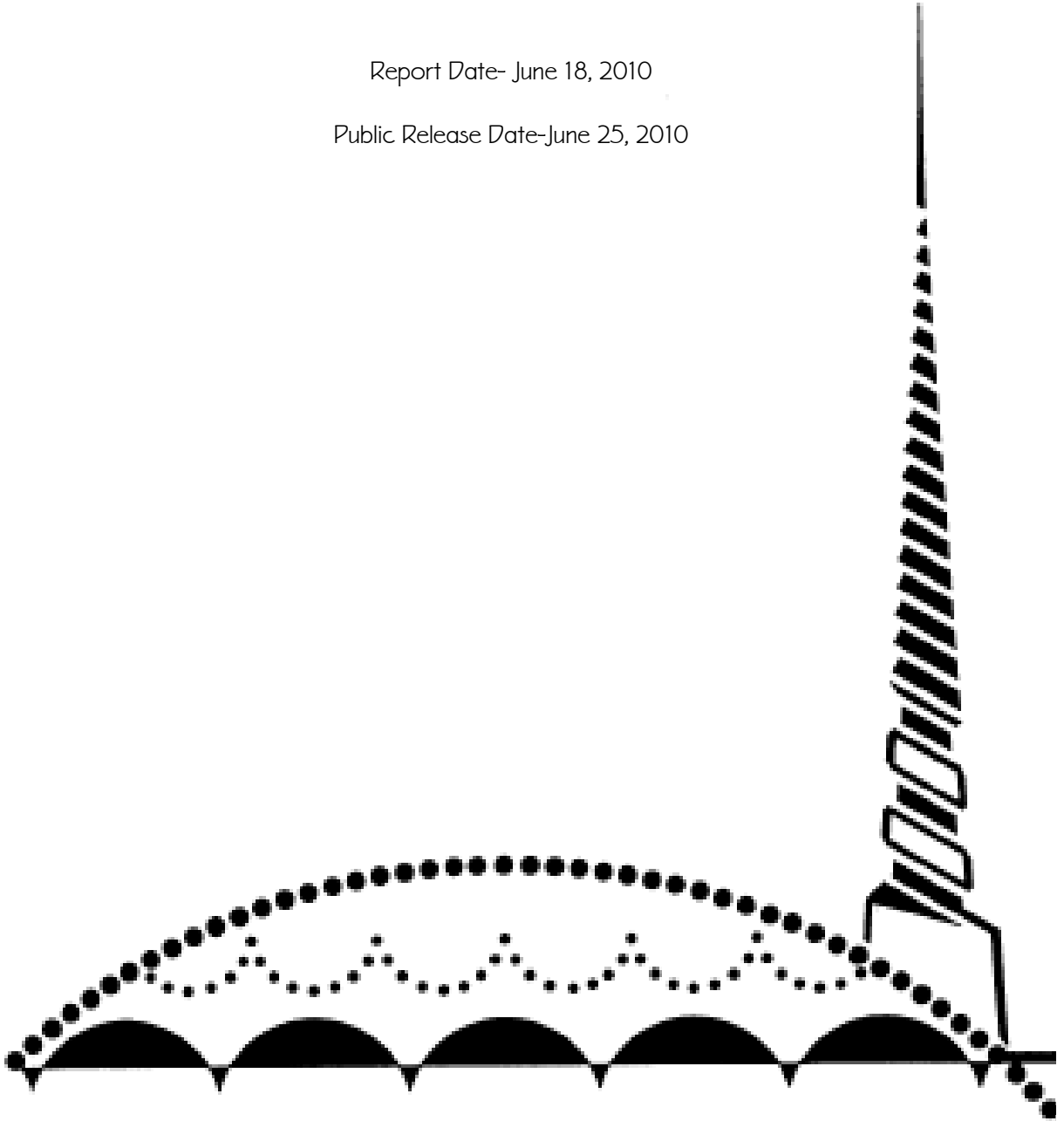


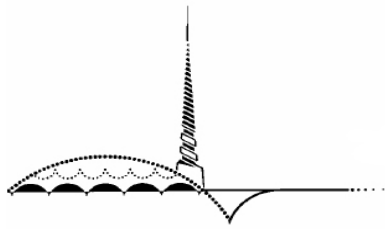
2009-2010 MARIN COUNTY CIVIL GRAND JURY

SMART: Steep Grade Ahead

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SMART: Steep Grade Ahead

SUMMARY

Anyone who has ever been stuck on Highway 101 between Sonoma and Marin counties during rush hour traffic knows that an alternative to the current commute is badly needed. In 2008, Measure Q was put on the ballot to levy a one-quarter percent sales tax for the establishment of the Sonoma-Marina Area Rail Transit (SMART). The purpose of this sales tax was to raise money over a 20-year period to fund a commuter rail system with a parallel bicycle/pedestrian pathway. The measure passed in Marin and Sonoma counties with a combined 70% voter approval.

