



# AGENDA REPORT

**TO:** DEANNA J. SANTANA  
CITY ADMINISTRATOR

**SUBJECT:** Bicyclist & Pedestrian Advisory  
Commission

**FROM:** Brooke A. Levin  
Interim Director, PWA

**DATE:** December 13, 2013

City Administrator  
Approval

*Deanna Santana*

Date

*12-16-13*

**COUNCIL DISTRICT:** City-Wide

## RECOMMENDATION

Staff Recommends that the City Council Adopt an Ordinance Creating the Bicyclist and Pedestrian Advisory Commission and Specifying the Terms and Responsibilities of Its Commissioners.

## OUTCOME

Approval of this ordinance will create a Bicyclist and Pedestrian Advisory Commission in compliance with Metropolitan Transportation Commission Resolution 4108 such that the City may continue to receive annual funding from Transportation Development Act Article 3 for the implementation of bicyclist and pedestrian projects.

## BACKGROUND/LEGISLATIVE HISTORY

The City has an existing Bicycle and Pedestrian Advisory *Committee* that meets monthly to advise the Public Works Agency (PWA) on policies, projects, and programs that affect bicycling and walking in Oakland. The committee was formed in 1994 at the request of the East Bay Bicycle Coalition for such an advisory body. The Bicycle and Pedestrian Advisory Committee began meeting in 1995 and was involved in the development of the Land Use and Transportation Element of the General Plan (1998), Bicycle Master Plan (1999), Pedestrian Master Plan (2002), and the 2007 update to the Bicycle Master Plan. Over the years the Bicycle and Pedestrian Advisory Committee has reviewed many City projects including streetscapes, area plans, bikeways, Safe Routes to School improvements, development projects, Waterfront Trail segments, transit projects, and the Measure DD improvements at Lake Merritt.

The Bicycle and Pedestrian Advisory Committee also participates in the annual review and prioritization of projects for Transportation Development Act Article 3 funds, a portion of the state sales tax dedicated to bicyclist and pedestrian projects. These funds are apportioned by

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formula based on population and in recent years the City has received approximately \$300,000 per year from this source.

Transportation Development Act Article 3 (TDA Article 3) funds are administered by the Metropolitan Transportation Commission (MTC) as stipulated by MTC Resolution 4108, adopted June 16, 2013. The resolution requires jurisdictions requesting TDA Article 3 allocations to have an advisory body appointed by City Council:

Each county and city is required to have a Bicycle Advisory Committee (BAC) to review and prioritize TDA Article 3 bicycle and pedestrian projects and to participate in the development and review of comprehensive bicycle plans. BACs should be composed of both bicyclists and pedestrians. A city BAC shall be composed of at least 3 members who live or work in the city. More members may be added as desired. They will be appointed by the City Council. The City or Town Manager will designate staff to provide administrative and technical support to the Committee. (MTC Resolution No. 4108, Attachment A, pp. 2-3)

MTC Resolution 4108 supersedes MTC Resolution 875, adopted November 26, 1980, that also required a City Council-appointed advisory body. Historically, the requirement for City Council appointment was not enforced by MTC and the City's current Bicycle and Pedestrian Advisory Committee has provided for the review of TDA Article 3 projects. Following the adoption of MTC Resolution 4108, MTC staff communicated to jurisdictions that this requirement will now be enforced.

## ANALYSIS

Adoption of this ordinance will allow the City to proceed with its applications for TDA Article 3 funding for FY2014-2015 and future years. The public review and construction of bicyclist and pedestrian facilities is consistent with the goals of the City of Oakland's General Plan, the Bicycle Master Plan, Pedestrian Master Plan, and Complete Streets policy. Grant applications for competitive sources of transportation funding routinely ask if the proposed projects were reviewed by a Bicycle and Pedestrian Advisory Committee. The existing Bicycle and Pedestrian Advisory Committee provides a public forum for ensuring that transportation funding is used in an efficient manner that is responsive to community needs and to City policies. Currently, the existing Bicycle and Pedestrian Advisory Committee is the City's only public forum dedicated to reviewing bicycle and pedestrian transportation projects citywide.

