

Communication from Public

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Council File No: 20-1536

Comments for Public Posting: I would like to submit the attached comments on the Sidewalk and Transit Amenities Program. There are many concerns that the City has not addressed, including issues related to planning, safety and privacy. The Program must not be approved in its current form.

December 1, 2021

Los Angeles City Council
Los Angeles City Hall
200 N. Spring St.
Los Angeles, CA 90012

Re: Sidewalk and Transit Amenities Program (STAP)
Council File: 20-1536
STRONGLY OPPOSED

Members of the Los Angeles City Council,

I am writing to say that I'm strongly opposed to approval of the Sidewalk and Transit Amenities Program (STAP) in its current form. The City has failed to consider numerous important issues related to the implementation of STAP, including the following:

- The City has failed to create a holistic planning framework to ensure that the Program is integrated with existing programs to provide maximum benefit to the public
- The City has failed to give proper consideration to extensive research showing that digital billboards may have significant impacts with regard to safety
- The City has failed to provide an adequate explanation of how revenue will be generated by the program and how those revenues will be spent
- The City's environmental review of the program does not even evaluate all the infrastructure needed for the Program, and fails to analyze potentially significant impacts
- The City has failed to adequately explain who will have access to data collected under the Program, how it will be used, and how the City will provide necessary privacy safeguards

Instead of creating a carefully thought-out program to provide better services and amenities to enhance multi-modal transportation throughout Los Angeles, the City seems to be allowing private corporate interests to create a program that will best serve their agenda. It's clear that the Program presents an opportunity to generate significant new revenue by creating a system that will allow advertisers to capture unlimited data from the general public. Unfortunately, without an integrated approach to planning and careful consideration of safety and privacy concerns, STAP is likely to become yet another City Hall program that promises much and delivers little. There could also be huge liabilities if privacy concerns are not addressed. I urge you to postpone approval until these issues have been addressed. My detailed comments are below.

Sincerely,
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Sidewalk and Transit Amenities Program (STAP)

Comments

Lack of Integrated/Holistic Planning to Ensure Maximum Benefit from Infrastructure

As Investing in Place points out in its comments on STAP, the lack of integrated planning in the City of LA is a systemic problem. The City does not have a capital infrastructure plan which identifies overall goals and provides a clear road map toward achieving those goals. While City Hall hypes an endless parade of programs, initiatives and concepts (Complete Streets, Transit Neighborhood Plans, Green New Deal, Vision Zero, etc.), there does not seem to be any serious attempt to coordinate these different efforts or to provide meaningful monitoring of outcomes. When City departments do publish reports, they're usually closer to promotional brochures, with lots of colorful photos and upbeat marketing-speak, and little in the way of data-based analysis of outcomes. (The significant exception being the reports issued by Controller Ron Galperin's office.) These reports tell us that the City is making great progress, and its departments are working hard to make things even better. Unfortunately, the reality is that the City is mired in dysfunction and that City Hall seems unable to come to grips with a number of pressing problems: homelessness is increasing, infrastructure is crumbling, transit ridership is declining, and our urban forest is being steadily degraded by speculative development. While the City has presented a list of objectives for STAP, the list contains little in the way of quantifiable goals. In addition, STAP may actually undermine the Vision Zero program.

Insufficient Explanation of How Revenue Generated by the Program Will Be Spent

Investing in Place also points out that there is an ongoing lack of transparency when it comes to infrastructure spending in the City of LA. Their letter correctly states, "[W]e do not have a clear picture of where public works and transportation funds have gone over the years and are not able to see a publicly accessible future funding plan or implementation goals and timelines." Aside from providing improved furniture for transit stops, the publicly available documents regarding STAP do not adequately explain how funds will be used, nor do the documents provide clear goals or benchmarks to measure success.

Failure to Give Adequate Consideration to Safety Risks

Having reviewed a number of documents related to STAP, it's surprising that there are few references to potential safety impacts and no meaningful analysis of safety risks associated with the program. This is especially troubling given the high number of traffic fatalities in the City of LA, and the City's failure so far to reduce that number. In 2015 the City implemented Vision Zero with the goal of eliminating traffic deaths by 2025. Instead, the number of traffic fatalities has been increasing. Please see the excerpt from this January 2021 article from LAist:

Death In A Crosswalk: The Killing Of A 4-Year-Old Shows LA's Failure To Stop Traffic Violence
<https://laist.com/news/transportation/koreatown-alessa-fajardo-pedestrian-death-la>

Since the initiative was announced five years ago, traffic deaths in L.A. have risen rather than fallen. In 2015, 186 people were killed in collisions on city streets. In 2019, the

combined death toll for pedestrians, cyclists and people killed in vehicles was 244 people, about a 31% jump. Pedestrian deaths rose more sharply, up about 65% over the same five-year span.

