



# *DRAFT MINUTES*

## **Citizens Advisory Committee**

Wednesday, July 24, 2019

### **1. Committee Meeting Call to Order**

Vice-Chair Klein called the meeting to order at 6:02 p.m.

CAC members present: Myla Ablog, Kian Alavi, Ranyee Chiang, David Klein, Jerry Levine, Peter Tannen and Rachel Zack (7)

CAC Members Absent: Robert Gower, Becky Hogue, John Larson and Sophia Tupuola (4)

Transportation Authority staff members present were Michelle Beaulieu, Tilly Chang, Cynthia Fong, Kaley Lyon, Alberto Quintanilla and Aprile Smith.

### **2. Chair's Report – INFORMATION**

Vice-Chair Klein reported that he would be chairing the meeting given Chair Larson's absence. He announced that Item 8, update on the California High-Speed Rail Authority (CHSRA) Preferred Alternative, was placed on consent due to CHSRA staff being unable to attend the meeting and that the CAC meeting packet provided a copy of the presentation that was presented at the July 23, 2019 Transportation Authority Board meeting. Vice-Chair Klein reported that Item 9, update on Senate Bill (SB) 1376: TNC Access for All, was originally requested by Myla Ablog at the February 2019 CAC meeting and thanked Myla for making the request.

Vice Chair Klein requested that Item 12, update on the San Francisco Municipal Transportation Agency's (SFMTA) Siemens Light-Rail Vehicle Procurement, be called after Item 9 and reminded the CAC that there were two scheduled CAC meetings in September: September 4th and September 25th.

There was no public comment.

### **Consent Agenda**

### **3. Approve the Minutes of the June 26, 2019 Meeting – ACTION**

### **4. State and Federal Legislation Update – INFORMATION**

### **5. Van Ness Avenue Bus Rapid Transit Project - Construction Progress and Mitigation Program Update – INFORMATION**

### **6. Update on the San Francisco Safe Routes to School Non-Infrastructure Program – INFORMATION**

### **7. Investment Report and Debt Expenditure Report for the Quarter Ended June 30, 2019 – INFORMATION**



**8. Update on the California High-Speed Rail Authority Preferred Alternative – INFORMATION**

Peter Tannen requested an update on the third contractor claim that was not included in the Van Ness Avenue Bus Rapid Transit Project (BRT) memo.

Estefani Morales, Public Information Officer with the SFMTA, said that to her knowledge the third contractor claim had not been settled, but that she would provide an update at the next CAC meeting.

Director Chang asked that the update be sent to Transportation Authority staff via email before the September 4, 2019 CAC meeting.

There was no public comment on the Consent Agenda.

Myla Ablog moved to approve the Consent Agenda, seconded by Jerry Levine.

The Consent Agenda was approved by the following vote:

Ayes: CAC Members Ablog, Alavi, Chiang, Klein, Larson, Levine, Tannen and Zack (7)

Absent: CAC Members Gower, Hogue, Larson and Tupuola (4)

**End of Consent Agenda**

**9. Update on Senate Bill (SB) 1376: Transportation Network Company Access for All Act – INFORMATION**

Cody Naylor, Supervisor, Transportation Analysis Section at the California Public Utilities Commission, presented the item.

David Klein asked if questions that Mr. Naylor could not provide a response to during the meeting would be relayed to his colleagues at the California Public Utilities Commission (CPUC).

Mr. Naylor said he or one of his staff would be able to provide responses to questions around how the law worked, the CPUC process or any fact-based objective questions.

Jerry Levine asked if the taxicab industry would be included in the list of other access providers and what other access providers were being considered by the CPUC.

Mr. Naylor said the statute had a broad definition of what an access provider was and stated that it was any entity or organization that provides on-demand transportation for people with disabilities or that contracts with a provider that provides wheelchair accessible vehicles (WAVs). He added that the next track of the proceeding would require the CPUC to further interpret what an access provider meant.

Myla Ablog commented about individuals with temporary disabilities and mentioned that Transportation Network Companies (TNCs) had a time-out feature that required customers to reach the designated pick up location within the allotted pick up time. She said this was an issue for people with temporary and permanent disabilities.

Mr. Naylor commented that although the statute being implemented has a particular



focus on the needs of wheelchair users, the Commission's rulemaking provides a forum to discuss issues related to general on demand transportation for people with disabilities. He added that he had heard similar comments regarding temporary disability challenges when using TNCs and said the CPUC was addressing wheelchair accessibility and other accessibility issues.

