

HIGH-SPEED RAIL AUTHORITY  
MONTHLY MEETING  
TRANSCRIPT OF PROCEEDINGS

CALIFORNIA STATE CAPITOL  
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SACRAMENTO, CALIFORNIA  
WEDNESDAY, NOVEMBER 14, 2012  
10:11 a.m.

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A P P E A R A N C E S

BOARD MEMBERS

Mr. Dan Richard, Chairperson

Mr. Tom Richards, Vice Chair

Ms. Lynn Schenk, Vice Chair

Mr. Jim Hartnett

Mr. Russel Burns

Mr. Thomas Umberg

STAFF

Mr. Thomas Fellenz, Esq., Legal Counsel

Mr. Mark McLoughlin, Interim Deputy Director

Mr. Jon Tapping, Risk Manager

ALSO PRESENT

Mr. Ross Browning

Mr. Mike Burneck

Ms. Amanda Carvajal, Merced County Farm Bureau

Mr. Dan Dolan, Stewart Title SBE

Ms. LeeAnn Eagon, Fresno Works/Fresno EDC

Mr. Justin Fredrickson, California Farm Bureau Federation

Mr. Paul Guerrero, La Raza

Mr. William Kerby, Rail Passenger Association of CA & Nev

Mr. Blake Konczal, Executive Director, Fresno Regional  
Workforce Investment Board

A P P E A R A N C E S (CONTINUED)

ALSO PRESENT

Ms. Diana LaCome, APAC

Mr. Christopher Meyer

Mr. Baldwin Moy, California Rural Legal Assistance

Mr. Mark Nechodom, Department of Conservation

Mr. Frank Oliveira, Citizens for High Speed Rail  
Accountability

Supervisor Henry Perea, Fresno County

Mr. Ken Price

Mr. Chuck Riojas

Mr. Davis Schwegel, US High Speed Rail Association

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maintenance facility next year and making a decision on that.

As always, Fresno County is here to support you. Thank you.

CHAIRPERSON RICHARD: Thank you, Supervisor. We appreciate your continued support.

Next up, Diana LaCombe from APAC, and she'll be followed by Frank Oliveira.

MS. LA COMBE: Good morning, Chairman Richard and Board members.

I'd like to talk today a little bit about the 30 percent goal. I'm concerned that the prime contractors get as much assistance in terms of making the goal. And I have handed out to you some information from the Port of Oakland regarding their Small Business Enterprise Program. And this is not for me to go through today, but for you to look at.

**Especially when you're looking at the project labor agreement, there is a small business exclusion for small businesses in their PLA. I think this really should be looked at closely.**

The other is the Caltrans Minor B Program, which includes projects under 250,000. That might be something that this Authority could look at as well, as well as directors' orders within Caltrans.

And then lastly, the Federal 49 CFR, I've discussed that with you many times. That was the final rule of 2011. And

MR. MOY: That's correct.

Baldwin Moy, California Rural Assistance.

Mr. Chairman, members of the Board, we have submitted a series of comment letters throughout the review period. And each one of them commenting on targeted hirings that we're actually very encouraged with regard to Item 2 on the agenda. In fact, I can say that we're actually pretty excited that the Authority is going in that direction.

Having said that, we would like to urge the Board to consider expanding the scope to including not only what is contained in the report on Item 2, but also to consider pre-apprenticeship programs. We're talking about being able to facilitate the members of the EJ communities and get into the employment pipeline. And I think it would **certainly be assisted by having not only apprentices being part of that, but also offering pre-apprenticeship programs as well as supportive services.**

Having said that, my final point is something that we have consistently commented on is really the need for monitoring the compliance. Otherwise, all the goals that we're talking about are merely lofty goals. When I talk about monitoring and compliance, I'm talking about monitoring from the outset in terms of outreach, recruitment, training, hiring, and retention.

So in closing, I'd like to urge this Board to give it its highest priority in terms of both all the points that I've

raised. Thank you.

CHAIRPERSON RICHARD: Thank you very much, sir. We appreciate that.

Marvin Dean, followed by the last speaking request I have is Christopher Meyer.