A recent follow-up article shows that traffic deaths continue to rise:

Halfway Through 2021, LA Traffic Deaths Are On Track To Exceed Last Year's Figures
<https://laist.com/news/transportation/2021-la-traffic-deaths-on-pace-to-exceed-2020>

And just over halfway through 2021, the number of people killed and injured by drivers in L.A. is on pace to exceed 2020, which was one of the deadliest years on U.S. roads in more than a decade. That's according to data compiled by the LAPD, which tracks traffic collisions in the city.

In spite of this, the City has so far made no meaningful effort to assess STAP's safety impacts. In terms of traffic safety, there is a fundamental problem with the inclusion of digital billboards in STAP: These billboards are designed to attract the attention of people in public spaces, including those driving cars. It is difficult to understand how the City fails to see increased risk from distracted driving. While there are many factors that can contribute to safety risks associated with traffic, there are a number of studies suggesting that billboards in general, and digital billboards in particular, can lead to higher risk of collision by taking drivers' eyes off the road. Please see the link to the research survey below, followed by an excerpt.

Compendium of Recent Research Studies on Distraction from Commercial Electronic Variable Message Signs (CEVMS)
<https://www.scenic.org/wp-content/uploads/2019/09/billboard-safety-study-compendium-updated-february-2018.pdf>

Finally, the most recent epidemiological studies (dating from 2014 and 2015) have begun to demonstrate what has long been suspected but not proven – that roadside billboards are associated with increases in crash rates where such billboards are located.

The research and guidelines reviewed in our 2009 report set the stage for the 21 research articles and guidelines that are reviewed and summarized in this compendium. While employing a broad array of approaches and methodologies, the common theme clearly indicates that the more that commercial digital signs succeed in attracting the attention of motorists that render them a worthwhile investment for owners and advertisers, the more they represent a threat to safety along our busiest streets and highways, where these signs tend to be located.

An April 2021 memo from StreetsLA mentions, "Parameters for the location and operation of digital displays to ensure they are safe and compatible with their surrounding environments [...]", but these parameters do not appear to be included in the documents made available to the public so far. There is no discussion of distracted driving, Vision Zero, or LA's High Injury Network.

The MND for the Program Fails to Assess Many of the Project's Impacts

The MND for the Program is flawed in many ways, but the most serious flaw is that it does not even describe the Program in its entirety. The MND only analyzes impacts from the construction and maintenance of the bus shelters, kiosks, etc. that will be placed on the street. The project description completely ignores the significant network infrastructure that will be necessary to operate the Program. Also, the analysis of the bus shelters does not assess the impacts of the various electronic devices that will be necessary for digital displays. These devices contain toxic metals that can be harmful to human health. The MND does not discuss how often these devices will be replaced or how they will be safely disposed of.

Under 2.3, Project Objectives, the MND lists the following as the Program's primary objective:

Promote and expand the use of transit, active transportation, and shared mobility by improving the quality and technological capability of associated physical program elements, such as transit shelters, kiosks, and other amenities

Unfortunately, the MND fails to explain how the Program will achieve this goal. The City has a history of making unsubstantiated claims regarding its efforts to increase transit ridership. For years the City has been claiming that increasing density around transit hubs will get people out of cars and onto busses and trains. The reality is that from 2014 through 2019 Metro ridership fell by about 20%, and DASH ridership fell by more than 20%, in spite of the construction of thousands of new residential units near transit hubs.

