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*Adrienne J. Tissier, Chair*  
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*Amy Rein Worth, Vice Chair*  
Cities of Contra Costa County

*Tom Azumbrado*  
U.S. Department of Housing  
and Urban Development

*Tom Bates*  
Cities of Alameda County

*David Campos*  
City and County of San Francisco

*Dave Cortese*  
Santa Clara County

*Bill Dodd*  
Napa County and Cities

*Dorene M. Giacomini*  
U.S. Department of Transportation

*Federal D. Glover*  
Contra Costa County

*Mark Green*  
Association of Bay Area Governments

*Scott Haggerty*  
Alameda County

*Anne W. Halsted*  
San Francisco Bay Conservation  
and Development Commission

*Steve Kinsey*  
Marin County and Cities

*Sam Liccardo*  
Cities of Santa Clara County

*Jake Mackenzie*  
Sonoma County and Cities

*Kevin Mullin*  
Cities of San Mateo County

*Bijan Sartipi*  
State Business, Transportation  
and Housing Agency

*James P. Sperring*  
Solano County and Cities

*Scott Wiener*  
San Francisco Mayor's Appointee

*Steve Heminger*  
Executive Director

*Ann Flemer*  
Deputy Executive Director, Policy

*Andrew B. Fremier*  
Deputy Executive Director, Operations



**SPECIAL**  
**JOINT MTC/BATA MEETING**

Wednesday, August 17, 2011  
Joseph P. Bort MetroCenter  
Lawrence D. Dahms Auditorium  
101 8<sup>th</sup> Street, 1<sup>st</sup> Floor  
Oakland, CA 94607

**MINUTES**

**ATTENDANCE**

Chair Tissier called the meeting to order at approximately 9:15 a.m. In addition to Chair Tissier, the following Commissioners were present: Vice Chair Rein Worth, Commissioners Azumbrado, Bates, Cortese, Dodd, Giacomini, Glover, Green, Haggerty, Halsted, Liccardo, Mackenzie, Mullin, Sartipi, Sperring and Wiener.

**STATUS REPORT ON THE STRATEGIC PLANNING FOR A JOINT REGIONAL AGENCY CO-LOCATION FACILITY**

Executive Director, Steve Heminger made a presentation summarizing the decisions for the progression in the planning process in the proposed site selection for a co-location of a joint regional agency.

Commissioner Dodd requested clarification regarding the net developed prices of the Air District and Commercial tenant improvements. Mr. Heminger responded that those figures would be deducted at they will either lease or rent their space.

Commissioner Haggerty noted that there is a presented \$151 per square foot price discrepancy and would address this issue with the realtors.

Vice Chair Rein Worth is aware that the Air District and MTC will be using public dollars and understands not including the Commercial Tenant improvement figure but asked if these numbers will change when we include the Air District's portion. Mr. Heminger stated that the numbers will not change, by much, as the Air District has agreed to either pay market value rent or they will purchase their space, either one producing return income for MTC, either over time or as a one time option.

The Commission received public comment from the following:

Eric Angstadt, Planning Director, City of Oakland referenced inconsistencies with comparison information and spoke in favor of selecting 1100 Broadway in Oakland.

Keith Carson, Alameda County Board of Supervisors, referenced congestion issues and higher costs to do business in San Francisco as opposed to Oakland.

Rebecca Kaplan, Councilmember, City of Oakland, referenced inconsistencies with presented comparison information and the Request for Proposal process. She also requested seismic, standard, engineering, environmental review and design reports. She questioned if the agencies have the legal authority to enter a for profit speculative real estate business.

Nathan Rapp, representing Senator Loni Hancock, spoke in favor of selecting Oakland as the site for the proposed Joint Regional Agency Co-location Facility.

Naomi Armenta, on behalf of Policy Advisory Council, expressed its dissatisfaction with the Commission's 7/27/11 vote to relocate to San Francisco and requested the Council be provided the opportunity to be included in any accessibility issues arising from any potential move.

