

From: [Martha Silver](#)
To: [Martha Silver](#)
Subject: FW: RESPONSE REQUIRED: Packet Materials for the Cancelled November 2023 Policy Advisory Council Meetings (925)
Date: Monday, December 11, 2023 2:51:59 PM

From: Diana Benitez
Sent: Wednesday, November 29, 2023 9:18 PM
To: Martha Silver <MSilver@bayareametro.gov>
Cc: Kÿ-Nam Miller <kmiller@bayareametro.gov>
Subject: Re: Packet Materials for the Cancelled November 2023 Policy Advisory Council Meetings (925)

External Email

Hello Martha and Ky-Nam,

Here are my comments and questions for the packet we received in lieu of the November meeting and some questions I have as a new council member.

Thank you!

General Questions and Comment (not from the November Packet)

- Round 1 Engagement of Plan Bay Area 2050+ had 1 pop-up at College of Marin in Kenfield.
- For Round 2, we would recommend pop-ups in Marin City and San Rafael (two Equity Priority Communities in Marin County).
- Question: Is it a conflict of interest for my organization, Canal Alliance, to get funding from MTC to do engagement on Plan Bay Area 2050+? Canal Alliance is developing a neighborhood community plan in the Canal neighborhood of San Rafael (Equity Priority Community) over the next few years that will touch on transportation, climate adaptation, and housing. This is an opportunity to integrate your survey or for us to share related feedback from our engagement tools.

November Council Packet

Thank you for providing detailed memo's and clear presentations. This is helpful information and it takes a lot of time and effort to clearly state and visualize this complex information

- I agree with the three focus areas, expenditure priorities and guiding principles for the measure. I appreciate the tie backs to what you heard in stakeholder and community engagement.
- Page 10: A draft guiding principle on equity, "Equity Priority Communities and other marginalized groups, such as older adults and persons with disabilities". How are the other marginalized groups determined? Should I refer to the Equity Priority Communities Framework?
- Page 10: A draft guiding principle on climate, "The expenditure plan should

meaningfully reduce greenhouse gas (GHG) emissions from the transportation sector”. And the presentation mentioned GHG-neutral or GHG-reducing. What metric goal are we using to count as meaningfully reducing?

- Page 12: I like the idea of shaping a budget with deep and meaningful community engagement akin to participatory budgeting. This process takes longer, but produces more agreement that will lead to more votes. There also needs to be transparency on what funding we need to accomplish what has been planned for.
- Page 13: Partnership Board raised good points and I'd like to hear more about how the measure would support all 9-counties and would that mean “return to source”. I work in Marin County (we have 2 Equity Priority Communities - a few census tracts in Marin City and San Rafael), but people forget that we have underserved populations when they look at our median income or other factors. We also have a few neighboring counties that have small proportions of Equity Priority Communities (e.g., Napa, Solano), but also need transportation funding.
- Page 14: The memo lists one of the revenue options being explored as, “regional voter registration surcharge”, while the presentation (pg 31) mentions “vehicle registration surcharge”. Did you mean the latter? If not, I have a concern that a regional voter registration surcharge sounds like a poll tax which is illegal (24th amendment) and reverting back to Jim Crow laws and would make it harder to increase our citizens who vote in elections. If it's the latter, I am more comfortable with this, but would also want to understand the amount and what equity would look like.
- Page 15: The Draft Expenditure Priorities Under Construction uses “could” language when speaking to priority being given to Equity Priority Communities or services that primarily serve underserved demographic groups, while this is clearly stated as a Guiding Guiding Principle in the presentation (pg 24). It doesn't feel like a true guiding principle if the background documentation uses “could” language.
- Page 24: Can you give examples of how the expenditure plan can be adaptable?
- Page 27: Concern that road usage surcharges are regressive. Expensive for the working class and displaced people who can't afford to live where they work. In the bay area, Marin and San Mateo counties have the highest share of workers that reside outside of the county.

