



COUNCIL AGENDA: 11-01-05

ITEM: 6.5

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Ken Yeager

**SUBJECT:** APPROVAL OF CEMOF  
MONITORING COMMITTEE  
BYLAWS AMENDMENT

**DATE:** 10-26-05

Approved

Date

10-26-05

Council District: 6

SNI Area: N/A

## RECOMMENDATION

Approval of the proposed amendment to the Caltrain Central Equipment Maintenance and Operations Facility (CEMOF) Monitoring Committee Bylaws to allow the Committee to alter its meeting date as needed.

## BACKGROUND

The CEMOF Monitoring Committee bylaws govern the committee's proceedings as intended by the Cooperative Agreement between the City of San Jose and the Peninsula Corridor Joint Powers Board (JPB) dated September 19, 2000. At the July 28, 2004 CEMOF Monitoring Committee meeting, the members approved amending their bylaws to allow them flexibility in selecting a meeting date. Both the City of San Jose and the JPB are required to approve changes to the bylaws. The JPB approved the bylaw changes at their November 4, 2004 meeting.

The oversight committee was developed as a result of the Neighborhood Task Force formed by the City of San Jose. The purpose of the task force and the succeeding CEMOF Monitoring Committee is to address design and noise issues stemming from construction and operation of the Lenzen Avenue facility.

On March 7, 2002, the JPB approved the CEMOF Monitoring Committee Bylaws. The Monitoring Committee consists of members from the San Jose City Council, Caltrain, the Valley Transportation Authority and four neighborhood associations. The committee provides ongoing communication with the community regarding the design, implementation and operation of the facility and is the successor to the previous Neighborhood Task Force.

HONORABLE MAYOR AND CITY COUNCIL

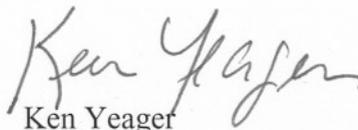
11-01-05

**Subject: Approval of CEMOF Monitoring Committee Bylaws Amendment**

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**ANALYSIS**

The approval of the Bylaws amendment will allow the committee more flexibility in determining their meeting dates. The committee will continue to meet four times each calendar year but will not be restricted to the "fourth Wednesday of the second month of each calendar quarter, unless that day conflicts with a holiday observed by the City of San Jose or by the JPB." Members of the community are given notice of Monitoring Committee meetings two weeks in advance of the meeting date.



Ken Yeager

Councilmember, District 6

Vice Chair, Peninsula Corridor Joint Powers Board

City of San Jose Member, CEMOF Monitoring Committee

Attachment

**CALTRAIN CENTRAL EQUIPMENT MAINTENANCE AND OPERATIONS FACILITY  
(CEMOF)  
MONITORING COMMITTEE  
BYLAWS**

**ARTICLE I  
PARLIAMENTARY AUTHORITY**

§1.1 These Bylaws govern the proceedings of the Caltrain Central Equipment Maintenance and Operations Facility Monitoring Committee (hereinafter referred to as "Committee"), an advisory Committee established by the City Council of the City of San Jose (hereinafter referred to as "City"), in cooperation with the Peninsula Corridor Joint Powers Board (hereinafter referred to as "JPB") and set forth in their Cooperative Agreement dated September 19, 2000.

§1.2 Robert's Rules of Order will guide procedures in all Committee meetings.

§1.3 The provisions of the Ralph M. Brown Act, Government Code Section 54950, et. seq. ("Brown Act"), shall be applicable to all Committee meetings and actions.

**ARTICLE II  
DUTIES AND AUTHORITY**

§2.1 RESPONSIBILITY AND DUTIES OF COMMITTEE MEMBERS

The primary responsibility of the Committee members is to provide ongoing communication with the community regarding the design, implementation and operation of the maintenance facility.

The duties of this Committee shall be:

1. Monitor maintenance facility design, construction and operations.
2. Receive and review issues of concern identified by nearby impacted residents, the City of San Jose, the Santa Clara Valley Transportation Authority (hereinafter referred to as "VTA"), or the Peninsula Corridor Joint Powers Board.
3. Work with staff of the appropriate agency to identify and implement solutions for minor issues that can be addressed at staff level of authority.
4. Provide Quarterly reports to the residents, JPB, City Council and the VTA Board of Directors regarding problems or issues as well as the implementation of any solutions or recommendations to address issues raised.
5. Identify issues that are significant enough to require the cooperation and support of one or more of the following agencies: JPB, City, VTA and;
6. Facilitate the necessary discussion by the concerned agency or agencies and seek to effectively address the identified issue of concern to the nearby residents, the City, the JPB or VTA.

