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**The City of New York
Community Board 8 Manhattan
Congestion Pricing Task Force
Thursday, February 16, 2023, 6:30 PM
Conducted Remotely on Zoom**

Please note: The resolutions contained in the committee minutes are recommendations submitted by the committee co-chairs to the Community Board. At the monthly full board meeting, the resolutions are discussed and voted upon by all members of Community Board 8 Manhattan.

Resolutions for Approval:

Item 2: Policy recommendations related to MTA transparency, accountability, and oversight in regards to Congestion Pricing operations and the use of revenues generated.

Minutes

Present: Michele Birnbaum, Alida Camp, Saundrea Coleman, Ed Hartzog, Sahar Husain, Craig Lader, Valerie Mason, John McClement, Sharon Pope-Marshall, Judy Schneider,

The meeting was called to order at 6:32 PM.

Item 1: Updates on the Central Business District Tolling Program since the December 19, 2022 Task Force Meeting

Since the December 19, 2022 Task Force meeting, there have been no official announcements or actions involving Congestion Pricing, as there have been no meetings of the Traffic Mobility Review Board or announcements regarding the status of the Federal Highway Administration's pending decision about the Environmental Assessment (EA).

Item 2: Continued Discussion of Potential Policy Recommendations Related to MTA Transparency, Accountability, and Oversight in Regards to Congestion Pricing Operations and the Use of Revenues Generated.

The Task Force continued a discussion initiated at its December 19, 2022 meeting on how to ensure that the MTA is held accountable, is fully transparent, and conducts proper and sufficient oversight of the Congestion Pricing program once it becomes operational, and uses revenues generated in an appropriate manner that is not wasteful and is compliant with all laws requiring it be dedicated to supporting the MTA's Capital Program.

It was reiterated that §553j of the New York State Public Authorities Law establishes a central business district tolling capital lockbox fund necessary to fund \$15 billion dollars for capital projects for the 2020 to 2024 MTA capital program, and any additional revenues above that amount to be available for any successor, programs, that the lockbox be kept separate from and shall not be commingled with any other monies of the MTA, and that monies in the fund shall be applied, subject to agreements with bondholders and applicable federal law, to the payment of operating, administration, and other necessary expenses of the authority, or to the city of New York subject to the memorandum of understanding executed, including the central business district tolling infrastructure, the central business district tolling collection system, the central business district tolling customer service center, and the costs of any MTA capital projects included within the 2020 to 2024 MTA capital program or any successor programs. It also states that the MTA shall report annually on all receipts and expenditures of the

fund, and the report shall detail operating expenses of the central business district tolling program and all fund expenditures including capital projects and be readily available to the public.

There were numerous comments from speakers concerned about the MTA's history of inefficient and wasteful use of funds and poor decisions made on past megaprojects, and fears that congestion pricing revenues will fall victim to the same practices. It was suggested by some that the revenues from congestion pricing will be used to pay interest on bonds that finance the MTA, and thus it is reasonable to expect that there be assurances that funds for capital projects be spent wisely. Some referred to the high cost of the construction of Phase 1 of the Second Avenue Subway as a prime example of past MTA mismanagement and lack of oversight, as its cost-per-mile compared to comparable projects in other cities was far greater, design elements such as the expansive station mezzanines have been criticized as excessive, too many different consulting/engineering firms were retained to construct accessibility elements of stations like elevators and escalators that have far too often been out of service for repairs; some of these points were described in a recent article published in the New York Post. It was noted that the project budget for Phase 2 of the Second Avenue Subway has been scaled back, and concern was raised that there will be a perception that this was directly due to the overdesign and excessive spending on the stations build during Phase 1 on the Upper East Side. The disjointed and oft-delayed rollout of OMNY, including reliability issues anecdotally reported on some New York City Transit buses, were also used as an example of the MTA's challenges with project delivery.

In regards to reporting and oversight, confusion was present among meeting attendees regarding the congestion surcharge funds generated through fees that have been assessed to passengers in for-hire vehicles, since January 1, 2019, including NYC taxis, below 96th Street in Manhattan; there is no information available as to how exactly those revenues have been or are planned to be used by the MTA. Although there is some reporting of revenue amounts in MTA Board packages, it lacks specificity on anything beyond the amounts generated to date.

A member raised the question of exactly how much in funding the MTA has spent within Community District 8, and if an outside auditor reviews the MTA's books and performance. It was indicated that financial statements are audited by a private firm (currently Deloitte); the MTA also has an Office of the MTA Inspector General that performs monitoring and oversight of MTA activities, programs and employees. The perception of meeting attendees was that these oversight activities were not prolific enough to truly ensure that the MTA is going to be able to perform the extent of the oversight of congestion pricing and monitoring of how revenues are expended in capital projects, as required by the 2019 New York State Budget law in which Congestion Pricing is included. There was an accompanying perception that the oversight has been inadequate as the MTA's cost and time overruns, and failures of mobility equipment on the Second Avenue Subway demonstrate.

There was interest in a possible resolution to attempt to require the MTA to have protocols in place to be open, transparent and accountable, with reporting readily available to the public; discussion followed as to if and how such a resolution would be able to be effective, and focused on the idea of the MTA having protective systems in place to achieve such goals. The idea was raised to further require that the MTA prove that the revenue to be generated is truly necessary, it wasn't agreed upon by the Task Force. In response to a concern raised about the effect that such a resolution would have on the governing authorities, it was suggested that elected officials be invited to the next Task Force meeting to further discuss these critical accountability and transparency issues and to directly hear concerns of constituents and the Task Force as the responsibility of holding the MTA accountable should lie with those who were responsible for the passage of the law that enacted Congestion Pricing.