MR. DEAN: First of all, I want to say good morning. I'm sorry I was late. I would be glad when we get high speed rail. I took AMTRAK. It was 30 minutes late.

I want to start with a couple thank you's. I haven't attended a Board meeting the last couple meetings. You guys mostly were in closed section. I wanted to thank Vice Chairman Tom Richard, Jeff Morales, and also Robert Padillo and also Brent with the project management team came to Bakersfield. Our association hosts a lunch on. We had elected officials there. We had business community there. We had labor. And we had the Chambers of Commerce and various representatives of the community, about 150 people. And there was a reception afterwards and then there was a lot of private meetings that Jeff made. It was about trying to do a new start in Bakersfield.

By all accounts, I think a lot of people came away that it was a lot of good things came out of it. We're going to build on it.

One thing happened shortly after that we were disappointed in. The city of Bakersfield took a vote to potentially file a lawsuit, not to file a lawsuit. I think

they're doing that personally just for the leverage of negotiations. They're going to be meeting with the working group that Jeff you have agreed to meet with the city on. I wouldn't get too excited about that, because most of the people down there are supportive of high speed rail.

The second reason I came today was to talk about our 6th annual public contracting expo we're going to be doing in February -- January -- January 10th and 11th in Fresno. We'd like to have the high speed rail participate in that. I'm going to make three requests later. I'm going to ask Vice Chair Richards, since he lives there, to be part of the evening event before the dinner. And I'm going to ask the CEO be at our luncheon on the 11th. And ask maybe your CEO for the high speed rail small business council -- that we have a lot of people not familiar with the Business Advisory Council. We think it would be a good opportunity to have a forum there to talk about that.

Then lastly, I just wanted to say that we, too, the contractor association, **a group of us have formed the San Joaquin Valley Construction Academy.** We're looking at the jobs in these environmental justice community to get these people ready. We want to work with the Authority and the Fresno Work Group. We think if something is not done, a lot of those folks that want to be included are not ready. We need outreach, effective job readiness, and referral into the state apprenticeship program. That's where the academy is.

BOARD CLERK REED: Mr. Umberg?

BOARD MEMBER UMBERG: Aye.

BOARD CLERK REED: Mr. Hartnett?

BOARD MEMBER HARTNETT: Yes.

BOARD CLERK REED: Mr. Rossi?

BOARD MEMBER ROSSI: Yes.

BOARD CLERK REED: Chairman Richard?

CHAIRPERSON RICHARD: Yes.

Thank you.

Number of public comments this morning related to Item 2, which is an update on the Fresno Works Consortium Proposals and National Target Hiring Initiative.

Mr. Morales, do you want to start or turn this right over to Mr. Padillo?

CHIEF EXECUTIVE OFFICER MORALES: Mr. Chairman, I would just say as we've heard from Supervisor Perea and Ms. Eagon and others, we have been working closely with people of Fresno and elsewhere to ensure that as this project proceeds, we can provide the maximum possible benefit to our local communities and particularly in distressed -- economically distressed areas within the constraints of state law. And this presentation is a part of that ongoing effort to look at how we can do that.

CHAIRPERSON RICHARD: All right. Let's move to the presentation.

Good morning, Mr. Padilla.

SMALL BUSINESS ADVOCATE PADILLA: Good morning, Chairman Richards, members of the Board. My name is Robert Padilla.

CHAIRPERSON RICHARD: I had to run the gauntlet when I came in this morning of people being highly complimentary of your work. So I just want to warn you of that before we start.

SMALL BUSINESS ADVOCATE PADILLA: Thank you very much. I appreciate that.

Part of this agenda item for the purpose of some of the folks -- my name is Robert Padilla. I'm the Small Business Advocate for the California High Speed Rail Authority. This is an information item only. We don't suggest that any action is required on behalf of the Board.

But the State of California, we recognize more than 3.3 million small businesses. And these small business are responsible for more than half of the labor force in this state. Because we have what I continue to brag about, a 30 percent small business, small and disadvantaged business enterprise goal, we clearly draw the contention between where the jobs -- who does the hiring as small business owners. I think it's appropriate that we discuss strategies that ensure skilled labor is available and properly trained to meet and to fill the jobs that our project, the high speed rail project, will bring to the state and particularly to the Central Valley.

