

Carr, Barbara (REG)

From: Christopher Bowman <~~christopher.bowman@sfmta.org~~>
Sent: Monday, July 28, 2014 5:26 AM
To: Carr, Barbara (REG); ~~christopher.bowman@sfmta.org~~; ~~jpelavik225@gmail.com~~; ~~evanck@notmail.com~~
Cc: ~~PABLANO@sfmta.com~~
Subject: Re: Draft digest for Declaration of Policy Regarding Transportation Priorities
Attachments: Restoring Transportation Balance in San Francisco Proposed Edit to the City Attorney's Digest for the VIP.docx; Restoring Transportation Balance in San Francisco annotated reasons and citations for editing the City Attorney's draft digest

Dear Barbara:

Please forward this email and attachments to Director Arntz, Ballot Simplification Committee Chair Betty Packard, members June Fraps, Ann Jorgensen, Adel Fasick, and Christne Unruh, and to Deputy City Attorney Joshua White and City Attorney Dennis Herrera.

We hope that they can see and review this email and our two attachments when the BSC convenes at 9:00 a.m. today.

Thank you for sending us the City Attorney's draft digest of our measure -- Restoring Transportation Balance.

We have carefully reviewed the draft and believe that it is incomplete and unbalanced from the standpoint of explaining THE WAY IT IS, NOW and omits, distorts, or oversimplifies some of the proposals in our Declaration of Policy which would tend to mislead the voters.

We've attached an edited version of the draft digest and have also attached a annotation of the reasons and citations we have provided for each edit. We recognize that the original draft digest which was 488 words would become 668 words under our draft when the ideal digest should be no more than 300 words.

An alternative approach which the Ballot Simplification Committee may want to pursue, would be to put some of our proposed language into Words You Need to Know to include:

- 1) Where and when the SFMTA is enforcing meters beyond 9:00 a.m. to 6:00 p.m. Monday through Saturday;
- 2) A much more detailed description of the SFPark's demand-responsive pricing pilot project to include the on street meters and lots and garages in the affected seven neighborhoods, the variable costs per hour, and the plans of the SFMTA to expand DRP to other parts of the City;
- 3) The rates the SFMTA charges for Residential Parking Permits and how Residential Parking zones are adopted upon petition by the majority of households and merchants of a neighborhood and not imposed by the SFMTA on neighborhoods without their consent;
- 4) A detailed exposition on what is entailed in the City's "Transit First policies which were amended in 1995, 1999, and 2007.

Additionally, we believe that the second and third sentences of the fifth paragraph on THE WAY IT IS NOW are superfluous and have no bearing on our proposal -- nor do we believe the proposals in our Declaration of Policy would have any bearing on the practices outlined in those two were our proposals to be adopted by the City. By deleting the two sentences, you could eliminate 28 unnecessary words from the digest.

Most importantly as far as THE WAY IT IS NOW is constructed, we believe that starting off the section with a paragraph on the City's "Transit-First Policy", (however you want to define that policy), is intentionally prejudicial and politically charged, and largely irrelevant to the policies our measure addresses, and we would argue, indeed, that many of the misguided and failed policies that the SFMTA and other departments of the City have enacted in the past 15 years have been counter-productive to the achievement of the City's "Transit-First Policy". We would argue that such issues are better addressed in the official and paid ballot arguments, not in THE WAY IT IS NOW or anywhere else in the digest.

Finally, we recognize that the City Attorney has lifted almost verbatim language from the Title and Summary he prepared on our measure in April and May into the language he used in THE WAY IT IS NOW, and the question may arise why we didn't protest the language at the time that it was issued on May 8th. The bottom line was that we had until July 7th to collect the 9,702 valid signatures we needed to qualify the measure for the November 4th ballot, and any appeal by us (even assuming that it would have been accepted by the City Attorney's office in the first place) would have delayed the signature gathering process by at least two weeks, meaning that there would have been insufficient time and resources to meet the July 7th deadline.