This project, which appeared to be achievable less than two years ago, now faces overwhelming obstacles. The Grand Jury urges the SMART Board to provide the leadership required to surmount these significant challenges. Since passage of Measure Q, there has been an economic downturn and a subsequent reduction in anticipated sales tax revenues. In addition, there are increased construction cost estimates and other contingencies, which have raised the projected costs of the project by approximately 9%. The original funding plan projected sales tax revenues of \$890.7 million over the 20-year period. SMART is now looking at a shortfall of approximately \$155 million. It has yet to identify, or even discuss, an alternative to the original plan.

The Metropolitan Transportation Commission's 2009 Annual Report finds that the current economic outlook for even the Bay Area's most mature transportation systems, such as BART and Caltrain, is quite dismal, to say the least. The Bay Area's 28 separate transit agencies are losing revenue due to the recession, and during the past three years have been stripped of \$532 million in state aid. Transit operators have responded by reducing service and raising fares, which in turn translates into fewer riders and reduced revenues. If SMART is to succeed in this environment, it must engage in some serious planning to develop strategies that will assure its economic viability.

The most significant component of SMART's operating costs will be labor, in particular the ever-increasing costs of retirement programs. The Grand Jury believes that SMART's retirement commitments are overly generous and should be reconsidered. The Board should commit to fund all costs annually.

SMART will need to share a single track with the existing freight operation managed by the North Coast Rail Authority (NCRA). During peak hours, passenger service will have priority over freight. It will be necessary to coordinate closely with NCRA to ensure safe and reliable schedules for passenger trains and freight trains.

Measure Q required the SMART Board to establish a Citizens Oversight Committee with the responsibility of providing input and review of the Strategic Plan. The Grand Jury urges the Board to broaden the role of this committee. It should function as an independent oversight committee with substantial responsibilities, including the authority to report its findings directly to the public.

For SMART to establish a viable commuter rail system, it will need to be assured of sufficient ridership to meet projected goals. However, according to current ridership projections, the SMART train will account for less than one-percent of the trips between Sonoma and Marin. Marin anticipates relatively little growth, and its ridership is projected to be at a far lower level than what is anticipated in Sonoma.

SMART supporters have consistently championed the environmental and efficiency benefits of rail transportation. It will be incumbent upon SMART's decision-makers to focus on the "people mover" aspect of the train. The "ambiance" or "experience" of rail travel should be a secondary goal. Given the pressing financial shortfall, the Board should defer the \$91 million bicycle/pedestrian pathway until additional funds can be secured. The voters of both counties were sold a safe, efficient, and reliable train to reduce traffic congestion.

BACKGROUND:

The Sonoma-Marín Area Rail Transit District (SMART) is a rail district created by the Legislature in 2003 (AB2224). The Bill established a comprehensive set of powers and duties regarding the formation of passenger rail and associated rail transit facilities and services from Cloverdale in Sonoma County to Larkspur in Marin County. The geographic boundaries of the district include all of Sonoma and Marin counties. AB2224 allows SMART to apply for state, regional, and federal funds for the provision of passenger train services. AB2224 established a Board of Directors comprised of twelve representatives appointed as follows: two each by the Marin and Sonoma County Board of Supervisors, three directors representing cities within each county, and two directors representing the Golden Gate Transit District.

Measure Q was placed on the ballot in Marin and Sonoma counties in November 2008 and passed with a combined 70% voter approval. Its stated purpose was to raise approximately \$890 million over a 20-year period, approximately \$45 million a year. The District was authorized, with the approval of the voters, to levy a one-quarter percent sales tax beginning in April 2009 and expiring on March 31, 2029. Proceeds of the tax would provide funding and/or financing for the design, construction, implementation, operation, financing, maintenance, and management of the rail system and a bicycle/pedestrian pathway.

Incorporated into the sales tax ordinance was an expenditure plan, including, but not limited to:

- Weekday and weekend passenger rail service

- Fourteen rail stations (9 in Sonoma, 5 in Marin)
- New signal and dispatch systems
- All public crossings upgrades
- Two tunnels upgraded for train service: the Cal Park Hill Tunnel and the Puerto Suello Hill Tunnel
- Rehabilitation and upgrading of the existing rail corridor from Cloverdale to Larkspur
- A parallel bicycle/pedestrian pathway
- A maintenance facility in Sonoma County
- Shuttle service at selected rail stations.

