

LAWEEKLY

Beverly Hills Versus the Westside Subway

Patrick Range McDonald July 14, 2011

On an overcast morning, Susan Bursk, president of the Century City Chamber of Commerce, is running a meticulously staged press conference at the corner of Constellation Boulevard and Avenue of the Stars, across from the Century Plaza Hotel. She has enlisted a gaggle of middle-aged supporters who cheer and wave placards for the TV cameras while Century City boosters urge **spending tens of millions of dollars on a Westside Subway stop on sleepy Constellation Boulevard, instead of at a long-discussed site on bustling Santa Monica Boulevard about two blocks away.**

Bursk, politically savvy if reserved, declares that a station "in the heart of Century City" — a marketing phrase she coined to promote building the subway stop at Constellation Boulevard — will beef up ridership on Mayor Antonio Villaraigosa's long-vaunted Subway to the Sea.

Los Angeles leaders recently dropped the Subway to the Sea name in favor of the official Metro name, the "Westside Subway" extension, because the line has no serious prospects of reaching the ocean. **Though a point of civic pride, the subway — also known as the Purple Line — is expected by 2035 to create a virtually unnoticeable reduction in car traffic of less than 1 percent. Metro conceded in a draft Environmental Impact Report that the Westside Subway won't cut congestion even slightly in the city or the region.**

Century City boosters claim that a subway station placed at the "center of the center" is inarguably superior to a station on Santa Monica Boulevard. But Metro's own preliminary data show that a few hundred more people each day will use the subway if it stops on the big artery, Santa Monica, rather than 1,000 feet south on three-block-long Constellation Boulevard.

Yet a debate over whether Santa Monica or Constellation should get the stop is fueling the fiercest — and potentially one of the costliest — transportation wars to hit the Westside since Beverly Hills stopped a freeway 40 years ago that would have come to Century City's doorstep.

Bursk and the boosters claim that Century City office workers will eagerly use the subway if the station is moved two blocks south. **Such a route would take the**

subway to the foot of a 37-story "Century City Center" skyscraper expected to be built by JMB, a City Hall-connected developer that has showered Villaraigosa with campaign funds.

But creating that southern turn onto Constellation means tunneling a subway line directly beneath the historic Beverly Hills High School campus.

"We were caught off-guard," says Lisa Korbatov, board president of Beverly Hills Unified School District. "We were blindsided."

Plainspoken and direct, Korbatov is furious about the potential fate facing Beverly Hills High, where the district has extensive plans for underground construction on district land — land that would be gobbled up by a Metro tunnel if the subway is routed onto Constellation Boulevard.

"[Metro] will gut this campus," Korbatov says. "It is so detrimental to our ability to build not just now, but for a hundred years."

Century City News publisher Mike Carlin might be describing a crime syndicate when he declares of Beverly Hills Unified: "Every time these guys do something, they deal from the bottom of the deck." He slams the district's website, centurycitysubway.org, as looking "like it's the official website for Century City, and that's the farthest thing from the truth. They're slimy."

In the savage political battle of the 1960s, the "Beverly Hills Freeway" was backed by California's top politicians. A massive east-west 10-lane edifice running roughly parallel to Santa Monica Boulevard and Melrose Avenue, the freeway would have wiped out and slashed through big sections of Hollywood, Hancock Park, West Hollywood, Beverly Hills and Westwood. It would have served a futuristic "Century" city of skyscrapers on a vast backlot previously owned by 20th Century Fox.

The skyscrapers were built, but the freeway wasn't. It was stopped by a mighty midget, the residents of Beverly Hills.

This time, Beverly Hills isn't opposing the subway. The civic leaders love it. But every Beverly Hills elected official, from the City Council to the Beverly Hills Unified School District Board of Education, strongly opposes tunneling below the high school campus to move the route two blocks south. And they are pouring significant resources into fighting the much richer, bigger land barons of Century City.

"Who's behind it?" Beverly Hills Mayor Barry Brucker asks of the Constellation Boulevard subway stop proposal. "Three initials: JMB."

