, as a Deputy Director, and Mr. Barker, someone who can oversee those responsibilities, and 2, how we can have much more direct authority over someone and oversight in our communications, public relations, community contacts. Some folks look at the dollar amount, and I think we're spending about the same dollar amount, but under layers of existing contractors, where the PR portion is a sub to other work. And our desire here is to have a much greater oversight. It seems the board was not feeling – nor the senior staff – that the messages that are important, that community outreach that was necessary was being done properly. So, yes, we might have had a hiccup along the way in terms of hiring a PR firm, but as Ms. Schenk pointed out, our goal is to make sure we have the very best team assembled, and I feel comfortable that our staff has done that, and that recommendation made to us will bring about a change. Mr. Kopp and board colleagues, in fact we don't want to start out a relationship by saying everything that's been done, or there's been some poor action in the past therefore you better do it better. The whole concept here is to know you will do it better. But because we're talking about public dollars, there's always elements within this contract that says if, on an annual review, if there's a need to replace a firm or change the direction, there's proper reliance on communicating with you and you with us, there' progress being

made and issues that all of us are concerned about are being addressed, yet I want to be encouraging in that discussion to say that I feel very good that a team coming forward to do that and I have confidence that the evaluation that was done by our staff and the staff of the LOA(?), the MCTA(?), Samtrans, all who asked to participate in this evaluation. So, I think that's what brings us to this point. And I'm looking forward to moving forward with this action. Any further discussion? Mr. Diridon.

2:02:00 Diridon:

Umberg: 30 days notice?

?: Yes.

Umberg: [question about any other HSR clients Ogilvy took on?]

Blackman: no.

Pringle: Could we establish a procedure for notification if you did take on other HSR clients?

Blackman: As a matter of course, we typically check with our current clients before bringing on new clients.

2:03:50 Diridon: "I'm looking with welcoming thoughts towards this organization and appreciate the continuity that you've arranged within the group to relate to the prior effort. I think you've picked the best of the past to put together an even better future. There are two points that I'd like to stress, that you may want to look into immediately. And the first is consistency of message and I'd like to use as an example – and it's not just message, but it's also process – consistency of message and process – and I'd like to use as an example the process that occurred in the Visalia area recently, where, without the board knowing about it at all, there was an announcement in the newspaper allegedly quoting some of our engineering staff in that area declaring that Visalia would not be included in the study. I had no pre-warning of that at all. I don't believe that decision could be made by a person of the engineering staff without some reference to the board and it certainly caught us all by surprise when the media started calling about that issue. So there's message and process."

2:05:06 "Second is, and I'll use as an example again one area, but I have an idea that its occurring in other areas too, misinformation is causing serious media relations problems in the mid-Peninsula Atherton, Menlo Park, Palo Alto area especially. That misinformation coming sometimes from inadvertently our own staff, but then again it's being presented by opponents, blatantly providing false information to the media and then having no correction. No information being provided that would counter that misinformation and I think you related to that earlier.

So would you relate to those two examples, not those two specific cases but those examples as kind of in the weeds detail, that you really need to be on immediately, so that it doesn't, the kind of thing that are like a sore that festers, or the rotten apple in the barrel, if you would like to use another example. And you got to get that apple out of the barrel immediately and please figure out a way and let us know at some time in the future – you can call us individually or give us a report – how you would be creating

kind of flying squads of emergency response to nip those problems in the bud. You want to avoid them if you can but if you can't avoid them you need to have a way of countering them immediately so that, misinformation isn't allow to float around, it's corrected. And so please consider that as early tasks."

Blackman: Thank you, we will.

Pringle: Thank you, as we can understand if you do get this job, there's a lot to it.

Pringle: Any further discussion? Is there a motion? [Moved, second, vote taken.]

Item #10: Program Oversight Contract

2:07:00 Mr. Morshed: this is the 3rd time the program oversight is before you. The first time is lack of performance; 2nd time... signed the contract, couldn't proceed. 3rd time is to look over shoulder of pgm mgr and make sure it's staying on schedule and doing the activities we're not quite...

Woman (Terry?): Jeff Barker raised the bar with having powerpoint. 3rd time around for Program Oversight Contract. This time around ...requires architect, engineers, etc. raises the bar. Had mtg with Dan Leavitt, etc. and Bob Doty & Lam Winn on the panel. We had 9 come in, identified 5 who came in for oral presentations. [lists them] on completion of orals, the panel unanimously ranked them: Lim, Hiller,...

The next step in the process is negotiations. If we're unsuccessful in negotiating cost for work performed, we'll move to the next contractor in the line. Could begin as early as nov-dec, until March 2013. Cap of \$8 million. With that I'm recommending that you authorize the exec director to begin negotiations.

Pringle: who was on the panel? ... what are the relationships between the panelists and the organizations? The owners, etc. Discussion of who oversees, the leverage they will have over their small staff that directs Parsons Brinkerhoff. Wants to understand the affiliations of Lam Winn (?) and the way the process works.

Isn't it true that price cannot be part of that ranking? Now we're entering into negotiations.

Woman: Don't know if George wants to comment on that.

2:15:00 Pringle: There will be a firm – if we authorize – that will have a final presentation before this board.

?george?: That's correct. If the negotiations aren't successful, we'll move on to the next. Understand that.

Pringle: I see this contract as the crucial lynchpin – pressure point for this board – this contract. We have a relatively small staff who's overseeing billions of dollars. We're relying on this contract to oversee [describes large organization.] This is an incredibly important contract. [] What's the process to

understand enough detail of the procedure in place to be able to use these guys to drill down and understand how things are progressing.