Carol Jones, representing Assemblymember Sandre Sawanson, spoke in favor of selecting 1100 Broadway in Oakland as the site for the Joint Regional Agency Co-location Facility and read a previously received letter signed by Senators DeSaulnier, Wolk, Hancock, Assemblymembers Skinner, Swanson, Bonilla and Wieckowski asking the Commission to consider rescinding its previous action and vote to keep its headquarters in Oakland.

Andreas Culver, Alameda County Building Trades, spoke in favor of selecting 1100 Broadway in Oakland as the proposed site for the Joint Regional Agency Co-location Facility

Maha Ibrahim, representing Assemblymember Nancy Skinner, spoke in favor and of the benefits of selecting 1100 Broadway in Oakland as the site for the proposed Joint Regional Agency Co-location Facility.

Scott Peterson, East Bay Economic Development Alliance (EBEDA), spoke in favor of selecting Oakland as the site for the proposed Joint Regional Agency Co-location Facility.

Gregory McConnell, Jobs and Housing Coalition, spoke of the many benefits of doing and maintaining business in Oakland and favors the selection of 1100 Broadway.

Paul Junge, on behalf of the Oakland Metropolitan Chamber of Commerce requests the Commission to rescind its 7/27/11 decision to relocate to San Francisco and to consider selecting Oakland as the proposed site.

Jack Broadbent, Bay Area Air Quality Management District (BAAQMD), encouraged the Commission to move forward in the acquisition of the 390 Main Street, San Francisco facility.

Commissioner Haggerty requested a report reflecting the actual number of all BAAQMD employees that reside in the East Bay.

Michelle Rousey, Public Authority Advisory Board for IHSS in Alameda County (PAPCO), encouraged the Commission to maintain its headquarters in Oakland.

Gaby Miller, Genesis, spoke in favor of selecting 1100 Broadway in Oakland as the site for the proposed Joint Regional Agency Co-location Facility.

Lauren Steinberg, Berkeley Center for Independent Living, believes that Oakland offers a better accessibility option for the disabled community and favors the 1100 Broadway site.

Doug Buckwald believes the Commission's actions violated the spirit of the Brown Act and feels that the Commission does not listen to public comment concerns and encourages the development of one functional transit agency that will unite competing and overlapping agencies.

Betty Mulholland, United Seniors of Oakland in Alameda County (USOAC) does not support a move to San Francisco.

Marshall Loring, MTC PAC, asked the Commission to consider the implementation of a shuttle service from transit hubs to 390 Main Street, should it be selected.

Jessica Lehman, Community Resources for Independent Living does not support the selection of 390 Main Street in San Francisco due to mobility accessibility.

Carmen Rivera Hendrickson, disabled advocate, believes a move to the San Francisco site is not feasible and does not support the move due to mobility accessibility.

Dennis Fagaly, Genesis, requested further comparisons of the two proposed sites.

Rebecca Saltzman, environmental advocate, referenced the benefits of SB572 and expressed her support for the 1100 Broadway site.

Herb Hastings, Regional Center-East Bay/disabled advocate, reviewed his unfavorable experience of walking from BART to 390 Main Street in San Francisco and supports the 1100 Broadway site.

Joyce Roy asked if the Commissioners and the BAAQMD Board physically toured the 390 Main Street building and does not support the move to this site.

Joan Lichterman, ULTRA, believes that the decision to select 390 Main Street in San Francisco was not a regional relocation opportunity but rather an opportunity to receive rental income. She also believes that a decision to move to this site violates MTC's land use policy of locating job centers within ¼ mile of transit and expressed her support of the Oakland site as a better choice.

Lupe Schoenberger representing Senator Mark DeSaulnier, urges the Commission to make any decisions about this transaction or expenditures using toll fines to be made in the most open and transparent manner and looks forward to hearing from MTC regarding his concerns.

Rich Hedges, Policy Advisory Council, believes the Council was left out in regards to providing their prospective on the decisions being made. He also requested the Commission not to make any final decisions until all retrofitting, seismic and engineering costs be reviewed and should

the San Francisco site be selected he would like the Commission to consider a full time shuttle from transit hubs to the building but also expressed his support for the 1100 Broadway site.

Dan Kingsley, SKS Investments, provided clarification of the presentation figures for 1100 Broadway as he believed they were inaccurate.

