



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 7

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Memorandum

TO: Commission

DATE: November 18, 2009

FR: Executive Director

RE: New Policy Advisory Council

Background

Before you is a recommendation, approved last week with two amendments from the Legislation Committee, to consolidate MTC's three citizen advisory committees into one, multi-interest Policy Advisory Council.

This proposal comes after a five-month process, stemming from an evaluation of public participation activities of the Transportation 2035 Plan that was presented to the Legislation Committee in June. At that time, staff reported on the success of a series of meetings held jointly with the three advisory committees throughout the development of the 2035 Plan. Feedback from surveyed advisors and Commissioners alike showed widespread support for the value of joint meetings. However, advisors also noted they often felt disconnected from the Commission, and wished for better communication.

The Legislation Committee directed staff to seek an independent review of MTC's three advisory panels, which was conducted over the summer by Pacific Municipal Consultants (PMC), MTC's 2035 Plan public outreach consultants. PMC surveyed advisory committees at comparable agencies throughout the country, and conducted a joint workshop with and presentations to all three MTC advisory committees. In October, PMC recommended a consolidation of the three advisory bodies into a new policy advisory group that would advise MTC based on an annual work plan developed by the Commission. Legislation Committee members expressed their support for the concept, and directed staff to return in November with a proposal.

Proposed New Policy Advisory Council

Attachment A includes a proposed mission statement for the new Policy Advisory Council and a summary of the proposed new committee structure. Attachment B is MTC Resolution No. 3931, which details the new committee and discusses key items — such as an annual meeting between the Commission and the new committee to develop a work plan and performance measures. The resolution spells out the length of terms, appointment process, meeting frequency, etc. Of the proposed 27-member Council, one third (9) of the members would represent communities of color, environmental justice or low-income issues; one third (9) would represent senior or disabled interests, and one third (9) would represent economic or environmental interests.

Last Week's Legislation Committee Action

At its meeting on November 13, the Legislation Committee approved a motion to adopt the staff recommendation with two changes. First, they specified that for the nine seats representing the environment and economy, at least five should be held by a resident from each of the five most

populous Bay Area counties; the remaining four would be appointed at-large. They also specified that the annual work plan meeting called for in the resolution be conducted as a separately agendized meeting. The proposed resolution has been so amended. After the motion was adopted, Legislation Committee members also commented on the need for discussion of Council working groups or subcommittees as part of the annual meeting between Commissioners and advisors.

Response to Letter from Public Advocates

A letter was received from Public Advocates just this Monday, dated November 16, 2009, addressed to Chair Haggerty and Commissioners, copied to MTC's advisory committees and other regional agencies, raising a number of objections to the proposed recommendation.

We also received this Tuesday a letter addressed to Chair Haggerty dated November 17, 2009 from the Mexican American Legal Defense and Education Fund (MALDEF), concerning the Minority Citizens Advisory Committee. Both letters are attached.

In response, staff notes that the review of the structures of the current advisory committees was not rushed as suggested by the letters. As noted above, the process began in June, when we asked the outside consulting firm that worked with MTC staff in developing the public participation program for the Transportation 2035 Plan, to also look at whether the Commission's advisory committees can be more effectively organized. The consultants met with each of the advisory committees and some individual advisory committee members. The consultants issued a report that concluded that there are benefits to consolidating the advisory groups, and the report was made available to the public in September. The report was fully discussed before the Legislation Committee in October, and following comments received, was brought again to the Legislation Committee this month, which has forwarded the proposed Resolution 3931, as revised, to the Commission for approval today.

Regarding the federal requirements referred to in the Public Advocates letter, MTC's current public participation process has been reviewed by federal funding agencies. But the federal requirements also direct that an existing public participation process be reviewed from time to time and revised if improvements are deemed appropriate. The federal requirements offer no single way as to how the public participation process should be structured so long as there is a means for all issues and concerns to be heard. While there has been no consensus on the number of individuals to serve on a consolidated advisory group, the Advisory Council is on record supporting the concept of consolidation, MCAC did not raise concerns about consolidation in their formal November 12, 2009, communication to the Legislation Committee, and three MCAC members testified in support of consolidation at the October Legislation Committee.

