

**September 28, 2011**  
**Commission Meeting**

**Item 8a**

**Attachment A**

**Summary of All Comments Received**

**Attachment A – Summary of All Comments Received**

(Shaded comments were received after the Committee meeting and Commission mailing but prior to the close of the public comment period)

Date	Name	Agency/ Affiliation	Overall Position	Comments	Staff Response
22 – July - 11	Dick Tait	Mill Valley Resident	Oppose	<ul style="list-style-type: none"> <li>The motion to transfer TAM funds to SMART would not have passed without the affirmative votes of four Marin Board Members of SMART, specifically Arnold, Boro, Sears and Moulton-Peters, who should have recused themselves from voting due to their conflict of interest. Please communicate this information to the Commissioners and, reject any additional financial support of the SMART project.</li> </ul>	<p>Certain public officials with a financial interest in a decision must publicly identify the financial interest that causes the conflict; recuse himself/herself from discussing and voting on the matter; and leave the room until after the decision has been made. (Cal. Govt Code § 87100, 87105 and 87200). We would defer to TAM/SMART on whether there was a prohibited conflict of interest.</p>
1- Aug - 11	Mike Arnold	RepealSMART	Oppose	<ul style="list-style-type: none"> <li>My calculations indicate that the “pre-service deferral” deficit is \$43 million and SMART will need to defer service for 3.6 years in order to claim their project is "in balance." This is very different from what SMART circulated to the public on July 22<sup>nd</sup>.</li> <li>See attached table for my calculations.</li> </ul>	<p>The SMART Expenditure and Revenue Analysis presented at the SMART Board meeting on August 17, 2011 presents an updated financial plan.</p>
25 - Aug - 11	Gail Bloom		Oppose	<ul style="list-style-type: none"> <li>The current request for RM2 funds does not include written/graphic schedule changes and consequences of those changes, the project’s expenditures to date, other funds already awarded to SMART in prior years, and discussion regarding future RM2 allocations; SMART treats the train as a stand alone project, independent from the path despite having fungible funding, and a shared project definition and enabling legislation.</li> <li>SMART is still seeking federal environmental clearance for separate independent elements of the project, maybe as a conscious attempt to segment federal environmental review which is contrary to the intent of NEPA.</li> </ul>	<ul style="list-style-type: none"> <li>SMART has provided the information required by MTC to allocate RM2 funds in the form of the IPR package as well as the staff report and the expenditure and revenue analysis approved by the SMART board. These documents contain detailed project and cost information.</li> <li>Regarding NEPA clearance, staff’s understanding is that at this time, SMART is only able to pursue NEPA for the portions of the project that have federal funding, and that the potential reviewing federal agencies (i.e. FTA) will not undertake a NEPA review for projects that are not federally funded.</li> </ul>

Date	Name	Agency/ Affiliation	Overall Position	Comments	Staff Response
23 – Sep – 2011	Clay Mitchell	RepealSMART		<ul style="list-style-type: none"> <li>• Discrepancies reported last time compounded by further discrepancies, shortages and cost overruns which have put this project in even deeper financial straits.</li> <li>• Mr. Mansourian presented to the SMART Board two entirely different sets of financial projections for the project- one designed for public consumption, and the second designed to specifically paint the picture of a balanced project for MTC.</li> <li>• Attached is a copy of Mr. Arnold's review of the most recent SMART financial report- it identifies a \$43M shortfall based on SMART's numbers.</li> <li>• Given that SMART does not have a balanced budget or fully funded project, it is highly inappropriate for MTC to provide funding to the project; MTC's funding will not bridge the gap. SMART will still need to develop other revenue sources to complete their IOS.</li> <li>• SMART has demonstrated a history of rosy revenue projections, overly optimistic cost projections, and an inability to present accurate numbers. They have sent you a proposal that does not accurately represent their financial situation and downplays the cost of the project.</li> <li>• Please reconsider throwing good money after bad - at least until SMART can show a truly balanced budget and fully funded project. I urge you to vote against providing this additional RM/2 bailout of the financially unstable and underfunded SMART project.</li> </ul>	<ul style="list-style-type: none"> <li>• The SMART Expenditure and Revenue Analysis presented at the SMART Board meeting on August 17, 2011 presents an updated financial plan.</li> <li>• MTC has reviewed SMART's approved financial plan as well as the SMART report of August 17<sup>th</sup>. Staff understands that SMART staff has presented some possible cost elements that would be added into the scope should additional revenues materialize that results in one set of financials. That said, SMART approved a project scope for the Initial Operating segment with a cost of \$360 million and identified a \$360 million funding plan.</li> </ul>

Date	Name	Agency/ Affiliation	Overall Position	Comments	Staff Response
23 – Sep - 2011	Andy Peri	Marin County Bicycle Coalition	Support	<ul style="list-style-type: none"> <li>The SMART Train and Pathway project is vital for the North Bay. SMART will help to reduce traffic, provide a transportation alternative for Marin and Sonoma residents, provide a world-class multi-use pathway system that will support nonmotorized transportation and help to reduce greenhouse gas emissions.</li> <li>The Marin County Bicycle Coalition appreciates MTC's support in helping to get the SMART Train and Pathway moving forward and we urge approval of the resolutions.</li> </ul>	N/A
23 – Sep - 2011	Judy Arnold	Marin County Supervisor	Support	Support	N/A