The staff and consultants interviewed appear to be experienced in their fields, and seem to have a realistic view of the challenges facing SMART. As expected, it will take time to build up a fully operating in-house staff, and that should be undertaken slowly, commensurate with the success and financial stability of the project. Most expertise is currently provided by consultants, contractors, and attorneys.

METHODOLOGY

The Grand Jury interviewed Board members and staff of the Sonoma-Marín Area Rail Transit (SMART) system. In addition, interviews were conducted with consultants and contractors hired by SMART.

Regional and local elected officials were interviewed. Individuals representing opinions or organizations that support and oppose SMART were also interviewed. Jurors attended multiple meetings of the SMART District Board.

The Grand Jury reviewed extensive print and on-line information including budgets, business plans, environmental impact reports, and SMART documentation. Multiple transit systems in operation in the San Francisco Bay Area communities and beyond were studied for comparison to SMART. Applicable state and regional legislation was reviewed.

For more detail on the information considered by the Grand Jury, please refer to the bibliography at the end of this report.

DISCUSSION

A viable and sustainable alternative to Highway 101 is essential for the environmental health and economic vitality of both Marin and Sonoma counties. The vision and planning that has brought these two counties together to control the valuable right-of-way of the former Northern Pacific Railway is to be commended. The single-track rail line, however, must serve both passenger and freight traffic. This will place a significant burden upon SMART to manage this opportunity safely and wisely.

With increasing population and employment, the Bay Area region will need to maximize all public transit assets to succeed in developing a sustainable area-wide transportation network. Well-informed assessments and decisions will benefit residents of both counties. This discussion is designed to highlight the significant challenges facing the Sonoma-Marín Area Rail Transit (SMART) project.

Rail Right-of-Way

In 2003, at the behest of the Highway 101 Corridor Commission Study, enabling legislation was passed to transfer the property assets of the Northern Pacific Railway to a joint powers authority representing Marin and Sonoma counties. Feasibility studies, project scope, and transit projections were not yet developed.

The preservation of the valuable rail right-of-way and related real estate provided the opportunity to meet the growing transit needs of the corridor. We are indebted to the early members of the Commission and elected officials in the late 1990s who moved this transit project forward. However, as with most projects, there are hurdles to overcome.

In an attempt to preserve the community benefits of a centrally located rail line, much time and effort has been devoted to station design. SMART staff has attempted to engage city planning personnel as well as members of the community in an effort to understand and meet their needs. For example, to prevent traffic delays, trains will be limited to three cars to accommodate containment of a stopped train within the length of a city block (i.e. San Rafael station). Some stations will accommodate parking, but Railroad Square in Santa Rosa, downtown San Rafael, and Larkspur will discourage additional parking and rely upon alternative sources, such as shuttles, bicycle/pedestrian paths, and connecting transit systems.

Financial Challenges

The most publicized challenge facing SMART is the inability to obtain sufficient funding. As part of Measure Q, a Citizens Oversight Committee (COC) was formed and assigned the task of reviewing the 2009 Strategic Plan. This committee noted the funding shortfall in May of 2009. At that time, the COC suggested that alternative strategies be identified to enable SMART to proceed despite the expected decrease in sales tax revenues. The SMART Board rejected this suggestion and in June 2009 approved the Strategic Plan for full corridor planning and construction.

The reasons cited by SMART for the \$155 million shortfall include: the economic downturn, changes in the municipal bond market, and identified increases to the scope and cost of the project. The changes in scope have resulted in increased contingencies and construction expense estimates of \$49 million. Included in these increased costs are additional regulatory and environmental mandates not in place when the 2008 plan was

completed. Nevertheless, the Board has yet to direct staff or consultants to identify or evaluate alternatives to full project planning and construction.

Unfortunately, as SMART's costs were increasing, the amounts and availability of funding were decreasing. To date, that outlook has not changed. There are three major components:

- Sales Tax Revenues
- Bond funding
- Federal, State and Regional funding.

The original funding plan projected sales tax revenues of \$890.7 million over the 20-year term. The 2009 forecast reduced this number down to \$845.5 million. The revised forecast may be correct, or it may need reevaluation as the depth and duration of the economic downturn plays out.

The changes in the municipal bond market have been more dramatic. Availability has been reduced, underwriting standards are more stringent, and most forms of insurance to enhance the rating and marketability of the bond are no longer available. The 2009 Strategic Plan projects higher interest costs, no insurance, and coverage ratios increased from 1.30 to 1.50. In essence, tax revenues are used to obtain the bond funding. The increased coverage requirements mean that, instead of \$1.30 of tax revenue required to cover \$1.00 of repayment (interest and principal), more conservative standards now call for \$1.50 in tax revenue per \$1.00. This has the effect of reducing the maximum amount that can be borrowed.