Responses

From: John Myers <jmyers@bayareametro.gov>

Sent: Thursday, November 30, 2023 11:29 AM

To: Martha Silver <MSilver@bayareametro.gov>

Cc: Kathleen Kane <kkane@bayareametro.gov>; Ron Ceguera <RCeguera@bayareametro.gov>; Kÿ-Nam Miller <kmillier@bayareametro.gov>; Leslie Lara-Enríquez <llara-enriquez@bayareametro.gov>

Hi Martha,

Thanks for the question. You are welcome to forward this email to Member Benitez.

Based on my quick research, **as long as Member Benitez properly recuses herself from any discussions and decisions affecting Canal Alliance, Canal Alliance may still participate in Plan Bay Area 2050+**. Because Canal Alliance is a bona fide 501(c)(3) nonprofit and Member Benitez is a salaried employee, this qualifies as a remote interest under Gov. Code 1090 and 1091. Additionally, Canal Alliance is also a source of income to Member Benitez under the Political Reform Act. **The remedy for both of these potential conflicts is proper recusal by Member Benitez, which would allow Canal Alliance to continue to participate in the program and receive funding despite her employment.**

“Properly” recusing herself requires the following specific steps:

1. **Member Benitez cannot make, participate in making, or influence any discussions or decisions of the PAC that would affect Canal Alliance.** This includes not only participating in evaluating Canal Alliance’s application for participation or funding through Plan Bay Area 2050+, but also discussions that don’t directly involve Canal Alliance but could affect it, such as discussions about eligibility criteria. Member Benitez cannot participate in discussions even if the item is discussion only with no action involved. Member Benitez also cannot influence the decisions, meaning that she cannot even speak in public comment in support of Canal Alliance as a member of the public or write emails/letters supporting Canal Alliance. I realize that her job title with Canal Alliance is Sr. Manager of Advocacy and Engagement and so her normal job might usually involve her doing this kind of work, but that does not negate the conflict rules. Someone else from Canal Alliance may certainly speak in favor of Canal Alliance or write letters, but she cannot.
2. **At any meeting where there is an item affecting Canal Alliance, Member Benitez must announce the need to recuse herself, briefly explain why, and then actually leave the room or Zoom meeting.** She can return when the item is over. Please note that if her absence leaves less than a quorum of members, then that item must be tabled to a future meeting when enough members are present. Here is a little script that Member Benitez can read before recusing herself: “I am recusing myself from item number [insert number] due to my employment with Canal Alliance, a nonprofit organization, which is seeking to participate in Plan Bay Area 2050+.”
3. These rules also apply to discussions outside of normal council meetings. **Member Benitez cannot discuss issues affecting Canal Alliance with other members of the PAC even if the discussion occurs outside of a regular meeting** (e.g., at another event, or even in line at the grocery store).

Both Gov. Code 1090 and the Political Reform Act are extremely strict about following the above rules. Failing to follow them would mean nullification of any action taken that affects Canal Alliance (meaning if they are awarded funding improperly, that funding would be taken away), and even potentially personal liability for Member Benitez. If Member Benitez has any concerns or questions about these rules, please feel free to contact me any time, and I would be happy to help.

Thanks a lot!

John Myers (he/him)
Associate General Counsel

O: (415) 778-6729

From: Leslie Lara-Enrriquez llara-enriquez@bayareametro.gov

Sent: Wednesday, December 6, 2023 9:55 AM

To: Martha Silver MSilver@bayareametro.gov; Chirag Rabari crabari@bayareametro.gov

Subject: RE: RESPONSE REQUIRED: Packet Materials for the Cancelled November 2023 Policy Advisory Council Meetings (925)

Hi Martha,
See below.
Leslie

MTC staff met with Canal Alliance Director of Policy and Civic Engagement Aaron Burnett in July to discuss partnering with Canal Alliance on Plan Bay Area 2050+ engagement last summer. Unfortunately, Canal Alliance did not have capacity to partner with us for Round 1 or engagement; however, Aaron did note that we'd be able to partner with them for Round 2 and that they would be able to weave Plan Bay Area 2050+ into their engagement strategies in 2024. Early next year we'll be reaching out to Canal Alliance staff again to coordinate and plan out the engagement activities that best suit the Canal community.

Also, it's also important to note that outreach to community college students is a high priority for the Council and that is why various community college campuses were selected for Round 1 of engagement. Please feel free to contact me directly at llara-enriquez@bayareametro.gov if there are any additional questions.