

**CITIZENS ADVISORY COMMITTEE (CAC)  
SAN MATEO COUNTY TRANSPORTATION AUTHORITY (TA)**

1250 San Carlos Avenue, San Carlos CA 94070  
Bacciocco Auditorium, 2<sup>nd</sup> Floor

**MINUTES OF JUNE 3, 2014**

**MEMBERS PRESENT:** B. Arietta (Chair), D. Bautista, J. Bigelow, J. Fox, R. Hedges, R. Hees, J. Londer, D. Lujan, D. Maez, L. Simonson, A. Vargas, W. Warhurst, J. Whittemore

**MEMBERS ABSENT:** J. Baker, L. Shaine

**STAFF PRESENT:** J. Averill, S. Bhatnagar, A. Chan, C. Groves (Hanson Bridgett), E. Goode, J. Hurley, J. Sherman (Hanson Bridgett)

Chair Barbara Arietta called the meeting to order at 4:31 p.m. and Daina Lujan led the Pledge of Allegiance.

**INTRODUCTION OF NEW TA CAC MEMBER DIANA BAUTISTA**

Diana Bautista said she is from Daly City. She said when she worked for Senator Abel Maldonado she saw an issue with transportation. She now works for the San Mateo County Economic Development Association and sees how important transportation is for the community.

**APPROVAL OF MINUTES**

Doris Maez requested to change "restrict" to "allow" on page 3 in the third sentence of the second paragraph and add "only" as the last word of the sentence so the sentence would read "She said elevators are subject to vandalism and frequent maintenance and asked if there is a way to allow access to train riders only."

Chair Arietta said John Baker asked that on page 8 Rich Hedges' references to Democrats and Republicans be capitalized.

Mr. Hedges requested to strike his references to Democrats and Republicans. Chair Arietta said the sentence should read "the community is building a memorial for John Lee, a former TA Board member."

Chair Arietta said Mr. Baker also requested that his reference to the SamTrans Bus Route on page 7 in the last page be corrected to state Route 132 instead of 192.

John Fox and Laurie Simonson arrived at 4:37 p.m.

Motion/Second: Londer/Hees

Ayes: Arietta, Bigelow, Fox, Hedges, Hees, Londer, Lujan, Maez, Simonson, Vargas, Warhurst, Whittemore

Absent: Baker, Shaine

Abstention: Bautista

## **PUBLIC COMMENT**

None

## **PRESENTATION: RALPH M. BROWN ACT (HANSON BRIDGETT)**

Catherine Groves, Legal Counsel, presented:

- Government ethics laws provide a minimum standard for behavior. Ethics laws are not always intuitive, but if something doesn't seem right, legal counsel recommends stopping and talking to staff or legal counsel.
- The Brown Act is California's open meeting law. The public has a right to be informed and they control the instrument they have created (i.e. this committee). The people have not given public servants the right to decide what is good for the public to know and not know.
- Subject to the Brown Act:
  - Legislative bodies
  - Committees created by a Board of Directors (applies to the CAC)
  - Committees created by a committee
- Brown Act requires:
  - All meetings must be open to the public
  - Meetings must be properly noticed in a written agenda available to the public 72 hours prior to the meeting
  - The public must be allowed to comment
- Senate Bill 751 requires individual votes of every member present for all actions taken be recorded and reported.
- What is a meeting?
  - Majority of members of legislative body
  - Same place and time
  - Hear, discuss, deliberate or take action on relevant, body-related issues
  - Within subject matter jurisdiction of legislative body
- What is not a meeting?
  - Contact between member and non-member
  - Conference open to public (but no caucusing or discussion among members about CAC business)
- Closed sessions are not open to the public, and not likely to apply to the CAC.
- Possible violations include:
  - Serial conversations
  - E-mail, chat rooms, and other technology
  - Social engagements
  - Other agencies' meetings
- Penalties and enforcement:
  - Opportunity to cure
  - Civil action
  - Criminal action
  - Public opinion
- Frequently asked questions:
  - Can I call in?
    - Teleconferences are allowed, but the location must be open to the public, the public must be able to comment from that location, it

- must be American's with Disabilities Act accessible, the agenda must be posted in public view at that location, and at least a quorum must be participating from the local agency's jurisdiction.
- Can we discuss an item not on the agenda?
    - Items that are not on the agenda cannot be discussed unless there is an emergency situation, an immediate need for action is required and the need to take action came to the agency's attention after the agenda was posted, or if a meeting that happened five or fewer days prior had an item that was postponed to the current meeting.
  - What if there is no quorum?
    - No official actions can be taken, and minutes are not recorded. Legal counsel's advice is to not hold the meeting.