Kian Alavi asked if there was a provision that required TNCs to provide WAVs.

Mr. Naylor said there was no provision under that statute that required TNCs to provide WAVs. He said that the program was set up as an incentive without a corresponding mandate and commented that New York was an example of a regulatory body that had imposed a mandate for WAVs and response times. He added that the legislature in California established a program geared towards incentivizing investments and offsetting costs without a corresponding service mandate.

Kian Alavi said TNCs were incentivized by time and asked how the CPUC would require TNCs to provide WAVs for disabled people. He said he feared that there would be a WAV fund but TNCs would choose not to use the fund.

Mr. Naylor said that was the kind of question the CPUC would need to address during the second track of the proceeding, which was a criterion that needed to be fulfilled in order for expenditures to be authorized by the CPUC.

Kian Alavi asked if the CPUC was already collecting the funds and if TNCs would be required to provide WAV services if no providers volunteered to provide vehicles that accommodated people in wheelchairs.

Mr. Naylor stated that he could not provide an answer because it was a question for the Commission.

Kian Alavi said he would like to understand how the service would be marketed to people with disabilities and if the CPUC was set up to ensure that individuals have access to TNCs. He asked if the TNC companies were not going to use this funding, what would they do.

Director Chang said that Lyft and Uber had begun offering WAV service and that Lyft had recently announced that there were 5 operating WAVs in San Francisco.

Rachel Zack asked why the fee price was set prior to determining the different types of service delivery that would be accessible to the public.

Mr. Naylor said that the statute required that the CPUC begin collecting a fee on July 1, 2019 after the law took effect in January 1, 2019. He said the CPUC opened rule making at the end of February 2019 and in order to comply with the statutory deadline, established this fund. Mr. Naylor said the CPUC felt it had an adequate record to not decide the expenditure criteria, which was a similar position taken by many parties to the proceeding. He noted that the Transportation Authority argued that the offset process was a complex and essential part of the program that should not be developed hastily because there was a potentially significant amount of money that would be made available for TNCs or other access providers.

Rachel Zack asked why the process took so long to provide TNC access for disabled people.



Mr. Naylor said the initial TNC framework was authorized by the CPUC in 2013 and overtime laws and requirements had been implemented, with access for all having been on the commission's radar for many years. He said he could not speak as to why it took so long for the CPUC to provide TNC access for disabled people. He added that his division was only recently established in October 2018.

Ranyee Chiang asked if there would be fair competition that allowed non-TNC providers the opportunity to be awarded funds to provide WAV service.

Mr. Naylor said the law favors TNCs, which have the initial opportunity to make investments. This may reduce the amount of funds that could be made available to other providers. He noted that it was a result of how the statute was structured. He said that if there is money left over, there would be a competitive process that allowed other providers to apply for WAV funding within a particular geographic area.

During public comment Erin McAuliff, Senior Planner for Accessibility Policy at SFMTA, stated that the SFMTA, Transportation Authority and Mayor's Office on Disability filed their comments to the CPUC as one entity. She suggested that the CAC and public read the TNC white papers for further information on how the city was responding to the needs of the public.

Jackie Sachs stated that she was a taxi rider and felt that TNC drivers should be required to go through similar trainings and regulations that were required of the taxicab industry.

**Item 12 was called after Item 9 per Vice-Chair Klein's request.**

**10. Update on the San Francisco Municipal Transportation Agency's Mobility Permit Harmonization – INFORMATION**

Darton Ito, Director, Office of Innovation Sustainable Streets Division and Phil Cranna, Enforcement & Legal Affairs Manager at the San Francisco Municipal Transportation Agency, presented the item.

Rachel Zack asked what the total timeline would be for the proof of concept authorization.

Mr. Ito said that typically a policy directive accompanies legislation like this and describes the administrative process. He believed that it would be a short timeline and added that detailed timelines would be included in the administrative directive.

Rachel Zack suggested greater transparency throughout the process.

David Klein asked what type of data was being used to bridge the gap to have standardization while also taking into account proprietary restrictions.

Mr. Cranna said the goal SFMTA was shooting for was the Mobility Data Specification (MDS) standard. He said the SFMTA was looking to use aggregated data to learn where riders were taking the devices in the ecosystem while balancing privacy needs with the utility of the data.

Mr. Ito said some device specific information could be useful to show geographic distribution and availability. He added that there would be times where the SFMTA would



see specific locations of devices for enforcement or permit requirement compliance.

