

SMART AT A CROSSROADS HERE TODAY, GONE TOMORROW?

June 22, 2023

SUMMARY

What is the Sonoma-Marín Area Rail Transit's (SMART) plan to continue operations after April 2029 when essential revenue from the ¼ percent sales tax expires?

Since Marin and Sonoma county voters in 2008 authorized levying the sales tax to finance SMART's construction and operation, the public has invested more than \$600 million. Since trains first began operating in 2017, the weekday average ridership has rarely exceeded 2,500. Even though SMART's ridership has rebounded after the Covid-19 pandemic, current ridership remains short of expectations.

Without more riders the public may not be convinced of SMART's value. Even though SMART's new leadership, especially its General Manager and Chief Financial Officer, appear qualified, energetic and motivated, SMART's Board of Directors (Board) has yet to engage in a comprehensive marketing and outreach strategy to increase the number of riders.

The Grand Jury has found that SMART is highly dependent on sales tax revenues for its operations. Without those funds SMART will not be able to continue even if it substantially increases the number of riders or obtains additional federal, state, or regional funds from existing programs.

In fact, SMART will likely be forced to discontinue services if Marin and Sonoma county voters do not approve a sales tax extension by the required supermajority in an election before 2029.

The Grand Jury's primary recommendation is that SMART's Board of Directors immediately begin a frank, straightforward conversation with voters delineating the value SMART brings to the community. It should, within the next twelve months, agree to a fully transparent plan that would do so.

SMART is at a Crossroads. Time for action is now.

BACKGROUND

In 2002, the California State Legislature created the Sonoma-Marín Area Rail Transit System as a special district to plan, construct and operate a suburban passenger train system (along with a small freight operation) within the two counties. SMART is governed by a Board of Directors consisting of equal numbers of elected officials from Sonoma and Marin counties. In addition, there is a Citizens Oversight Committee (COC) authorized to provide the Board and General Manager continuous feedback on the system's finances and operations.¹

SMART was designed to take advantage of a century-old route initially established as both a passenger and freight system in Marin and Sonoma counties.² This concept, while utilizing the existing right-of-way already in place, actually has limited its benefits and made it harder to meet what its advocates promised. It also impacts how it can be funded.

SMART's initial plan was to construct a 70 mile train corridor, build 14 stations, and purchase the necessary equipment. However, less than anticipated sales tax revenues required shortening the route to 43 miles with only 10 stations from downtown San Rafael to Santa Rosa. SMART thus began operations on the shorter route in August 2017, three years later than planned.³ Two years later SMART added the Larkspur and the Sonoma Airport Boulevard Road stations to the existing route.

While SMART has identified and obtained most of the needed funds to complete construction to the entire promised route, including stations in Windsor and Healdsburg, funds needed to achieve the goal of building a railway all the way to Cloverdale remain elusive.

SMART's enabling statute also authorized the creation of a complementary bicycle path designed, in part, to help address the issue of how train riders get to and from the station, i.e., the first-and-last mile connection. As of February 2023, 24 miles of the proposed 70 mile bicycle route have been constructed, and an additional 23 miles in planning or construction phases have received funding. Twenty additional miles from Windsor to Cloverdale are not yet funded.

Public transit systems in the United States have been built employing a combination of federal and state funds along with farebox revenue and local tax subsidies. Historically, federal and state transportation programs have financed constructing, not actually operating, public transit systems. SMART's advocates, however, created a plan whereby local taxpayers would pay a substantial share of the construction costs as well as subsidizing on-going operations.

¹ The Citizens Oversight Committee was the subject of a 2021 Sonoma County Grand Jury Report which recommended numerous improvements in its procedures and activities. The SMART Board has begun steps to implement those recommendations. <https://sonoma.courts.ca.gov/system/files/smart-decision-making.pdf>, Accessed on 4/3/23.

² Sonoma Marin Area Rail Transit Project, Final Environmental Impact Report, June 2006 http://scta.ca.gov/pdf/smart/final/final_eir.pdf, Accessed on 4/3/23.