Randy Hees said nominating committee members call each of the members on the CAC to ask who is interested in being nominated for chair or vice chair. Julie Sherman, Legal Counsel, said that is a gray area because discussions could happen.

Jim Bigelow said the nominating committee doesn't share with individuals what other CAC members are thinking. Ms. Sherman said if it is a one-way push of information it would not violate the Brown Act. She said a safe way to conduct this inquiry is to have the CAC members contact staff and staff could relay the information to the nominating committee.

Ms. Maez asked if the vote recording currently practiced is sufficient. Ms. Groves said it is sufficient as long as it is clear who voted for what.

Ms. Maez said there is potential for a non-member to set up a group to be in violation of the Brown Act by calling them individually but not telling them the other members the person spoke to. She asked if there has been case law involving that situation. Ms. Sherman said she is not aware of any Attorney General opinion that discusses that.

William Warhurst asked if it is okay at the current meeting to decide to put something on the next meeting agenda. Ms. Sherman said yes.

Mr. Warhurst asked if there is a body that oversees or investigates whether the Brown Act has been violated. Ms. Sherman said there are a lot of watchdog groups, first amendment groups, and reporters who make sure the Brown Act and the Public Records Act are enforced. She said there is no regulatory agency that looks into it.

Jeff Londer said he has personally spoken to each of his council members about a topic and didn't tell them that he spoke to the other members. He asked if that would be a violation on their part. Ms. Sherman said yes. Mr. Hees said that is what a lobbyist does.

Jim Whittemore said the nominating committee was made by a committee that was created by a Board. Ms. Sherman said ad hoc committees are not covered by the Brown Act.

Mr. Whittemore said he has asked for five years to receive all documentation in the electronic format it was originally designed in, but he only gets them in PDFs. He said in the interest of transparency, the agency should publish all of its documents in their original format. Ms. Sherman said she would get back to him.

Ms. Maez said she writes letters to councilmembers and asked if the letters are part of the public record. Ms. Sherman said it is not a discussion, and the letters may be public record but might not be published.

Chair Arietta said she presents a chairperson's report to the Board and the CAC. She said when she reports to the Board, sometimes there are questions and a series of comments back and forth about her report. She said the CAC as well as the Board should be allowed to ask about the contents of her report. She said the Report of the Chair is listed on the agenda, but the content of the report is not. Joe Hurley, Director, TA Program, said the item that is agendaized is the Chair's Report, but because there is no specificity of the subject of the report, discussing the contents is going down a slippery slope. Ms. Sherman said if it becomes a substantive conversation that the public might want to be involved in if they knew it would be discussed, that is where staff's concerns are. She said she would look into this situation more.

#### **ITEMS FOR REVIEW – JUNE 5, 2014 TA BOARD MEETING**

##### **Authorize Adoption of the Fiscal Year (FY) 2015 Budget in the Amount of \$68,213,654 (TA Item 3a)**

Mr. Whittemore asked if money gets dedicated to program categories during the adoption of the budget. Eva Goode, Manager, Budgets, said money is not available for spending until it is budgeted, but the amount collected is tracked by category.

Motion/Second: Whittemore/Hees

Ayes: Arietta, Bautista, Bigelow, Fox, Hedges, Hees, Londer, Lujan, Maez, Simonson, Vargas, Warhurst, Whittemore

Absent: Baker, Shaine

##### **Authorize Adoption of the Appropriations Limit for Fiscal Year 2015 in the Amount of \$588,727,473 (TA Item 5c)**

No discussion.