Janai Lane, Genesis does not support a move to San Francisco and believes the transit dependent community concerns need to be further studied and reviewed.

Alia Phelps, ACCE, requested further study of mobility accessibility of the San Francisco site.

Victoria Jimenez-Morales, Genesis, believes toll funds could be better utilized to support our existing transportation services.

Loren Haralson, Genesis, asked if it was appropriate for MTC to use \$180 million of flexible funds when these funds could be used on improving our current public transportation system.

Bette Ingraham, Genesis, does not support the proposed move to San Francisco.

Ener Chiu, East Bay Asian Local Development Corp, requests MTC participation of the planning process of the Lake Merritt BART station before making a decision to leave its current location.

Alex Kobayashi, representing Senator Ellen Corbett, supports the 1100 Broadway site location.

Sharon Cornu, City of Oakland, requests further cost comparisons of the proposed two sites and noted that every speaker with the exception of one agency has urged and advocated for the Joint Regional Agency Co-location facility to be in Oakland and requested the Commission rescind its action taken in July.

Commissioner Haggerty asked Darin Bosch, CBRE to confirm the presented 70% occupancy rate referred to in the commercial piece of the total building and questioned the inconsistencies in the appraisals by the three firms. He also asked what is CBRE's expected commission rate. Mr. Bosch responded that should the San Francisco site be selected, commission would be expected at the close of escrow as opposed to the Oakland site which would be paid at the completion of the development.

Commissioner Haggerty asked Brian Mayhew, MTC CFO, to address if two separate financial options were offered. Mr. Mayhew responded that financing options are those of the seller. He noted that the RFP model did not reference any financing or construction financing.

Commissioner Mullin asked Mr. Heminger to address ADA access and the seismic analysis of 390 Main Street. Mr. Heminger responded that there was a significant seismic upgrade recently made by the Post Office and there is a budget line item to perform additional seismic work. On ADA, the answer was the same, additionally, MTC would comply with the ADA and work with the disabled community as it also has a budget line item to further address any upgrades. Teri Green, MTC's Administrative and Technology Services Director, confirmed the receipt of preliminary information as it relates to the seismic safety retrofit previously done on the building but is also part of MTC's due diligence, MTC is requesting an additional analysis will address what the scope of work.

Commissioner Liccardo asked Mr. Bosch what would be the difference in commission rates between the proposed SF site as opposed to the Oakland. Mr. Bosh answered that the Oakland site would provide an additional \$100,000 after completion of development. Additionally, the MTC contract stipulates any amount over a certain point will be rebated back to the agencies.

Commissioner Liccardo noted that the San Francisco site is transit accessible as it has many other transit services which are also fully accessible besides BART and believes that should it be selected. He suggested a shuttle system as an option and recommended that MTC could request the transit agencies to reconfigure routes to allow further accessibility.

Commissioner Mackenzie questioned a discrepancy as the Oakland property was adjusted to LEED silver and the actual dollars per sq. ft. are presented at \$100 less per square foot. Mr. Heminger responded that further clarification was required because originally the Oakland building was proposed as LEED platinum. SKS presented ideas to lower the price, so it was proposed as LEED silver similar to 390 Main.

Commissioner Mackenzie also made reference to the challenge that MTC's TOD policy would be violated should the San Francisco site be selected, he clarified that there are a number of transit agencies that are within the ¼ mile locale radius requirement.

Mr. Heminger asked the Commission to refer to the previously distributed SKS presentation and noted that the LEED Silver item was presented at a \$3 million worth or \$10 sq ft not \$100 sq ft. Chair Tissier noted that the reports need further study.

Commissioner Bates asked if the 1100 Broadway cost figure assumes that we are going to build only for the needs of the agencies or build a larger building to rent. Mr. Heminger responded that the figure assumes that the agencies would occupy approximately ¾ of the space but there would be residual space that would be available for future expansion but could be leased in the meantime. Commissioner Bates asked how much space was available for rent. Mr. Bosch responded that the agencies would occupy 225,000 sq. ft., leaving the balance of 318,000 sq. ft. for leasing options and of the 20 entitled floors, the agencies would occupy 14.