Edward Mason asked if the city was liable for any potential injuries by authorizing the use of scooters.

Mr. Cranna replied that the permit terms and conditions included an indemnification clause and that the city had insurance in case of injuries.

Myla Ablog commented that she had witnessed TNC vehicles making traffic infractions throughout the city and requested an increase in enforcement.

Mr. Ito suggested submitting TNC related complaints to the CPUC.

**11. Update on the San Francisco Municipal Transportation Agency's Mid-Pilot Evaluation on Scooters and Stationless Bike Share Program –INFORMATION**

Adrian Leung, Transportation Planner - Livable Streets at the San Francisco Municipal Transportation Agency, presented the item.

Peter Tannen asked if there was a report that provided greater detail beyond the slide deck included in the meeting packet.

Mr. Leung said it was available online, and that he would share the mid-pilot evaluations with the CAC.

Jerry Levine asked if the lawsuits with Lyft and Uber had been resolved and whether it would impact the accountability of TNCs to respond to liability issues.

Mr. Leung said the SFMTA was maintaining that stationless bikeshare was not included in the exclusivity clause of the bikeshare contract that was originally made between the region and Motivate, which was purchased by Lyft. He said SFMTA moved forward to open up stationless permitting to other operators which resulted in Lyft suing the SFMTA. A preliminary ruling ordered SFMTA to not distribute permits to other operators. Mr. Leung said that Uber/Jump was involved as an intervening party and said they would be affected by the ruling. The preliminary ruling ordered the SFMTA to engage in a right of first offer with Lyft/Motivate to work towards a stationless vehicle agreement.

Jerry Levine asked if the lawsuit was in limbo.

Mr. Leung said the lawsuit was somewhat in limbo but SFMTA had issued an interim permit to Lyft/Motivate. The interim permit was subject to 90 days or as soon as negotiations were to be completed. He added that the ruling also allowed SFMTA to extend their permit with Uber/Jump.

Jerry Levine asked if there were any ways in which the public could inform the SFMTA of rule infractions by riders using scooters or stationless bikes.

Mr. Leung said unique identifiers were required on all devices as part of SFMTA's term and conditions for all permits. He said similar to taxis and buses, users and operators would be held accountable.

Jerry Levine noted that it was difficult to capture a device's unique identifier if it was in use and traveling at a fast speed.



Mr. Leung said the user accountability systems developed by the SFMTA require that the identifier be clearly visible when stationary and acknowledged that it was harder to read the identifier on vehicles in motion.

Rachel Zack asked if the SFMTA had the capability to view scooter data while in use.

Mr. Leung replied that the SFMTA did not capture live data but did receive aggregated data.

Rachel Zack said she had read scooter related crash reports from Austin, Texas and Baltimore, Maryland and asked what the city policy was in the scenario that a pedestrian was struck by a scooter while riding on a sidewalk.

Mr. Leung said he would assume that the scooter rider would be responsible since it was a vehicle violation to drive on the sidewalk. He noted that each operator had a different indemnification clause in their terms and conditions.

Kian Alavi requested an update on outreach in the Excelsior neighborhood and the no bid contract awarded to Motivate/Lyft by the Metropolitan Transportation Commission (MTC).

Mr. Leung said the city had pushed for Lyft to partner with People Organizing to Demand Environmental and Economic Justice (PODER), a community organizing group in the Excelsior, to identify local priorities. He said that these included community arts and culture promotion, small business partnerships, community-based planning and the development of an accountability board. He added that the latest ask was for Lyft to finalize the scope of what the community action board could decide upon and noted that the SFMTA had not permitted any stations in the Excelsior during process.

Mr. Leung said it would be speculative to comment on the on-going lawsuit with Motivate/Lyft.

Peter Tannen asked if the city had any say in revoking the ability for an individual to rent a device, after multiple infractions, or if it was solely determined by the operator.

Mr. Leung said the city worked closely with Bay Wheels and the MTC which allowed the city to have leverage.

Peter Tannen asked what specifically was leading to the rebalancing challenges.

Mr. Leung said shifting travel patterns was a major challenge for shared systems worldwide and the goal of bikeshare was to offer bike as a mode option for all trips. He added that SFMTA was working towards fine-tuning operations to have the number of bikes meet demand.

During public comment Edward Mason asked what the maintenance was for the rideshare bikes and stated that vans that delivered and picked up the bikes frequently blocked the traffic lane.