Motion/Second: Hees/Londer

Ayes: Arietta, Bautista, Bigelow, Fox, Hedges, Hees, Londer, Lujan, Maez, Simonson, Vargas, Warhurst, Whittemore

Absent: Baker, Shaine

##### **Program Report: Transit Ferry Program – South San Francisco (TA Item 11a)**

April Chan, Executive Officer, Planning and Development, presented:

- Two percent of the Measure A Program is set aside for the Ferry Program. This is about \$30 million over the life of the program. About \$15 million has been allocated to the South San Francisco project.

- The South San Francisco service was initiated in June 2012. Staff has 21 months of data to report.
- The service operates between East Bay and South San Francisco and South San Francisco and San Francisco.
- The Water Emergency Transportation Authority (WETA) FY2014 Operating Budget total is \$3,578,300.
- WETA's total revenue is \$3,578,300.
- FY2014 average weekday ridership is 327.
- Operating cost per passenger is under \$39.
- The requirement from the Metropolitan Transportation Commission (MTC) in subsidizing this service is the ferry needs to reach a 40 percent farebox recovery ratio by June 30, 2015. The current farebox ratio is 17 percent.
- As part of the funding agreement between the TA and WETA, WETA needs to operate scheduled service for a minimum of five years, maintain water channels and terminal infrastructure for emergency use.
- WETA proposed next steps include marketing efforts, maintaining a peak-period schedule, modifying midday service, evaluating and monitoring the service, and working with employers to raise awareness and promote the service.

Mr. Hees said MTC could cut off funding in one year, which is the third year of service, and the TA requirement is the ferry needs to provide scheduled service for five years. He asked what happens if WETA loses funding and has to end the service before the five-year commitment. Ms. Chan said the funding agreement states the TA would retain a security interest in the terminal and would have a capital investment.

Mr. Hees said WETA took a long time to create a terminal and start service, but a few months ago Google and Facebook experimented and put ferry service into Redwood City on a week's notice. He said he wonders how much money is being spent on this service.

Mr. Londer said it will be difficult for WETA to get to 40 percent farebox recovery. Ms. Chan said they are going to continue to work on marketing to employers, but WETA commented it takes more than three years for this type of service to reach its goal. Mr. Hurley said Golden Gate and Vallejo ferries are achieving higher than a 40 percent farebox recovery.

Mr. Warhurst the problem is getting from the ferry terminal to someplace else.

Mr. Londer said it is hard to get to and from the ferry terminal. Ms. Chan said there are shuttles but they have not been widely used.

Mr. Hurley said the focus should be on how to make this successful, not developing an exit strategy. He said the emergency component and associated cost has to come into the equation.

Ms. Maez asked what if this is a failed experiment and Measure A goes on for 30 years and a certain percentage gets allocated to this operation. Mr. Hurley said none of the Measure A funding has been allocated to operations.

Mr. Whittemore asked Ms. Chan to make it clear to WETA representatives that this performance is not acceptable, and there is no viable plan to make it acceptable. He said he wants published projections, for WETA to measure to their own metrics and admit where they're failing. He said WETA is going to increase youth discounts, lower the age for senior discounts from 65 to 62, and increase group discounts. This is economically driven, which will reduce farebox recovery per person. He said WETA is proposing a mandatory annual 3 percent raise of the price of the ticket through 2012, a 6 percent annual increase for non-Clipper Card users, and eliminating military discounts. He said the operation they are using to increase ridership is contradicted by their own long-range plans to raise fares.

Mr. Bigelow said the capacity of a vessel needs to be clearer on the slides. He said it would be interesting to take current fares and compare them to vessel capacity to see if 40 percent farebox recovery is even possible. Mr. Whittemore said it can be done easily.

Mr. Bigelow said it would be good to see how many passengers on average each trip is carrying. He said after the BART strikes occurred, they should have done better at increasing ridership.

Mr. Bigelow asked if the buses that come from the East Bay impact ridership that would be on the ferries coming from the East Bay. Some of the companies were running buses from the East Bay because the companies were waiting for ferry service. He asked if those buses are operating a parallel route to the ferry boats. He asked why the companies keep running the buses if they want the ferries.