Programming and Allocations Committee,  
Metropolitan Transportation Commission  
101 Eighth Street  
Oakland, California 94607

Dear Committee Chair and Members and Staff-

I wrote extensive comments to this committee on July 12, 2012 regarding discrepancies in the information you were presented the last time a public hearing was conducted on this issue. At the time of the last public hearing SMART concealed a \$35M cost overrun until compelled to reveal it. It is for this reason that the MTC declined to approve this funding previously.

I am disappointed to inform you that the the discrepancies reported last time have been compounded by further discrepancies, shortages and cost overruns which have put this project in even deeper financial straits.

I watched with my own eyes as Mr. Mansourian presented to the SMART Board two entirely different sets of financial projections for the project- one designed for public consumption, and the second designed to specifically paint the picture of a balanced project for you at the MTC.

As before, there are serious flaws in SMART's calculations. Your staff is aware of some of these flaws- they have been informed by Mr. Mike Arnold of Novato, a PhD economist who analyzed Mr. Mansourian's latest projections. I have attached a copy of Mr. Arnold's review of the most recent SMART financial report- it identifies a \$43M shortfall based on SMART's numbers. Among the items listed:

- \$5M in expenses that were added without explanation or justification. In other words, until the most recent revisions the projected cost of \$330M was shared with you, but the SMART Board was presented a project cost of \$335M. Mr. Mansourian was asked directly (by both myself during public comment and also SMART Board Chair Val Brown) to explain this discrepancy during the August Board meeting- he offered no explanation.

- \$10M projected savings from eliminating the restrictions due to freight service during the construction period. Mr. Mansourian indicated in his most recent financial report that "discussions with NWP indicate preliminary agreement". I have personally spoken with the principle at NWP who indicated that there was no such agreement, and that he was unwilling to cease freight operations for that period (beyond the allowances already given in the joint operating agreement). I also have in my possession emails from NCRA executive director and counsel stating that there is no such agreement. This "savings" is a fabrication that does not exist, but was necessary to present a seemingly "fully funded" project.

- Increased revenue from an arbitrary increase in projected sales tax growth rate

accounting for \$11M in "found revenue". Your organization conducted a review of SMART's projections and presented to the SMART Board in January 2011- among your recommendations was lowering the projected sales tax growth rate from 4% to a more reasonable projection. Your staff presented data that showed an average growth rate of 1.7% over the last 12 years, and a near term history just under 3%. At that time, SMART lowered their projections to comply with your recommendation. Mr. Mansourian arbitrarily reversed this adjustment.

- Incorrect calculation of savings based on the time value of money- SMART identified savings from lower operations and maintenance costs of approximately \$12M, but brought 100% of that calculated "savings" into the present. Accepted financial principles require an adjustment or off-set for the present value of those savings- most likely in the 50% range. This would reduce revenue projections by \$6.1M.

- SMART also has included a 2 year delay in commencement of operations in their financial plan, in order to claim a fully-funded project. This Publicly, they claim that this is NOT their official policy, and that they expect construction bids to come in substantially below engineering calculations, which would allow them to move the start date back up. What they fail to mention is that they have already committed (by board resolution) to replace \$88.5M in previously deferred items PRIOR to allocating any money to the resumption of an earlier start date. So just to be clear, this allows SMART to "book" \$24M in revenue while pushing the start date out to 2016. In other words, they are going to build the system, then let it sit for 2 years with not operations or benefit.

- Mr. Mansourian also recommends adding back in several of those deferred items for the IOS- specifically, bridge replacement on the Novato Creek Bridge (a safety hazard at present that, during flood or high tide conditions, would render the tracks impassable), restoring the CCTV system for safety and security, and restoring the ticket vending machines (this one should be kind of obvious- hard to run a train if you have not fare collection system). These combined items have been recommended/required to be restored to the IOS, at a combined cost of \$12.7M. BUT THEY HAVE NOT BEEN ACCOUNTED FOR IN THE COST OF THE IOS.

This represents a budget shortfall of AT LEAST \$43M on this project- in fact, Mr. Mansourian reported the cost of the IOS to the SMART Board at \$403.85M (including the \$12.7M of add-backs) or a bare minimum of \$391.1M without those add-backs.

I have also attached Mr. Mansourian's report, which outlines these figures.

Given that SMART DOES NOT have a balanced budget or fully funded project, it is highly inappropriate for you to provide funding to the project under the pretenses that it IS fully funded. Your funding will not bridge the gap to allow a complete or functional project- SMART will still need to develop other revenue sources to complete their IOS.

SMART has demonstrated a history of rosy revenue projections, overly optimistic cost projections, and an inability to present accurate numbers. They have sent you a proposal that does not accurately represent their financial situation and downplays the cost of the project.