Not only does the City offer no evidence that the Program will expand the use of transit, but this claim appears to be undermined by a July 20, 2017 Metro Board Report with the heading "Metro Service Study and Regional Ridership Improvement Task Force". The task force conducted a survey of past riders to learn the reasons they had stopped taking transit. Please see the following excerpt:

Despite being the second most heavily used bus and seventh most heavily used rail systems in the Country, and voter endorsement for continued growth, Metro's systemwide [sic] ridership has declined by 15% since April 2014, consistent with national trends. A recent survey of past riders found that 19% of respondents stopped using Metro services primarily because their travel patterns changed, and another 12% stated that it is too hard to get to and from transit. Eighteen percent and 11%, respectively, mentioned slow speeds and service reliability were their main reasons for leaving transit. Ridership declines can also be attributed to shifts in customer demographics and lifestyles, changing workforce travel patterns, safety and security concerns, new technology and opportunities for other travel options such as shared mobility on-demand.

Please note that the paragraph above makes no mention of inadequate street furniture as a reason given by former riders for not taking transit. This raises the question of whether the project's objective of expanding the use of transit has any basis in reality.

Furthermore, on page 128 of the MND, under Greenhouse Gas Emissions, we find the authors claim that GHG emissions produced by implementation of the project would be offset by increased transit ridership:

Although implementation of the project would generate GHG emissions that would be greater in magnitude than those under existing conditions, the project itself would

provide potential benefits that would offset emissions in ways that are not currently quantifiable. Implementation of the project would enhance the safety, aesthetics, accessibility, and comfortability of public transit shelters throughout the City. The improved transit shelter facilities would encourage the use of public transit by providing more appealing, brightly lit waiting areas, and the increased transit ridership would offset single occupancy vehicle use. The displacement of vehicle trips in favor of transit is a crucial element of regional, State, and City planning efforts to reduce GHG emissions. L.A.'s Green New Deal includes a target of increasing the percentage of all trips made within the city by walking, biking, micro-mobility/matched rides, or transit to at least 35 percent by 2025 and 50 percent by 2035.

The authors claim that STAP “would encourage the use of public transit by providing more appealing, brightly lit waiting areas, and the increased transit ridership would offset single occupancy vehicle use”, thereby reducing GHG emissions. However, they fail to offer any evidence to support this assertion. Again, please see the excerpt from the July 20, 2017 Metro Board Report above. Nowhere does it say that the lack of “appealing, brightly lit waiting areas” was offered by former transit riders as a reason for switching to other modes of transportation.

The City Fails to Offer Credible Privacy Protections

An integral part of STAP is the installation of wireless devices in street furniture to gather data from persons in public spaces. The potential for abuse is huge, and nothing in the documents related to STAP shows that the City is taking this issue seriously. The City claims that existing laws and existing policies will address all concerns, but a review of available documents calls this claim into question.

The City says that no personal data will be collected, but this is really impossible to verify, since the City won't actually be installing the devices that collect the data. Also, it's difficult to define what "personal" data is. Even data that doesn't directly identify a user by itself can be combined with additional data to point to an individual, a process known as re-identification. Please see this excerpt from an LA Times article published last year:

Column: Billboards that follow you? It's not sci-fi. They're already here

<https://www.latimes.com/business/story/2020-08-25/column-clear-channel-billboards-privacy>

Kyle M.L. Jones, an Indiana University assistant professor who focuses on data mining, said that for a company to target you with advertising, it has to know who you are and have an idea about your personal tastes.

Even if you're identified only by a number affiliated with your phone, rather than by your name, it's not difficult to extrapolate from there if a more robust marketing profile is desired.

“Enough of a mixture of geographic, behavioral and demographic data will almost inevitably open up opportunities for re-identification,” Jones said. “It's hard to know what their privacy-protecting practices are, but their practices have risk.”

Although Clear Channel's King played down the “Minority Report” implications of Radar, the company's chief executive, William Eccleshare, told the Financial Times that the

September introduction of Radar in Europe will create a host of eye-opening opportunities for advertisers.

"We can follow your movement to a store," he said. "We can follow what you purchase. And yes, we can look at your viewing habits that evening if you pass an ad for a Netflix show."

In documents related to the program, the City claims it will address privacy concerns, but in fact, the City's claims are full of holes. Documents released by the City refer to....

City of LA Privacy Policy

This policy only addresses data submitted by individuals to City agencies. It does not begin to address data collection on the scale that the STAP will allow.