Mr. Hedges said with all the other transit options in this area it is difficult to run a successful ferry service.

Chair Arietta said it is difficult to compete with technology companies that have their own ferries. With that competition it will be hard to get the service sustained. Without the clientele the routes and funding cannot be developed, and that does not help getting commuters off the road. She said she hears about continuing efforts to marketing. She said she would like WETA to enumerate what they have done to this point and what they will do differently.

Mr. Warhurst said Quebec Province has dozens of ferries and they are all free so there must be some other strategy about making the ferries successful.

Ms. Bautista said she encourages WETA to determine what those companies are doing that WETA should do to get the ridership.

#### **Update on State and Federal Legislative Program (TA Item 11c)**

Shweta Bhatnagar, Government and Community Affairs Officer, said the governor released his May budget revisions last month with very little change. The transportation components along with the Cap and Trade proposal remained the same as his initial recommendation presented in January. In his \$850 million Cap and Trade plan,

\$600 million will go to transportation, of which \$100 million is allocated for sustainable communities implementation, \$250 million for high-speed rail (HSR), \$50 million for rail modernization, and \$200 million for low-carbon transportation. The governor's plan is for FY2014-2015 only.

Ms. Bhatnagar said on May 15, Senate President Pro Tem Darrell Steinberg (D-Sacramento) announced the Senate's long-term Cap and Trade proposal, beginning in FY2015-2016, which provides an ongoing framework for funding allocations. The proposal grants 20 percent of all revenues to affordable housing and sustainable communities, 25 percent to transit for construction and operations, 15 percent towards low-carbon transportation, 15 percent to HSR, and 5 percent to intercity rail. Staff have expressed support on the transit allocation but have opposed the lack of funding available for streets, road, and highway improvements that reduce greenhouse gas emissions.

Ms. Bhatnagar said a third proposal comes from the Assembly. This is a one-year expenditure plan that differs significantly from the governor's plan. The Assembly plan assumes higher revenues from auction proceeds than the governor's plan, projecting over \$1 billion in available funding. The plan provides \$400 million for State greenhouse gas reduction programs, and \$400 million for sustainable communities grants to local agencies, both of which will be administered by the Strategic Growth Council. In addition, \$200 million will be allocated for a low-emission vehicle rebate program. There is no direct funding for transit or for HSR, so this proposal is essentially a nonstarter for the governor who is intent on providing a funding source for HSR.

Ms. Bhatnagar said since the Legislature is unable to reach consensus on how to distribute the Cap and Trade revenues, the issue will be heard in the Budget Conference Committee made up of members from both the Senate and Assembly.

The Legislature has until June 15th to send the final budget bill to the governor for his signature.

### **Capital Projects Quarterly Status Report – 3rd Quarter Fiscal Year 2014 (TA Item 11b)**

Mr. Hurley said there will be a revision of the quarterly report and the projects that are rolling off the report have been consolidated or broken into separate projects, and the next quarterly report will show the report out of all of them. Mr. Whittemore asked if those projects could be mapped before next report comes out. Mr. Hurley said yes.

Mr. Fox left at 6:08 p.m.

Mr. Londer asked about Highway 101/Broadway on page 11. He said it originally had construction starting July 2014 and ending July 2017. He said the current baseline has various delays on earlier aspects of the project, but construction is going to start at the same time and finish five months later. Mr. Hurley said there were some delays in the environmental clearance and design of the project. The project was rebaselined to reflect the delays. The construction has not started yet but the duration is reflective of the current projections.

Mr. Whittemore asked if this project has gone to bid. Mr. Hurley said yes.

Mr. Whittemore said baselining and rebaselining are important to project management. He asked if it is possible to put the date of the current baseline in the report. Mr. Hurley said that is a good suggestion.

Ms. Maez said page 8 under the San Bruno Grade Separation, comparing the current contribution to the original expended and estimate at completion, there is a bump. It goes from \$68 million to \$120 million to \$89 million, and at the end it is at \$94 million. Mr. Hurley said \$120 million is what the TA made available to the project. The \$68 million is what is projected to be used for the project.

Rich Hedges left at 6:13 p.m.

