

From: [Makayla Garcia Virgil](#)
To: [Rafael Castellanos](#); [Dan Malcolm](#); [Amanda Ibara](#); [Danielle Moore](#); [Sandy Naranjo](#); [Frank Urtasun](#); [Michael Zucchet](#)
Cc: [Commissioner Services Staff](#); [Attorney's Office](#); [ELG - cc Assistants](#); [Sally Raney](#); [Carrie Ehrhart](#); [Janet Graham](#)
Subject: Agenda Related Materials (Item#8): BPC 10/10/23: Hearing on regulation of motorized devices
Date: Tuesday, October 10, 2023 8:14:12 AM
Attachments: [port commissionersmeeting10-10.docx](#)

Commissioners,

Passing along agenda related material on Item 8, 2023-0207, **MOTORIZED MOBILITY DEVICES AND PEDICABS:**

A. ADOPT A RESOLUTION FINDING THE BOARD ACTION EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), INCLUDING BUT NOT LIMITED TO, CEQA GUIDELINES SECTIONS 15301 AND 15311; AND

B. CONDUCT A PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING SAN DIEGO UNIFIED PORT DISTRICT (SDUPD) CODE ARTICLE 8, SECTION 8.07 - REGULATION OF MOTORIZED MOBILITY DEVICES AND PEDICABS ON DISTRICT TIDELANDS

C. DIRECT STAFF TO DEVELOP AND EXECUTE SHORT-TERM OPERATING AGREEMENTS WITH PEDICAB COMPANIES FOR HIRE CONDUCTING COMMERCIAL ACTIVITY ON DISTRICT TIDELANDS, WITH CONDITIONS AND COST RECOVERY AT NO LESS THAN 25% OF THE COSTS TO OPERATE THE PROGRAM

Thank you,
Makayla

From: h s <acoustic212@hotmail.com>
Sent: Monday, October 9, 2023 11:42:45 PM (UTC-08:00) Pacific Time (US & Canada)
To: Rafael Castellanos <rcastellanos@portofsandiego.org>; Danielle Moore <dmoore@portofsandiego.org>; Sandy Naranjo <snaranjo@portofsandiego.org>; Dan Malcolm <dmalcolm@portofsandiego.org>; Michael Zucchet <mzucchet@portofsandiego.org>; Ann Moore <amoore@portofsandiego.org>; Frank Urtasun <furtasun@portofsandiego.org>; PublicRecords <publicrecords@portofsandiego.org>; h s <acoustic212@hotmail.com>
Subject: October 10 Board Meeting

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Hi Port Commissioners,

I could have written ten pages on the proposal you are voting on tomorrow but shrunk it down to what I think is the most important in a 2 page word document. If you dont have time to read it all please at least read the last two paragraphs.

Thanks,






Shaun Swift
20 yr Pedicab driver
619-857-3847

Sent from [Outlook](#)

Dear Port Commissioners,

I'm writing you this email because the pedicab proposal being put up for a vote will really destroy my ability to serve my customers and in its current form will actually disincentivize the pedicab owners from even getting the motorized pedicab permit therefore unintentionally putting the burden of enforcement back on the harbor police. I feel this proposal has a lot of great ideas but just isn't fully thought out yet and needs more time to be developed for it to work.

I drive a pedal assist pedicab that has a max speed of under 20 mph with a throttle which makes it under Ca law a class 2 ebike. This makes it legal to operate on all the types of bikelanes, class 1 through class 4. Here is a chart that simplifies everything.

CALIFORNIA	Vehicle		User				Bike Access			
	Pedal Operated	Max Assisted Speed	Minimum Age (yrs)	Driver's License	License Plate	Helmet	Class 1 Bike Path	Class 2 Bike Lane	Class 3 Bike Route	Class 4 Protected Lane
 BICYCLE	YES	N/A	N/A	NO	NO	17 AND UNDER	YES	YES	YES	YES
 CLASS 1 EBIKE	YES	20	N/A	NO	NO	17 AND UNDER	YES	YES	YES	YES
 CLASS 2 EBIKE	NO	20	N/A	NO	NO	17 AND UNDER	YES	YES	YES	YES
 CLASS 3 EBIKE	YES	28	16	NO	NO	YES	NO	YES	YES	YES
 MOPED	NO	N/A	16	YES	YES	YES	NO	YES	YES	NO

* from the San Diego County Bike Coalition website

This new proposal is going to, how I understand it, Classify my pedicab as a motorized pedicab but prohibit me from driving on the class 1 path which under Ca law should be legal for me to drive on.

I have heard a lot of people saying we are dangerous and that should be the reason to not allow us to stay driving on the class 1 path but this statement is just not the case. Our operators are really good and haven't been in any accidents on the harbor that I have heard of ever. The only bad accident that keeps getting mentioned is one that took place over 10 years ago that wasn't along the harbor and didn't involve the driver hitting anything at all. The passenger fell out of the bike and was not wearing a seatbelt and a seatbelt law was put in place to stop that from ever occurring again.

