



**SMALL BUSINESS COMMISSION
MEETING MINUTES**

Monday, July 09, 2018
5:30 P.M.

City Hall, Room 400
1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

SMALL BUSINESS COMMISSIONERS

Stephen Adams, President
Mark Dwight, Vice President
Matthew Corvi; Kathleen Dooley; William Ortiz-Cartagena;
Irene Yee Riley; Miriam Zouzounis

1. **Call to order and roll call.**

The meeting was called to order at 5:32 p.m.
Commissioners Adams, Dwight, Ortiz-Cartagena, and Yee Riley were present.
Commissioner Zouzounis was absent.
Commissioner Corvi arrived at 5:36 p.m. during Item 3.
Commissioner Dooley arrived at 5:40 p.m. during Item 3.
Staff in attendance: Regina Dick-Endrizzi (Executive Director) and Richard Kurylo (Legacy Business Program Manager)

2. **General Public Comment. (Discussion Item)**

No members of the public requested to speak.

3. **Presentation on the 16th Street Improvement Project. (Discussion Item)**

Cathal Hennessy, Project Manager, Capital Programs and Construction, SFMTA, presented project plans to allow for zero-emission transit service into Mission Bay as part of Muni Forward. The project will also include extending the overhead contact system (OCS) that powers our trolley buses on 16th Street from Kansas Street to Third Street. Additionally, new bike lanes have been added to 17th Street to create a continuous route from Mission Bay to the Mission Neighborhood. Along with the changes to 16th Street, the eastern end of the 22 Fillmore route will shift to serve the growth in jobs, housing and hospitals in Mission Bay. A replacement route is being developed that will ensure service is maintained to Potrero Hill and the Dogpatch areas once the 22 Fillmore shifts. To better leverage public funds and minimize construction impacts, the project will also include replacing old underground water and sewer lines. Once finished, the street will be entirely repaved.

Mr. Hennessy shared that the limits of the project from the west start at 16th Street and Church to Mission Bay. This project is a part of the Transit Effectiveness Program where one of the goals is to accommodate for the future growth of the eastern part of the city. While in project development, 16th Street had been identified as a high injury corridor network. As such, SFMTA has seen this project as an opportunity to address safety concerns along that route. The anticipated improvements including: installing a transit only lane going westerly to 16th street; and, a transit only lane between Bryant Street and Potrero. He explained that although a transit lane in both directions was considered for 16th Street, SFMTA decided against it as it would have eliminated parking. This was decided in consideration of the harm that it could do to businesses there. He also informed the Commission that this is an interagency project with SF Public Works, the Planning Department, and SFPUC all having a significant role.

Mr. Hennessey provided a snapshot of the anticipated changes at Albion to Capp streets: SFMTA plans to install transit bulbs, upgrading traffic signals, and repaving the corridor. Responsive to public comment that they would like to see more sunlight in the corridor (which is currently blocked due to ficus trees), SFMTA will replace the trees with a different species to allow for more light and will also take action to signify the history of the corridor via updates to transit shelters.

Mr. Hennessey also discussed the project's community engagement efforts since December 2014 including: community meetings, neighborhood/merchant association updates, neighborhood festivals, local news publications, surveys, e-mail blasts, postcards, blog posts, and meetings with the Board of Supervisors and OEWD.

The 16th Potrero to Church project is to be advertised in the fall of 2018 with hopes of beginning construction in the spring of 2019. Due to neighborhood density, SFMTA that this half of the project will take a bit longer- closer to a year and a half. SFMTA has been actively engaging with the business community in this corridor and has been compiling a master list of those businesses that will be affected in order to best communicate project updates to them.

Commissioner Dwight thanked Mr. Hennessey for his presentation. He expressed concern that the 22 bus stop would be moved 1.5 miles from its current location. Mr. Hennessey explained that there will be replacement bus service and that plans for it were still being finalized, but would be ready at the time the 22 goes out of service.