In general, the Committee will serve as the initial and central body for monitoring maintenance facility design, construction and operations to ensure that the provisions of the Cooperative Agreement are implemented. The Committee will report to the legislative bodies of the JPB, City Council and the VTA (at least quarterly) regarding maintenance facility construction and operations. The report will include a listing or summary of the number and substance of all concerns or issues received from nearby residents, the City, the JPB or VTA. The report will also contain any actions the staff of the appropriate agency will take to address the identified concerns.

For those administrative or policy concerns that are significant enough to require the cooperation and support of one or more of the agencies (JPB, City, or VTA) above the staff level, the Committee will be responsible for facilitating the appropriate discussion at the JPB, or among the JPB members, the City Council and/or the VTA Board of Directors to identify solution(s) along with the necessary resources to address the identified concerns.

Once solution(s) and resources have been identified the Committee will be responsible for monitoring the implementation of the remedy and reporting to the respective agencies and the community.

#### §2.2 LIMITATIONS

The Committee serves in an advisory capacity to the City, JPB and VTA. It shall have no independent duties and no authority to take actions that bind the City, JPB or VTA or capacity to act as a representative of the City, JPB or VTA. The Committee shall make no expenditures or requisitions for services and supplies and no individual member thereof shall be entitled to reimbursement for expenses except as authorized by the City, JPB or VTA.

#### §2.3 DUTIES OF THE CITY COUNCIL AND JPB

The City Council and JPB will approve the Bylaws and all amendments to Bylaws.

### **ARTICLE III MEMBERSHIP**

#### §3.1 MEMBERSHIP

The Committee shall be composed of one member of the San Jose City Council as appointed by the Council, one member of the JPB as appointed by the JPB, one member of the VTA Board of Directors as appointed by the VTA Board of Directors, and one member representing each of the Shasta/Hanchett Park, Garden Alameda, College Park and Arena neighborhoods. Neighborhood members shall be appointed by their respective neighborhood associations. All neighborhood members shall live within the respective boundaries of the Shasta/Hanchett Park, Garden Alameda, College Park and Arena Neighborhood Association during their terms on the Committee.

If a neighborhood association declines to appoint a member to the Committee, the existing Committee members may appoint a neighborhood member from anywhere within the boundaries of the four neighborhoods to fill that position. If during the term of that jointly appointed member's position the original declining neighborhood association proposes appointment of a member from within their boundaries, the new member will replace the jointly appointed member for the remainder of the term. The maximum number of neighborhood members on the Committee at any given time shall be four.

**§3.2 MEMBERS' TERMS**

The term of membership of each Committee member shall be as follows:

1. Of the initial 4 Neighborhood members, 2 will have one-year terms and 2 will have two-year terms. Of the initial City, JPB, and VTA members, 1 will have a one-year term and 2 will have two-year terms. The length of each member's initial term will be determined by the Chairperson.
2. All initial terms will commence on the first Committee meeting of the first calendar quarter of any year and end on the first or second successive March 30<sup>th</sup> depending on length of term.
3. All subsequent appointments will be for a two-year term, commencing on the first Committee meeting in the first quarter of the year and ending on the second successive March 30<sup>th</sup>.
4. Members may serve up to three consecutive terms.
5. Members may serve unlimited non-consecutive terms.

**§3.3 VACANCIES**

A vacancy in a member's position shall be filled for the remainder of the vacating member's term in accordance with Article III, Sec. 3.1.

**§3.4 ABSENCES**

An absence occurs if a member is not present at a regular or special meeting. If a member is absent from four Committee meetings in a twelve-month period from the date of the member's appointment, or any subsequent single year, the member's position shall automatically be vacated. That member shall receive a letter of dismissal from the Chairperson, and a successor shall be appointed to fill the remainder of the member's term in accordance with Section 3.1.

**§3.5 CHAIR PRO TEMPORE**

In the event that both the Chairperson and the Vice-Chairperson are absent from a regularly scheduled meeting or a special meeting, the Committee by a majority vote, shall elect a temporary Chairperson to preside over the meeting.

**ARTICLE IV  
OFFICERS**

**§4.1 CHAIRPERSON AND VICE-CHAIRPERSON**

The Committee shall elect from its membership a Chairperson and a Vice-Chairperson at its first meeting of the calendar year, to serve for a one-year term. The Chairperson shall preside at all meetings of the Committee and when required, in adherence with these Bylaws, represent the Committee. In the event of a vacancy in the Chairperson's position, the Vice-Chairperson shall succeed as Chairperson for the balance of the Chairperson's term and the Committee shall elect a successor to fill the vacancy in the Vice-Chairperson's position.