Chair Arietta asked for an update to the Calera Parkway Project. Mr. Hurley said it is working its way through the legal process. A lawsuit was filed naming the California State Department of Transportation, the TA, and the city of Pacifica.

#### **SamTrans Liaison Report – Meeting of May 7, 2014 (TA Item 8a)**

No comments.

#### **Approval of Minutes of May 1, 2014 (TA Item 5a)**

Mr. Whittemore said a Director asked if the same auditor is used for all three agencies but wasn't answered. Mr. Hurley said the answer is yes.

#### **Acceptance of Statement of Revenues and Expenditures for April 2014 (TA Item 5b)**

Mr. Whittemore asked if the TA votes on the legal firm used to represent the TA, how long the contract is for, and when it is due for renewal. Mr. Hurley said it is on a year-to-year contract, there is a performance evaluation at the end of each year, and based on the evaluation, the SamTrans Board takes the action to extend the contract on an annual basis.

Mr. Whittemore asked what S3 Incorporated Consulting is. Mr. Hurley said it is a professional advisement/coaching/teambuilding/collaborating advisor.

Motion/Second: Whittemore/Bigelow

Ayes: Arietta, Bautista, Bigelow, Hees, Londer, Lujan, Maez, Simonson, Vargas, Warhurst, Whittemore

Absent: Baker, Fox, Hedges, Shaine

#### **REPORT OF THE CHAIR – BARBARA ARIETTA**

See attachment for Chair Arietta's complete report.

#### **REPORT FROM STAFF – JOE HURLEY**

Mr. Hurley said:

- The Board will likely cancel their July 3 meeting, but the CAC will still meet on July 1 to discuss the TA Strategic Plan.



- The San Pedro Creek Bridge Replacement Project is in construction, but because of the environmental sensitivity, crews are trapping and relocating frogs from the area, then will conduct a fish relocation plan, vacate the water, and reroute traffic onto Frontage Road south of the bridge up the hill to Devil's Slide. The project should be completed September of 2016.

### **MEMBER COMMENTS/REQUESTS**

Ms. Lujan said effective June 30 she will no longer be the Safe Routes to School coordinator, but will be assistant principal at Jefferson Elementary.

Ms. Maez said there is a lot of cement around the San Bruno Grade Separation but there is a pretty view from the platform.

Ms. Simonson said today's Sustainable San Mateo County presentation was excellent. She said a panelist brought up Assembly Bill 1193. This would create a new type of bike lane, a Class 4 Bikeway, which would be a bike lane protected by concrete, a berm, or planters, to emphasize how safe it is to ride bikes. She said she would love if the TA took a position on the bill.

Mr. Whittemore said he looked at a last year's presentation on Financial Overview and Security, which stated there is no written whistleblower policy. He said he strongly urges the TA to implement a formal whistleblower policy that is updated and reviewed annually and to keep all employees apprised of it. Mr. Hurley said all staff are San Mateo County Transit District (District) employees, and if the District had a policy it would cover all three business units.

Mr. Whittemore said one Director stated in the minutes of the last Board meeting she doesn't know how much more transparent the financials could be. He said if transparency is a goal, he would urge the Board of Directors to make such a move, and if they are interested he would be delighted to give them a presentation on how to improve transparency in public accounting with very specific ideas. He said he is not sure how comfortable the Board is with the current level of transparency. Chair Arietta said Mr. Whittemore could go to the Board meeting and speak under Public Comment. Mr. Hurley said Mr. Whittemore should consult with staff before presenting to the Board.

### **DATE, TIME AND PLACE OF NEXT MEETING**

Tuesday, July 1, 2014 at 4:30 p.m. at 1250 San Carlos Avenue, Bacciocco Auditorium, 2<sup>nd</sup> Floor, San Carlos, CA 94070

The meeting adjourned at 6:40 p.m.