Commissioner Ortiz-Cartagena asked how much the SFMTA had budgeted for mitigation of the loss of business and small business in the affected corridor. Mr. Hennessey shared that he believes it is 3% of the total budget, but would confirm. He also asked if the current outreach strategy had been modified taking in to consideration a Latino/Asian cultural lens. Mr. Hennessey replied that the project team is taking this into consideration and that the outreach team will meet again and talk through the specifics of their approach, e.g., attending/joining on-going meetings being held by those groups; ensuring that Spanish, Mandarin, and Cantonese speakers are also present to explain the project and solicit feedback; and, ensuring that the team is culturally cognizant.

Commissioner Dooley asked if the project would be similar to that of what occurred on Mission Street and if left turns would no longer be allowed. Mr. Hennessey replied that there are differences between the Mission project and the 16th Street project, with one being that there are no forced right turns, and that there will be no additional left turn restrictions.

Commissioner Dwight asked if there was a process in place for assessing business impact and a process for administering relief funds. Director Dick-Endrizzi replied that there is not an absolute process in place but, that OEWD is in the process of determining one. She will further discuss with OEWD.

Commissioner Corvi asked if the number of available parking spaces would be reduced and how will it affect deliveries. Mr. Hennessey explained that this project did attempt to be "parking neutral" though some parking will inevitably be affected in that there will be plus or minus two spaces.

Commissioner Yee Riley asked what SFMTA's plan was for bicycles. Mr. Hennessey replied that the bike lane users of the 16th Street from San Bruno to Mississippi segment may use the new 17th Street bike lane. Bikes won't be prohibited from 16th Street but, 17th Street will be available for them.

Public Comment:

Gwen Kaplan from ACE Mailing on 16th Street expressed that businesses affected by this project would like to be kept informed of its status on a block by block basis in a reasonable period of time.

Based on public comment, Commissioner Adams asked how businesses will be kept informed of the project's status. Mr. Hennessey shared that SFMTA has a dedicated public information officer responsible for

communication with businesses, Erin Miller. And, as mentioned earlier, the community team is in the process of creating a master list of businesses that will be affected in order to best administer future communications.

Commissioner Ortiz-Cartagena applauded this project for the outreach conducted, its partnership with community organizations, and the cultural sensitivity employed. He also expressed serious concern with SFMTA starting projects first, and then consulting with communities later as with what happened with the Mission Street Red Lane.

4. **Presentation and possible action to support San Francisco's Local Business Enterprise (LBE) small businesses regarding their efforts to maintain their businesses as it pertains to BOS File No: 170205. (Discussion and Action Item)**

BOS File No: 170205 is an Ordinance amending the Administrative Code to require a citywide project labor agreement (PLA Ordinance) applicable to certain public work or improvement projects with projected costs over \$1,000,000 or where delay in completing the project may interrupt or delay services or use of facilities that are important to the City's essential operations or infrastructure. Commission Adams inquired as to who sponsored this Ordinance. Director Dick-Endrizzi clarified that then Supervisor Farrell introduced the Ordinance. Supervisor Safai then picked up the mantle when Supervisor Farrell became Mayor. She also explained that the Commission is invited to take Action on this item after the presentation if they feel compelled to do so.

Juliana Sommer, Priority Graphics and Vice-Chair of the LBE Advisory Committee, and Sushil Jacob, Senior Attorney with the Lawyers' Committee for Civil Rights presented on the LBE program and PLA Ordinance as it relates to LBE's. Ms. Sommer shared during her presentation that one of the tenets of the LBE program is that the public has an interest in fostering a vibrant network of businesses in San Francisco and one way of accomplishing this goal is through fair competition for City contracts for small and micro businesses. She also stressed that the program is truly an incubator for small and micro businesses in San Francisco. Ms. Sommer shared how a business may become an LBE and, importantly, that well over 50% of LBE's are minority or women owned.