**§4.2 AUTHORITY OF THE CHAIRPERSON**

The Chairperson shall have the authority to cancel regular scheduled meetings and call or cancel special meetings upon consent of the City and the JPB committee members; sign all written correspondence approved by the Committee, including the minutes of Committee meetings.

§4.3 OFFICE OF THE VICE-CHAIRPERSON

Should a vacancy occur in the office of the Chairperson the Vice-Chairperson shall assume the duties of the Chairperson for the remainder of the Chairperson's term. In the event of a vacancy in the Vice-Chairperson's position, the Committee shall elect a successor from its membership to fill the Vice-Chairperson's position for the remainder of the Vice-Chairperson's term. The Vice-Chairperson shall assume the responsibilities of the Chairperson in the absence of the Chairperson at a regular scheduled or special meeting.

**ARTICLE V  
SECRETARY**

§5.0 APPOINTMENT OF SECRETARY

A member of City or JPB staff shall be appointed by the Committee as the Secretary.

§5.1 DUTIES AND RESPONSIBILITIES

The Secretary shall have the following duties and responsibilities:

1. The Secretary shall attend all regular scheduled and special meetings of the Committee and keep a record of all business that transpires at such meetings.
2. The Secretary shall attest all written correspondence and all minutes of all Committee meetings, which have been approved by the Committee and shall have custody of same for a period of 3 years.
3. The Secretary shall keep and have custody of all books, records, and paper of the Committee for a period of 3 years, and certify true copies thereof whenever necessary.
4. Any duly appointed representative of the City or JPB may perform the responsibilities of the Secretary.

**ARTICLE V I  
MEETINGS**

§6.1 REGULAR MEETINGS

~~The Committee shall schedule regular meetings at least four times each calendar year.~~

§6.2 SPECIAL MEETINGS

The Chairperson, with the consent of the City Council and JPB committee members, may call a special meeting. The meeting shall be called and noticed as provided in Section 6.3 below.

§6.3 NOTICING OF MEETINGS

All Committee meetings shall be called and noticed in accordance with the applicable provisions of the "Brown Act".

**Deleted:** The Committee shall schedule regular meetings at least four times each calendar year. Regular meetings will take place on the fourth Wednesday of the second month of each calendar quarter. Whenever a regular meeting falls on a holiday observed by the City or JPB, the meeting shall be held on another day or canceled at the direction of the Chairperson with the consent of the City and JPB committee members. A rescheduled regular meeting shall be designated a regular meeting.[]

§6.4 QUORUM; VOTE; COMMITTEE OF THE WHOLE

A quorum consists of a simple majority of the number of existing voting members. All official acts of the Committee shall require a quorum and the affirmative vote of a simple majority of the attending members. At any regular meeting at which there is a lack of quorum, the members present may constitute themselves a "Committee of the whole" for the purpose of discussing matters on the agenda, but they may not take official action. The "Committee of the whole" shall cease to exist when a quorum becomes present at the meeting.

§6.5 ACTION ITEMS NOT LISTED ON THE AGENDA

Except as provided below, and in accordance with the Brown Act, a matter requiring Committee vote shall be listed on the posted agenda before the Committee may take action upon it. The Committee may only take action on items not appearing on the posted agenda under either of the following conditions:

1. Upon a determination by a majority vote of the Committee that an emergency exists.
2. Upon a determination by a two-thirds vote of the Committee, or if less than two-thirds of the members are present, a unanimous vote of those members present, there is a need to take immediate action on an item that came to the attention of the Committee after the agenda was posted.

The Committee may direct staff to place an item of business for discussion and/or action on a subsequent agenda.

§6.6 MOTIONS

No debate of a motion shall be permitted prior to a second of the motion. When a motion is made and seconded, the Chairperson shall state the motion before opening the floor to debate, and such debate shall be limited to members of the Committee, provided the public was given an opportunity to present testimony on the agenda item pursuant to the Brown Act. Members can speak in debate of a motion only upon being recognized by the Chairperson. After the motion has entered the voting process, there shall be no further debate except that members may be allowed to explain their vote.

§6.7 VOTING

Every member of the Committee who is present at a meeting when a motion comes up for a vote shall vote for or against the motion unless he/she is disqualified from voting and abstains from voting because of such disqualification.