So I'd like to take this moment to introduce Blake Konzcal. Blake is the Executive Director of the Fresno Regional

Workforce Investment Board to talk a little bit about some of the efforts that the Central Valley, the Fresno area, has taken in advancing a national target hiring initiative. Mr. Konzcal.

CHAIRPERSON RICHARD: Welcome back, Mr. Konzcal. Nice to see you again.

MR. KONZCAL: Thank you, Chair Richard.

VICE CHAIRPERSON RICHARDS: May I make a quick comment?

Just as a matter of transparency, and because Blake has been introduced as his full-time position, for the public and for my colleagues, I have mentioned this before. And because this is an information item and you're not here actually representing the Workforce Investment Board, I also sit as the Chair of the Fresno Regional Workforce Investment Board.

CHAIRPERSON RICHARD: Thank you. It is a good thing. But transparency is also a good thing. Thank you, Mr. Richards.

Okay. Mr. Konzcal.

MR. KONZCAL: Thank you, Mr. Chairman and Board.

Although, I'm the Executive Direct for the Fresno Workforce Board, I'm here on behalf of the Fresno Works Consortium, which is a partnership with members from the private sector, elected officials, and different jurisdictions, public education, workforce investment, **organized labor**, and a lot of community-based organizations within Fresno that are focused on trying to help high speed rail come to our town and get it built quickly.

And understanding that we have a limited amount of time, I'm only going to talk for a couple minutes. And I brought with me Ken Price, who is the corporate counsel for the WIB. Chuck Riojas with the local IBEW, and Michael Burneck, who has been doing work for us trying to craft a policy recommendation for you all.

Just as background, 18 months ago, we did an initial presentation to your Board. And at that time, the High Speed Rail Authority staff submitted what we had come up with to the Federal Rail Authority. And they came back with a lot of questions about how legally one could make employment opportunities available the residents of areas of high long-term unemployment.

Over the course of that 18 months, we were able to find out the Los Angeles County Metropolitan Transit Authority in working with the Federal Transit Administration rather was addressing the same question. And through the Chief Legal counsel at FTA, at the Transit Administration, a man by the name of Dorvel Carter, an opinion was put forward that said it was possible to have focused or targeted hiring for areas of high long-term unemployment nationally. We were able to get ahold of the legal reasoning that went into that opinion.

And through elected representatives in Fresno, a request was put forward to the Secretary of Transportation LaHood that it seemed that what the FTA was granting to Los Angeles

County Transit was what the FRA was denying in our request. So Secretary LaHood asked there be a unified federal policy across the different administrations and we were able to generate a revised positive findings from Federal Rail Administration legal counsel Melissa Porter.

I should mention the letters I'm referencing, I have copies if you want all went them. I can give them to you. We were ecstatic. We found a policy. We revised our policy to comport with the language that Los Angeles County had submitted and been analyzed. And then we communicated that information back to your Board.

I'd like to ask Ken Price to come forward to give you a brief overview of what the actual policy is.

MR. PRICE: Thank you very much, Blake.

Again, my name is Ken Price. I'm the counsel for the Fresno Regional Workforce Investment Board.

The proposal that you have in front of you today is the result of just about two years of work from this very dedicated team that Mr. Konzcal mentioned to you. We researched various concepts to ensure that whatever we recommended to the Authority would pass federal muster. And we were very aware there were legal issues arising from the United States Constitution and federal regulations in this area. And we targeted very, very carefully to address those.

And to be clear up front and to clear up any

misconception about what we're proposing, **we are not recommending a local hire program.** We are **not mandating the Authority or its contractors hire on the basis of any geographical region.**

Attached to your packet of materials is a legal analysis that I've prepared for the Fresno Regional Workforce Investment Board and the Fresno Works Consortium stating that the targeted hiring program complies with federal and state constitutional requirements.