Unfortunately, we've discovered that some members of the public and the media have erroneously relied on the City Attorney's Title and Summary as the line and verse of our measure, and we have had to repeatedly refer people to the actual text of our proposal, as it will be the text that voters should be voting on, and should the voters pass our measure, it will be the text, not the Title and Summary, which will become law.

We will be glad to answer any questions members of the BCS ask at the hearing later today, and respectfully submit our recommendations for their careful consideration and hopefully adoption.

Sincerely,

Christopher L. Bowman

2 attachments as.

THE WAY IT IS NOW:

The Charter vests the San Francisco Municipal Transportation Agency (SFMTA) with exclusive authority to manage Muni MUNI – the City’s public transportation system – and to dictate the City’s transportation policies. The Charter also gives the SFMTA control over most of the City’s parking meters and City-owned parking lots and garages, and ~~gives the SFMTA~~ the power to install new additional parking meters anywhere in the City, ~~and build more parking facilities~~.

The SFMTA sets the hours, days, and rates for parking meters and City-owned parking garages. It also determines the fine amounts for violations of parking restrictions. Most parking meters operate Monday through Saturday from 9:00 a.m. to 6:00 p.m. except in South Beach and Mission Bay, and at some City-owned lots and garages in various neighborhoods where they operate on evenings and on Sundays. Additionally, parking meters ~~and~~ do not operate on Thanksgiving, Christmas, and New Year’s Day. Prior to July 1, 2009, parking meters did not operate on any of the eleven holidays observed by the City and County.

The SFMTA introduced demand-responsive pricing for ~~some~~ parking meters in seven commercial districts and neighborhoods of the City as a two-year pilot project, and recently announced it plans to expand such pricing City-wide. Demand-responsive pricing adjusts the price for parking according to demand, normally varying from \$0.25 to \$6.00 an hour.

The SFMTA administers the Residential Parking Permit program, which allows residents to purchase a permit to park in their neighborhood for longer than the posted time restrictions. The SFMTA sets the price for these permits. The permits are currently set at \$109 annually per automobile for up to a total of four automobiles per household. Residential Parking Permit zones are created only upon the petition by the majority of households and merchants of a neighborhood.

The Charter requires the SFMTA to spend revenues generated from SFMTA-managed parking garages and parking meters to support SFMTA operations, including public transit. The Charter also requires that a certain amount of the City’s General Fund be allocated to the SFMTA. The City may allocate to the SFMTA additional revenues from other sources.

The SFMTA is governed by a seven-member Board of Directors appointed by the Mayor. Four of the directors must be regular Muni riders and the other three directors must ride Muni at least once a week while serving on the Board. ~~all seven directors must ride Muni at least once a week~~.

The City’s Charter includes a “Transit-First Policy” that ~~requires City departments make public transit, bicycling, and pedestrian travel and safety the City’s top transportation priorities~~. sets as the primary objective of San Francisco’s transportation system the safe and efficient movement of people and goods.

THE PROPOSAL:

Proposition ____ would establish the following as City policy:

- Parking meters should not operate on Sundays, legal holidays observed by the County and County, or outside the hours of 9:00 a.m. to 6:00 p.m. Starting on July 1, 2015, the SFMTA should freeze fees for City-owned parking garages, meters, parking tickets, and neighborhood parking permits for five years, and subsequently, such fees could be adjusted annually only for increases in the Consumer Price Index (CPI).
- The SFMTA should not install any additional parking meters or parking meters with demand-responsive pricing in any a neighborhood where they currently do not exist, unless a majority of households and businesses in that neighborhood have signed a petition supporting the changes;
- The SFMTA should use a portion of funds generated by new parking, vehicle-related fees or the sale of new bonds for SFMTA purposes, to construct and operate neighborhood parking garages;
- The goal of any proposed re-engineering of traffic flows by the City should be to achieve safer, smoother-flowing streets.
- The City should equally enforce traffic laws for all users of San Francisco's streets and sidewalks; and
- The SFMTA's Board of Directors should include a fair representation of all transportation stakeholders, including motorists, and the SFMTA should create a Motorists' Citizens Advisory Committee.