There is concern regarding the PLA Ordinance in that it would undermine the intent of the LBE program to support small and micro businesses. Specifically:

- Is the \$1 million threshold too low?
- Will LBE be able to maintain their current workforce or will they be compelled to hire from union halls?
- How does the PLA impact hiring locally?
- How will the PLA be evaluated? What metrics will be used?
- With regard to apprenticeships, will LBEs be limited in what programs that may draw apprentices from?
- PLA's are typically drawn for large programs with a definitive start and end- this appears to apply to projects in perpetuity, is this appropriate?
- What happens to the LBE workforce pension money?

Sushil Jacobs then presented concerns from the Lawyer's Committee for Civil Rights. He shared that historically, his organization has worked with LBEs in ensuring contracting equity with the City, specifically for minority and women owned contractors. They are concerned that the PLA Ordinance with disproportionately disadvantage Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) in City contracting. He explained that there is an identifiable tension between the City's responsibility to LBEs and the PLA Ordinance.

Regarding the \$1 million threshold, an assumption that because \$1 million is a larger sum of money that it wouldn't affect LBEs was made. The way the PLA Ordinance is written, however, is that all contractors involved with a contract of that size or larger would be subject to the requirements of the Ordinance, and as such LBEs would be directly affected. The costs associated with this would have devastating effects on LBEs. Essentially, LBEs would be paying double benefits plus payments to the union trust fund. Moreover, because

LBEs would be less likely to participate in City contracts because of the additional costs associated, the possibility for the LBE program to shrink exponentially over time is greatly increased.

The presenters recommended a threshold increase from \$1 million to \$20 million, which is in line with the Controller's report, and an exception ("carve out") for LBEs and Micro LBEs. The presenters also asked that the Commissioners consider this a recommendation and/or a call for further study before this Ordinance moves forward.

Commissioner Ortiz-Cartagena said the PLA Ordinance is not appropriate nor sustainable. He stressed that the \$1 million threshold is inappropriate given the costs of projects in San Francisco. This should have been brought before the SBC prior to being introduced. He also commented that once a Collective Bargaining Agreement is signed there is no going back, and the costs associated will have irreparable adverse impacts for many LBEs. He also recommended an LBE exception to be written in to the PLA Ordinance.

Commissioner Yee Riley inquired as to why there was a \$1 threshold, and why some Department's contracts like the Airport are exempt and requested either a presentation or additional information on this. The response was that big projects like those at the airport already have PLAs.

Commissioner Dwight said it was a failure that this was not brought before the SBC. The opinion of the Controller's Office is not being heeded or the Departments that will be adversely affected to this. The SBC exists to consult on this and is not being used for that purpose.

Public Comment:

- Miguel Galarza from Yerba Buena Engineering said the PLA Ordinance creates undue burdens for LBEs and Micro LBEs who are unable to scale their operations for unionization. It takes 60 months to get vested for union pension contributions. If an LBE does a one-year project and pays into the union pension fund for only one year, the union keeps all the money.
- Jim Lau from Bay Area Lightworks, Inc. (spoke in opposition), said that the \$1 million threshold was too low and would adversely affect many business including his own.
- Charles L. Jones, a native of the Bayview and owner of YMM Construction Cleanup (spoke in opposition), to the PLA Ordinance. His company would not have the resources to comply with the PLA Ordinance. He shared that he's a role model in his community and that this would be an added stressor to an already challenging climate that discourages his company's success.
- Susan Smith (spoke in opposition), said the building trades are very powerful and make a lot of money from the PLAs. The \$1 million threshold is too low.
- Nicole Goehring, the Community and Government Relations Director for ABC Norcal (spoke in opposition). ABC Norcal is a State and federally approved apprenticeship program. She said that the language in Section 5 excludes some apprentices and would inherently exclude many San Franciscans. All residents of San Francisco should be exempt from the PLA Ordinance. She recommended that the City not legislate this.
- Robert Steward, a Superintendent, from Helix Electric (spoke in opposition), said that job sites would have to use union workers that may be disruptive due to prior tenuous relationships between non-union and union workers.
- Herman Lee, an electrician, from Bay Area Lightworks (spoke in opposition), said he does not want to join a union or be forced to join a union. He likes being non-union.
- Jim Lazarus from the SF Chamber of Commerce said that the SF Chamber has generally supported PLAs, specifically when they meet the test of the Boston Harbor case that came before the Supreme Court, which said that major projects that are time sensitive and serve the broad public can have a union requirement. Specifically, multimillion/billion dollar programs designed to serve the public interest. There is a conflict between serving the interests of small business and local hire and the interests of building trades and the unionization of all city contracts. The solution is that certified LBEs in San Francisco should not fall under PLAs. The position is not anti-union, it's pro-employment and pro-small business.