In addition to the discussion regarding the specific issues of transparency, accountability and oversight, meeting participants also asked more general questions and provided more general comments regarding congestion pricing, including:

- Tolling policies for the Queensboro Bridge: The understanding of the Task Force co-chairs, based on the modeling performed and described in the EA, is that the inbound upper roadway will be the only untolled portion of the bridge.
- Task Force Actions: The Task Force Co-chairs emphasized that their goal is to be proactive, and noted that no other Community Boards to their knowledge are working on this issue to the same degree as CB8M with a dedicated Task Force.

- For-Hire Vehicle Congestion Fees: Speakers voiced frustration that these fees were unfairly burdening Community District 8 residents who rely on using for-hire vehicles to get to medical visits, and airports for example, and that there is no sunset provision for this fee (Note: Community Board 8 has passed a resolution requesting the fee charged in NYC Taxis be rescinded).
- Reiteration/Expansion of comments and opinions expressed at past Task Force meetings regarding the impacts of congestion pricing: numerous speakers brought up discussion points opposing congestion pricing and questioning the timeliness, validity and relevance of the EA given changes to commuting patterns due to remote work practices. One member noted that the Black Institute recently published a report suggesting that people of color would be specifically impacted by congestion pricing and the perception that it is a regressive tax (Another speaker suggested that the role of labor unions is discouraging elected officials from contesting Congestion Pricing as a policy).

The following resolution was put forward:

WHEREAS; the FY 2020 New York State budget law states that “for purposes of establishing a central business district toll or tolls the board shall, at minimum, ensure annual revenues and fees collected under such program, less costs of operation of the same, provide for sufficient revenues into the central business district tolling capital lockbox fund, established pursuant to §553j of the New York State Public Authorities Law necessary to fund \$15 billion dollars for capital projects for the 2020 to 2024 MTA capital program, and any additional revenues above that amount to be available for any successor programs; and

WHEREAS; §553j also specifies the uses of the revenues generated by Congestion Pricing are solely for use to support the construction and operations of the Central Business District Tolling Program and the 2020-2024 MTA Capital Program, and further requires readily available reporting of all receipts and expenditures of the program; and

WHEREAS; concerns have been raised about how effective the MTA will be in managing congestion pricing revenues and adhering to the requirements described in §553j, even with a lockbox in place; and

WHEREAS; it is well documented that the MTA has struggled with internal bookkeeping, managing project costs and efficient project delivery, and at times, has allegedly created different sets of books for different recipients; and

WHEREAS; Phase 1 of the Second Avenue Subway project, constructed almost entirely within Community District 8, exemplifies how the MTA has failed in the past to deliver projects on time and on budget as evidenced by its extremely high cost-per-mile to construct, and has been ineffective in performing contractor oversight; and

WHEREAS; the recently completed East Side Access project, completed over a decade late and billions of dollars in excess of its project budget, raises concerns that projects that will be funded with Congestion Pricing revenues will suffer from similar mismanagement; and

WHEREAS; there has been no information made available thus far by the MTA regarding the use of funds generated through the Congestion surcharge fees already being assessed on passengers of for-hire vehicles south of 96th Street and through other fund-raising methods; and

WHEREAS; the MTA has provided no details regarding how monies that will be generated by vehicles being tolled to cross the toll zone boundary at 60th Street will be allocated and expended; and

WHEREAS; the MTA, along with any local, state or federal governmental entity, must be accountable to taxpayers, especially to constituents bearing a large portion of the financial burden such as Community District 8 residents that will be assessed fees through the congestion pricing law; and

WHEREAS; responsible governmental entities should perform after-action reviews and make public reports identifying mismanagement and inefficiencies in project delivery and recommendations to ensure such mistakes are not repeated; and

WHEREAS; in order to generate confidence in the pending congestion pricing program, the MTA should make clear to constituents and taxpayers that it has addressed past mistakes and will be able to avoid them on future projects that may be recipients of congestion pricing funding;

THEREFORE BE IT RESOLVED, to ensure that Congestion Pricing is operated properly and efficiently, and to ensure that the MTA is held accountable and spends funds effectively and that projects are performed within budgetary constraints, Community Board 8 requests the MTA achieve the following by November 30, 2023 ahead of the start date of Central Business District Tolling:

1. Perform after-action reviews of recent megaprojects such as Phase 1 of the Second Avenue Subway and East Side Access/Grand Central Madison to identify errors in accounting, budgeting, and project design, and issue such a report so the MTA can immediately implement practices to avoid them from occurring on future projects including Phase 2 of the Second Avenue Subway;
2. Provide a list of audit and accounting procedures to the public to improve its transparency;
3. Develop a webpage dedicated to Congestion Pricing reporting that identifies specific funding streams generated by the program and the amounts being provided to specific projects in the 2020-2024 Capital Program (and successor programs) that the funding is being used for.

Yes (9): Birnbaum, Camp, Coleman, Hartzog, Husein, Lader, Mason, McClement, Schneider

No (0): None

Abstain (0): None

Items 3 & 4: Old and New Business

There was no old or new business discussed.

There being no further business, the meeting was adjourned at 8:40 PM.

Respectfully submitted, Alida Camp & Craig Lader, Co-Chairs