A "YES" VOTE MEANS: If you vote "yes", you want the Mayor, the Board of Supervisors, and the SFMTA Board to study consider each of the policies proposed for adoption and implementation. ~~these policies and determine what actions, if any, would be appropriate to implement them.~~

A "NO" VOTE MEANS: If you vote "no", you do not want to make this change.

Word count: 688 [suggested word limit: 300]

Restoring Transportation Balance
325 Highland Avenue
San Francisco, CA 94110

July 28, 2014

SUBJECT: Specific reasons and citations for Editing the City Attorney's draft digest on
Restoring Transportation Balance (RTB)

TO: Chair Betty Packard and Members
Ballot Simplification Committee

CC: Barbara Carr, Publications Director, DOE
Joshua White, Deputy City Attorney
Dennis Herrera, City Attorney

FM: Christopher L. Bowman
Campaign Manager, RTB

Dear Chair Packard, Members, et al:

Per the email I sent Barbara Carr, who is the Publications Director for the Department of Elections and Secretary to your Committee, and which I've requested that she forward to you I've attached our proposed edit of the City Attorney's Draft Digest of our measure, and am separately attaching this memo specifying annotating the reasons and citations for the edits that we are proposing for the digest on our measure.

To facilitate reading, I've made the comments in bold blue ink after the heading COMMENTS:

A couple of minor generic points.

First, we do propose the use of the article "the" when referring to the SFMTA. Its use is Standard English and facilitates the reading of the digest recognizing the BSC's charge to simplify the language so that someone with an 8th grade education can readily understand the digest.

Second, in calculating our word count at 668, I counted hyphenated words as two words, even if the dictionary shows the words as one word, not two. Thus, our word count is a high-end estimate of the actual word count. I'll leave it to Barbara Carr to come up with the correct word count.

Third, as mentioned in my transmittal email, some of the details and clarifications that we've proposed be added to "THE WAY IT IS NOW" may better be presented in the "Words you need to Know" section of the Voter's Information Pamphlet, not in the digest.

Specific reasons and citations for Editing the City Attorney's draft digest on RTB
April 28, 2014
Page Two

Finally, we believe that wherever possible, that when describing the bullet points of the digest's **PROPOSAL**, that the bullet points should accurately paraphrase the actual text, if not indeed recite the text verbatim. Over the course of five months, we went through 17 drafts of our measure, including one with the renowned elections law attorney Peter Bagatelos before finalizing our text. We weighed every word and phrase carefully to impart specific meanings, and it is disheartening to see the precise language that we worked so diligently fine tuning watered down or blurred by the City Attorney's language in the draft digest.

THE WAY IT IS NOW:

The Charter vests the San Francisco Municipal Transportation Agency (SFMTA) with exclusive authority to manage Muni MUNI – the City's public transportation system – and to dictate the City's transportation policies. The Charter also gives the SFMTA control over most of the City's parking meters and City-owned parking lots and garages, and gives the SFMTA the power to install new additional parking meters anywhere in the City, and build more parking facilities.