The Bicyclist and Pedestrian Advisory Commission will replace the existing Bicycle and Pedestrian Advisory Committee. The Commission will advise City Council and staff on pedestrian- and bicyclist-specific policies, projects, and programs, and on the accommodation of bicyclists and pedestrians in all transportation plans, policies, projects, and programs. The Commission will serve as a resource to City staff and a forum for the public's participation in

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and review of the City's efforts to improve the safety and access of walking and bicycling in Oakland.

The proposed Commission structure is based on a review of the City's boards and commissions, including interviews with commission staff and with commissioners. The proposal also considers recommendations from a report by the League of Women Voters produced in May 2010 at the request of the City Council: "Boards and Commissions in Oakland: Findings and Recommendations from the League of Women Voters of Oakland."

The Commission is recommended to consist of five commissioners. The minimum qualifications for membership are that an individual must live in Oakland and have a demonstrated history of professional and/or community involvement with bicyclist and/or pedestrian issues. Commissioners serve for three year terms and are limited to serving two consecutive terms. In selecting commissioners, the ordinance directs the Mayor to strive for geographic representation of Oakland's neighborhoods.

<b>Recommendation</b>	Staff recommends that the City Council adopt an ordinance creating the Bicyclist and Pedestrian Advisory Commission to comply with MTC Resolution 4108 and replace the existing Bicycle and Pedestrian Advisory Committee.
<b>Pros</b>	The recommendation preserves the benefits of the existing Bicycle and Pedestrian Advisory Committee while complying with MTC requirements in order to receive TDA Article 3 funds.
<b>Cons</b>	If a Bicyclist and Pedestrian Advisory Commission is not designated, the City will no longer be eligible for TDA Article 3 funds.

### **POLICY ALTERNATIVES**

MTC Resolution 4108 and subsequent guidance provided by MTC staff allow for two policy alternatives to creating a Bicyclist and Pedestrian Advisory Commission for the purpose of receiving TDA Article 3 funds. These alternatives are explained below.

<b>Alternative #1</b>	Designate an existing board or commission as the City of Oakland's advisory body for the technical review of bicyclist and pedestrian projects to be funded by TDA Article 3.
<b>Pros</b>	This designation would require a City Council resolution (as compared to an ordinance) and would consolidate the new requirement with an existing City function.
<b>Cons</b>	The existing Bicycle and Pedestrian Advisory Committee has been a very effective ad hoc body with specialized expertise that has served this purpose for many years. Given the established purposes of other boards and commissions, another body would not meet the MTC mandate that the membership represent bicyclists and pedestrians.

<b>Reason for not recommending</b>	The existing Bicycle and Pedestrian Advisory Committee is uniquely qualified to serve this function; the only shortcoming is that the body has not been appointed by the Mayor and City Council. A separate Bicyclist and Pedestrian Advisory Commission will produce superior policy outcomes. Alternative #1 is not supported by the existing Bicycle and Pedestrian Advisory Committee nor by leadership from Walk Oakland Bike Oakland and the East Bay Bicycle Coalition.
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<b>Alternative #2</b>	Designate the Alameda County Transportation Commission's Countywide Bicycle and Pedestrian Advisory Committee as the City of Oakland's Bicycle Advisory Committee.
<b>Pros</b>	This designation would require a City Council resolution (as compared to an ordinance) and would consolidate the new requirement with an existing function of the Alameda County Transportation Commission.
<b>Cons</b>	In addition to the cons listed in Alternative #1, this alternative would cede decision-making to another agency. The countywide Bicycle and Pedestrian Advisory Committee does not have a designated Oakland representative. Currently, one of the 11 members is an Oakland resident. MTC allows for this alternative if an agency can demonstrate that the countywide Bicycle and Pedestrian Advisory Committee provides for expanded city representation. Given Oakland's existing Bicycle and Pedestrian Advisory Committee, this condition is not met.
<b>Reason for not recommending</b>	In addition to the reasons listed in Alternative #1, this alternative weakens the City's self-determination by delegating the function to another agency with limited involvement by Oaklanders.