Patrick Meara, a senior vice president at JMB Realty, when asked if JMB has held private talks with Villaraigosa, avers, "This whole process has been very public." He insists JMB won't unduly profit from the enhanced land value created by the Constellation station: "No different than what anyone else would get."

In 2008, Beverly Hills voters approved a \$334 million bond measure to help the school district modernize and renovate Beverly Hills High School, circa 1927, which was deemed a National Blue Ribbon School of Excellence by the U.S. Department of Education in 2004 and serves 2,200 students.

Beverly Hills Unified plans to construct new buildings and a subterranean parking lot at the exact location where Metro would put its tunnel if Metro's board of directors chooses Constellation for the subway stop later this year. The parking lot probably would be impossible to construct and, Korbatov argues, government regulations could prohibit or jack up construction costs by millions of dollars if the school district wants to build on the school land topping the tunnel.

Beverly Hills leaders now are wary and suspicious of Metro's motives, and with good reason: During years of talks between Metro staffers and Beverly Hills community leaders, an old "option" gathering dust that would place the station on Constellation never came up. Beverly Hills officials heard unverifiable rumors about the scheme last year, and soon after that Metro staffers and politicians on its board began acting as if they were sold on the high school tunnel route.

The key cheerleader for all this is Mayor Villaraigosa, chairman of Metro's board of directors. Villaraigosa has taken at least \$296,000 for his pet political projects and election campaigns from JMB Realty and Westfield Corporation, two large developers whose Century City property values would be enhanced by having a subway at their doors. At a recent Century City "power breakfast," Villaraigosa publicly backed the Constellation station, telling the crowd that a subway stop "needs to be right here in the heart of Century City."

Villaraigosa's push for the Constellation station could jeopardize two key promises he made to Los Angeles County taxpayers and to federal politicians during trips to Washington, D.C., to lobby President Obama and Congress for a hefty federal loan for the Westside Subway: He promised an unusually speedy and cost-efficient completion of the \$5.3 billion underground Purple Line. Those two promises have been a mainstay of Villaraigosa's position. If things go wrong, the Westside Subway project could skyrocket in cost, consuming \$1 of every \$5 from a special half-cent transportation sales tax collected from millions of residents across L.A. County. If mired in traditional delays brought on by lawsuits, tunneling troubles and missed funding opportunities, the Westside Subway extension's cost is pegged by some analysts at \$6 billion to \$9 billion.

The price tag quoted by Metro has already quietly jumped from \$4.8 billion to \$5.3 billion before a shovel of earth has been turned.

Observers suggest Villaraigosa is rolling the dice on behalf of his good friends at JMB, the company co-founders Judd Malkin and Neil Bluhm, and praying that scrappy Beverly Hills Unified doesn't play hardball.

"You can never stop a government public works project entirely," advises developer Jerry Schneiderman, who fought Metro after its subway tunneling led to the collapse of Hollywood Boulevard in the 1990s. But, he says, "You can starve it."

Encircled by aging and dense L.A., Beverly Hills leaders protect their territory like a Doberman pinscher against an old but wily grizzly bear. "The school district is an absolute source of pride," says Beverly Hills City Councilman John Mirisch. "It's a very important component to us."

If Beverly Hills shows the tenacity it did 40 years ago, it could create real trouble for Villaraigosa's jump-start of the Westside Subway. In 2010, Villaraigosa made numerous trips to Washington, D.C., seeking creation of a "national infrastructure bank" that would loan Metro early funds for the Purple Line and other projects. Although Villaraigosa's idea was applauded in Washington, it went nowhere. Last week, House Committee on Transportation and Infrastructure chairman John Mica (R-Fla.) opposed a national infrastructure bank, probably its death blow. There is still hope for fast-tracking the Westside Subway so that it can reach Westwood by Metro's most optimistic projection of 2022. The feds recently awarded Metro \$546 million to help speed up by two years the construction of the Crenshaw Light Rail line through South Los Angeles, indicating that Washington admires Villaraigosa's fast-tracking idea. In addition, Mica has proposed a \$1 billion annual boost in federal transportation funds for major projects nationwide. Some transportation experts are fascinated to see Los Angeles pick this late-in-the-game fight with Beverly Hills Unified School District just when Washington is being asked to decide whether, and how much, to help out the Westside Subway. Despite Mica's \$1 billion proposal, the Republican majority in the House is looking for a reason to reject transportation funding, angry over the deficit and President Obama's push for costly high-speed rail.