The arguments put forth in support of Measure Q insisted that the one-quarter percent sales tax was sufficient to fully fund the railroad. In April of 2009, only 6 months after passage, it became apparent that this was no longer the case. Five percent less revenue, nine percent higher costs to build, and a reduction in ability to borrow have created the shortfall of an estimated \$155 million.

The 2009 plan was approved with the anticipation of obtaining funding from state, federal, and regional sources. It does not address other alternatives should such funds no longer be available. If, as the 2008 Expenditure Plan indicates, "the goal of SMART is to provide passenger rail service along the existing publicly-owned right-of-way," and if it is to happen in a timely manner, alternate strategies must be investigated now.

Expenditures for non-rail service items, such as a bicycle/pedestrian pathway, may have to be deferred, and the scale and scope of the operation may need to be reconfigured. In addition to the initial \$91 million to construct the bicycle/pedestrian pathway, the annual operating cost estimate for the path alone is \$800,000. If the primary goal is to build an efficient commuter rail, the SMART Board will have to make difficult decisions on limiting project construction to available funds. There is always the potential for another source of revenue to emerge, but a rational plan to proceed without a windfall should be of the highest priority for both the Board and staff of SMART.

A further challenge to SMART will be to cover operating costs. The 2008 Expenditure Plan estimates that fares will cover only a portion of operating costs. Projections of annual operating costs (in 2008 dollars) of \$19.3 million would, at a conservative estimate, be twice that in twenty years or \$38.6 million. The full year fare projection for 2028 is \$13.4 million or approximately 35% of total operating costs. The Measure Q quarter percent sales tax expires in 2029 and, even if all debt has been repaid, based on current ridership estimates, total revenues will not cover more than 40% of expenses. Either the tax will have to be extended, requiring another vote of the citizens, or other sources must be found. Increased ridership and higher fares may help, but these are somewhat mutually exclusive objectives and unsuccessful strategies as discovered by other Bay Area transit agencies.

The largest component of operating costs will be labor. The current concerns over ever-increasing labor costs at all levels of government are primarily driven by retirement and medical benefits. SMART has wisely elected not to provide post-retirement medical benefits but is electing to pay the current employee share of pension benefits at a rate of 7% of salary as well as the SMART contribution of 12%. With a growing staff (10 current hires and 4 new hires approved at the May 2010 Board meeting), over time this 19% contribution will amount to a significant sum and will be increasingly difficult to amend or rescind. As a recently formed entity, this generous policy does not seem reasonable or sustainable. In order to adhere to its “pay-as-you-go” policy, SMART will have to fund its post-retirement benefits as they are earned to avoid the trap of “Unfunded Liabilities.”

The Current State of Bay Area Transit

To understand the environment in which SMART will operate, the Grand Jury reviewed the Metropolitan Transportation Commission’s (MTC) 2009 Annual Report for all 28 of the Bay Area’s transit agencies. The report, entitled *Transit in Transition: Can We Achieve a Sustainable Future for Public Transit in the San Francisco Bay Area?*, cites rapidly rising operating, labor and maintenance costs, vanishing state and federal subsidies, and declining tax revenues.

Confounding the effort to deliver a sound regional system are the 28 separate transit agencies, each with its own board, staff, and operating team. Furthermore, the report shows a cumulative operating deficit over 25 years of \$8 billion and points to a troubling trend in recent years, a trend referred to as a “shortfall-in-performance.” As reported in the San Jose Mercury News, coupled with a \$17 billion shortfall in capital improvement projects, the MTC report projects that regional transit needs will fall short by *\$1 billion per year over the next 25 years*.

Transit operators have responded to this crisis by reducing service and raising fares that, in turn, translates to fewer riders and less revenue. The report goes on to say that in

2008-2009 it cost in excess of \$2 billion to run the region's bus, train, and ferry network with only \$682 million (34%) coming from the fare-box. MTC's annual report describes a long-term outlook that is not financially sustainable. It stresses that monies are not available to fund the Bay Area transit systems today or in the future: "Transit's pressing budgetary woes may be sobering, but the longer-term indicators are alarming."

Finding funds needed for transit is only part of the solution; the other part is identifying how to use that money wisely to attract new riders. Since 1997, total Bay Area transit costs have increased by 52% after inflation, while transit services (i.e. routes, hours) rose by only 16%, and ridership grew by just 7%. This is a very poor performance return on the region's transit investment, and it should be a wake-up call to agencies before committing future funds to such a low-yield strategy.