³ Sonoma-Marín Transit District 2008 Expenditure Plan, July 2008, contained in Measure Q 2008. Page 13 MMM 14, <https://www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf>, Accessed on 4/24/23.

They recognized their plan could not rely on passenger revenues even though they claimed “based on the experience of other passenger train systems, fares are expected to fund approximately 36 percent of annual train system operating costs.”⁴ SMART has never been able to achieve this goal.

Accordingly, rather than deriving a substantial share of its revenue from passengers, SMART’s proponents and management recognized that both construction and on-going operations would have to be financed through a combination of (a) a locally approved sales tax and (b) one-time capital funds obtained through various federal, state and regional programs. Since its inception, management has constantly sought to obtain federal, state and regional grants.⁵

The first attempt to pass a sales tax, in 1998, demonstrated that while a majority of voters in both counties favored the train concept, they were unwilling to levy a tax on themselves. After SMART was created in 2002, its Board began a detailed process that included public hearings, an environmental review document, and a proposed expenditure plan. In 2006, the Board sought funding for this plan by passage of a ¼ percent sales tax measure (Measure R). It too failed to receive the required two-thirds approval by voters. However, two years later, in 2008, the Board tried again (Measure Q), and this time the sales tax measure was authorized with 69.6 percent approval.⁶

In 2008, Measure Q’s proponents argued that once the sales tax plan was enacted, SMART would accomplish what was promised in its expenditure plan. Specifically, they said SMART would “provide two-way passenger train service every 30 minutes during weekday rush hours...reduce gasoline consumption by 1.5 million gallons annually...relieve traffic, fight global warming, and increase transportation options...reduce congestion on Highway 101.” It would “serve between 7,000 and 10,000 projected users daily” referencing both train passengers and users of the bicycle/pedestrian pathway.⁷

In March 2020, SMART’s Board sought voters’ affirmation by seeking to have the sales tax extended for another 30 years (Measure I).⁸ However, Measure I was rejected when fewer than 54 percent of the voters supported the proposition.

At present, therefore, SMART’s voter-authorized sales tax will expire in April 2029. The train is operating now, but will it be here tomorrow?

⁴ Sonoma-Marín Transit District 2008 Expenditure Plan, July 2008, contained in Measure Q 2008. Page 13 MMM 14, www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf, Accessed on 4/24/23.

⁵ The latest report, February 15, 2023, is titled “Planning for the Future—Extensions,” <https://sonomamarintrain.org/sites/default/files/Documents/02-15-2023--Item8--BOD.pdf>, Accessed on 4/24/23.

⁶ In 2008, Sonoma County voters approved Measure Q by 73.7 percent vote while Marin voters voted just 62.3 percent in favor. The combined vote was 69.6 percent favorable in contrast to two years earlier in 2006 where 65.3 percent favored Measure R, just missing the needed two-thirds vote.

⁷ 2008 Marin County Voter Information Pamphlet, Measure Q www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf, Accessed on 3/31/23.

⁸ SMART Board of Directors, Regular Meeting Minutes, October 19, 2019, pages 11-13, https://sonomamarintrain.org/sites/default/files/Board/COC%20Documents/SMART%20Board%20of%20Directors%20Packet_10.16.2019.pdf, Accessed on 5/23/23.

APPROACH

The Grand Jury’s investigation, findings and recommendations are based upon a careful review of public documents, recorded public board and citizen “listening sessions,” interviews with key members of SMART’s Board of Directors and management team, interested parties and transit and communication experts. This is the third Marin County Civil Grand Jury Report (2009-2010 and 2013-2014) addressing SMART’s plans and operations. The Grand Jury reviewed those reports as well as those from the Sonoma Civil Grand Jury. The Grand Jury is mindful of all prior Grand Jury reports, each expressing the desire to see SMART “succeed far into the future.”⁹ The Grand Jury has taken all their views into consideration and is aware of their recommendations. This Grand Jury investigation was completed on May 23, 2023 and it included a review of the announced 2023-24 budget plan that will be decided in June 2023.¹⁰

DISCUSSION

As the March 2020 election results made clear, voters did not believe SMART’s Board and existing management had accomplished what they promised, nor did voters have confidence and trust in the Board’s performance.¹¹ The Board and management team have difficult tasks ahead of them. They must continue to construct and improve the system and regain public support in the organization’s mission.