- Gwen Kaplan from Ace Mailing (spoke in opposition), concurred with everything that Commissioners Ortiz-Cartagena and Dwight said and that LBEs should be exempt from PLAs.
- Bayard Fong from the Human Right Commission / Contract Monitoring Division (retired) spoke in support of the LBE program and its contribution to diversity in business and in opposition to the PLA Ordinance. He supports an LBE exemption.
- Maria Ranis from Ranis Construction and Electrical, (spoke in opposition), a minority owned business, worked with the City for 12 years. The \$1 million threshold is too low.
- Stephen Cornell (spoke in opposition), agreed with the other speakers. He said it was an insult to the SBC that this was not brought before the SBC.
- Scott Hauge said the SBC was created by voters and not legislatively, and the purpose of the Commission is to hear this type of legislation.

Commissioner Dwight encouraged all speakers to submit further comment if they have them so that they can become part of the official record.

Motion: Commissioner Dwight motioned for the Small Business Commission to advocate for an unqualified exception for all LBEs with regard to the proposed PLA Ordinance

2nd: Commissioner Dooley.

Aye: Commissioners Adams, Corvi, Dooley, Dwight, Ortiz-Cartagena, and Yee Riley.

Nay: None.

Absent: Commissioner Zouzounis

Motion passed 6-0, 1 absent.

5. **Approval of September 11, 2017 meeting minutes (Action Item)**

Commissioner Corvi requested recusal from the meeting minutes as he was not on the Commission at the time.

Public Comment: No members of the public requested to speak.

Motion: Commissioner Adams motioned to recuse Commissioner Corvi from Item 5, Approval of Meeting Minutes.

2nd: Commissioner Yee Riley

Aye: All in favor.

Nay: None.

Absent: Commissioner Zouzounis.

Motion passed 6-0, 1 absent.

Public Comment: President Adams called for public comment on the meeting minutes: No members of the public requested to speak.

Motion: Commissioner Dwight motioned to approve the September 11, 2017, meeting minutes with the correction of Supervisor Dooley's name throughout the document.

2nd: Commissioner Yee Riley

Aye: All in favor.

Nay: None.

Absent: Commissioner Zouzounis

Recused: Corvi

Motion passed 5-0, 1 absent, 1 recused

6. **Director's Report. (Discussion Item)**

Accessible Business Entrance Update:

OSB is now receiving biweekly reports from DBI on how many ABE checklists they've received from property owners. The checklists classify which category the property belongs in as it relates to the ABE

program. The office is seeing an increase in calls from small businesses that also own their property for assistance in understanding the ABE program. The office is also seeing an increase in calls from businesses where the property owner is transferring responsibility to the tenant for ABE compliance. The majority of those businesses are month to month.

SB 1397 increased the amount of funding that is collected through the business registration from \$1.00 to \$4.00. 90% of the \$4.00 stays locally. First, funding is required to be spent on certification and training for City employees to become certified access specialists. OSB is currently developing a plan on how best to make the remaining funds available for either the ABE or continue the subsidized CASp program or a bit of both.

OSB will meet on July 10, 2018 to determine the final selection on a Legacy Business logo. The Legacy Business Program is accepting applications for the Business Assistant Grant through September 30, 2018.

Legislation/ Policy Matters before the Commission:

Cannabis legislation updates:

An ordinance allowing a waiver and refund of investigation fee imposed by the Building Code for persons registered with the Office of Cannabis was signed by the Mayor. This waiver/refund expires December 31, 2018. Signed by Mayor Farrell.