Public transit is facing a vicious cycle as the transit crisis accelerates. Bay Area operators began losing revenues due to the recession and have been stripped of \$532 million in state aid during the past three years. In March 2010, legislation was passed to suspend the state fuel tax as a source of funding for local transit. Although options may remain open for assistance from other state or federal agencies, there are no assurances that SMART will be eligible or qualify. Operating and capital costs will continue to escalate above the current \$155 million shortfall until rail operations commence in 2014.

MTC's long-term outlook suggests transit decline and instability. A more troubling fact is that the report covers a region that involves mature transit systems such as BART and Caltrain, which operate in highly populated regions that are contiguous to heavy concentrations of business and industry. The SMART line is projected to run 70 miles through relatively lightly populated regions with a lower concentration of commerce than in the East and South Bay areas. Considering the foregoing regional scenario and comparing it with SMART's projected territory, it is not clear how SMART will be viable.

Ridership

The viability of a rail commuter system is dependent upon having sufficient ridership to meet project goals and accomplish promised objectives. Most successful rail projects today enjoy robust and dense population and employment demographics, e.g. BART and Caltrain. Targeting and serving major employers, airports, sports and entertainment complexes, and promoting transit-oriented development, are examples of key strategies in attracting ridership. As of today, the SMART train ridership projections account for less than one percent of the trips between Sonoma and Marin.

The MTC model used in the 2005 Travel Demand Forecasting Report estimated that 4,756 riders are projected to use daily rail service in 2025 between Cloverdale and Larkspur. The heaviest use of the train service will be during the 3-hour morning and

evening commute periods. The following table represents the boardings, off-loadings, and peak passenger loads during the morning commute for each of the SMART stations:

2025 Total Morning Ridership During Commute Period Between Stations						
COMMUTER RAIL STATION STOP	SOUTHBOUND			NORTHBOUND		
	ON	OFF	PEAK LOAD	ON	OFF	PEAK LOAD
Cloverdale	89	0		0	0	
			89			0
Healdsburg	156	6		0	160	
			239			161
Windsor	356	49		126	30	
			546			65
Santa Rosa – Jennings Ave	259	56		33	70	
			750			102
Santa Rosa - Downtown	9	358		11	228	
			400			320
Rohnert Park	29	151		96	88	
			278			311
Cotati	66	28		115	18	
			316			215
Petaluma – Corona Road	62	5		121	5	
			373			99
Petaluma - Downtown	41	223		31	16	
			191			84
Novato - North	59	36		34	20	
			213			70
Novato - South	55	12		11	6	
			257			66
Marin County Civic Center	60	98		43	50	
			219			72
San Rafael - Downtown	0	111		21	0	
			108			51
Larkspur	0	108		51	0	

Source: SMART Travel Demand Forecasting Report, Parsons Brinckerhoff Quade & Douglas, Inc. 9/2005

The ridership model reveals that the three most heavily utilized stations will be Windsor, Santa Rosa at Jennings Avenue, and Downtown Santa Rosa. During the peak period, the ridership is heavier in the southbound direction of travel (total 1241) than in the northbound direction (total 693). The peak period load point is in the southbound direction between the Santa Rosa-Jennings Station and the Downtown Santa Rosa Station with a load of 750 riders. In the southbound direction it is estimated that there will be 356 boardings at the Windsor Station and 259 boardings at the SR-Jennings Station, and that 358 riders will disembark at the Santa Rosa Downtown Station. (Note: The Jennings Station location will be reviewed at the June board Meeting.)

These figures are estimates and hopefully they are on the low side. Nevertheless, the concentration of riders is clearly not inter-county. The projected ridership numbers

simply do not support the popular image of a significant shift from using Highway 101 for travel between Sonoma and Marin. The bulk of the current ridership estimate will utilize SMART to travel between a handful of stations between Petaluma and Windsor, a distance of 26 miles. In 2006, the model was updated to reflect total daily ridership at 5,050 passenger trips per day in the year 2025. The Final Environmental Impact Report (FEIR) reflects this revised ridership.