On that path is where I need to be to serve my customers and earn a living. I could probably do ok during the summer when there are a lot of people being stuck out in the road but in the winter it is gonna be really hard because the paths will be empty most days and I need to be situated near the stream of walkers so I can talk to them and give them all the information I offer which is really priceless. I must give directions to 10 people per day on average. In the summer its more like 20. The customers

finding out how far they have to walk often turns into rides. Visitors learning about the attractions close by like shopping, restaurants, bike rentals, boat rentals, boat tours, midway museum, maritime museum and many others often turns into rides to these places or tours of the area. The visitors really love most of us. We provide extremely valuable advice. I get told my ride is the best thing they did in San Diego at least once per week. Last week at the cruise ship it was from an older couple that I gave an hour tour to. The wife had a cane and there is no way they could have seen the things I showed them walking. She wouldn't have made it. I drove them around the north embarcadero park which barely had anyone out there. I drove them to the unconditional surrender statue and positioned the bike in front of the statue and took their picture. She didn't even have to get out of the bike. I took them out the g street pier. There I was able to photo them from all directions with the midway, Coronado, the Coronado Bridge, and downtown San Diego in their background. These are priceless photos for visitors on vacation. These are the things people tell their friends about and the photos they post on facebook and Instagram that show off San Diego to the masses.

Now I'm gonna talk about the real reasons why most of these rules are being made, "The problem pedicabbers". There's a group of operators that are in this job just for the money and are causing a lot of the repeat issues. I firmly believe if we use the three sided pedicab identification harbor permit, with the reporting of bad behavior ability from having a public website that the public, operators and businesses can use to report the problems occurring then these problems could be put to an end in a short period of time without even causing a big disturbance to the services all the good operators are performing on a daily basis. This part of the proposal working does hinge on a majority of the companies getting the permits and using them as leverage on the companies to get the trouble makers to comply. So I feel like taking the best parts of the harbor from the operators will really be devaluing the harbor permit and might cause companies to not even get the permit in the first place.

If how I understand it is correct, the drivers without the harbor permit will still be able to drive on all the city streets so then the only difference will be the parking spots, which if they have a motorized harbor permit will be right next to the road where the regular city permitted bikes will be able to ride. So there wont be that much difference in value between a bike having both the harbor motorized permit and city permits verse a bike only having the city permit, and since 99 percent of the bikes are ebikes so the incentive to get the motorized harbor permit is greatly diminished and jeopardizes the whole system of working. Now if the bikes can drive on the class 1 bike paths then that would greatly increase the permits value and incentivize the companies to get the permit and would give the port great leverage over the businesses to get there drivers to drive slower and turn there music down to acceptable levels.

Sorry this was so long, I really hope you have read the last two paragraphs because I think they are the most important.

Thankyou,

Shaun Swift

619-857-3847

From: [Makayla Garcia Virgil](#)
To: [Rafael Castellanos](#); [Dan Malcolm](#); [Ann Moore](#); [Danielle Moore](#); [Sandy Naranjo](#); [Frank Urtasun](#); [Michael Zucchet](#)
Cc: [Commissioner Services Staff](#); [Attorney's Office](#); [ELG - cc Assistants](#); [Sally Raney](#); [Carrie Ehrhart](#); [Janet Graham](#)
Subject: Agenda Related Materials (Item#8): BPC 10/10/23: Hearing on regulation of motorized devices
Date: Tuesday, October 10, 2023 8:10:18 AM
Attachments: [MOTORIZED MOBILITY DEVICES AND PEDICABS Fleet Owner Objections & Recommendations.pdf](#)

Commissioners,

Passing along agenda related material on Item 8, 2023-0207, MOTORIZED MOBILITY DEVICES AND PEDICABS:

A. ADOPT A RESOLUTION FINDING THE BOARD ACTION EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA), INCLUDING BUT NOT LIMITED TO, CEQA GUIDELINES SECTIONS 15301 AND 15311; AND

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Thank you,

Makayla

From: Michal Wawrzynski <pedicablimos@gmail.com>
Sent: Monday, October 9, 2023 8:46:39 PM (UTC-08:00) Pacific Time (US & Canada)
To: Rafael Castellanos <rcastellanos@portofsandiego.org>; Sandy Naranjo <snaranjo@portofsandiego.org>; Danielle Moore <dmoore@portofsandiego.org>; Dan Malcolm <dmalcolm@portofsandiego.org>; Michael Zucchet <mzucchet@portofsandiego.org>; Frank Urtasun <furtasun@portofsandiego.org>; Ann Moore <amoore@portofsandiego.org>
Subject: Fwd: MOTORIZED MOBILITY DEVICES AND PEDICABS Fleet Owner Objections & Recommendations

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Sent from my iPhone

Begin forwarded message:

From: Ryan Gurin <sandiegobikecab@gmail.com>
Date: October 9, 2023 at 8:35:30 PM PDT

To: publicrecords@portofsandiego.org

Cc: alihoruz@yahoo.com, Michal Wawrzynski <pedicablimos@gmail.com>, info@greenhousesign.com, contact@urbanpedicabs.com

Subject: MOTORIZED MOBILITY DEVICES AND PEDICABS Fleet Owner Objections & Recommendations

SAN DIEGO UNIFIED PORT DISTRICT 10/10/23 PUBLIC HEARING

Comments for review by the Board prior to the meeting

MOTORIZED MOBILITY DEVICES AND PEDICABS Fleet Owner Objections & Recommendations

Pedicab Drivers are independent operators, NOT employees.