COMMENTS: 1) It's Muni not MUNI. Just go to the SFMTA's website and see for yourself. 2) Not only does the Charter provide "authority" to the SFMTA, but in more than a dozen places it cites "exclusive authority", and we believe that that modifier should be added here. 3) The SFMTA can install new as well as additional parking meters, but our measure addresses only the issue of "additional" parking meters being imposed on neighborhoods by the SFMTA, and the use of the term "new" in the digest is irrelevant. 4) The Charter provides the SFMTA with a blanket permission to put parking meters anywhere it wants to in the City, thus our inclusion of that language in the digest. 5) Most misleading of this paragraph is the assertion that the Charter vests the SFMTA with the ability to build more parking facilities. A close reading of the Charter shows that exactly the opposite is true. The Charter as originally drafted in 1999 in SEC.8A.113. PARKING AND TRAFFIC; GOVERNANCE, paragraph (b) states: "It shall be City policy that the Agency manage the Parking Authority so it does not acquire or construct new or expanded parking facilities unless the Agency finds that the costs resulting from such acquisition, construction, or expansion and the operation of such facilities will not reduce the level of funding to the Municipal Railway. . .to an amount less than that provided for fiscal year 1999-2000." As amended by Prop. A in 2007, the section goes on to say: ". . . further provided that it shall be City policy that before approving the acquisition, construction or expansion of a parking garage, the Agency's Board of Directors shall make a finding that the operation of the garage will advance or be consistent with the City's Transit First Policy. Under SEC 8A.115. TRANSIT-FIRST POLICY, the Charter says under paragraph (b) The City may not require or permit off-street parking spaces for any privately-owned structure or use in excess of the number that

the City law would have allowed for the structure or use on July 1, 2007, unless the additional spaces are approved by a four-fifths vote (9 votes) of the Board of Supervisors. The Board of Supervisors may reduce the maximum parking required or permitted by this section.” It is very clear by the language in the 1999 and 2007 Charter amendments that the authors wanted to do everything in their power to prevent the construction and operation of new parking garages in the neighborhoods and used every poison pill they could invent to do that.

The SFMTA sets the hours, days, and rates for parking meters and City-owned parking garages. It also determines the fine amounts for violations of parking restrictions. Most parking meters operate Monday through Saturday from 9:00 a.m. to 6:00 p.m. except in South Beach and Mission Bay, and at some City-owned lots and garages in various neighborhoods where they operate on evenings and on Sundays. Additionally, parking meters and do not operate on Thanksgiving, Christmas, and New Year's Day. Prior to July 1, 2009, parking meters did not operate on any of the eleven holidays observed by the City and County.

COMMENTS: The City Attorney is stating what the SFMTA would like the public to believe, that the hours and days of enforcement aren't expanding, but the truth about after-hour and Sunday meters is much more ambiguous than they claim. If one goes to the SFMTA's website and click onto "Getting Around", "Parking", "Find a Garage or Lot", and then click the specific garages, you will discover that several metered lots are enforced until midnight and several are enforced even after July 1, 2014 on Sundays. If the City Attorney believes in putting our measure into the historic context, then the fact that parking meters were not enforced on any holiday observed by the City and County prior to July 1, 2009, that fact should be added to "THE WAY IT IS NOW".

The SFMTA introduced demand-responsive pricing for some parking meters in seven commercial districts and neighborhoods of the City as a two-year pilot project, and recently announced it plans to expand such pricing to other neighborhoods of the City. Demand-responsive pricing adjusts the price for parking according to demand, normally varying from \$0.25 to \$6.00 an hour.

COMMENTS: The City Attorney completely minimizes the extent to which demand-responsive pricing was introduced. His term "some parking meters" according to the SFPark website equates to 7,000 of the City's 28,800 meters and 12,250 parking garage spaces in the heavily trafficked commercial districts of the Marina, Fillmore, Civic Center/Hayes Valley, the Mission, Fisherman's Wharf, the Financial District, and SoMa/Mission Bay. On June 19, 2014, the SFMTA announced in a press release that it would "expand (demand-responsive pricing) to "other meters, lots, and garages in the City." Additionally, for most San Franciscans who didn't encounter demand-responsive

Specific reasons and citations for Editing the City Attorney's draft digest on RTB

April 28, 2014

Page Four

pricing, they are unaware about the arbitrary and capricious pricing structure imposed by the City, and the digest should disclose the range of the pricing.