City of LA Digital Code of Ethics

The May 20, 2021 memo from BSS says the program's privacy policy will be based on the City's proposed Digital Code of Ethics. This document had not been completed as of September of this year, and even at the time of this writing it is unclear whether the document has been completed or adopted. In any case, the City has not even made a draft of the Digital Code of Ethics available to the public as part of the STAP review process. The City cannot claim that privacy concerns will be address by a document that the public hasn't even had a chance to review.

The California Consumer Privacy Act

This landmark law does offer important privacy protections, but it's questionable whether the STAP, as currently structured, actually complies with this law. The fact that a private firm will be collecting the data means that the City has no real control or oversight over what's being collected. Also, the City has not defined what it means by personal information. The City must clearly state that STAP will not be used to collect information that falls under the definition of "personal information" as defined by the California Consumer Privacy Act, including:

- *Identifiers such as a unique personal identifier, online identifier, IP address, email address, account name, or other similar identifiers.*
- *Commercial information, including records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies.*
- *Biometric information.*
- *Internet or other electronic network activity information, including, but not limited to, browsing history, search history, and information regarding a consumer's interaction with an internet website, application, or advertisement.*
- *Geolocation data.*
- *Professional or employment-related information.*

It's difficult to trust the assurances about privacy protection given by the City when the RFP for the program appears to make conflicting statements about who will own the data and how it will be used. Page 15 of the RFP contains the following paragraph:

Data: The collection of data in public spaces is a complex issue, therefore any data collected from smart devices, networks, or sensors deployed in the STAP will be non-personally identifiable information only and the sole property of the City. Data collected under the program will adhere to the requirements of the California Consumer Privacy

Act (AB 375), California Proposition 24 (approved in 2020) and the City's Digital Code of Ethics. None of the data collected under the program will be sold to, provided to, or used by any party other than the City of Los Angeles and, will be used for the sole purpose of improving the delivery of City services. [Emphasis added.]

But on page 26, under the heading Data Collection, Data Ownership & Use of Location-Based Technology, we find the following:

Data that is collected through STAP Elements and programs will be the sole property of the City of Los Angeles. All data collected will be non-personally identifiable information in accordance with the provisions of the California Consumer Privacy Act 2018. The Contractor will hold secure and confidential, during and after the expiration of the Contract Term, all data requested by the City as well as any other non-personally identifiable data that may have been collected over the Contract Term. None of the data collected through the STAP will be made available to any person or entity without the prior written authorization by the City. [Emphasis added.]

The Contractor will be granted the non-exclusive right to use non-personally identifiable data only for purposes of increasing STAP advertising revenues associated with the specific Program Elements operated under the Agreement. [Emphasis added.]

The Contractor may propose opportunities to monetize the data collected from the elements, technologies and programs developed for STAP, with the City sharing in revenues from that monetization. All current and future uses of data must comply with the California Consumer Privacy Act (CCPA), the City's Digital Code of Ethics and the City of Los Angeles' Privacy Policy.

On page 15, the City states that none of the data collected will be used by any party other than the City. But on page 26, it becomes clear that the contractor will have access to the data. On top of that, the RFP states that the contractor is able to provide data to other parties with the City's written authorization. And again, the City does not explain how it intends to verify that only non-personal data will be collected, or that the data will be only be used in compliance with the CCPA. How can the City ensure compliance when the data is actually collected via hardware installed by the contractor?

Another issue that isn't addressed is whether the City will share data collected with law enforcement. Will the LAPD have access to this data? Will there be any restrictions on LAPD access? Since available documents state that the data will be owned by the City, it seems likely that any City department could have access.

For decades the LAPD has been involved in surveillance and gathering intelligence, and some of their practices have proven controversial. The increasing reliance on big data by law enforcement increases the risk of discrimination against communities of color. In a 2017 paper entitled Disparate Impact in Big Data Policing, Andrew Sebst writes the following:

'One potential downside is clear. As Solon Barocas and I observed in an earlier work, if its users are not careful, "data mining can reproduce existing patterns of discrimination, inherit the prejudice of prior decision makers, or simply reflect the widespread biases that persist in society." In August 2016, seventeen civil rights organizations released a joint statement on the civil rights concerns of predictive policing, emphasizing the

possibility of racist outcomes, as well as the lack of transparency, public debate, and attention to community needs.'

So far the City has completely avoided any serious discussion of meaningful privacy protections. STAP must not move forward until this issue has been addressed, and the public must be invited to engage in this discussion before the Program is approved.