

Senate Committee on Transportation and Housing
**Regional Governance in the Bay Area: Ensuring Effective Community
Outreach and Public Participation**

Tuesday, December 13, 2011 – Oakland City Hall

Testimony by Guillermo Mayer, Public Advocates Inc.

Good afternoon, Senator DeSaulnier. Thank you for the opportunity to testify. My comments today will focus on policy changes that are needed to accomplish two things:

1. Make MTC democratic and representative in its governance; and
2. Make MTC a forum for true regional planning responsive to community needs.

My name is Guillermo Mayer. I'm a senior staff attorney with Public Advocates. Public Advocates is a civil rights organization that works to improve affordable housing, education and transportation services in low-income communities and communities of color throughout California. Like our allies in the audience, we have a long history of advocating before MTC for a socially just and sustainable transportation system.

As you evaluate possible reforms, we ask you to consider the following observations:

First, MTC's current governing structure is highly undemocratic and unrepresentative of the Bay Area's racially and economically diverse population. Its decisions are made by an unelected commission with voting seats that greatly dilute the voices of our region's most populous areas.

Although MTC has direct and indirect control over more funding than any other public entity in the region (over \$220 billion over 25 years), it operates in an environment that is largely insulated from public scrutiny and accountability. Its very existence is largely unknown to the more than 7 million residents who call the Bay Area their home. Yet MTC's planning and investment decisions profoundly impact our daily lives today and they will largely shape our region's future.

The very few residents who are aware of MTC and who, against all odds, choose to get involved have little discernible influence over the outcomes. How can they? They cannot hold commissioners directly accountable for decisions they make. They cannot remove them from the commission. And they have virtually no influence over their appointments since the appointment process is entirely "insider baseball."

While most commissioners are elected officials, they are elected to serve in different posts (like mayors or county supervisors), not as regional decision-makers. As such, they are accountable to an entirely different set of interests and voters, and the regional decisions they make at MTC rarely surface during the electoral season at home since most of their constituents are unaware of the votes they cast at MTC.

MTC's voting structure is also unrepresentative of the region's population. Counties with smaller populations have disproportionate voting power and influence, per capita, compared to larger counties. For example, Contra Costa County has 7 times the population of Napa County, yet Napa County has half as many voting seats on the Commission as Contra Costa County. Alameda County has 6 times the population of Marin County, yet Marin County has half as many voting seats as Alameda County.

This representational imbalance especially disfavors low-income residents and residents of color, who despite recent demographic shifts, still disproportionately live in the urban core and depend on transit for their mobility. National studies show that metropolitan planning agencies configured in this fashion tend to skew investments in ways that disproportionately benefit overrepresented counties, often favoring highway investments over transit and encouraging sprawl.

In California, approximately every 931,000 residents get to elect one State Senator and every 420,000 residents get to elect one Assembly Representative. As has been acknowledged, our Legislature is one of the most diverse legislatures in the nation. Why shouldn't it be the same in the Bay Area?

To have such a powerful and influential agency, with no direct public accountability and without a representative voting structure, violates our common-held notions of a representative democracy.

We do not pretend to say that a democratic and representative structure will reduce or minimize conflict, or that it is the silver bullet to solving our regional problems. But the first goal shouldn't be to create conflict-free processes (that is rarely possible), but to create an institution that has **democratic legitimacy** in how it institutionalizes a negotiating process through which local jurisdictions can identify and prioritize the *regional interests* of their residents. We don't have that today.

I emphasize this point because many of us support efforts to strengthen regional decision-making by empowering agencies to more effectively integrate transportation, land use, air quality, health and economic development objectives. But this legitimacy and accountability problem must be addressed simultaneously.

As was said by Mayor Green, perhaps this was appropriate 40 years ago, when the Legislature first created MTC and regionalism was but a nascent concept, but since then

MTC's power and influence over the region has increased exponentially and its structure needs reform.

There are various options for reform that the Committee can consider:

- Commissioners could be directly elected by voters.
- Commissioner seats could be allocated based on proportional representation.
- The current Commission could have weighed voting.
- More stakeholders could be added to the Commission, including transit operators and transit users.
- An independent office could be established, with oversight powers to ensure full transparency and public participation at key steps throughout the regional planning process. This office could report directly to the Commission, evaluate MTC's performance in responding to public input, and have the power to agendize action items. A helpful analogy is the Public Utilities Commission's Division of Rate Payer Advocates, which represents rate payer interests before PUC proceedings and is charged with advocating for customers of regulated utilities to obtain the lowest possible rates consistent with reliable and safe service levels.
- At the prior hearing in San Francisco, other models of more democratic MPOs were mentioned, like Tri-Met in Portland and the Puget Sound Regional Council. These could be modeled.

These are all great places to start. What is important is that we know we are not stuck with the current MPO model.

This leads me to the second and final part of my comments: Making MTC a forum for true regional planning that is responsive to unmet community needs.

Let's assume we've fixed the problem of a democratic Commission. The public still faces another large hurdle: its inability to affect the outcomes through public participation. This often happens because decisions have already been brokered, whether by MTC staff or at the County Management Agency level, before they are ever agendized at MTC.

MTC often defers to what is contained in the county transportation plans, and the reality is that public participation at the CMA level is generally very poor. By the time the public gets to MTC, it's too late to shape outcomes. The terms of the debate have already been set.

This results in poor regional planning, in part because the RTP process does not start with an assessment of the unmet transportation needs, does not consider an appropriate range of alternatives, and does not prioritize investments to address first and foremost our most pressing unmet transportation needs.

If we do not start with the unmet needs, then for whom are we building prosperity? We refuse to accept that transportation inequity, housing segregation, and other social inequalities are permanent facet of regionalism. We must do better.

As an example, take the ongoing crisis of operating shortfalls facing transit agencies. Service cuts and fare hikes are harming our region's most vulnerable communities at a time of high unemployment. These shortfalls are structural, yet so far, we see no leadership from MTC to address this massive crisis, and no proposed fundamental changes to its funding practices on the horizon. One cannot solve this unprecedented crisis by finding operations efficiencies alone. Yet business continues as usual, building expansion projects that are unsustainable while our existing transportation system is in disarray. MTC staff is not even willing to lobby Congress to restore federal funding for transit operations, which the Bay Area received prior to the 1990s.

To address these issues, the Legislature should consider requiring a clear structure for regional governance activities. Under such a structure:

- MTC would be proactive in setting regional priorities, and would set the parameters for CMAAs and transit agencies well *before* county plans are developed.
- The county process would begin with transportation needs assessments, not with the county project priority list from the last regional transportation plan.
- Through a robust public process, the MTC commission would then identify common unmet needs and challenges shared across counties, and prioritize them.
- County agencies would then be required to study several alternatives for meeting these shared regional priority needs.
- MTC would analyze the alternatives to determine which ones are the most cost-effective, best at reducing greenhouse gas emissions, and most equitable, and choose accordingly.

In short, improving regional planning at MTC also means improving planning and public participation at the CMA level all the way up. The Legislature can help make this a reality.

Again, we thank you for opportunity to testify. We stand ready to offer our assistance to you and the members of the Committee in efforts to reform MTC.