As to the Minority Citizens Advisory Committee (MCAC), it was created, as noted in both the Public Advocates and the MALDEF letters, 35 years ago pursuant to a Memorandum of Understanding that addressed issues concerning the adoption of MTC's RTP at that time. MCAC has served the Commission well, but it has not been static, evolving from its initial form and format over the years. The consolidation of the three advisory committees continues that evolution, and has been reviewed with the current MCAC membership.

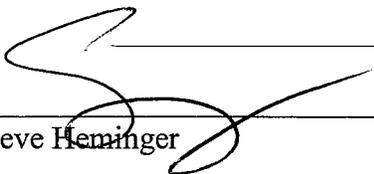
Like prior advisory committee formats, the proposed consolidation of the advisory groups is subject to change once adopted. Built into the process is a review in 18 months as to how well the consolidated committee works out. Further, the process requires a joint Commission and advisory committee meeting to be scheduled within the next six months, something that has not occurred before with three separate advisory groups of 70 total members because of logistical difficulties.

Finally, staff will be forwarding to the respective federal funding agencies notice of and information concerning MTC's new advisory committee structure, and will keep the federal agencies informed as to any subsequent changes.

Recommendation

We believe adoption of Resolution 3931 will serve to strengthen the relationship between the Commission and its advisors and, in so doing, help to better inform MTC's policy decisions.

Subject to the Commission's approval, staff proposes to begin recruitment of Council members in December and continue through early February. A recommended set of candidates would be presented to appointing Commissioners and slated for approval by the full Commission no later than March 2010. The new Policy Advisory Council would be seated in April. While terms for the Council are proposed to be four years, terms for the initial group of advisors would be for two years (through March 2012), in order to sequence appointments to more closely align with Commissioners' terms. Terms for current advisors would continue through March 2010, with the existing committees meeting as needed in the interim. The resolution calls for an evaluation of the new committee structure after 18 months in order to determine whether the new group's size, structure and functionality are meeting the Commission's and its advisor's needs.



Steve Heminger

Attachments

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**MTC Policy Advisory Council
Proposed Mission Statement**

The mission of the Metropolitan Transportation Commission’s Policy Advisory Council is to advise the Commission on transportation policies in the San Francisco Bay Area, incorporating diverse perspectives relating to the environment, the economy and social equity. The Council advises the Commission and its staff through the appropriate MTC standing committees on matters within MTC’s jurisdiction and as assigned by the Commission.

**MTC Policy Advisory Council
Proposed Membership**

Interest	# Representatives
<p>Economy/Environment</p> <p><i>(Four members would represent economic interests and four members would represent environmental interests. The ninth member would be selected from either category.)</i></p>	<p>9 (five of the nine must be from each of the five most populous counties; the balance may be selected at large from throughout the region; selected by the Commissioner Chair and Vice Chair)</p>
<p>Equity – Communities of Color/Environmental Justice/Low Income</p> <p><i>(Four members would represent communities of color and four would represent environmental justice/low-income issues. The ninth member would be selected from either category.)</i></p>	<p>9 (one from each county; selected by the Commissioner or Commissioners from each county)</p>
<p>Senior/Disabled</p> <p><i>(Four members would represent senior issues, and four would represent disabled issues. The ninth member would be selected from either category.)</i></p>	<p>9 (one from each county; selected by the Commissioner or Commissioners from each county)</p>
Total Reps	27 Members

Date: November 18, 2009
W.I.: 1114
Referred by: Legislation

ABSTRACT

Resolution No. 3931

This resolution defines the role and responsibilities of the Commission's Policy Advisory Council.

This resolution supersedes Resolution No. 3516. Further discussion of this action is contained in the Executive Director's memorandum dated November 6, 2009. This resolution includes:

- Attachment A, which outlines the mission statement, roles, expectations, procedures, appointment process and membership criteria for the Council;
- Attachment B (to be added by Amendment to the resolution), a table listing the currently appointed advisors and their terms.