In 2021, a newly hired General Manager and his new management team recognized their principal mission was to review ongoing operations and identify and plan for future challenges and opportunities. To help them accomplish these goals, last year they crafted a SWOT (Strengths, Weakness, Opportunities, and Threats) Analysis (a widely used model or technique designed to help organizations focus their projects more clearly and effectively). The Grand Jury applauds the General Manager for undertaking this effort. Since SMART is using this model to assess its own operations and future plans, the Grand Jury believes it can be the criteria against which SMART can be measured and also provide the general public an assessment of where SMART stands today.

⁹ “SMART Decision Making,” Sonoma County Civil Grand Jury, 2020-2021, page 2,

<https://sonoma.courts.ca.gov/system/files/smart-decision-making.pdf>, Accessed on April 3, 2023.

¹⁰ “SMART plans spending for rail, path projects,” Will Houston, *Marin Independent Journal*, May 22, 2023, <https://www.marinij.com/2023/05/21/smart-plans-spending-surge-for-rail-path-projects/>, Accessed on 5/23/24.

¹¹ “SMART, critics assess aftermath of tax extension failure,” Will Houston, *Marin Independent Journal*, March 4, 2020 <https://www.marinij.com/2020/03/04/smart-to-regroup-after-consequential-tax-extension-fails/>, Accessed on 4/9/23.

Figure 1

SMART’s SWOT Analysis

S	<p style="text-align: center;"><u>Strengths</u></p> <ul style="list-style-type: none"> • Dedicated highly skilled staff • Safe and reliable service • Modern/comfortable train • Strong bi-directional commute patterns • Infrastructure in excellent condition • Bike/train synergy • Successful at identifying/securing funds • Strong organizational culture 	W	<p style="text-align: center;"><u>Weaknesses</u></p> <ul style="list-style-type: none"> • First and last mile connections • Single track system • Early/late service • Limited number of destination stations • Public perception/local support • Minimal staffing levels with long hiring timeline • Parking capacity/paid parking • Everything is a priority
O	<p style="text-align: center;"><u>Opportunities</u></p> <ul style="list-style-type: none"> • Improve strategic direction/alignment • Untapped markets (tourism, students, late night, recreation, and events) • Improve wayfinding, real-time info, apps, on-line presence • Improve first/last mile connections • Increase interaction with public and community leaders • Enhance marketing efforts to target key markets • Reactivate on-board amenities 	T	<p style="text-align: center;"><u>Threats</u></p> <ul style="list-style-type: none"> • Future sales tax funding • Well organized and funded opponents • Extension north of Windsor and east of Novato not in Plan Bay Area 2050 (limits ability to compete for grants) • On-going litigation slowing projects • Public trust/confidence • Post pandemic (work from home) • Cyber attacks • Rising capital/operating costs

Source: <https://sonomamarintrain.granicus.com/player/clip/598>, Accessed on 4/20/23.

SMART’s Strengths and Accomplishments

Building the route, getting the money, and operating the trains

SMART recognized that a substantial share of the funds necessary to build the route would have to come from federal, state, and regional transportation programs. They have been successful in obtaining funding. Most recently, their continuing efforts have resulted in obtaining a substantial share of the funding from the Regional Measure 3 toll program required to finish constructing the route to Windsor and Healdsburg.¹²

