

THE GILROY DISPATCH

Property owners brace for fight with High-Speed Rail Authority

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State authorities won't start buying up land for the High-Speed Rail route through South County until 2012 - a process which may require eminent domain and property condemnation claims - but local residents, uncertain about how the train will affect their homes and farms, are brushing up on their property rights.

About 150 people attended a community meeting in San Martin Tuesday to learn the potential impacts of the California High-Speed Rail project that will send 220-mph passenger trains through Gilroy, San Martin and Morgan Hill starting in 2020.



The grassroots meeting, called and organized by South County residents, featured presentations by consultants working for the High-Speed Rail Authority, a volunteer group whose focus has been to organize community involvement in planning the train route, and an eminent domain attorney.

When the HSRA decides on one of four potential bullet train alignments through South County and approves the 800-mile project, it will determine whose property will be needed to accommodate the train and begin the acquisition process by sending letters to the owners, according to HSRA consultants and Bradley Matteoni, an eminent domain lawyer from San Jose.

The state's HSR system, scheduled to be operational by 2020, is slated to have routes from San Diego to Sacramento. In some plans, the HSRA proposes to place a train station in Gilroy with possible routes that would either parallel U.S. 101 east of Morgan Hill and Gilroy or follow the Union Pacific tracks through both cities' downtown corridors.

The state has to pay the fair market value for any land it takes through condemnation along the train route, and is required to reimburse home owners and business owners for moving costs and even replacement homes, Matteoni said.

The state might make an offer for less than the fair market value, but Matteoni said owners do not have to accept such offers, and can instead force the state to go through the courts to condemn the properties - a potentially long and stressful process but one that can ensure fair compensation for the loss of property.

"There's going to be a difference of opinion," Matteoni said. "It's painful, but you need to fight back if you feel you're not being fully compensated for your land."

Even if properties dropped in value as soon as the HSRA drew lines indicating possible alignments on top of them, the agency has to reimburse owners what it was worth before those maps were compiled, Matteoni said.

In a murkier legal area, but still with recourse to claim reimbursement, are property owners whose land is close enough to the train route to be impacted by noise pollution, a loss of value, and other effects of the project - even though the land is not on the route and would not be condemned.

If such property owners think their homes become "unlivable" as a result of these impacts they would have to

file a claim against the state in court, and full compensation is not as certain as it is under eminent domain, Matteoni said.

Scores of South County property owners have already received letters from the HSRA asking for permission to access their land - but only for purposes of environmental, engineering and archeological studies to determine viable bullet train alignments.

Such letters, received by 576 property owners in Santa Clara County since March, do not portend property condemnation, HSRA press secretary Rachel Wall said. HSRA officials could not determine how many of those owners are in South County by press time.

The letters provide a form that property owners can sign and return to the agency if permission is granted, but the letters say that owners do not have to allow authorities onto their land.

HSRA board member Rod Diridon, who attended the meeting Tuesday, said eminent domain is not the same thing as "taking" someone's property. He described it as a "procedure for negotiating a purchase."

Rural Gilroy resident Yvonne Sheets-Saucedo organized Tuesday's meeting despite "push-back" from the HSRA, she said. The state has said it cannot sponsor its own community engagement meetings until funds are budgeted for them, which has not happened yet.

After a number of phone calls between the HSRA and Sheets-Saucedo, the agency agreed to send its consultants to Tuesday's meeting to give a presentation of the project alternatives and answer questions from the audience.

The meeting was organized due to growing interest and concern among local residents wondering how the train's loud noise, 30-foot-high track, ground vibrations, costs, and other factors will affect them.

Sheets-Saucedo hopes to keep other residents informed, urge more community involvement, and push the HSRA to adopt "context sensitive solutions" that give primary consideration to the interests of the community in the planning of the bullet train.

The HSRA is currently in the environmental review process for the passenger train system. Construction is expected to begin in 2013.

Diridon noted he was pleased with the large crowd and "outstanding" display of community interest at Tuesday's meeting.

"This is the most complicated construction project in U.S. history and we've got to do it right," he said.

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