- We disagree with the proposed ordinance that pedicab fleet owners will be required to take responsibility for the driver's actions and performance. Since pedicab operators are independent contractors, by law we do not have behavioral control over their activities. Holding fleet owners, who only rent equipment, accountable for governing the actions of the drivers (independent operators) is unlawful as we cannot lawfully dictate their actions. Under the proposed new regulations, fleet owners would be held accountable for the actions and performance of independent contractors utilizing their equipment, with repercussions to include revocation of the issued port permits.

- It is our opinion that as drivers, if port permits are to be issued on a conditional basis, that the only viable option would be to have them associated with individual drivers versus equipment which is interchangeable among various drivers.

Restricted Zone to be limited to West Embarcadero North of Seaport Village, not to include boardwalk between Seaport Village and Hilton Bayfront

- We agree that the travel paths on the west portion of the Embarcadero, north of Seaport village have limited travel space shared by both pedestrians and pedicabs and that there is merit to having the speed limits enforced. The boardwalks between Seaport Village and Hilton Bayfront are significantly wider, leaving ample room for motorized pedicabs & pedestrians to maneuver in harmony.

-As a comparison,

- The minimum boardwalk size north of seaport village is ~10 feet

- Between Seaport Village and Marina park way is ~25 feet

- Between Marina Park Way and Hilton Bayfront is ~35 feet

- Pedicabs are ~4 feet wide by comparison.

- The boardwalk between Seaport Village and Marina Park Way already has a dedicated Class 1 Bike Lane which under the new proposed restrictions motorized pedicabs would no longer be able to utilize.

According to SDMC, pedicabs (motorized or not) are allowed to operate on a class 1 bike lane.

The Embarcadero has continuous music from various performers

- If you travel along the Embarcadero, you will enjoy performances from many unhindered performers. We feel that the new restrictions prohibiting ANY music from pedicabs is unreasonable and a violation of our 1st amendment rights. -There is already a municipal ordinance prohibiting pedicab music being played loud enough to be heard more than 50 feet away.

The proposed permit fee is egregiously high and non-transparent.

- Pedicab operators pay \$615 annually for their operators permit (plus \$69 for an initial background check), which includes regulatory & application fees paid to the city to offset costs.

- Pedicab Fleet Owners pay an annual fee of \$205 per pedicab to offset the cost associated with their regulation.

- The proposed additional ~\$600 per pedicab (driver) in order for the pedicabs to operate on the port is unreasonable. There has been no transparency on how this exorbitant fee is to be distributed or justified. Pedicabs have operated on the embarcadero for decades with no additional fees required.

- There is no pricing structure difference between the motorized and non-motorized pedicab (driver) port permits.

The proposed regulations would prohibit pedicabs from operating in some areas accessible by all other modes of transportation.

- The proposed restricted zone would include the parking lot of Tuna Harbor, as well as Embarcadero Marina Park South. These areas, with the exception of special events, are accessible by vehicular traffic, Ubers, taxi cabs, etc. To allow such traffic but exclude pedicabs without dedicated special permits is discriminatory.

There are no ingress or egress paths between the dedicated pedicab parking spots for motorized pedicabs drivers who have the appropriate port permit.

- The proposed regulations have stipulated the locations of some dedicated pedicab parking spots which do not have an authorized route for a motorized pedicab to access without traveling in an unauthorized zone.
- We want to make it clear that pedicabs drivers with non-motorized port permits can still utilize all dedicated pedicab staging areas, and that ingress/egress paths to these areas are properly documented to avoid confusion.

The issue is lack of enforcement, not lack of regulations

- There are already port authority codes regulating the behavior, conduct and operation of pedicabs along the harbor. If these regulations are/were enforced, then there would be no need for additional permits, fees and regulations.
- There are already regulations in place from the Port Authority governing the behavior and conduct of pedicabs (Section No. 8.07.2), with consequences which include the revocation of the drivers city issues permit.
- Pedicab Operators who work the port daily can attest to the fact that Harbor Police can only be seen rarely, and normally only are in attendance in response to complaints vs monitoring and enforcing the standing regulations.

These objections and recommendations are espoused by the San Diego Pedicab fleets which constitute the vast majority (~99%) of the permitted pedicabs in San Diego, including:

VIP Pedicab
Urban Pedicab
Pedicab Limo
Yellow BikeCAB