Date: November 18, 2009
W.I.: 1114
Referred by: Legislation

RE: Commission Policy Advisory Council

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 3931

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Section 66500 *et seq.*; and

WHEREAS, MTC seeks to involve citizens of diverse backgrounds and interests in the development of transportation plans and programs, in a manner consistent with applicable state and federal requirements and Commission policy (Resolution No. 2648); and

WHEREAS, MTC seeks to focus its advisory processes around the “Three E” principles of sustainability outlined in the regional transportation plan: a prosperous and globally competitive economy; a healthy and safe environment; and equity wherein all Bay Area residents share in the benefits of a well-maintained, efficient and connected regional transportation system; and

WHEREAS, MTC seeks to utilize its advisors to ensure that a wide spectrum of views are considered in developing transportation policy, and enhance the contributions and effectiveness of its advisors, now, therefore be it

RESOLVED, that the Commission establishes a Policy Advisory Council; and be it further

RESOLVED, that the members of the Policy Advisory Council will be appointed according to the process and shall have the role, tasks, membership and meetings as described in Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length; and be it further

RESOLVED, that the Policy Advisory Council roster is contained in Attachment B to this resolution; and be it further

RESOLVED, that the Executive Director is instructed to secure nominations to fill expired terms and other vacancies and present them to the Commission for confirmation by periodically revising Attachment B; and be it further

RESOLVED, that Resolution No. 3516, Revised, is superseded with the adoption of this resolution.

METROPOLITAN TRANSPORTATION COMMISSION

Scott Haggerty, Chair

The above resolution was entered into by the
Metropolitan Transportation Commission
at a regular meeting of the Commission held
in Oakland, California, on November 18, 2009

Date: November 18, 2009
W.I.: 1114
Referred by: Legislation

Attachment A
Resolution No. 3931
Page 1 of 4

Attachment A
Metropolitan Transportation Commission
Policy Advisory Council

A. Mission Statement

The mission of the Metropolitan Transportation Commission's Policy Advisory Council (Council) is to advise the Commission on transportation policies in the San Francisco Bay Area, incorporating diverse perspectives relating to the environment, the economy and social equity. The Council advises the Commission and its staff through the appropriate MTC standing committees on matters within MTC's jurisdiction and as assigned by the Commission.

B. Roles/Expectations

1. Advisors Provide Interest-Based and/or Geographic Perspectives

Advisors should represent the stakeholder interest under which they have been appointed. Although some advisors may be appointed based on an organizational affiliation, they should represent their constituency (not just their individual organization).

2. Responsibilities

Advisors will be expected to regularly attend their Council meetings and to maintain an ongoing engagement with organizations and individuals who make up the advisor's constituency.

3. Council Work Plan

The Commission will hold an annual workshop as a separately agendized meeting with the Policy Advisory Council to set the Council's work plan and schedule for the year. At this meeting, the Commission will identify several priority areas in which it desires feedback and/or research from the Council, and establish appropriate goals and performance measures. Advisors also will be given the opportunity to recommend initiatives of potential relevance to the Commission for inclusion in the work plan.

4. Reporting to the Commission

With the assistance of MTC staff, the Council will report on its work plan progress or present recommendations to the full Commission or MTC's standing committees, as appropriate.

5. Limitations on Advisor Activities

The role of the advisors is to advise the MTC Commission. Advisors are not to convey positions to outside agencies on behalf of the Council, independent of Commission action.

C. Membership

The Council shall be composed of twenty-seven (27) members as follows.

A total of nine (9) members, one from each Bay Area county, shall be selected to represent interests related to the communities of color, environmental justice and low-income issues. A minimum of four members shall represent the communities of color, and a minimum of four shall represent environmental justice/low-income issues. The ninth member shall be selected from either category.

A total of nine (9) members, one from each Bay Area county, shall be selected to represent the interests of disabled persons and seniors. A minimum of four members shall represent senior issues, and a minimum of four shall represent disabled issues. The ninth member shall be selected from either category.

A total of nine (9) members shall be selected ~~at large from throughout the entire Bay Area~~ to represent interests related to the economy and the environment. A minimum of four members shall represent economy interests and a minimum of four members shall represent environmental interests. The ninth member shall be selected from either category. Of these nine seats, at least five should be held by residents from each of the five most populous counties. The remaining four seats may be selected at large from throughout the entire Bay Area.

There shall be no alternates to the appointed membership.

D. Appointment Process

1. General

MTC staff shall secure nominations to fill terms and vacancies for the Council and present them to the appropriate Commissioners for confirmation. Appointments for advisors representing a particular county will be made by that county's Commissioners.

