

# San Mateo County Express Lanes Joint Powers Authority Board of Directors Meeting Minutes

Meeting No. 14  
August 14, 2020

In compliance with Governor’s Executive Order N-29-20, and pursuant to the Shelter-in-Place Order issued by the San Mateo County Health Officer, this meeting was conducted via remote conferencing.

**Board of Directors:** Alicia Aguirre, Don Horsley (Chair), Emily Beach, Maryann Moise Derwin, Diane Papan (Vice Chair), and Rico Medina

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## 1.0 CALL TO ORDER/ ROLL CALL

Chair Horsley called the meeting to order at 9:00 a.m. Roll call was taken.

**Members Present:**

C/CAG Members:

Diane Papa, Maryann Moise Derwin, Alicia Aguirre (departed 10:00 a.m.)

SMCTA Members:

Don Horsley, Rico Medina, Emily Beach

**Members Absent:**

None.

**Staff Present:**

Sandy Wong – Executive Council

Jim Hartnett – Executive Council

Mima Guilles – Secretary

Tim Fox – Legal Counsel

Matthew Click – Program/Policy Manager for SMCEL JPA, HNTB

Sean Charpentier, Van Ocampo – C/CAG staff supporting SMCEL JPA

April Chan, Derek Hansel – TA staff supporting SMCEL JPA

Leo Scott – Gray Bowen Scott

Peter Shellenberger – PFM Financial- Financial Advisor for SMCEL JPA

Rudy Salo, Nixon Peabody- Finance Legal Counsel for SMCEL JPA

Other members of the public were in attendance.

## 2.0 BRIEF OVERVIEW OF TELECONFERENCE MEETING PROCEDURES

Mima Guilles, Secretary, provided an overview of the teleconference procedures.

## 3.0 PUBLIC COMMENT

*Note: Public comment is limited to two minutes per speaker. Public comment permitted on both items on the agenda and items not on the agenda.*

In accordance with the agenda for this meeting, persons who wish to address the SMCEL- JPA Board on an item to be considered at this meeting, or on items not on this agenda, were asked to submit comments in writing to [mguilles@smcgov.org](mailto:mguilles@smcgov.org) by 8:00 AM on Friday August 14, 2020. Mima Guilles, Secretary, reported there were no public comments received by the deadline. There was no spoken public comment made.

#### 4.0 APPROVAL OF CONSENT AGENDA

This item is to set the final consent and regular agenda, and to approve the items listed on the consent agenda. All items on the consent agenda are approved by one action. There will be no separate discussion on these items unless members of the Board, staff or public request specific items to be removed for separate action.

Director Beach MOVED approval of Items 4.1 and 4.2. Director Medina SECONDED. Roll call was taken. **MOTION CARRIED 6-0-0**

4.1 Approval of the minutes of Board of Directors Special Meeting (meeting No. 13) dated July 17, 2020. APPROVED

4.2 Information on Statement of Revenues and Expenditures for the Period Ended June 30, 2020. INFORMATION

#### 5.0 REGULAR AGENDA

5.1 Presentation and update on the San Mateo 101 Express Lanes Project. INFORMATION

Leo Scott provided a PowerPoint presentation on the construction progress of the San Mateo 101 Express Lanes Project.

5.2 Presentation and update on the Equity Study for the US 101 Express Lanes Project. INFORMATION

Matthew Click provided an update on the Equity Study for the US 101 Express Lanes Project.

5.3 Authorize the Executive Council to sign off a letter to the Metropolitan Transportation Commission supporting the Bay Area Express Lanes Project Performance Strategies as included in Plan Bay Area 2050 Draft Blueprint. APPROVED

April Chan presented the draft letter to the Metropolitan Transportation Commission which is necessary to support the Bay Area Express Lanes Project to be included in Plan Bay Area 2050. Since the Bay Area Express Lanes project

was under-performing in the project performance evaluation relative to GHG and Equity measures, all express lanes operators in the Bay Area are being asked to submit this “form letter” to MTC committing to strategies to reduce GHG emission and to improve Equity. April Chan pointed out some of the key points as included in the draft letter, one of which speaks to all-lanes tolling on freeway corridors with robust transit.