"You have a House of Representatives that's all ears" regarding controversies it can cite to sink a transportation project, says Wendell Cox, an international mass transit expert who served on the former L.A. County Transportation Commission, now known as Metro. The House is "far from friendly toward this kind of project." Beverly Hills could play directly to that political reality and upset L.A.'s game plan as it did decades ago.

In the early 1960s, the Aluminum Company of America and developer William Zeckendorf decided to build a "city within a city" named after 20th Century Fox, designed by renowned architect Welton Becket and served by a brand-new freeway that would slash across L.A.'s most livable neighborhoods. During the 1960s and '70s, several "freeway revolts" erupted in which Californians stopped Caltrans from erecting wildly inappropriate freeways that were never built (the "Reseda Freeway" would have cut straight through the pristine Santa Monica Mountains to the ocean). In one noteworthy "freeway revolt," Beverly Hills killed the Beverly Hills Freeway.

Century City developers seem to have the upper hand in the new clash.

That advantage largely comes down to the longtime relationship between Malkin and Bluhm, co-founders of JMB Realty — a super-rich, politically connected, Chicago-based real estate firm — and Villaraigosa, chairman of the powerful Metro board that will pick the subway route.

JMB Realty owns the SunAmerica skyscraper at Constellation Boulevard and Avenue of the Stars, and plans to build the 37-story Century City Center on open land at that intersection. The subway station at Constellation would run almost to the lobbies of those two highrises. Another JMB skyscraper, formerly called the MGM Tower, is a half-block away.

JMB's alliance with Villaraigosa dates to 2006, when the *Weekly* reported that the mayor received \$100,000 from the firm to spend on his Committee for Government Excellence and Accountability. At the time, Villaraigosa's committee was lobbying the California Legislature for a new law giving him veto power over the hiring and firing of the L.A. Unified School District superintendent. Villaraigosa's bold and bitterly fought education reform was found unlawful by a judge.

Two years later, Judd Malkin and Neil Bluhm sponsored a June 3, 2008, fundraiser with Chicago Mayor Richard Daley to help finance Villaraigosa's mayoral re-election campaign. JMB's event for Villaraigosa in Chicago raked in nearly \$96,000, with Malkin's and Bluhm's employees, family members and associates contributing heavily.

Nobody knows how the proposal came about to spend an extra \$60 million so that Century City could have a subway stop at Constellation Boulevard. But the estimated extra cost is significant, given that numerous less-powerful cities are being told by Metro that there is no way to pay for many of their own \$10 million to \$50 million projects from the half-cent sales tax approved by voters. The city of Hawthorne, for example, wanted \$52 million for a badly needed auxiliary lane on the 405.

On Oct. 15, 2009, three months after Villaraigosa took office for a second four-year term, Century City's heavy hitters asked for a private meeting with Metro staffers Jody Litvak and David Mieger, to discuss their desire for a subway stop on Constellation Boulevard. Litvak is the Westside Subway community relations manager and Mieger is the planning project director.

Century City chamber president Susan Bursk, a former deputy for ex-L.A. City Councilman Jack Weiss, had met with Litvak four months earlier. Now, Bursk brought along executives from JMB Realty, Next Century Associates, Westfield Corporation and other major Century City land holders. Two aides for L.A. City Councilman Paul Koretz, whose district includes Century City, also were present. No records were kept of what was said. Although government staff were present, Metro spokesman Rick Jager says no audio or video tapes exist of the meeting — and strangely, neither do written notes, which are usual for such meetings. One bit of information was preserved, however: a brief notation in the Metro log maintained for all Metro meetings. It states that Bursk and her associates "generally favored [a] Constellation station."