Appointments for all the at-large advisors will be made by the Commission's chair and vice chair. Nominations for members of the Council will be solicited from a wide range of sources including, but not limited to: MTC Commissioners, current advisors, relevant organizations in the community, and via news releases or display ads sent to media outlets in the nine-county Bay Area.

2. Terms of Appointment

In general, advisors will serve four-year terms. Although there are no term limits, MTC Commissioners are to consider length of service and effectiveness before recommending the reappointment of advisors. All advisors wishing to be reappointed must reapply.

E. Procedures

Attendance and Participation

1. Advisors must attend at least two-thirds of the Council's regularly scheduled meetings each year and make a constructive contribution to the work of the Policy Advisory Council. Those who do not do so may be subject to dismissal from the Council at the discretion of the appointing Commissioner(s).

2. Residency Requirements

Advisors must live or work in the nine-county Bay Area.

3. Compensation

Subject to the Commission Procedures Manual (MTC Resolution No. 1058, Revised, Appendix D), advisors will receive a stipend per meeting and be reimbursed for actual expenses for travel, with a maximum of three meetings per month. Meetings are defined as a) publicly noticed meetings or meetings of ad hoc working groups of the Council; b) noticed MTC Commission or committee meetings; or c) attendance at a community meeting at the request of the Commission or MTC staff to provide outreach assistance (i.e., when he/she attends a community meeting with MTC staff to provide an introduction to a particular community).

4. Meeting Frequency and Location of Meetings

The Council will meet regularly as required by its annual work plan. Public meetings will be held at the MTC offices or other locations at a regular time to be agreed upon by the members of the Council.

5. Ad Hoc Working Groups

To implement its work plan, the Council may establish working groups, with participation from MTC staff, on an ad hoc basis.

6. Quorum Requirements

At least 50 percent plus one of the Council's appointed membership must be present to constitute a quorum and vote on issues. The Council can hold discussions in the absence of a quorum, but cannot vote.

7. Election of Council Chair and Vice Chair

The Council will have a chair and a vice-chair, to be elected by the council for a one-year term. Although Council officers may be reelected, regular rotation of these positions among the Council membership is strongly encouraged.

8. Public Meetings

All Council meetings and any ad hoc working group meetings will be noticed and open to the public.



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Administrative Staff

November 16, 2009

BY ELECTRONIC MAIL

Chair Scott Haggerty and Commissioners
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, California 94607-4700

Re: Proposed Elimination of Minority Citizens' Advisory Committee

Chair Haggerty and Commissioners:

In a significant departure from long-standing practice, MTC recently proposed to eliminate its only advisory body charged explicitly with representing the views and interests of Title VI populations and Environmental Justice communities, the Minority Citizens' Advisory Committee ("MCAC"). The proposal before you would winnow a broadly-representative 26-member minority advisory body down to a small number of seats – as few as four – on a much larger consolidated advisory council.

We write on behalf of Urban Habitat to encourage MTC to give serious study to improving its responsiveness to the recommendations of its advisory committees and to make reforms that will ensure historically-underrepresented communities a more meaningful voice in MTC's decision-making. In the rush to eliminate MCAC, however, MTC has failed to give adequate consideration to the best means of achieving those goals or to allow for meaningful public deliberation on the proposed changes, nor has it adequately considered the serious negative impacts that its action is likely to have on minority and low-income participation and voice in MTC decision making.

A. MCAC's Creation and Purpose

The creation of the Minority Citizens' Advisory Committee dates back to a September 19, 1974 Memorandum of Understanding ("MOU") between MTC and the Mexican American Legal Defense and Education Fund ("MALDEF"). MALDEF attorneys represented Latino community members who had formally protested MTC's adoption of its Regional Transportation Plan; their protest was based, in part, on the lack of meaningful minority participation in the development of the RTP. With the participation of the U.S. Department of Transportation's Civil Rights Specialist, MTC negotiated and entered into this MOU.

In the MOU, MTC promised to "establish a Minority Citizens' Advisory Committee to assist and consult with respect to effective methods and procedures of obtaining the maximum input from minority citizens to the regional transportation planning process." MOU, p. 3.