Mr. Leung said the bikeshare agreement has a maintenance component where bikes are required to have complete overhauls every two months. He added that the SFMTA worked hard to locate bikes where a utility van could park and not obstruct traffic while



doing bike pick-ups for either rebalancing or maintenance. He asked the public to inform the SFMTA if rebalancing vans were blocking traffic.

**12. Update on the San Francisco Municipal Transportation Agency's Siemens Light-Rail Vehicle Procurement – INFORMATION**

Alexandra Hallowell, Transportation Planner at the San Francisco Municipal Transportation Agency, presented the item.

Jerry Levine asked for further details regarding the replacement vehicles coming in after the initial service expansion vehicles.

Ms. Hallowell said the SFMTA would have a total of 68 expansion vehicles by the end of August 2019 and noted that no vehicles were retired during the first procurement because of the assumption that Central Subway would be opened. She said the 68 expansion vehicles had been largely funded through Prop K and competitive funds from the state and added that the next phase was to replace the Breda fleet, which were first purchased in 1996. SFMTA expected to have all 151 Breda vehicles retired by 2026. Ms. Hallowell stated that the service expansion vehicles were also procured to support some of the Muni forward service expansion that had grown in frequency.

Jerry Levine said he was involved in the procurement of the Breda vehicles and was happy to see them go.

Ranyee Chiang highlighted page 4 of the presentation that discussed SFMTA's reliability program and asked how much improvement in mean distance between failures the SFMTA was expecting after they solve all issues known to date.

Ms. Hallowell said most issues that the SFMTA had encountered were not related to mileage but rather environmental issues like water intrusion or learning issues. SFMTA anticipated that mileage on the vehicle would increase as they begin to have more two car trains in service. She said SFMTA would have an update in the fall as reports become available and that Siemens was continuing to work through issues. She added that the Muni bus fleet had had a similar trajectory that now had an upward trajectory.

Director Chang added that there were vehicles taken out of service because of faulty doors and noted a lengthy conversation on the braking systems and how they were being used that occurred at the July 23, 2019 Transportation Authority Board meeting. She said there was a fix proposed to go back and modify the braking system and that the trajectory of usage miles should be rising.

During public comment Edward Mason stated that a diagram of the seating arrangement had yet to be show to the public, specifically referring to the arrangement of transverse seats. He asked how many train operators had been disciplined for flat wheels and believed that slow doors were impacting scheduling. Mr. Mason noted that union operators had been ignored in the development of the procurement specification.

Jackie Sachs asked the SFMTA to take people with disability into account and asked that there be a sufficient number of seats for seniors and individuals who are disabled.

**13. Nossaman LLP Principles of Ethics Training – INFORMATION**



Amber Maltbie, Attorney at Law at Nossaman LLP, presented the item.

Jerry Levine asked if a committee member who had a conflict of interest and recused themselves but tried to lobby the rest of the committee before the vote would be considered a violation.

Ms. Maltbie said that scenario would be a potential Brown Act violation and an example of a serial meeting. Meaning that a consensus was created outside of the open meeting. She noted that a recused committee member does have the option to speak during public comment but must do so as a member of the public.

Ranyee Chiang asked if it was best practice for an abstaining member of the committee to remain silent.

Ms. Maltbie reiterated that abstaining committee members do have the option to make public comment as a member of the public.

Myla Ablog asked if a conversation between 2-3 committee members was considered a Brown Act violation.

Ms. Maltbie replied that a quorum, six or more members, would need to be convened in order for there to be a Brown Act violation.

There was no public comment.

**14. Introduction of New Business – INFORMATION**

Myla Ablog commented that the city needed to do more around Vision Zero and noted Commissioner Haney's request for quick build safety projects. She requested a Vision Zero update and said there was confusion around the recent changes to the intersection of Laguna Street and Geary Boulevard.

Peter Tannen requested a presentation on the California High-Speed Rail Authority Preferred Alternative at one of the upcoming September CAC meetings.

There was no public comment.

**15. Public Comment**

Edward Mason stated that August 1, 2019 marked five years since the inception of the corporate commuter bus program and stated that he had requested public record requests seeking public complaints, citation counts and administrative violations.

Kian Alavi suggested that the CAC make a public records request to support the good work that Mr. Mason was doing vis-à-vis the commuter bus program.

Jackie Sachs suggested that the CAC request an update on the Central Subway project. She also requested an update on the other 9 to 5 project and mentioned that Supervisor Tang had talked about bringing back public-school buses.

**16. Adjournment**

The meeting was adjourned at 8:17 p.m.