The SFMTA administers the Residential Parking Permit program, which allows residents to purchase a permit to park in their neighborhood for longer than the posted time restrictions. The SFMTA sets the price for these permits. The permits are currently set at \$109 annually per automobile for up to a total of four automobiles per household.. Residential Parking Permit zones are created only upon the petition by the majority of households and merchants of a neighborhood.

COMMENTS: If the City Attorney is attempting to show the context in which RTB's proposal come from, mention of the process that the households and merchants of a neighborhood must entertain to be awarded a neighborhood parking zone, is the exact same process we are proposing regarding the approval of additional meters and demand-responsive pricing in neighborhoods where they don't currently exist. "THE WAY IT IS NOW" should reflect that fact or at least it should be disclosed in the "Words you Need to Know" section of the VIP.

The Charter requires the SFMTA to spend revenues generated from SFMTA-managed parking garages and parking meters to support SFMTA operations, including public transit. The Charter also requires that a certain amount of the City's General Fund be allocated to the SFMTA. The City may allocate to the SFMTA additional revenues from other sources.

The SFMTA is governed by a seven-member Board of Directors appointed by the Mayor. Four of the directors must be regular Muni riders and the other three directors must ride Muni at least once a week while serving on the Board. ~~all seven directors must ride Muni at least once a week.~~

COMMENTS: A careful reading of the Charter, SEC. 8A.102. GOVERNANCE AND DUTIES, Subsection (a), paragraph 2 says that "At least four of the directors must be regular riders of the Municipal Railway, and must continue to be regular riders during their terms." The average voter would assume by the City Attorney's statement "all seven directors must ride Muni at least once a week", that the four members who are regular riders, would no longer need to be regular riders once they were appointed to the Board, but only weekly riders.

The City's Charter includes a "Transit-First Policy" that ~~requires City departments make public transit, bicycling, and pedestrian travel and safety the City's top transportation priorities.~~ sets as the primary objective of San Francisco's transportation system the safe and efficient movement of people and goods.

Specific reasons and citations for Editing the City Attorney's draft digest on RTB

April 28, 2014

Page Five

COMMENTS: Director Reiskin and the City Attorney overlook the first and primary paragraph of the City's "Transit First Policy", which in SEC. 8A.115 of the Charter says: "1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods." We would suggest that that provision trumps the rest of the subsequent language in the policy, which may in part or in full contradict the primary objective. Again, we would argue that a characterization and fuller discussion of what the "Transit First Policy" is or encompasses should be included in "Words you need to Know", rather than the digest.

THE PROPOSAL:

Proposition ___ would establish the following as City policy:

- Parking meters should not operate on Sundays, legal holidays observed by the County and County, or outside the hours of 9:00 a.m. to 6:00 p.m. Starting on July 1, 2015, the SFMTA should freeze fees for City-owned parking garages, meters, parking tickets, and neighborhood parking permits for five years, and subsequently, such fees could be adjusted annually only for increases in the Consumer Price Index (CPI).

COMMENTS: The vagueness of the City Attorney's term "legal holidays" without qualifying the term based on the language we used in our text, was problematic, and led some observers to believe that we were talking about an ill-defined number of State and Federal holidays, which we specifically were not. We do not understand why the second part of our proposal on fees dealing with the CPI was omitted by the City Attorney both in his Title and Summary and in the digest's Proposal. By so doing, we believe the voter is misled or left asking why the issue of fees wasn't addressed by us after the five year freeze ends in 2020.

- The SFMTA should not install any additional parking meters or ~~parking meters with~~ demand-responsive pricing in any a neighborhood where they currently do not exist, unless a majority of households and businesses in that neighborhood have signed a petition supporting the changes;

COMMENTS: We believe that the construction of this bullet point by the City Attorney does not even remotely reflect the specifics of our text, and needs to be corrected to reflect that text. The way it reads, the City Attorney is suggesting that our measure would prevent the SFMTA from installing any parking meters or demand-responsive pricing anywhere in the City by leaving out the key phrase "where they currently do not exist". Indeed it was the attempt of the SFMTA to impose 10,000 parking meters in the Northeast Mission, Potrero Hill, and Dog Patch that started the backlash from the neighborhoods

against the SFMTA's policies and that reaction is one of the reasons why this measure was drafted and that 17,593 San Francisco registered voters signed the petition to qualify it for the November ballot.