Director Papan noted that to her understanding, a request was made to be put in the letter a reference to the reservations and concern of all-lanes tolling but did not in fact see it on the draft letter.

April Chan added that the draft letter does not specifically state such reservation but a note can be added to the letter prior to signing off by the Executive Council.

April Chan added that in her conversation with one of the San Mateo County MTC Commissioners, the Commissioner would like to make sure that the concern of all-lanes tolling will be on the record and be communicated to MTC.

Director Derwin asked about the statement in the letter regarding prioritizing converting of a general-purpose lane over adding a lane. She asked if the proposed express lanes from I-380 to SF county line will add a lane.

April Chan responded that the environmental study will evaluate all feasible alternatives. No alternative has been chosen yet.

Director Derwin asked if this letter would negatively impact the express lanes north of I-380 if adding a lane alternative is chosen.

April Chan said the MTC strategy prioritizes lane conversions.

Director Derwin asked if the regional means-based tolling pilot were successful, would the MTC require all express lanes to implement means-based tolling.

April Chan answered that San Mateo County (SMCEL JPA) owns its express lanes and gets to decide on how to operate it.

Director Derwin agreed with Director Papan’s earlier comment about all lanes tolling, and would like to add language to the letter or a supplemental letter expressing concerns about and reserving judgement until after the study of all lanes tolling.

Director Beach shared Director Derwin’s comments and appreciated that the MTC letter seeks to address some of the shortcomings with existing express lanes regarding equity, greenhouse gases, and cost benefit analysis.

Director Beach asked staff for confirmation that the letter did not commit us to all lane tolling, or implement the MTC’s equity program.

April Chan answered, yes. We are doing our own equity study and have made it clear that we will wait until the results of our Equity Study.

Director Beach said there is no harm in a study and agrees that we reserve judgement until the study is completed.

Director Medina agreed that the concerns need to be noted and we need to ensure that the comments are either in a supplemental letter that is referenced in the MTC letter or added to the MTC letter.

Director Papan agreed with Directors Medina and Director Derwin and wanted to ensure that the concerns raised by the SMCEL JPA are communicated now and not later when the study is done.

Gina Papan, a member of the Public and an MTC Commissioner, made a public comment at this point. She stated that both herself and fellow MTC Commissioner Warren Slocum were concerned that the letter makes it appear that the JPA has agreed to these terms. We need to preserve our point of view and rewrite the letter and present our specific concerns and preserve our rights. San Mateo County is different, has specific concerns, and there are other viable strategies that can be pursued to reduce greenhouse gases. Supported an amendment to the letter, or separate letter specifically listing reservations.

Chair Horsley asked how would all lanes tolling potentially effect our financial commitment.

Jim Hartnett noted that our decisions are within our control and the region can attempt to apply regional leverage. It is helpful to make clear that agreeing to study an item is not the same as agreeing to implement what is being studied.

Director Beach expressed concern that the letter commits us to congestion pricing on all freeway lanes.

Gina Papan said that Director Beach is correct, and the letter, as is currently written, can easily be misunderstood by MTC staff as our support for these concepts. If we submit a letter of our own with the specific concerns, other jurisdictions might support us.

Directors continued to discuss the options of modifying the letter or rewriting a San Mateo County specific letter. Both options were aimed at conveying the willingness to study the strategy of all-lanes tolling but reserving judgement and not committing to implementation, and expressing concerns.

In addition, Director Derwin was concerned about the 55 miles per hour as included in the letter. April Chan noted that any change to highway speed on the State Highway System is under the purview of and would be implemented by Caltrans.

Director Beach made a motion to save as is this document, make sure staff changes the language, particularly in the Plan Bay Area Concepts section. That we support studying it but have reservations and are not committing until the studies are complete.

Director Papan asked if that includes removing language committing to specific policies.

Director Beach replied yes.

Director Derwin suggested to appoint Director Papan and Director Beach to a sub-committee to authorize and to review the re-written letter before it is sent out.

Chair Horsley mentioned that there were two separate motions. One was to write a letter by changing the language to indicate that we support studying the goals. Second was to have a sub-committee to review the letter to make sure the language was changed appropriately.