## **Averill, Joshua**

---

**From:** Barbara Arietta <barietta@hotmail.com>  
**Sent:** Tuesday, June 03, 2014 3:22 PM  
**To:** Averill, Joshua  
**Cc:** Hurley, Joseph  
**Subject:** RE: \*\*\*\* CAC Chair's Report For 6/3/2014\*\*\*\*

### **Here is my CAC Chair's Report for CAC Meeting of 6/3/2014:**

#### **1. BIKE SHARING PROGRAM PRESENTATION REQUEST AND FUTURE SCHEDULING:**

Per suggestions made at last month's meeting, our CAC member, John Fox, prepared a draft letter to the TA Staff asking for more info on the Bike Share Program results, as well as requesting a presentation on those results at a future CAC meeting. John submitted a copy of the draft letter to both Joe and myself.

Subsequently, Joe has advised that he met Friday with the District's Director of Planning, Doug Kim, to discuss the Bike Share Program. Kim is in the process of developing an assessment of why the Bike Share Program in Redwood City has fallen below expectation and what strategies can be implemented to improve the Bike Share Program. He is not ready to report out on his findings and recommendations at this time, but will be happy to do so and engage the TA CAC on this subject at a meeting later in the summer. This then would allow adequate time for Doug to prepare and report out on the findings and recommendations, and put the item on the CAC agenda in order to allow for discussion on this item. August or September is going to be the more likely time frame for the presentation...

#### **2. JULY MEETING SCHEDULES:**

It is likely that there will not be a TA Board meeting in July, however, there may be another meeting for the CAC, so hold onto this time slot until further notice, which may come as early as this evening when Joe gives his report to us.

#### **3. SPRING TRANSPORTATION INDICATORS LAUNCH AND LUNCH:**

Attended the Spring 2014 Indicators Launch and Lunch that was put on by Sustainable San Mateo County in Bacciocco Auditorium earlier today. It was "SRO-Standing Room Only"...and what a highly informative and stimulating meeting it truly was...The subject was Transportation: Connecting the Last Mile. Among the panelists were our very own CAC member, Daina Lujan, who gave an excellent presentation on Safe Routes To School. Additionally, we had another of our TA family as a presenter...TA Executive Board member, Rosanne Faust, who participated in an excellent panel presentation on important economic trends in San Mateo County as well as ways to improve connectivity in our cities and towns.

Other CAC members at the event were Jeff Londer and Vice Chair Laurie Simonson.

#### **4. CITY OF SAN MATEO TO HOST SUSTAINABLE STREETS COMMUNITY WORKSHOP:**

The City of San Mateo will host a Community Workshop on Sustainable Streets planning on Thursday evening, June 12th, from 5:30 pm-8:00p.m. at the San Mateo Public Library, 55 West 3rd Ave in San Mateo.

**5. THE BAY COMMUTER BENEFITS PROGRAM GOES INTO EFFECT THIS SEPTEMBER:**

The goal of SB 1339, the Bay Area Commuter Benefits Program, is to reduce air pollution and GHG emissions from motor vehicle travel by moving commuters from solo-occupancy vehicle travel to alternatives like transit, vanpool, carpool or bike. The program will go into effect on September 30, 2014 and operate on a pilot basis in the Bay Area through the end of 2016. If it should prove successful, the model might be used in other metropolitan regions of the state.

Under SB 1339, Bay Area employers with 50 or more full-time employees within the Bay Area must offer their employees a commuter benefit. Employers may choose from a list of benefit options including: pre-tax benefit for transit costs, employer-provided transit/vanpool subsidy, employer-provided transit, or an alternate benefit such as a telework program or bicycle subsidy. For more info, see [commuterbenefits.511.org](http://commuterbenefits.511.org).

**6. CALTRAIN BUDGETS: (Operating and Capital)**

At the last Board of Directors meeting, Caltrain reported that the proposed 2015 operating budget will be balanced, however, the budget does not yet include the costs or proposed revenues of running the additional cars that Caltrain is acquiring from Metrolink.

And, the capital budget isn't even close. Caltrain is asking its three partners in San Francisco, Santa Clara and San Mateo Counties to contribute \$109 million, down from \$190 million last year, however the partners, thus far, are offering only \$10.5 million. The agencies are still negotiating...

**Respectfully submitted,**

**Barbara Arietta  
Chair, San Mateo County Transportation Authority, CAC**

\*\*\*\*\*