- The SFMTA should use a portion of funds generated by new parking, vehicle-related fees or the sale of new bonds for SFMTA purposes, to construct and operate neighborhood parking garages;

COMMENTS: The City Attorney's omission of the modifier "new" for bonds, has already caused consternation among some political observers and the media. We were never asking that a portion of existing bond measures go to off-street parking garages. The text of our initiative, is very specific, and was written in that fashion to not conflict with SECTION 8A.113 of the Charter.

- The goal of any proposed re-engineering of traffic flows by the City should be to achieve safer, smoother-flowing streets.

- The City should equally enforce traffic laws for all users of San Francisco's streets and sidewalks; and

- The SFMTA's Board of Directors should include a fair representation of all transportation stakeholders, including motorists, and the SFMTA should create a Motorists' Citizens Advisory Committee.

A "YES" VOTE MEANS: If you vote "yes", you want the Mayor, the Board of Supervisors, and the SFMTA Board to study consider each of the policies proposed for adoption and implementation. ~~these policies and determine what actions, if any, would be appropriate to implement them.~~

COMMENTS: The City Attorney's language is incomplete at best and off the mark at worse. We would add also that the terminology used by the City Attorney was completely dismissive by stating that the Board of Supervisors would study these policies and determine what actions, if any, would be appropriate to implement them. Again, the language is politically loaded and has no place in a digest appearing in the VIP.

We would direct the City Attorney and the BSC to the language of our Notice of Intent to Circulate Petition (CAEC Sec. 9202) which we submitted to the Department of Elections on April 23 as part of the process to have the Title and Summary produced by the City Attorney's Office and which appeared on every petition we circulated. It reads as follows: "Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City and County of San Francisco for the purpose of

Specific reasons and citations for Editing the City Attorney's draft digest on RTB
April 28, 2014
Page Seven

'calling upon the Mayor, the Board of Supervisors, and the San Francisco Municipal Transportation Agency (SFMTA) Board to restore a balanced transportation policy for all San Franciscans, including motorists, pedestrians, first responders, taxi riders, Muni riders, and bicyclists, and address the unique needs of the disabled, seniors, and families with children.'" We've paraphrased that Notice in a non-biased fashion in our proposed edits of the digest. Our measure was carefully worded so that the policies we proposed could be accomplished administratively by the Mayor or legislatively by the SFMTA Board and by the Board of Supervisors within the parameters set by the Charter and not requiring a change to the Charter, in keeping with our initiative being a Declaration of Policy.

A "NO" VOTE MEANS: If you vote "no", you do not want to make this change.

Word count: 688 [suggested word limit: 300]

NOTICE OF INTENT TO CIRCULATE PETITION
(CAEC Sec. 9202)

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City and County of San Francisco for the purpose of calling upon the Mayor, the Board of Supervisors, and the San Francisco Municipal Transportation Agency (SFMTA) Board to restore a balanced transportation policy for all San Franciscans, including motorists, pedestrians, first responders, taxi riders, Muni riders, and bicyclists, and address the unique needs of the disabled, seniors, and families with children.

We decline to submit the optional statement of the reasons of the proposed action as contemplated in the petition.

NAME OF PROPONENT (PRINTED)

PROPONENT'S (SIGNATURE)

DATE

NAME OF PROPONENT (PRINTED)

PROPONENT'S (SIGNATURE)

DATE

NAME OF PROPONENT (PRINTED)

PROPONENT'S (SIGNATURE)

DATE