To appreciate the ridership numbers predicted for SMART, one should consider the travel/commute patterns of both counties. The results of the trip generation and trip distribution calculations in the FEIR were obtained for year 2025 and were based on estimated key variables including population, households, employment, income, and auto ownership as well as highway network characteristics and transit system characteristics. The system-wide flow of trips for 2025 within the SMART corridor is projected to be:

- 446,000 daily work trips originate in Sonoma County
 - 365,000 trips (82%) remain inside the county
 - 40,000 trips (9%) have a destination in Marin County
 - 12,000 trips (3%) reach San Francisco
- 246,000 daily trips originate in Marin County
 - 125,000 trips (51%), remain inside the county
 - 21,000 trips (9%) are destined to Sonoma County
 - 55,000 trips (22%) trips reach San Francisco

With projected ridership at less than 1% of current commuters, the SMART Board should make every effort to increase ridership to make the train an economic and efficient alternative. The Grand Jury has been advised that the ridership study will be updated. In addition to the number of riders, the study should take into consideration present and future improvements to Highway 101, improved vehicle mileage and emission performance, and changing economic conditions. A passenger profile should also be developed to better understand the SMART “client base.” In addition to the benefits of increased ridership, this information should be used to drive other decisions, such as rail car specifications and amenities.

Commuters and Freight Sharing a Single Track

SMART was created to establish passenger train service between Cloverdale and Larkspur. Yet, SMART must share the use of the corridor with the existing freight operation managed by the North Coast Rail Authority (NCRA). This will require an update to the Operating Agreement between SMART and NCRA. NCRA has subcontracted the operations of the freight service from Willits in Mendocino County to Lombard in Napa County to Northwestern Pacific Railroad Company (NWPCo).

It is understood that passenger rail service will have priority over freight during peak hours and that SMART will be responsible for dispatching both freight and passenger trains. However, NCRA's plans on the number of freight trains and frequency of operations are still not finalized, and the impact on the passenger train operations by SMART cannot be assessed. SMART will need to work with NCRA to establish a workable and safe operation of both a passenger train service and a freight train service on the same single-track corridor. As partners in rail service, both parties need to be realistic and practical in arriving at a clear understanding of the respective parties' responsibilities and obligations.

Public safety and reliable service are essential to the success of SMART. The task of providing safe, efficient and reliable passenger transportation on a daily basis will be severely tested by a shared, single-track design. Operating different train types on a shared single-track system creates the potential for delays and raises safety concerns. The potential for schedule delays caused by accidents, breakdowns, or derailments over a 70-mile rail line cannot be ignored.

Competing Interests

SMART supporters have spent many years in their efforts to move forward with the return of rail passenger travel as an alternative to traffic congestion on the Highway 101 corridor. Multiple groups, representing differing interests and priorities, have joined forces to ensure voter approval of the sales tax funding. The Board of SMART is beholden to the support received from these groups and is pressed to meet a wide range of expectations.

Sonoma residents have long pursued the return of rail to their county and seem to have a greater appreciation of the value of freight transit. Many of the smaller communities along the corridor are ardent supporters as they view SMART as a redevelopment or rejuvenation opportunity for their communities. Without current "mega-development" opportunities, they see SMART as an opportunity to provide convenient commuter transit to potential residents, thereby attracting housing, as well as the train's tourist value to "put their city on the map." As noted above, Sonoma county commuters are expected to comprise the bulk of the ridership.

As observed in community meetings and evidenced in local press coverage, Marin residents are attracted to excursion, weekend, and occasional travel aboard SMART. Marin residents also express more concern about the noise, inconvenience, and cost of a rail presence. Novato successfully negotiated with SMART to require "Quiet Zones" to minimize the noise associated with freight. San Rafael will be challenged to accommodate a rail presence within the footprint of the popular Whistlestop Senior Center and the existing bus transit center. The Larkspur station has been, and remains, the subject of ongoing concern due to station location, distance to the ferry terminal, and lack of parking.

Extensive consideration of vehicle amenities has been focused on what features to have in the cars, including restrooms, wine/snack bars, and bicycle storage. All of these options reduce seating and carry a cost. The recently approved Request for Proposals (RFP) wisely requested maximum flexibility in such designs should additional seating be required.

Competing interests result in continued pressure on the Board and staff. While acknowledging that bicycle enthusiasts played a critical role in the passage of the successful SMART measure, it is important that the Board maintain independence from any group or special interest that distracts from the objective of completing a commuter rail system. With trains limited to three cars designed to carry 78 seated passengers each, the ability to carry bikes during commute hours will likely be impacted. The Grand Jury encourages the SMART Board to remember that Measure Q voters were convinced that traffic congestion relief was the primary goal.

SMART supporters have consistently championed the environmental and efficiency benefits of rail transportation. It will be incumbent upon SMART decision-makers to focus on the “people mover” aspect of the train. The “ambiance” or “experience” of rail travel should be a secondary goal; a safe, efficient and reliable transit choice will attract riders and financial support and provide benefits to both counties.