And in fact, which you I believe have in front of you as well a letter from the DOT that Mr. Konzcal had referenced dated June 29th, 2012, to Fresno Mayor Ashley Swearengin again. And it's very clear the letter says, "The FRA respects the choices of the Authority" -- I'm quoting here -- "in adopting a variation of a targeted hiring program so long as the program is consistent with California State procurement policies and procedures that the Authority uses in the expenditures of its non-federal funds."

What we are recommending is consistent with California State procurement policies and procedures. And very generally speaking, our recommended program requires that a minimum of ten percent of all hours of work be performed by workers in either what we're calling national extremely economically disadvantaged areas, which are workers whose primary residence is within a ZIP code that includes a Census tract or a portion thereof in which the median household income is \$27,000 a year. These workers in

our program would have priority.

Or, alternatively, there would be an advantage for national disadvantaged workers which meet at least one of the following barriers to unemployment -- to employment. Workers whose primary place of residence is within a ZIP code that includes a Census tract or portion thereof in which the median household income is \$40,000 per year, homeless workers, custodial single parents, workers who are receiving public assistance, workers who lack a GED or high school diploma, workers with a criminal record, workers who suffer from chronic unemployment, who are emancipated from the foster care system, veterans, and apprentices with less than 15 percent of the required graduating apprenticeship hours at a certified apprenticeship training program.

Secondly, we are recommending that a minimum of 40 percent of all hours of project work be performed by the national disadvantaged workers, which is the litany that I just mentioned.

Third, at least 20 percent of total work hours on each project be performed by apprentices.

Now just to be super clear here, there is no magic to these numbers. We looked at other programs. We looked at the Alameda corridor program to see what they were doing. We looked at other local hire type and targeted hiring type programs to see exactly how they were structured.

What we'd like to do and what we've asked for is to sit

down with the Authority staff to discuss the numbers and to discuss how we can implement the program. And we think it can be done on a very clear and cost effective basis. And of course, as you know, we remain available to assist in any way that we possibly can. Thank you.

CHAIRPERSON RICHARD: Thank you.

MR. KONZCAL: If I could ask Chuck Riojas to come up from the local IBW also with the Fresno, Madera, Tulare, Kings -- I think that's all of them -- Building Trades Council.

MR. RIOJAS: Good morning. My name is Chuck Riojas, 25 year member of the IBW.

I'm here not to speak as a union electrician. I've been one trustee of six that oversees our apprenticeship program in Fresno, Madera, Tulare and Kings. So my words here today are specifically to apprenticeship. But more to the point is pre-apprenticeship. What we've been doing in Fresno County and Madera County trying to get into Tulare and Kings County is running what we term as a jump start program. What we are doing is we are preparing the workforce for opportunities such as this in the apprenticeship programs that we offer throughout the building trades.

So when it talks about the targeted hiring initiative, what I've been doing for the past 18 months is going to the respective counties, cities, the agencies, the HUDs, and explaining what it is to get into our apprenticeship programs.

And they have been preparing their clientele with the GED, with the high school diploma, with the algebra requirements that are necessary to get into our apprenticeship programs.

We have run four pre-apprenticeship programs, three in Fresno County and one in Madera County. We have roughly 100 participants ready and in the pipeline geared towards high speed rail construction, ready to go to work. And these are the underserved communities, the people that the national targeting hiring program goes. We hope to duplicate this in Kern County as well as Stanislaus and Mariposa County. Within our structure, we can go statewide within IBW and the building trades statewide.

So basically, what we're hoping to do and what I like to think we've done is invent the wheel and then we're going to duplicate it throughout the state when it comes to a national targeted hiring program.

So basically -- you know, basically that's it. So we just want to create that opportunity for a client to come into our apprenticeship programs and hopefully succeed. But there again, it is no guarantee of success. They have to do the work and the five-year apprenticeship program. The actual percentage to what he was talking about, the 20 percent, it's in state law anyway, 1777.5 labor code that says one out of every five hours has to be an apprenticeable hour in the state of California. We already adhere to that as far as within the trades. This isn't I'd like to stress a union or non-union document. It's basically

giving those people the opportunity to come into the respective apprenticeship programs, be it union or non-union in any apprenticeable craft.

So basically that's it. Thank you.