MCAC has continued to be charged with playing this role for thirty-five years. Today, as MTC notes, MCAC

ensures that the views and needs of minority communities are adequately reflected in policies of the Metropolitan Transportation Commission (MTC). The committee, which has been in existence since 1975, includes representatives from the region's African American, Asian, Hispanic and Native American communities, as well as individuals who are from, or work with, low-income communities. The goal of the committee is to involve these historically under-represented communities in the transportation planning process overseen by MTC, the regional transportation planning and financing agency for the nine-county San Francisco Bay Area.¹

MCAC members have the opportunity to discuss concerns with MTC staff working on studies, projects and programming efforts. The group's focus also includes assisting MTC with public outreach to minority and low-income communities as well as with helping improve the coverage of transportation issues in minority press.²

In particular, MCAC and its members have the autonomy to "actively and independently research[] new initiatives that the committee believes might be relevant to the Commission."³

MCAC's 26 members are broadly representative of Bay Area minority communities and populations:

The five most populous counties in the Bay Area (Alameda, Contra Costa, San Francisco, San Mateo and Santa Clara counties) each have three seats on the MCAC: one for an individual of African American/Black background, one for an individual of Asian background, and one for an individual who is Latino/Hispanic. The four smaller counties

¹ Fact Sheet, accessed at http://www.mtc.ca.gov/get_involved/advisory/MCAC.pdf

² Id.

³ Id.

in the region (Marin, Napa, Solano and Sonoma counties) each have two seats on the advisory panel; these members are either of African American/Black, Asian or Hispanic/Latino descent. . . . One additional at-large advisor is of Native American descent, plus two at-large advisors are from or serve low-income communities . . .

This diversity of members therefore represents, and is accountable to, the minority communities in every Bay Area county, and members are “expected to . . . maintain an ongoing engagement with organizations and individuals who make up their constituency.”⁴

B. MCAC is a Core Component of MTC’s Past Efforts to Comply with Federal Title VI and Environmental Justice Requirements

Executive Order 12898 states, in part, that “each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” Through implementing orders adopted by the U.S. Department of Transportation in 1997, and by the Federal Highway Administration and the Federal Transit Administration in 1998, Executive Order 12898 applies to MPOs and other participants in federal programs.

DOT Order 5610.2, implementing Executive Order 12898, requires recipients of federal transportation funding to establish procedures that “provide meaningful opportunities for public involvement by members of minority populations and low-income populations during the planning and development of programs, policies, and activities” that have potential for impact of minority and low-income communities. Section 5(b)(1).⁵

Federal law encompasses a range of more specific requirements, MTC’s compliance with which is regularly monitored by the federal agencies. Among these requirements, FTA’s most recent compliance report set out the following:⁶

“Requirement: Metropolitan Planning Organizations, primarily within service areas with populations over 200,000, are required to provide a written statement describing how

⁴ Id.

⁵ At MCAC’s initiative and request, MTC has implemented this requirement in the first of its Environmental Justice Principles: “Create an open and transparent public participation process that empowers low-income communities and communities of color to participate in decision making that affects them.”

⁶ FTA Office of Civil Rights, “Title VI/Environmental Justice Compliance Review” of MTC,” Final Report, March 2004. Accessed at <http://www.fta.dot.gov/documents/MTCFinalReport.doc>

minority groups or persons are afforded an opportunity to participate in local decision making processes.” (p. 24)

“Requirement: Metropolitan Planning Organizations must develop a process and make efforts to identify and assess the needs of low-income and minority populations.” (p. 26)

“Requirement: Metropolitan Planning Organizations must implement a public involvement process for engaging low-income and minority populations in transportation decision-making, including strategies implemented to reduce participation barriers for such populations.” (p. 28)

“Requirement: Metropolitan Planning Organizations must routinely evaluate public involvement in the planning process, including efforts undertaken to improve performance, especially with regard to low-income and minority populations.” (p. 29)

“Requirement: Metropolitan Planning Organizations must make efforts to engage low-income and minority populations in the public outreach effort, including efforts to utilize media (such as print, television, radio, etc.) targeted to low-income or minority populations.” (p. 30)

“Requirement: Metropolitan Planning Organizations must have mechanisms in place to ensure that issues and concerns raised by low-income and minority populations are appropriately considered in the decision making process.” (p. 30)

In its 2004 “Title VI/Environmental Justice Compliance Review” of MTC, FTA’s Office of Civil Rights explicitly found that MTC’s compliance at that time rested in significant part on the existence and functioning of MCAC. The 2004 findings of FTA’s Office of Civil Rights referred repeatedly to MCAC. Thus, FTA noted that