¹² Regional Measure 3 funds totaling \$84 million plus \$146 million from federal programs; and \$1.8 million appropriated directly through a congressional earmark. See “Marin transit funding bolstered by state Supreme Court ruling,” Will Houston, *Marin Independent Journal*, January 26, 2023, <https://www.marinij.com/2023/01/26/marin-transit-funding-bolstered-by-state-supreme-court-ruling/>, Accessed on 4/9/23. General Manager Report, SMART Board Meeting, January 4, 2023. https://www.sonomamarintrain.org/sites/default/files/Board/COC%20Documents/Agenda%20Item%20%234%20-%20General%20Manager%27s%20Report_5.pdf, Accessed on 4/23/23 ; “\$1.8 million in federal funding approved for the design of the SMART rail extension to Healdsburg” SMART press release, December 29, 2022, <https://mailchi.mp/sonomamarintrain.org/18m-in-federal-funding-for-design-of-smart-extension-to-healdsburg> Accessed on 4/9/23.

Last October, SMART announced it obtained \$10 million from the State of California's Transportation Agency and \$2 million from both the city of Petaluma and Sonoma County's Transportation Authority to build the 13th station, North Petaluma.¹³

SMART has operated its trains as planned with 30 minute headways. When the system expanded from Larkspur north, the number of daily weekday trips increased to 36. As a result of the Covid-19 pandemic the number of scheduled trains declined substantially. In October 2022, SMART finally reached its goal of 38 weekday daily round-trips.¹⁴

SMART reported in 2020 that “nearly 20 percent of its riders brought bicycles onboard” and “nearly 65,000 bike/walk trips monthly across nine locations in Marin and Sonoma counties.”¹⁵ The Grand Jury calculated from the monthly ridership reports that in 2022 approximately 15 percent of the boarders brought along bicycles.¹⁶ Evidently, SMART's connection with bicycle riders appears to be working.

SMART's Weaknesses

While a traditional “SWOT” analysis considers an organization's “weakness” to be reflective of an organization's internal deficiencies, the Grand Jury has focused on SMART's major weakness which is low ridership. Without more riders, public perception of the system's value will continue to decline.

¹³ “SMART allots \$14 M to build second Petaluma train station,” *Marin Independent Journal*, Will Houston, October 20, 2022
<https://mailchi.mp/sonomamarintrain.org/18m-in-federal-funding-for-design-of-smart-extension-to-healdsburg>, Accessed on 4/9/23.

¹⁴ SMART Fiscal Year 2022-2023 Budget, pages B-3, B-4,
https://www.sonomamarintrain.org/sites/default/files/Financial Documents/FY_2023_Approved_Budget_06_15_2022.pdf Accessed on 4/7/23.

¹⁵ <https://sonomamarintrain.org/node/519> February 8, 2023, MTC newsletter, Accessed on 4/3/23.

¹⁶ SMART Ridership Reports,
https://www.sonomamarintrain.org/sites/default/files/Ridership%20Reports/SMART%20Ridership%20Web%20Posting_Apr.23.xlsx, Accessed on 4/28/23.

Low ridership

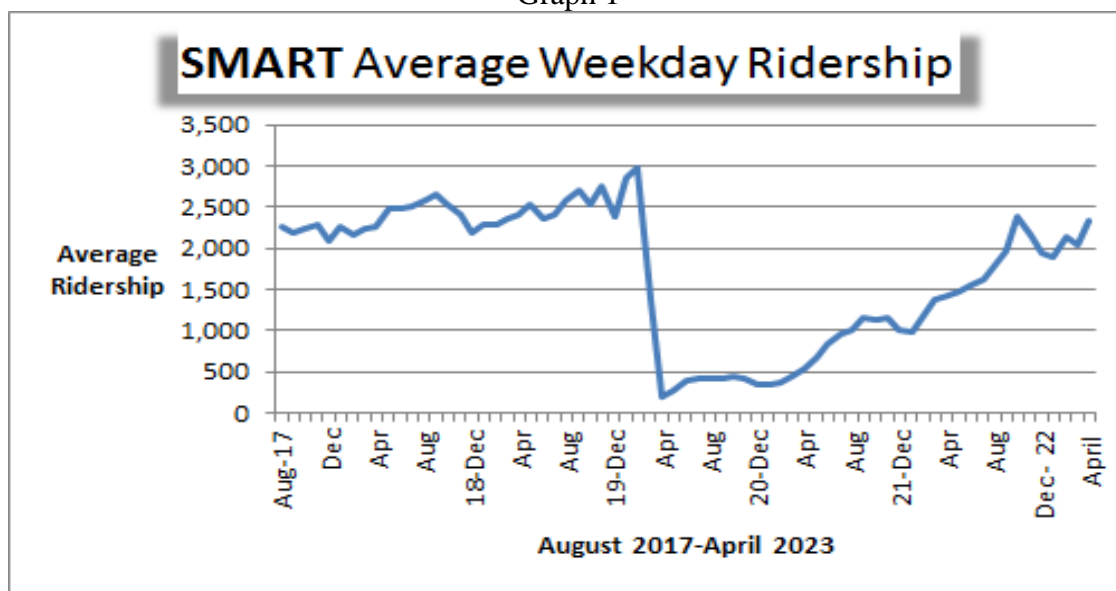
SMART has failed to meet its own projections or goals for ridership.