Litvak insists to the *Weekly* that the idea for a Constellation station was generated at public hearings, and was being studied by Metro months before the unrecorded meeting.

Fifteen days after the private sit-down, Villaraigosa publicly unveiled his "30/10" plan to convince the Obama administration and Congress to loan Metro billions of dollars so L.A. could jump-start the Subway to the Sea and other rail projects, finishing in 10 years instead of 30. (No longer the Subway to the Sea, the Westside Subway extension stops miles short of Santa Monica Beach at Westwood and thus would take 23 years, not 30, to build without upfront federal loans.)

After that, the civic cheerleading was in full force.

"If Mayor Antonio Villaraigosa has his way," an Oct. 30, 2009, *Los Angeles Times* article gushed, "Los Angeles County will soon embark on a commuter rail-building boom the likes of which the region has never seen."

Beverly Hills leaders were never informed that the Constellation option to tunnel under the high school campus was under study in early 2009 — yet they met with Metro staff on 10 or more occasions starting in 2007. Still in the dark in August 2009, the Beverly Hills City Council approved recommendations from its mass-transit committee to support a subway line through Beverly Hills that ran beneath Wilshire Boulevard, then switched to Santa Monica Boulevard to run beside Century City.

"A route underneath the high school was never mentioned," says Beverly Hills Mass Transit Committee member Ken Goldman, who's also president of the Southwest Beverly Hills Homeowners Association.

Councilman John Mirisch says Metro leaders "baited the entire community to support the subway by getting them involved, and then switched [the subway route] when political forces got involved."

Sarah Shaw, a general manager at JMB, again met privately with Jody Litvak in March 2010, and a month later Beverly Hills leaders began to hear rumors that Metro was considering a different route.

Brief notes in a Metro log show that Shaw and Litvak discussed "Century City station & alignments." The log says Villaraigosa's ability to nail down a federal loan for his "30/10" concept could help skyscraper owners JMB build their 37-story tower. "Given the economy," wrote Litvak, JMB's leaders "don't know when they would start. If 30/10 happens, construction lay down is a possibility."

At the time, Villaraigosa had grown somewhat obsessed with obtaining the federal loan to build the subway in 10 years. On April 20, 2010, as President Obama was preparing to leave Los Angeles after a visit to Southern California, Villaraigosa rushed to meet him on the tarmac at LAX. He later told news crews covering the president's trip that he hadn't gotten a promise for 30/10 funds — but Obama had appraised Villaraigosa as someone who is "indefatigable and won't take no for an answer."

In September 2010, Metro released a draft environmental study with a surprise: the announcement of the Constellation station "option." The next month, on Oct. 28, Beverly Hills community leaders stormed a Metro meeting, telling Villaraigosa, Yaroslavsky and other Metro board members that the idea of tunneling under Beverly Hills High School was unacceptable.

"We do not want the subway to run under our high school," Beverly Hills City Councilwoman Nancy Krasne told Metro board members.

Since then, school board president Korbakov says, Metro staffers and board members have only shown heightened interest in the Constellation option. "It really troubles me," Korbakov says, "and it troubles my colleagues. They're telling us, 'Wait, wait, the process isn't done yet, we haven't decided yet.' But it seems they have."

Villaraigosa, in particular, is publicly "promoting it. They appear to have made up their minds, but they just haven't formalized it," she says.

The exchange of words has grown ugly. KorbatoV says neither Yaroslavsky, who represents Beverly Hills, nor Villaraigosa has visited the high school campus, although invitations were extended to both. Yaroslavsky, in turn, criticizes Beverly Hills Unified, saying, "It's been very difficult in dealing with the [Beverly Hills] school district, because they won't give anyone their development plans."

But David Mieger, the Westside Subway project director, says Yaroslavsky's claim is not true. Beverly Hills Unified made a "good-faith effort to dig through their files and give us whatever they've got." KorbatoV calls Yaroslavsky a liar, saying his statement is "uncategorically, 100 percent false."