“[t]o ensure that minority groups and persons are afforded an opportunity to participate in local decision making processes, MTC has created a Minority Citizens Advisory Committee (MCAC) to focus on the issues and concerns of Title VI. Most recently, MTC adopted Resolution 3516 in December, 2002 to further strengthen the effectiveness of the MCAC by 1) adding two seats for individuals from or who serve low-income communities and 2) by spelling out an expectation that “advisors will present their committee’s recommendations to MTC’s standing committees or the Commission” (p. 24)

(See id. at pp. 28-29 [MTC “has the Minority Citizens Advisory Committee (MCAC) to focus on the issues and concerns of Title VI/Environmental Justice.”].)

FTA noted that “MTC utilizes the MCAC and the MTC website continually to engage its low-income and minority populations” (30) and that “[t]o ensure that mechanisms are in place to ensure that issues and concerns raised by low-income and minority populations are appropriately considered, MTC has the Minority Citizens Advisory Committee (MCAC) to focus on the issues and concerns of Title VI/Environmental Justice.” (31)

Noting that MCAC is the only body among all of the decision-making and advisory bodies at MTC on which minorities are not severely under-represented, FTA “advise[d] MTC to work with member jurisdictions to encourage greater minority participation in the Commission and to inform potential advisory committee members from minority groups about vacancies on the committees.” (at 26)

The elimination of MCAC threatens to leave MTC with no basis to demonstrate compliance with these and other important civil rights and environmental justice requirements, yet the impacts of the proposed restructuring on that compliance have not been studied.

C. Before MTC Disbands MCAC, It Must Carefully Study the Title VI and Environmental Justice Impacts of that Action, as well as Alternatives.

The speed of the contemplated action is troubling in light of the seriousness of what is at stake and the lack of consideration of the impacts of the change on MTC’s ability to “provide meaningful opportunities for public involvement by members of minority populations and low-income populations.”

MTC’s proposed resolution was not made public until November 9, and was brought before the Legislation Committee just four days later, on November 13. It is now scheduled to come before the full Commission less than a week later, on November 18. When MTC considered an equally serious proposal – four proposed Environmental Justice Principles, which MCAC adopted on its own initiative in 2005 – it was taken up several times by the Legislation Committee, and did not come before the full Commission for more than a year.

Notably, the proposal to collapse the three advisory groups into a single body did not initiate with any of those groups, but rather with MTC Commissioner Spering, who raised the idea in June.⁷ When initial findings were presented to the Legislation Committee at its October 9, 2009 meeting, members of the Elderly and Disabled Advisory Committee expressed their opposition to consolidating the committees into one and the diminishment of representation that would entail.⁸ At the Legislation Committee hearing last Friday, November 13, MCAC provided written objections to the specific proposal, but the Chair allowed no discussion of them. Notably, none of the advisory committee members who spoke at that meeting expressed support for the proposal in its present form.

Even if MCAC and the other advisory committees were expressing consent, however, that consent would not be informed by the necessary facts and analysis, as MTC staff has not yet taken the basic steps of reviewing a range of possible alternatives to determine the social equity

⁷ Minutes accessed at http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1319/2_MinutesJun.pdf.

⁸ Minutes accessed at http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1388/2_MinutesOct.pdf.

and other impacts (positive and negative) of each. The lack of study and evaluation of issues and alternative solutions has not only resulted in a seriously flawed proposal, but has deprived concerned parties of an opportunity to participate meaningfully in the making of this important decision. As a result, no one – not MCAC, not the communities and populations that its members represent, and not the Commission or the general public – has had an opportunity to comment meaningfully on the best solution to the problem staff has identified.

The failure of staff to analyze the impacts of the elimination of MCAC on MTC's ability to meet the requirements described above is sufficient reason in itself for the Commission to reject the current proposal and direct staff to conduct a proper analysis.

Should the Commission decide after appropriate study that MCAC can be eliminated, and replaced with another committee structure, without undermining minority and low-income participation, a separate and important set of questions will arise about how best to undertake that restructuring. These questions have not yet been confronted or answered; while the public lacks the information to comment in necessary detail at this stage, it is nonetheless clear that the proposed Resolution would represent a major step backwards for minority and low-income participation at MTC.