SMART’s 2006 Final Environmental Impact Report projected that by 2025 it would carry approximately 5,050 riders per weekday.¹⁷ When the trains began operating, SMART temporarily reduced its ridership goal to 3,000 riders each weekday. Yet, as of March 2023, SMART’s General Manager, Eddy Cumins, promoted the goal of 5,000 riders per weekday.¹⁸

Actual ridership on the SMART system since it commenced operations has been considerably less. Graph 1 illustrates the average number of weekday riders since the start of operations. The data illustrates a slight increase in the number of riders when service to Larkspur was initiated.

Graph 1 also illustrates that prior to the impact of COVID-19 in March 2020 SMART ridership fluctuated between 2,000-3,000 riders per weekday, rarely approaching or exceeding 3,000 riders per weekday. In April 2023, SMART’s weekday average ridership was 2,340 passengers.¹⁹

Graph 1



Source: SMART Ridership Reports,

https://www.sonomamarintrain.org/sites/default/files/Ridership%20Reports/SMART%20Ridership%20Web%20Posting_Apr.23.xlsx, Accessed on 4/28/23.

¹⁷ Sonoma Marin Area Rail Transit Project, Final Environmental Impact Report, June 2006,

http://scta.ca.gov/pdf/smart/final/final_eir.pdf, Accessed on 4/3/23.

¹⁸ “SMART train officials did well to avoid fiscal cliff facing some public transportation districts,” Dick Spotswood, *Marin Independent Journal*, March 18, 2003,

<https://www.marinij.com/2023/03/18/dick-spotswood-smart-train-officials-did-well-to-avoid-fiscal-cliff-facing-some-public-transportation-districts/>, Accessed on 4/9/23.

¹⁹

https://sonomamarintrain.org/sites/default/files/Board/COC%20Documents/Agenda%20Item%20%235_General%20Manager's%20Report_03.15.2023.pdf, Accessed on 4/9/23.

SMART's ridership has not fully recovered to its pre-pandemic level. On the plus side, over the past year SMART's average weekday ridership ranged between 68 and 97 percent of its pre-pandemic number. Its post-pandemic experience is better than both BART and San Francisco's Muni operations, which have been less than 40 percent.²⁰

Nevertheless, the system continues to experience lower than anticipated ridership. There are several factors which have contributed to this phenomenon. In the first place, the system was limited by the use of only a single track, minimizing the number of trains operating at one time and reducing the probability of more riders. A second cause is an underfunded marketing program. Most critically, however, less than anticipated riders occurs because of what is known in transit parlance as the "first/last mile" conundrum.

The "first/last mile challenge"

A major hurdle for all public transit operators, including SMART, is getting riders out of their automobiles and onto public transit. This is the "first/last mile challenge." The problem is the result of several factors, some in SMART's control and some not. Issues involving parking availability, bus and ferry system transfers, the bicycle pathway, and links with employers are all within SMART's control. SMART is a system that, in contrast to other Bay Area transit agencies, has fewer potential riders, operates on a route with stops that are not close to many residences or large employment centers, and its route is such that it does not serve as many commuters as do other public transit agencies.