Yaroslavsky also snaps that a comment made by KorbatoV several months ago, that subways are prime targets for terrorists, is "just absurd." He belittles the plan to build subterranean parking at the school, declaring, "I don't think anybody is going to spend money to build an underground garage."

Yaroslavsky has taken no public position on where to place the Century City subway route, but he uses the talking points promoted by Century City boosters. "Any 6-year-old can tell you where the center of a circle is," he says, and Constellation Boulevard is that "center," while Santa Monica Boulevard is not. Yaroslavsky even came up with his own slogan: "The center of the center." Huffs KorbatoV: "Zev is very much for the 'center of the center' — their version of it."

For his part, Villaraigosa's spokeswoman Sarah Hamilton says the "mayor has not yet taken a position, as there is currently not enough information available." But that's not true.

Villaraigosa three months ago made his position clear, publicly embracing the station on Constellation Boulevard at an April 7 Century City breakfast sponsored by the Century City Chamber of Commerce, military contractor Northrop Grumman, the Pollack PR Marketing Group and others.

In a YouTube video produced by Mike Carlin's *Century City News* and featured on the Chamber of Commerce's website, Villaraigosa busily works the room with a wireless microphone and says, "I think you all know that I'm on record that [the subway station] needs to be right here in the heart of Century City!"

Villaraigosa triumphantly thrusts an arm in the air, while Century City's elite applaud. Someone lets out a whoop. They all understand: The mayor has just publicly backed the route to Constellation Boulevard desired by JMB and the other developers.

Since Villaraigosa is chairman of the Metro board of directors, his cheerleading for people who have showered him with political money is seen as unseemly.

"The mayor is certainly entitled to his opinion," says Bob Stern, president of the L.A.-based Center for Governmental Studies. "At the same time, he listens to [Century City developers] more closely than to me, who hasn't contributed \$300,000."

Other politicians are more careful than Villaraigosa. California State Assemblyman Mike Feuer says he hasn't taken a position because "it would be inappropriate to champion one route or another until the analysis has been completed." A spokesperson for Rep. Henry Waxman tells the *Weekly* the congressman wants to "see the final report of the geotechnical and other studies" before deciding.

Meara, the senior VP at JMB Realty, tells the *Weekly* that Constellation Boulevard is the best place to put a subway station because of larger civic needs. He doesn't mention that it will stop almost directly beneath a JMB skyscraper. He says JMB's heavy contributions to Villaraigosa are solely because "the mayor puts a priority on things that we're supportive of: education, the environment and the business health of Los Angeles."

Century City booster Susan Bursk is confident that Metro's final environmental impact statement and report (EIS/EIR) later this year will unveil new findings that make a strong case for Constellation. But such predictions make outside experts uneasy about the influence being brought to bear on Metro employees who are writing up the EIS/EIR.

Tom Rubin, an Oakland-based mass transit consultant and former chief financial officer of the Southern California Rapid Transit District now known as Metro, says, "It would be a very, very brave CEO of a transit agency to tell the board they are wrong. That's not something you see very often."

He warns: "Government transportation doesn't have anything to do with what's best for transportation, especially at Metro."

Later this year, Metro's 13 board members — including Yaroslavsky, Villaraigosa and his three appointees, Mel Wilson, Richard Katz and Jose Huizar — will approve the final route for the Westside Subway. The former Subway to the Sea will run from Vermont Avenue nine miles west, ending at the VA Hospital near the 405 in Westwood. If the Metro board of directors selects the Constellation route, how they reached that decision likely will come under scrutiny.

"Carmageddon," the July 16-17 closure of the 405 in Los Angeles, focused attention on how fears of a lawsuit by local residents can force Caltrans and Metro to back down. Caltrans and Metro surprised residents along the 405 early this year with a cheaper "alternative" plan for replacing Mulholland bridge that threw out an earlier design. Locals fought back. To avoid a potential years-long delay of the 405 widening project, Caltrans and Metro returned to the original plan.

The parallels to the war between Century City and Beverly Hills are plain. "Metro is in a situation where they're pretty darn sure there's a legal challenge coming," says Rubin, the outside consultant. Metro will be "very careful" not to appear as if it slanted the findings to satisfy the desires of politicians or their friends.