Looking Forward

Project Controls

The future of the project faces serious challenges due to conditions and obstacles that have become more apparent as staff and consultants have progressed through the early engineering and financial analysis. The Grand Jury believes that decisions made in the next six months will prove to be critical to SMART’s success. By the end of 2010, important and irreversible decisions will need to be made on financing, engineering, and vehicle procurement. In view of the current economic conditions, funding shortfalls, changing regulatory environment, and the future outlook for transit funding, it is recommended that SMART initiate a program audit to assess progress.

The California Bureau of Auditors (CBA) recently performed such an audit of the California High Speed Rail Project. Findings revealed a lack of commitments of federal funds, unrealistic expectations of funding, a lack of tracking critical systems needed to access funding opportunities, and inadequate oversight of program status. Recommendations included developing alternative funding scenarios and developing long term spending plans. We believe SMART would be well served by such an independent audit, including an update on much of the 2005-2006 EIR data driving the project at this time.

The current SMART schedule of major activities reflects value engineering to be undertaken in September 2010. Value engineering is basically a cost validation exercise using an organized approach to providing the necessary functions and services at the lowest cost. This process includes the identification and elimination of unnecessary costs. Even with value engineering, the Grand Jury is very concerned that critical decisions cannot be fully vetted, researched, and debated within the time frame allowed. Updated ridership, economic, and forecasting data will also require a comprehensive evaluation by staff and the Board.

Citizens Oversight Committee (COC)

The Measure Q Expenditure Plan required the SMART Board to establish a Citizens Oversight Committee (COC) with the single objective of providing input and review of the initial Strategic Plan and subsequent updates. The Strategic Plan identifies planned investments in capital implementation, operations, and maintenance for the duration of the tax; it is to be updated at least every five years.

The committee is composed of seven citizens from within the SMART District who are appointed by the Board. Committee members are private citizens who are neither elected officials nor public employees from any agency that either oversees or benefits from the proceeds of Measure Q.

Since its establishment in April 2009, the committee has met to review and comment on the first Strategic Plan. With a projected funding shortfall identified in early 2009, the committee requested and evaluated several alternatives to completing the entire Larkspur to Cloverdale corridor. These included an analysis of what the optimum amount of new federal/state funding should be, given the impact of the recession and the difficult bond market at that time.

Reconfiguration and greater involvement by the COC would benefit SMART and the general public. The SMART Board should expand the size of the COC and include members with more business and technical expertise. A larger COC will increase public trust and tap the resources of both counties. The SMART Board should also broaden the role and responsibilities of the COC to function as a true oversight committee with responsibilities to initiate, review, and report to the general public on issues such as:

- Yearly financial audits
- Program audits
- Compliance with Measure Q requirements
- Expenditures of bond funding
- Capital expenditures

Filling Up the Train

Every Bay Area transit agency, as outlined by the Metropolitan Transportation Commission (MTC) in its 2009 annual report, has increased fares and reduced train and bus service to cover budget shortfalls. The changes have produced fewer riders and even less revenue, leading some to worry that the transit system may eventually self-destruct. According to the 2009 Annual Report:

“...dire financial scenarios confront most if not all of the Bay Area’s two dozen-plus public transit operators...Operators are reluctantly resorting to fare hikes and service cutbacks in a bid to remain viable and survive the current calamity. While this may be an unavoidable step, it is also a worrying one. A strategy of reducing service and raising prices in the face of the recent weakening demand is an almost surefire way to lose still more customers...Bay Area public transit is in crisis.”

Any efforts to building a sustainable rail transit system must recognize that population and employment are the two major components in forecasting travel demand. Based on the draft EIR in September 2005, the 2000-2025 population for Sonoma County is projected to increase approximately 30%, and Marin County is projected to grow at the nominal rate of 11%. The employment growth between 2000-2025 in Sonoma is projected to increase by 60% compared to 27% in Marin.

SMART’s construction of a 70-mile rail line through relatively lightly populated areas comes at an extremely difficult time. Marin is a low growth county and its ridership has been projected at far lower levels than that of Sonoma County. A challenge facing SMART is that the existing major transportation agencies cited below are competing for the same riders:

- Transportation Authority of Marin (TAM): local Marin bus service
- Sonoma County Transit (SCT): local Sonoma bus service
- Golden Gate Transit (GGT): inter-county commuter bus service
- California Department of Transportation (Caltrans): Highway expansion

All of these agencies will need to continue building their ridership in order to remain financially viable. For bus services, this will mean providing more convenient and efficient service. Caltrans’ continued efforts on improving Highway 101 include adding more HOV lanes, creating less congestion with faster commutes. These competing strategies, if successful, could potentially attract riders away from SMART.