Commissioner Glover asked if there have been any ongoing discussions regarding ABAG's decision not to co-locate. Mr. Heminger responded that he has had one discussion with ABAG's Executive Director since the meeting but hopes to maintain dialogue as progression is made.

Commissioner Haggerty asked Mr. Bosch what the commission rate would be on 390 Main Street. Mr. Bosch responded \$2 million.

Commissioner Wiener noted that this has been an extensive, objective and lengthy decision process and commented that as representatives of San Francisco who support the proposed 390 Main site, he and Commissioner Campos have limited their lobbying efforts as they did not want this process to be a San Francisco vs. Oakland issue. Additionally, he addressed the public comments that there was not any advocacy from San Francisco and stated that he could have invited representatives from San Francisco reflective of labor, seniors and the disabled community but that he and others made the choice not to fill these meetings with such bodies as they wanted the Commission and staff (with feedback from public) to make their decision based on the processes that have occurred.

He understands that Oakland is unhappy with the Commission's July decision but believes that Oakland has gone overboard by throwing every conceivable argument at the wall and stirring up an unnecessarily hornet's nest.

Regarding the accessibility issue, he noted that accessibility depends on where you're coming from and recognizes that the Oakland site would be more accessible to people living in Oakland and the East Bay but not necessarily more accessible to folks living San Francisco, San Mateo County and people living elsewhere. Furthermore, it is his assessment that representation at MTC meetings has been overwhelmed with participation by people from Oakland and the East Bay and acknowledged that San Francisco also has a lot of transit disability and senior advocates that won't come to Oakland. Additionally, 390 Main Street is accessible by BART and has other modes of transportation.

He expressed his disappointment in the contradictory arguments that it could be illegal to use toll money, but at the same time, MTC should buy 1100 Broadway. He reiterated that MTC followed a process, did analyses and that its decision should be made on facts not cheerleading efforts.

Commissioner Green commented on his reasons why he would not be voting for the proposed San Francisco site. He also noted that there were a lot of unanswered issues in front of the Commission that needed to be addressed.

Commissioner Halsted encouraged the Commission to collect all of its answers to the questions arising in order to make a final decision that would be fair to the Bay Area.

Commissioner Dodd stated that public comment and concerns are important and valuable to the Commission but noted that this issue is one that MTC, ABAG and the BAAQMD have been evaluating over a long period of time. He agreed with Commissioner Wiener's comment regarding the contradictory arguments that it could be illegal to use toll money, but at the same time, MTC should buy 1100 Broadway.

He recognized and noted that further more time to prepare, evaluate, analyze and address the arising issues.

Commissioner Spring believes that MTC staff has provided the Commission with what it asked for and also agreed with Commissioner Wiener's comments but is also concerned with public comments and questions raised and also believes further evaluation is needed.

Commissioner Giacomini referenced the accessibility issue and asked if MTC had the ability to provide an analysis, specifically one addressing public participation, as well as, participation of staff of other agencies as to how they would likely be impacted by MTC's move to San Francisco vs. Oakland.

Mr. Heminger responded that he did not believe an analysis could be made regarding who would attend and who not would attend meetings if they were in San Francisco or Oakland but noted that when parameters were established for a building search, in either city, the parameter was the ½ mile TOD parameter. 390 Main Street is within a ½ mile of BART and is well within ½ mile of other transit options. He recognized that a shuttle service is an issue that could be addressed and recognized that wherever the site is located, it is staff's commitment to make every effort to make the building accessible to people of all walks of life.

Commissioner Giocopini asked that since we represent all nine Bay Area counties, are there locations where we could relocate to that would not tend to limit the number of people coming from outside areas, furthermore, are there more people within the nine bay area counties that feel like they can reasonably meet in Oakland as opposed to somewhere else.

Mr. Heminger responded that the reason the search was restricted to San Francisco and Oakland was because these two cities are where the four participating agencies are currently located and both cities have excellent transit service.