Hollywood developer Jerry Schneiderman, who hammered Metro throughout the 1990s for its numerous mishaps and scandals including the collapse of Hollywood Boulevard during subway construction, says Beverly Hills officials could make life a nightmare for Metro — especially, he quips, if they hire him as a consultant.

In 1994, when he was president of the Hollywood Property Owners Association, Schneiderman recalls, Metro officials threatened to bankrupt him if he ever filed a lawsuit against the Red Line subway. So, "I decided I would bankrupt them first." When a giant sinkhole collapsed Hollywood Boulevard, Schneiderman made Metro's life miserable. He hired a law firm that sought damages for numerous businesses on Hollywood Boulevard, and he and mass-transit watchdog John Walsh frequently made headlines attacking the costly boondoggle. The sinkhole, lawsuits, negative news coverage and other events helped boost Metro's annual insurance rate for the Red Line from \$16 million in 1994 to \$61 million in 1998, Schneiderman says.

"We did so much damage to [Metro's] reputation," he says, "that any politician looked silly supporting it." He says its federal funding plummeted between 1994 and 1998 — and many credited the Hollywood activists in part.

That year, Yaroslavsky authored a ballot measure that banned the use of county sales tax money for further subway tunneling, and voters effectively killed new subways in L.A. Ten years later, in 2008, voters changed their minds and approved Measure R, the half-cent countywide sales tax that will gradually pour \$30 billion into the Westside Subway and other transportation projects across L.A. County.

Land-use attorney Robert P. Silverstein, who is battling Metro in a dispute over the Gold Line, says Beverly Hills Unified could challenge the validity of Metro's

final EIR, a move that could soak up nearly two years and probably would delay construction of the Westside Subway. A judge can order the agency to re-study the issue and write another EIR — which can add another year of delay. If Beverly Hills officials don't like that revised EIR, they can sue again.

School district officials also could sue Metro for damages. "If Metro takes the land," explains Silverstein, a graduate of Beverly Hills High School who is not involved in the dispute, "Beverly Hills Unified probably can't build underneath the campus. That damages your property value."

The idea that it's crucial to move the subway stop two blocks, to the foot of Century City's skyscrapers, is seen by some as a symbol of L.A.'s leadership woes. "If this was New York, London, or Paris," says mass transit expert Wendell Cox, "that argument would be laughable."

In a room at the Century City offices of Sitrick and Company, Beverly Hills School Board president Lisa Korbатов is flanked by two PR consultants and an engineering expert. The district has approved \$500,000 for legal, lobbying and consulting fees to fight the subway tunnel under Beverly Hills High School. Of that war chest, \$350,000 came from the district's bond measure aimed, in part, at modernizing the high school built in the 1920s.

Korbатов is not happy about these expenditures, thinking the money would be better spent on students and facilities. "To make a little school district fight for their existence on this — to me, it's unconscionable what they're forcing us to do."

Cox says Beverly Hills officials have a good argument for sticking with their battle. The data show that neither proposed station will outdo the other, with Santa Monica attracting slightly more riders than Constellation. The possible lawsuits and delays attendant to tunneling underneath a high school campus can be avoided if Metro board members choose the Santa Monica station. Yet no elected official on the federal, state or local level is hinting at support for the Santa Monica subway stop.

"You can avoid the downsides," Cox says. Or you can roll the dice.

Century City News publisher Carlin, who's also a member of the Century City Chamber of Commerce, doesn't want to hear such talk. "Let's take care of Los Angeles for a change," Carlin says. "Beverly Hills is always taken care of." Korbатов says she hopes "people aren't doing things on a handshake or backroom deals. I hope they put the public's needs first. But I'm realistic as well." If Metro board members approve the Constellation station this fall or winter, they'll likely follow their frequent behavior after taking a big vote: They'll

announce that a "historic day" has come to Los Angeles. The more likely reality is that the Beverly Hills versus Century City showdown has only just begun.

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