**PUBLIC OUTREACH/INTEREST**

The City's Bicycle and Pedestrian Advisory Committee has met monthly since 1995, demonstrating a strong public interest in the City's efforts to improve safety and access for bicyclists and pedestrians. Currently there is contact information for 391 people on the agenda distribution list for the Bicycle and Pedestrian Advisory Committee. Over the twelve months ending September 2013, meetings had an average of 18 attendees. Numerous participants are transportation professionals who live in Oakland and seek to make a positive contribution to their city through public involvement. The recommendations in this agenda report were discussed with members of the Bicycle and Pedestrian Advisory Committee and representatives of Walk Oakland Bike Oakland and the East Bay Bicycle Coalition.

**COORDINATION**

The City Attorney's Office reviewed this report and legislation while the Budget office reviewed the report for fiscal impacts.

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### COST SUMMARY/IMPLICATIONS

Staff expects that the Commission will require at least 0.2 FTE (20%) of staff support, or 32 hours of support for 1 meeting per month. In comparison, the current committee required 0.05 FTE (5%) in staff support for Fiscal Years 2011-2013. The additional time and resources required are for preparing all materials required for meeting Brown and Sunshine Act requirements for agenda posting, field posting, noticing to property owners, packet delivery 72 hours in advance of the meeting, preparation and distribution of meeting minutes and web support. (For reference, the Planning Commission requires 1.6 FTE for support of two meetings per month, equivalent to 0.8 FTE for one meeting). This time will be absorbed by existing staff funded by Measure B (Fund 2211).

### SUSTAINABLE OPPORTUNITIES

***Economic:*** The creation of a Bicyclist and Pedestrian Advisory Commission is a prerequisite for the City to receive funding from Transportation Development Act Article 3. The Bicycle and Pedestrian Advisory Commission will improve the City's competitiveness for multiple discretionary grants that encourage or require the public review of projects' bicyclist and pedestrian components.

***Environmental:*** Bicycling is the most energy efficient form of transportation and both bicycling and walking create no emissions, contributing to the City's efforts to reduce air pollution and address climate change. Public review of bicyclist and pedestrian projects will support the City in realizing its policy goals on sustainability.

***Social Equity:*** Bicycling and walking are inexpensive and broadly accessible forms of transportation. Bicyclist and pedestrian projects improve accessibility and safety for persons who depend upon public transit to access jobs and services. Public review of bicyclist and pedestrian projects helps ensure that City projects are responsive to community needs.

CEQA

This action is not a project under CEQA.

For questions regarding this report, please contact Jason Patton, Bicycle and Pedestrian Program Manager, at (510) 238-7049.

Respectfully submitted,



BROOKE A. LEVIN  
Interim Director, Public Works Agency

Reviewed by:  
Michael Neary, P.E., Assistant Director  
PWA, Department of Engineering and Construction

Iris Starr, AICP, Division Manager  
Transportation Planning and Funding Division

Prepared by:  
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Transportation Planning and Funding Division

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2013 DEC 30 PM 2:31

APPROVED AS TO FORM AND LEGALITY

**DRAFT**

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

City Attorney

## OAKLAND CITY COUNCIL

ORDINANCE No. \_\_\_\_\_ C.M.S.

Ordinance Creating the Bicyclist and Pedestrian Advisory Commission and Specifying the Terms and Responsibilities of its Commissioners

**WHEREAS**, Metropolitan Transportation Commission Resolution 4108 requires each jurisdiction to have a City Council-appointed Bicycle and Pedestrian Advisory Committee as a prerequisite to receiving funds from Transportation Development Act Article 3; and

**WHEREAS**, Transportation Development Act Article 3 is a portion of state sales tax revenues dedicated to bicyclist and pedestrian projects and awarded to jurisdictions for eligible projects based on review and prioritization by a Bicycle and Pedestrian Advisory Committee; and

**WHEREAS**, the City seeks to receive Transportation Development Act Article 3 funds as a means for implementing the City's Bicycle Master Plan and Pedestrian Master Plan, both part of the Land Use and Transportation Element of the Oakland General Plan; and