§6.8 TIME LIMITS FOR SPEAKERS

The Chairperson shall open the floor to public discussion during the Committee's consideration of an agenda item, or during the Open Petitions, if the discussion is within the purview of the Committee and provided that the public has an opportunity to testify prior to the final decision on an agenda item. Each member of the public appearing at a Committee meeting shall be limited to three minutes in his or her presentation, unless the Chairperson, at his or her discretion, permits additional time. Any person addressing the Committee may submit written statements, petitions, or other documents to complement his or her presentation.

§6.9 PETITIONS AND COMMUNICATIONS

All written petitions and communications on the agenda of a meeting shall be filed with the Secretary at such meeting.

§6.10 DOCUMENTS PRESENTED TO THE COMMITTEE

All documents and reference materials presented to the Committee at any meeting by any person shall be filed by the Secretary at such meeting. At the direction of the Chairperson, true copies may be filed in lieu of the originals thereof.

§6.11 IMPERTINENCE; DISTURBANCE OF MEETING

Any person making personal, impertinent or indecorous remarks while addressing the Committee may be barred by the Chairperson from further appearance before the Committee at that meeting, unless permission to continue is granted by an affirmative vote of the Committee. The Chairperson may order any person removed from the Committee meeting who causes a disturbance or interferes with the conduct of the meeting. The Chairperson may direct the meeting room cleared when deemed necessary to maintain order.

§6.12 ACCESS TO PUBLIC RECORDS DISTRIBUTED AT MEETINGS

Writings which are public records and which are distributed during a Committee meeting shall be made available for public inspection at the meeting or immediately following the meeting.

§6.13 MEETING OPEN TO THE PUBLIC

All meetings of the Committee shall be open and public. All persons shall be permitted to attend any Committee meeting except as may be otherwise prohibited by the laws of the Brown Act.

§6.14 ORDER OF BUSINESS

At the regular meetings of the Committee, the following shall be the order of business:

1. Call to Order
2. Roll Call
3. Approval of Order of Business
4. Approval of Minutes
5. Oral Petitions
6. Staff Report
7. Chairperson's Report
8. Committee Report
9. Old Business
10. New Business
11. Adjournment

The Chair may at any time alter the above order of business at any meeting to the extent necessary to comply with the provisions of Article VI, relating to public meetings.

**ARTICLE VII  
AGENDAS AND MEETING NOTICES**

§7.1 AGENDA FORMAT

The agenda shall specify the starting time and location of the meeting and shall briefly describe the subject matter of each item of business to be transacted or discussed at the meeting.

**§7.2 PUBLIC PRESENTATIONS**

Each agenda for a regular meeting shall provide an opportunity for members of the public to address the Committee under the agenda item heading "Oral Petitions". At special Committee meetings, members of the public may address the Committee concerning any item that has been described in the notice and agenda for the meeting during consideration of that item.

**§7.3 AGENDA PREPARATION**

Designated staff will prepare the agenda and supporting documents for each meeting in consultation with the Chairperson. Material intended for placement on the agenda shall be delivered to staff on or before 5:00 p.m. on the 10<sup>th</sup> calendar day immediately preceding the regular meeting at which the matters on such agenda shall be considered by the Committee. Staff may withhold placement on the agenda of any matter, which is not timely received, lacks sufficient information, or is in need of staff review and report, or approval of the City or JPB prior to Committee consideration.

**§7.4 AGENDA POSTING AND DELIVERY**

The written agenda for each regular meeting and each meeting rescheduled for more than five calendar days shall be posted by the Secretary at least 72 hours prior to the scheduled meeting time. The Secretary shall post the written agenda for each special meeting at least 24 hours prior to the scheduled meeting time. The agenda shall be posted on the outdoor bulletin board at City Hall. The agenda together with supporting documents shall be delivered to each member at least 72 hours prior to the date set for each regular meeting, and 24 hours before special meetings.

**§7.5 MEETING NOTICES**

The Secretary shall mail, using the United States Postal Service or electronic means, notices of every regular meeting at least three days before the scheduled meeting to each person that has filed with staff a written request for notification. Notices for special meetings will be given, as staff deems practical, to each person who has filed with staff a written request for notification.

**ARTICLE VIII**

**MISCELLANEOUS**

**§8.1 ADOPTION AND AMENDMENT OF BYLAWS**

The City Council and JPB shall adopt these Bylaws. The Bylaws may be amended by the affirmative vote of four members of the Committee and approval by both the City Council and JPB.