Convenience and easy access to public transit is directly related to ridership. SMART will need to work on a regional basis with other transit agencies to bring about a more integrated and sustainable transit system. In order to gain the trust of riders, it will need to provide an efficient and timely transfer from the rail system to all other modes of transportation.

Most environmental and rail studies strongly support a “transit-oriented development” model, defined as a mixed-use residential or commercial area designed to maximize access to public transportation. In fact, the bulk of federal, state, and regional transportation funding requires serious consideration, if not adoption, of such development.

While Marin has traditionally resisted growth, Sonoma has grown at a more robust pace. As SMART looks to the future, increased ridership and funding opportunities are both likely to be dependent upon transit-oriented development. These differing priorities need to be reconciled if SMART expects to create a sustainable alternative to inevitable traffic congestion. The 2009 MTC annual report addresses the future sustainability of Bay Area transit. It is launching a new two-year Transit Sustainability Project for the nine-county region to seek the right mix of solutions to the current transit dilemma.

SMART will be one of many competing transportation agencies working to improve mobility and reduce congestion. The Grand Jury recognizes that it will be critical for the local agencies in Marin and Sonoma counties to coordinate their efforts. Such cooperation is the key to economic sustainability.

FINDINGS

The Grand Jury finds that:

- F1.** AB 2224 requires SMART to achieve a safe, efficient, and compatible system of passenger and freight service.
- F2.** Measure Q expanded AB 2224 requirements to include a \$91 million bicycle/pedestrian pathway connecting the 14 rail stations from Cloverdale to Larkspur.
- F3.** A decline in sales tax revenues and increased expenses result in a shortfall of \$155 million.
- F4.** After 15 months, the SMART Board has neither identified nor publicly discussed phasing or limits on project scope should adequate funding *not* be obtained.
- F5.** SMART retirement benefits are generous and could become unsustainable over time.
- F6.** Ridership estimates are outdated and, even if correct, fail to offer significant inter-county traffic congestion relief.
- F7.** The current staff and consultants appear to be experienced, capable, and aware of the serious challenges to SMART sustainability.

F8. The role of the Citizens' Oversight Committee, appointed by the Board, has no real oversight role and is limited to the development and review of the Strategic Plan and subsequent updates.

F9. The Operating and Coordinating Agreement for the shared freight/passenger service between SMART and NCRA/NWPCo has not been finalized.

F10. Considering the current demographics for the Bay Area region, and comparing it with SMART's projected territory, it is not clear how SMART will be able to be competitive with other transit options in the SMART corridor.

F11. An independent program audit would help identify shortcomings and serious challenges to SMART's long-term sustainability.

RECOMMENDATIONS

The Grand Jury recommends that:

R1. In addition to pursuing additional funding to close the funding shortfall, the SMART Board develop alternative budget reduction options.

R2. As a young agency, SMART re-examine the generous contributions to the pension benefits program and commit to fully fund all costs annually.

R3. SMART re-evaluate the train ridership projections, including a more refined ridership profile and an analysis of competing and partner transit agencies.

R4. SMART adopt a vigorous marketing plan to maximize ridership.

R5. SMART initiate an audit to assess the overall program in view of the current economic conditions, changing regulatory environment, and the future outlook for transit funding.

R6. The Board increase the number of members of the Citizens Oversight Committee and include members with more business and technical expertise.

R7. The Board broaden the role and duties of the Citizens Oversight Committee to function as a true oversight committee with responsibilities to initiate, review and report to the general public.

R8. In light of the \$155 million shortfall, the Board defer plans for the \$91 million bicycle/pedestrian pathway until additional funding can be secured.

REQUEST FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests responses from the following governing body:

- Sonoma-Marín Area Regional Transit Board of Directors: **All Findings and Recommendations.**

The governing body indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code Section 933 (c) and subject to the notice, agenda and open meeting requirements of the Ralph M. Brown Act.

California Penal Code Section 933 (c) states that "...the governing body of the public agency shall comment to the presiding judge on the findings and recommendations pertaining to matters under the control of the governing body." Further, the Ralph M. Brown Act requires that any action of a public entity governing board occur only at a noticed and agendized public meeting.

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Golden Gate Transportation District: www.goldengate.org

Marin Conservation League: www.marinconservationleague.org

Marin County Bicycle Coalition: www.marinbike.org

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Sonoma-Marín Area Rail Transit: www.sonomamarintrain.org

Transportation Authority of Marin: www.tam.ca.gov

<p>Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.</p>