An ordinance amending the Police Code to require applicants for Cannabis Business Permits to enter into either a Labor Peace Agreement or a collective bargaining agreement with a Bona Fide Labor Organization. Signed by Mayor Farrell.

An ordinance amending the Health Code to allow the Director of the Department of Public Health to extend, for multiple 90-day periods rather than a single 90-day period, the 5 120-day authorization for Medical Cannabis Dispensaries to sell adult use cannabis. Signed by Mayor Farrell.

A Charter Amendment was introduced to create a Cannabis Commission. This was heard in Rules Committee on June 20, 2018 and was continued to the call of the Chair.

180319: Planning Code - Cannabis Retail and Medical Cannabis Dispensaries in Chinatown is still to be scheduled. This would effectively ban cannabis sales in Chinatown was introduced.

And, at the BOS Budget and Finance Committee the following will be presented to determine if they will be on the November 6, 2018 ballot: BOS File No: 180122 - Initiative Ordinance - Business and Tax Regulations and Administrative Codes - Hotel Tax Allocations; BOS File 180373 - Initiative Ordinance - Business and Tax Regulations Code - Gross Receipts Tax on Transportation Network Company Services, Private Transit Vehicle Services, and Autonomous Vehicle Passenger Services; BOS File No: 180629: Initiative Ordinance - Business and Tax Regulations Code - Additional Gross Receipts Tax on Cannabis.

At the July 23, 2018 Commission meeting, the SFMTA will present on the Geary Boulevard Bart. Tentatively, BOS File 180646. Environment Code - Refuse Separation Compliance may be presented depending on Supervisor Safai schedule.

Director reviewed the list of New Business Items that still need to be scheduled for presentation or hearing before the Commission:

- Cannabis Equity Program.
- Construction Mitigation – OSB is working with OEWD on a presentation for the Commission.
- Commercial Ownership – OSB develop a program informing business of commercial ownership, with an emphasis on storefronts. Particularly for Legacy Businesses.
- Planning Determination on large on-line retailers and formula retailers
- Public Works: Fees
- Soft Story: Update on the tier 4 properties.

- Tobacco - Implementation of the ban on flavored tobacco and review of all regulations regarding tobacco

General Operations:

Commission Secretary Position: Posting for the concluded on July 3, 2018. Next step is to get the list of applicants for the Department of Human Resources.

Workshops: 2018 SBA Classes @ SBA (Martha): 7/11, 8/1, 9/5, 10/3, 11/7, 12/5; Ren Center Class (Martha): 8/7, 11/6

Back Meeting Minutes: September 25, 2017; October 2, 2017; November 13, 2017; May 21, 2018; June 11, 2018; June 25, 2018.

Commissioner Dooley requested an update on Planning Determination. OSB has not yet submitted a draft to the Planning Department.

No members of the public requested to speak.

7. **Commissioners' Reports. (Discussion Item)**

Commissioner Adams will be representing the small business community at the Mayoral transition on Saturday July 14, 2018.

Commissioner Ortiz-Cartagena thanked Supervisor Ronen and MEDA for meeting with several businesses in the Mission.

Commissioner Dooley announced a North Beach storefront vacancy report that will be featured in Hoodline. The report showed that there is an uptick in vacancies.

Public Comment: No members of the public requested to speak.

8. **New Business. (Discussion Item)**

Commissioner Dooley shared that she was contacted regarding an article that highlighted an SF small business that had recently been ordered to pay \$500,000 in labor fines. She asked whether it would be possible to remind small businesses of their labor obligations in order to help them avoid labor violations.

Public Comment: No members of the public requested to speak.

9. **Adjournment. (Action Item)**

Motion: Commissioner Dwight motioned to adjourn the meeting.

2nd: Commissioner Yee Riley.

Aye: All in favor.

Nay: None.

Absent: Commissioner Zouzounis

Motion passed, 6-0, 1 absent.

The meeting was adjourned at 7:18 p.m.