CHAIRPERSON RICHARD: I would just say 20 years ago, I was elected to the BART Board. And right after that served with my colleague who is about to come up, Michael Burneck. And I spent a day going around Contra Costa County to the various apprenticeship programs and workers, the electricians, the laborers, so forth. I was blown away. It's a huge swath of American's education system is being carried out through these apprenticeship programs that you folks run. And it's really quite commendable.

MR. RIOJAS: Thank you, sir.

MR. KONZCAL: I'd like to call up Michael Burneck who has helped us craft this policy.

CHAIRPERSON RICHARD: This is -- Michael never changes. I guess this is where I have to be transparent. We've been colleagues for -- it goes back 20 years, 1992.

VICE CHAIRPERSON SCHENK: And in transparency, we've been colleagues for a long time.

CHAIRPERSON RICHARD: For those who don't know Mr. Burneck, in addition to a very deep commitment to transportation, also is one of the nation's experts on transit land use and transit-oriented development and served under Governor Gray Davis

as the Director of the Employment Development Department. So welcome

MR. BURNECK: I should quit now, Tom. I appreciate that.

I just want to make three points. I want to add a fourth one based on what you just said, Dan.

One about this policy, no bureaucracy, all private sector oriented, I think very consistent with where the Authority has been going and where the Governor is going.

Two, it's very consistent with what we've seen in terms of labor markets and infrastructure projects over the past really post World War II period in California. People say, well, are we going to be able to find enough workers in the valley? What we've seen in these other projects is labor markets work very effectively. People -- as workers are needed, skills are transferable, people move into them. There hasn't been -- you know on BART to the airport, really a dearth of workers or difficulty in getting workers. People move quickly. Information even more so now than before is rapid. And I think there is certainly, as we know, no dearth of unemployed construction workers in the valley. No dearth of people for the pre apprenticeship programs, as Chuck talked about. I think we'll find there is no dearth of workers who have the skills or move very rapidly into some of the other construction management jobs and other professional services jobs.

Three, the Authority hasn't spent a lot of time on job projections in recent year. I think that's a good idea. Most of these job projections for growth in transportation are way off. They're just not worth the time or money.

But I do think this policy can help in two ways. One, I think as we -- as it is implemented, I think it's worth tracking the jobs once it gets going. I think we'll learn a lot in terms of tracking in a way that hasn't been done on other projects in California.

And two, I think we can learn a lot in terms of can we develop in the valley? And to me, this is really a key point. Can we develop in the valley economy an expertise in certain areas of high speed rail operations as well as construction that's sellable, both other parts as we expand the project in California and throughout the United States and possibly throughout the world.

So I think there are ways of learning from this as part of this project, learning in terms of both jobs created and economic development skills.

So we've spent a lot of time on the project. It's been Blake, what? 18 months, but I think we got it right now.

Matt, did you want to --

MR. KONZCAL: And that's the information item, Mr. Chairman. I wanted to thank Mr. Morales and his staff. We had an opportunity prior to this meeting to meet with them to try to

make sure that we brought information that would be useful and that we would have the right documentation.

Should anybody have any questions, we would be happy to answer them.

CHAIRPERSON RICHARD: Let me turn to my colleagues and ask if there are questions for any --

VICE CHAIRPERSON SCHENK: Just to compliment them.

CHAIRPERSON RICHARD: Yes. Let us compliment you for your work. I remember especially our January or February Board meeting in Los Angeles, this came up. At the time -- I think all of us have been sympathetic. I was somewhat skeptical as to whether or not you were going to be able to run the gauntlet of federal, legal compliance. You've clearly done that.

My understanding is that both through your work and I want to compliment our CEO Mr. Morales that **there had been a lot of very positive discussions with the construction trades, the represented union, and making sure that this program dovetails with what is the normal course of business there.** So it just sounds like everybody has done -- put in a lot of hard work and come up with a very constructive program.

And I suspect I speak for my colleagues in saying that all of us want to see the benefits of high speed rail spread as broadly through our state as possible and reaching into every corner of our state's socio economic strata. And this is a very important program to do that. So congratulations. And thank