Among other things, the proposal includes no mechanism to ensure that the membership of the new committee would not be disproportionately white, as FTA found the Commission and most of its advisory groups to be in 2004. The problem of the dilution of minority voices by reducing the current MCAC from a stand-alone committee of 26 diverse members to a minority voting block on a larger committee has not been confronted.

Autonomy is another important concern. As it has been constituted since 1974, MCAC has been an autonomous advisory committee with the power to "actively and independently research[] new initiatives" and set its own agenda. The autonomy to bring forward its own initiatives and recommendations is critical to authentic and meaningful participation; without it, the Commission will be denied issue-spotting, advice and recommendations on the full range of issues that are of concern to minority and low-income constituencies. Resolution No. 3931 would severely constrain that autonomy by giving the Commission the power to set the committee's work plan, "identify[ing] several priority areas in which it desires feedback and/or research from the Council, and establish appropriate goals and performance measures." Res. 3931, Attachment A, pg. 1.

The thoughtful consideration of these and other issues requires analysis and evaluation of the effectiveness of alternatives in promoting minority participation, as well as of the impacts of those alternatives in restricting that participation. Unnecessarily speedy action, before this evaluation has taken place with full public discussion, is not justified or appropriate.

CONCLUSION

The decision to dissolve MCAC has grave stakes for the fairness, inclusiveness and legitimacy of all of MTC's decision-making. It also seriously jeopardizes MTC's efforts to comply with federal Title VI and Environmental Justice requirements. The Commission should direct staff to ensure that a thoughtful analysis of the issues is conducted, with full public participation, including an analysis of the impacts of a range of potential alternative solutions.

Very truly yours,



Richard A. Marcantonio
Managing Attorney

Cc: Chair and Members, Minority Citizen's Advisory Committee (c/o Georgia Lambert, glambert@mtc.ca.gov)

Chair and Members, Elderly and Disabled Advisory Committee (c/o Leslie Lara, llara@mtc.ca.gov)

Chair and Members, MTC Advisory Council (c/o Janice Richards, jrichards@mtc.ca.gov)

Thomas Saenz, President and General Counsel, and Nancy Ramirez, Western Regional Counsel, Mexican American Legal Defense and Educational Fund

President Rose Jacobs Gibson and Members of the Executive Board Association of Bay Area Governments

Chair Pamela Torliatt and Members of the Board of Directors Bay Area Air Quality Management District

Chair R. Sean Randolph and Commissioners San Francisco Bay Conservation and Development Commission

Executive Director Ted Droettboom, Joint Policy Committee



MALDEF

Mexican American Legal Defense and Educational Fund

November 17, 2009

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Chair Scott Haggerty
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 Eighth St.
Oakland, CA 94607-4700

VIA ELECTRONIC MAIL

Re: Proposed Elimination of Minority Citizens Advisory Committee

Dear Mr. Haggerty:

MALDEF recently learned that the Metropolitan Transportation Commission (MTC) is planning to dismantle the Minority Citizens Advisory Committee. As you are aware, MALDEF played a critical role in the formation of this Committee when it represented the Latino community in a complaint to the Department of Transportation over the adoption of the regional transportation plan in 1973. As a result of MALDEF's intervention, a Memorandum of Understanding was adopted between the MTC and MALDEF to ensure a more inclusive planning process by requiring the formation of a Minority Citizens' Advisory Committee to obtain "the maximum input from minority citizens."¹

We understand that the MTC proposes to dismantle the 26-member minority committee and consolidate it with two other citizen advisory committees to create one multi-interest Policy Advisory Committee with as few as four seats designated for minority representatives. California's minority population continues to grow at a rapid rate. Rather than decreasing minority representation in the planning process, the MTC should be seeking ways to improve and increase the minority community's participation.

The establishment of the Minority Citizens Advisory Committee is representative of the hard-fought gains for minority members' inclusion in the planning process thirty-five years ago and should not be undone without adequate deliberation and public input. Before the MTC votes to dismantle this important advisory committee, we urge the Commission to consider other alternatives to dismantling the Committee, to provide comprehensive analyses of alternative measures, and to allow for public comment and input to these alternatives.

Sincerely yours,

Nancy Ramirez
Western Regional Counsel

¹ Memorandum of Understanding between MTC and MALDEF, p. 3.