I ask you to reconsider throwing good money after bad- at least until SMART can show a truly balanced budget and fully funded project, and can explain these discrepancies. I urge you to vote against providing this additional RM/2 bailout of the financially unstable and underfunded SMART project. I can't understand how staff can ignore these items and issue a recommendation to fund, and how you Commission members can proceed with staff's recommendation in light of these issues.... without discussion in their regard.

I have included my comments from the previous hearing below. Those issues have not been addressed either, and are still outstanding. I ask that you include those comments for the record as well.

Regards-

Clay Mitchell, Co-Chair  
RepealSMART

I am writing to notify you of several discrepancies in the information contained on the agenda for the Programming and Allocations Sub-Committee meeting scheduled for July 13, 2011 at 10 AM. These discrepancies are material in nature; the result of these changes is that the Sonoma Marin Area Rail Transit project is not fully funded. Even including the proposed funding from MTC (as outlined in your agenda), SMART is unable to fully fund their Initial Operating Segment, and at present, SMART has no workable plan to bridge their growing funding gap. I have provided supporting facts below.

- 1) The cost figure cited throughout the agenda packet is no longer the current cost estimate.
- 2) An FOIA request has been made to the MTC to obtain the document that shows the cost estimate MTC staff understands is \$365 MM, not \$330 MM. We expect to receive a copy of that document within a matter of a few days. There is no dispute as to whether it exists, as several MTC staff members have seen it and participated in meetings discussing it.
- 3) SMART has not made this new cost estimate known to the public, but is expected to at its August Board meeting per acting Executive Director Farhad Mansourian. I have attached an article published in the Press Democrat newspaper on July 7th, 2011 in which both Mr. Mansourian and SMART Board Chair Valerie Brown acknowledge that the cost estimate is being re-worked, and that they are unable to adequately determine an exact number at this point.

As such, there is no compelling reason for this Committee to consider recommending action on these funding items at this time. Further, it would be inappropriate for the Commission Board to receive recommendations or take actions regarding this project, considering that SMART has not formally submitted a Bridge Toll Funding Request (as required by your policy as stated in MTC Resolution No. 3636), there is not even impetus for the Board to do so, unless such

impetus comes from a source other than the sponsoring agency. We question the propriety of proceeding with a hearing for (and potentially issuing a ruling on) a non-existent request. As such, we ask that you forestall any formal vote or recommendation to the MTC Board until such time as the above mentioned concerns are resolved.

Very Truly Yours-

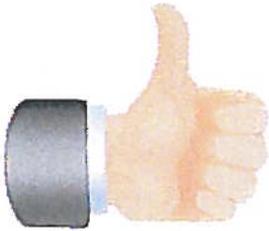
Clay Mitchell, Co-Chair  
RepealSMART

**Beba Jimenez - RE: Emailing: MTC.pdf**

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**From:** "Arnold, Judy"  
**To:** <andy@marincounty.gov>, <Bjimenez@marincounty.gov>  
**Date:** 9/23/2011 2:43 PM  
**Subject:** RE: Emailing: MTC.pdf  
**CC:** "Kinsey, Steven"; "Mansourian, Farhad"

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**Judy Arnold**  
**Marin County Supervisor**  
**District 5**  
**415-499-7331**

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**From:** Andy Peri  
**Sent:** Friday, September 23, 2011 2:41 PM  
**To:** Bjimenez  
**Cc:** Arnold, Judy; Kinsey, Steven; Mansourian, Farhad; Deb Hubsmith; Sears, Kathrin  
**Subject:** Emailing: MTC.pdf

Dear Beba,

Thank you for your time on the phone just now. Attached, please find a letter of support for the staff recommendation for agenda Item 8 on the September 28th MTC agenda regarding SMART.

Please can you confirm receipt and that this letter will be distributed to Commissioners.

Thank you so much for your support!

Andy Peri

**Andy Peri**  
**Advocacy Director**  
**Marin County Bicycle Coalition**



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*Safe Routes Instructor*

September 23rd, 2011

Metropolitan Transportation Commission Commissioners  
c/o Beba Jimenez

101 - Eighth Street  
Oakland, California 94607

**Re: Support for the SMART Train and Pathway**

Dear MTC Commissioners:

On behalf of the Marin County Bicycle Coalition, I am writing to fully support Resolution No. 3712 (Revised), No. 3801 (Revised), No. 3884 (Revised) and No. 4022, which will allow the Sonoma Marin Area Rail Transit (SMART) to move forward with bonding, construction and ultimately operations.

The SMART Train and Pathway project is vital for the North Bay. SMART will help to reduce traffic, provide a transportation alternative for Marin and Sonoma residents, provide a world-class multi-use pathway system that will support nonmotorized transportation and help to reduce greenhouse gas emissions.

The Marin County Bicycle Coalition appreciates MTC's support in helping to get the SMART Train and Pathway moving forward and we urge approval of the above resolutions.

Thank you,

Sincerely,

Andy Peri, Advocacy Director  
Marin County Bicycle Coalition