Vice Chair Worth acknowledged staff's extensive effort to address the issues but feels that all of the questionable issues that have arisen be vetted publically as she believes issues have emerged that warrant further analysis. Additionally, cash flow assumptions - renting space as opposed to purchasing it - be reviewed.

Chair Tissier asked Mr. Bosch to clarify how many parking spaces would be available at 390 Main Street. Mr. Bosch responded that space would be available for approximately 200 spaces but further discrepancies need to be addressed.

Commissioner Haggerty acknowledged staff's effort and that the issue is not Oakland vs. San Francisco. He acknowledged that a new site would have to address accessibility for everyone and understands that the new site would be located in the urban core but acknowledged his support to maintain the headquarters in Oakland. He also believes MTC should spend more time in its continuing efforts to ABAG in the relocation process.

As the Chair of the BAAQMD, Commissioner Bates acknowledged his Board's support to move to 390 Main Street and commented that it is important include ABAG in the relocation process.

Chair Tissier recognized and is disappointed that unfortunately this issue has become extremely political and recognized that in lieu of public comment, letters received that ask some very serious questions she believes that as a public agency it is MTC's responsibility to vet those issues and make a decision after all of the comparisons have been made and hopes that after Closed Session, MTC will look further to look at each and every issue that came before the Commission today so if the Commission does make a decision on 390 Main or if the Commission makes a decision against it, no one can say that we did not listen to the public and that we didn't vet every issue.

### **CLOSED SESSION**

Adrienne Weil, MTC General Counsel, noted that before going into closed session, the Commission will be returning to Agenda Item 3 after the closed session and will now adjourn into closed session pursuant to Government Code Section 54956.9(b) to discuss significant exposure to litigation in a potential case and to conference with real property negotiators pursuant to Government Code Section 54956.8 to discuss the potential acquisition of 390 Main Street in San Francisco. The agency negotiators are Steve Heminger, Executive Director, Brian Mayhew, Chief Financial Officer, Darin Bosch, CBRE Senior Vice President and Michael Liever, Partner, Orrick Herrington & Sutcliffe LLP.

### **OPEN SESSION**

Ms. Weil reported that the Commission and Authority met in a joint closed session to (1) discuss significant exposure to potential litigation in one case and no reportable action occurred during that discussion and (2) to confer with real property negotiators, as indicated on the agenda, to discuss the potential acquisition of 390 Main Street in San Francisco, as well as, potential co-location arrangements with the Air District and ABAG and no reportable action was taken. Pursuant to the discussion in the closed session, the board decided to taken action in Open Session, which we are now in, and the Commission and the Authority will now take further action is this Open Session.

2:54:51

Commissioner Haggerty noted that in his earlier comments, it was not his intent to call upon the integrity of **Mr. Bush (?) or Bosch (?)** and offered his apology.

Chair Tissier moved that the Commission and BATA rescind the action taken on 7/27/11 to proceed with the transaction to open escrow to purchase 390 Main Street in San Francisco and related matters. Seconded by **####**. Motion passed unanimously.

Commissioner Wiener referenced and expressed his disagreement with the City of Oakland's claim that the Commission violated the Brown Act and noted that had that charge not been made, despite all of the bad press, he believes this escrow would be moving forward. He will support this motion but wanted to clarify that voting in favor of the motion does not imply that the Commission made a grave error in agreeing with 390 Main Street but that it will be evaluating additional information and avoiding a law suit with the City of Oakland.

Chair Tissier moved a second motion that any Board action directing staff on a real property transaction and authorizing a real property transaction be deferred to a future meeting and that an Ad Hoc Committee of MTC Commissioners comprised of the Chair, Vice Chair and former Chairs of the Commission study the serious legal and financial issues (or any/all issues brought before the Commission) that have been raised about the potential acquisition of 390 Main Street in San Francisco and report back to the Joint MTC/BATA board at a future meeting with a recommendation for action within 60 days. Seconded by **XXXX**. Motion passed unanimously.

#### **PUBLIC COMMENT/ADJOURNMENT/NEXT MEETING**

There being no further business or public comment, Commission Chair Tissier adjourned the meeting at 12:15 p.m. The next Joint MTC/BATA meeting date is to be determined in Oakland, California.