Director Papan **MOVED** to change the letter to indicate support for the studies and aspirational goals, but not commit to implementation, and to express concern in the policies. Director Medina **SECONDED**. Roll call was taken. **MOTION CARRIED 5-0-0** (Director Aguirre – Absent)

Director Horsley **MOVED** to appoint Direct Papan and Director Beach to a sub-committee to review the letter. Director Medina **SECONDED**. Roll call was taken. **MOTION CARRIED 5-0-0** (Director Aguirre – Absent)

- 5.4 Review and approval of Resolution SMCEL 20-11 authorizing the SMCEL-JPA Chair to execute the US-101 Express Lanes Project Loan Agreement between the San Mateo County Express Lane Joint Powers Authority (SMCEL-JPA) and the San Mateo County Transportation Authority (SMCTA) for up to \$100 million.  
APPROVED

Chair Horsley reminded the Board that this item was not voted on because July 17, 2020 was a Special meeting and not a Regular meeting.

Peter Shellenberger provided an overview and a PowerPoint presentation on the US-101 Express Lanes Project Loan Agreement.

Director Papan wanted the record to reflect her concern that the MTC could tie adoption of means-based tolling to receiving certain regional funds. We might be in a position where some cities might lose OBAG or MTC funds due to the JPA's inability to implement a means-based tolling program in excess of what is allowed in Loan Agreement. She said that it is nuanced, but wanted to go on the record that there is a chance that cities could lose some money if we cannot do means-based tolling in the event that is a regional requirement.

Sandy Wong commented that during final negotiation of the loan agreement, she too had expressed the same concerns because in her experience in working with MTC, they have conditioned funding on the implementation of another policy. She had suggested to insert a clause into the loan agreement in such that the JPA can implement means-based tolling without going back to a formal amendment if it's to comply with such MTC condition. However, that suggestion was not accepted, hence that language was not included in the final draft.

Director Derwin agreed with Director Papan and had the same concerns. She also agreed with Sandy Wong's language clarification.

Director Beach appreciated and understood Director Papan's concerns but did not share the same level of concerns for three reasons. Director Beach asked Peter Schellenberger or Rudy Salo, the JPA's advisors, for input.

Peter Schellenberger articulated that the current language represents a compromise by balancing the ability to implement a means-based tolling policy as long as the loan is repaid each year by at least \$5 million and revenue does not decline by more than 10%.

Rudy Salo commented on two things, one that if we were dealing with a commercial lender this would not be acceptable. And second, anything other than the language that's in the agreement could possibly render this provision completely unenforceable under the law.

Director Beach expressed three reasons 1) the JPA's fiduciary hired experts are comfortable with the language and think it is reasonable. 2) the remedy to address the concern would essentially mean we would give our JPA full authority to change the rules on the loan agreement and only pay back as long they don't want to do a different policy. 3) the economic interest of both parties involved, TA and the JPA, their interests are aligned.

Director Papan appreciated Director Beach's acknowledging her concerns. She added the two agencies (TA and JPA) are independent entities and have separate missions.

Director Derwin asked if there have been studies on how much impact would toll discount have on revenues, do they reduce more than 10%.

April Chan said they don't know yet.

Chair Horsley appreciated the excellent presentation done by Mr. Shellenberger and thanked Director Beach and Director Papan for all the hard work they have done.

Director Beach **MOVED** to approve item 5.4. Director Medina **SECONDED**. Roll call was taken. **MOTION CARRIED 5-0-0** (Director Aguirre – Absent)

## 6.0 REPORTS

### a) Chairperson Report.

None.

### b) Member Communication.

None.

### c) Executive Council Report - Executive Council Verbal Report.

Sandy Wong thanked Director Beach and Director Papan for their hard work for getting this \$100M loan agreement in place. Staff will start working on the next set of agreements to prepare for express lane operations. Those agreements will be presented to the JPA Board for approval in the coming months.

Jim Harnett thanked Director Papan and Director Beach, Mr. Shellenberger and acknowledges the hard work the staff has done.

Director Beach thanked the staff and consultants for their guidance and the work they have done.

d) Policy/Program Manager Report.

None.

7.0 WRITTEN COMMUNICATIONS

None.

8.0 NEXT REGULAR MEETING

September 11, 2020

9.0 ADJOURNMENT – 11:30 a.m.