**WHEREAS**, the City's Bicycle and Pedestrian Advisory Committee was formed in 1994 as an informal advisory body to the Public Works Agency and the committee has met monthly since 1995; and

**WHEREAS**, a City Council-appointed Bicyclist and Pedestrian Advisory Commission will satisfy these requirements and improve the City's competitiveness for discretionary grants; and

**WHEREAS**, Section 601 of the City Charter reserves to the City Council the authority to create boards and commissions by ordinance, and to prescribe their function, duties, powers, jurisdiction and the number of board and commission members, their terms, compensation and reimbursement for expenses, if any; now, therefore

**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

Section 1. The City Council hereby creates the Bicyclist and Pedestrian Advisory Commission.

**Section 2.** The purpose of the Bicyclist and Pedestrian Advisory Commission is to advise City Council and staff on bicyclist- and pedestrian-specific policies, projects, and programs, and on the accommodation of bicyclists and pedestrians in all transportation plans, policies, projects and programs. The Commission shall serve as a resource to City staff and a forum for the public's participation in and review of the City's efforts to improve the safety and access of walking and bicycling in Oakland. The duties and functions of the Commission are as follows:

- a. Review and advise on proposed projects for Transportation Development Act Article 3 funding;
- b. Provide input to staff on the expenditure of Measure B Bicycle & Pedestrian Pass-through funds.
- c. Provide input to staff in implementation of the Bicycle Master Plan, the Pedestrian Master Plan, and other related Plans.
- d. Identify projects and plans that are pertinent to the Commission's purpose and prioritize those projects and plans for design review by the Commission.

**Section 3.** The Commission shall consist of five commissioners appointed by the Mayor and confirmed by the City Council. Three commissioners shall constitute a quorum and votes shall carry by a majority of the five commissioners.

**Section 4.** The minimum qualifications for membership are that an individual must live in Oakland and have a demonstrated history of professional and/or community involvement with bicyclist and/or pedestrian issues. In selecting commissioners, the Mayor will strive for geographic representation of Oakland's neighborhoods.

**Section 5.** Commissioners shall be appointed to three year terms that begin on January 1. Commissioners shall serve no more than six consecutive years. Individuals who serve for six consecutive years may be reappointed to the Commission after one year of not serving as a commissioner. The terms shall be staggered such that one of the commissioners' terms will conclude on December 31 of the first year; two will conclude on December 31 of the second year; and two will conclude on December 31 of the third year. If a commissioner does not complete her or his term, a new commissioner shall be appointed for the duration of that term.

**Section 6.** The inaugural commissioners shall be appointed as follows. Subject to confirmation by the City Council, the Mayor will appoint five commissioners with the following terms: one commissioner with a term ending December 31, 2014; two commissioners with terms ending December 31, 2015; and two commissioners with terms ending December 31, 2016.

**Section 7.** In the event an appointment to fill a vacancy has not occurred by the conclusion of a



commissioner's term, that commissioner may continue to serve on the Commission during the following term in a holdover capacity for a period not to exceed one year to allow for the appointment of a commissioner to serve the remainder of said following term. However, commissioners shall serve no more than six consecutive years.

**Section 8.** A commissioner may be removed for failing to meet attendance standards. The standards are based on a monthly meeting schedule and apply to regular meetings only, and not to special meetings of the Commission. A commissioner may be removed by a majority vote of the commissioners if in a calendar year that commissioner has four or more excused absences; or three or more unexcused absences; or three or more consecutive absences.

**Section 9.** The Chair of the Public Works Committee of the City Council shall serve as a liaison between the Bicyclist and Pedestrian Advisory Commission and the City Council. The Commission shall provide annual reports to the Public Works Committee of the City Council to summarize the Commission's work over the course of the year and to identify key policy issues affecting the safety of and access for bicyclists and pedestrians in Oakland.

**Section 10.** The Commission shall establish additional rules of operation and procedures for conducting its business by a majority vote of the commissioners.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF, and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST. \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

DATE OF ATTESTATION: \_\_\_\_\_