2:18:00 Morshed: They'll be looking over the work done [of the program mgmt team] and see if it's consistent with the work. They'll be looking at this amount of \$\$ for this amount of work, is it good. Inform us so we can question the program mgmt board. Also looking at the schedule with PB and others – are they maintaining the schedule. [] Their role is to make sure the work being performed for the authority is consistent with normal practices of eng'g work [design, analysis] or are they wasting - spending - a lot of money where they shouldn't, and they'll inform us.

2:19:42 Diridon: I relate to David's concern. Not concerned about the selection, but about the gravity of this decision. ... the issue will be here that this org will check, time, performance on schedule quality of the performance and money. They'll bring to us at every mtg charts showing those variables on everything they've done on whether they're performing to schedule, time money. And Tony has been doing this in the past, but Tony has an inherent conflict. Tony's overseeing himself. I believe in Tony, by the way. Integrity. ...David, you asked a key question: Does Lim have conflicts? Look at subcontractors, too. If they have financial relationships then there's a conflict and we have to think about this. It's what David asked first and we need to know that answer.

Terry?: None of the contractors could be related to PB.

Crane: [some mention of Mother Teresa.] is this the sort of organization that would have been able to tell the contractor on the big dig that they're doing things wrong? Is this our early [bird?] system.

Morshed: this is our early warning system. Our defense system. Keep people honest. Etc.

2:23:00 Kopp: Put it another way, yesterday the exec admin committee took action which included approval of proposal table of organization. One of those positions would be the chief of project controls and risk mgmt. performing duties tantamount to the same duties described in this contract. Is that accurate Mr. Chairman?

Pringle: Yes.

Kopp: that being the case, looking into the future—

Pringle: -- Mr. Kopp, I said yes, I think this would not be the same. We'd have a contractor doing that role; we'd have staff though overseeing that function. We wouldn't hire an entire engineering, auditing team for that purpose. But we'd hire someone who oversees those who we have hired to do those functions.

Kopp: that raises a question that I had yesterday that I saved for today. In effect, we should be doing this in-house but we don't have the personnel to do it. We don't have enough bodies. So we're contracting for it. Is that what it amounts to? There comes a time when some position, including this chief, will reexamine that we need a separate project oversight contract.

Diridon: I don't think we'll ever be to a position to have or wanting to have a huge staff to do the work that we're contemplating hiring here in this contractor, so I don't relate to these comments. Back to Big Dig: they had contractor oversight, but a board of control didn't pay attention to them. They recognized that the contractor was in terrible trouble, and they came back to that board and let them know there was trouble, but the board didn't take the actions necessary to remedy the problem. So really it's as much our responsibility to make sure the info comes back to us from Lim. And not just passed off and allowing the [] to occur.

2:26:00 Crane: Is this project management oversight reporting to board or Mehdi?

Mehdi.

P: So who didn't act in big dig?

Diridon: Not sure if it was through the Board or the Chief Exec Officer, but Board knew of the issue, and in fact the contract oversight people were left with egg on their face inappropriately. They identified the problems, and the remedial action wasn't taken.

Crane?: [recognizes we must move along in agenda.] Will we have more time to discuss this today or discuss with Operations Committee?

Pringle: It's a good idea to have a discussion with the Op. Committee and Exec Dir and in fact we'll have a full discussion when we have a contract report. In fact what we're doing today is authorizing or recognizing the staff ranking so negotiations could begin and no contract is being let today. But we are accepting the ranking for the negotiations to take place. To put it into context, we have 8 more items on our agenda, following that we asked SFxx? to make a 1 hour presentation ...

Crane: I would disagree with my friend Quentin's suggestion that if we get someone on board that we do this in house. I want somebody from outside that we can fire if they don't bring – if we find they haven't done what they're supposed to do – in a nanosecond.

Pringle: Motion: this is, I believe, accepting the ranking of and directing the staff to negotiate with those in the ranked order based upon the purpose of establishing the contract.

Moved by Diridon, seconded by Kopp.

Vote: Umberg, Katz, Florez, Kopp, Pringle, Crane, Schenk?, Diridon

Next item: Peer Review Committee

2:28:55 Pringle: only 3 in Peer Review Committee. Ask their input on key personnel hired; right prioritization of key positions; staffing budget needs and make recommendations in terms of staffing necessary. Those are the direction given by ... additionally, the exec comm. Asked for the authority budget as it currently stands as of this year ... and it will be something in a very generalized state posted on the website. \$139m of which \$? For program services. It was also asked that that level of budget detail always be available on the website, and also the committees be on the website, too.

Katz: Item 12 Report from Operations Committee.

2:32:00 Katz: we met yesterday for the first time. Trying to anticipate our needs further down the road. KPMG study as we transition to a building organization – structural changes. Also discussion for being prepared now for ARRA funds for end of January. Even a minimum allocation is a significant amount. We need to discuss now with peer review group, legislature, so we can put people in place. Want to be able to spend money immediately & appropriately.

Pringle: Item 2 – bus plan update

very important item, statutory requirement by auditor LAO. I know you are engaged in this process.

Jeff Barker: Moving toward that Dec 15 deadline, with your input too. No grand presentation today. We feel we're on schedule. I'm confident we'll meet the deadline.

P: Do want to ensure that a fantastic representation from the community told me that we get their advice and input. As you're preparing this you should be very open and work with different channels to get input.

JB: Absolutely.

Kopp: How will that jog with our meeting schedule?

P: Our mtg will be one week before this is due. Jeff Barker will be devoting much of his time on this in the next month.

P: SMCS Presentation: <discuss whether to do closed session.??>

Morshed's exec report:

P: You've been doing a great job of getting your exec report on the web. Encourage members of public to view it.

P: Other member's reports? Alright, 15 minute closed session. Then a peer (?) presentation from our French partners (?)