SMART's Opportunities

"Opportunities," in the language of a SWOT analysis, tells the Board and management to look outside the organization for new customers. Increasing ridership should be SMART's number one operational goal. Increasing the number of riders is highly correlated to an attractive fare structure, reliability of service, improvement of first/last mile connections, and building public confidence in the Board and management.

A marketing plan

SMART's "shortage" of riders has been known and discussed since the system's inception and certainly once the trains began operating. At the time, numerous commentators noted it would be difficult for SMART to attract riders.²¹ SMART's 2022-2023 budget proposed spending only \$250,000 for communication and marketing purposes.²² Given SMART's ridership goals, the Grand Jury finds the lack of a comprehensive, multi-level communication and promotion effort to attract additional riders to be perplexing.

²⁰

https://sonomamarintrain.org/sites/default/files/Board/COC%20Documents/Agenda%20Item%20%235_General%20Manager's%20Report_03.15.2023.pdf, Accessed on 4/9/23.

²¹ "Arguments Against Measure Q," Measure Q, November 2008, Voter Handbook, <https://www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf%20pdf?la=en>, Accessed on 4/4/23.

²² SMART Fiscal Year 2022-2023 Budget, B18, B-23, https://sonomamarintrain.org/sites/default/files/Financial%20Documents/FY_2023_Approved_Budget_06_15_2022.pdf, Accessed on 4/9/23.

The “first/last mile” challenge—getting to work, home, jobs, and the airport

SMART has considerable “opportunities” to increase its ridership by focusing on improving its “first/last mile” connections. The 2009-2010 Marin Civil Grand Jury recognized this need and recommended that SMART create programs designed to encourage both employers and employees to use its trains.²³ The opportunity to help Marin’s workforce was clear. In 2018, the Transportation Authority of Marin (TAM) found that twenty eight percent of Marin’s commuters arrived each morning from Sonoma County locales.²⁴

Recently, SMART has made improvements in station parking, and two months ago established a three-year, \$1.1 million trial program to connect Sonoma County Airport with the Airport Station.²⁵

The “first/last mile” challenge—building residences, retail, and jobs near SMART’s stations

Public transit systems have cooperated with local governments and developers to increase housing adjacent to transit stops with the dual objectives of increasing ridership and building more housing.²⁶ For example, Novato is considering linking the San Marin station to a mixed housing/retail project, the former headquarters of Fireman’s Fund Insurance Company, less than ½ mile away.²⁷ Conversely, Petaluma’s City Council recently turned aside a housing plan adjacent to the new North Petaluma (Corona Road Station) that would have provided 500 residences, parking, and revenue for both the city and SMART.²⁸

SMART has begun making contacts with major retailers and employers.²⁹ The bicycle-pathway is another way SMART has chosen to deal with the first/last mile challenge.³⁰

²³ “SMART: Steep Grade Ahead,” Marin County Civil Grand Jury, 2009/10, Page 22, <https://www.marincounty.org/-/media/files/departments/gj/reports-responses/2009/smart.pdf> , Accessed on 4/28/23

²⁴ <http://www.tam.ca.gov/wp-content/uploads/2018/09/6d-OD-Rpt.pdf>, Accessed on 4/7/23. Tam is conducting a post-pandemic analysis of these commuter and employment numbers.

²⁵ SMART Board of Directors Packet, April 19, 2023, Item 8, https://www.sonomamarintrain.org/sites/default/files/Board/COC%20Documents/04.19.2023_Board%20of%20Directors%20Packet_0.pdf, Accessed on 4/26/23. Last year, the airport had 614,00 travelers, a 26 percent growth since 2019.

²⁶ <https://www.sfchronicle.com/bayarea/article/Caltrain-stop-in-Redwood-City-is-focus-of-major-16664448.php>, Accessed on 4/4/23.

²⁷ <https://www.novato.org/home/showdocument?id=35310&t=638095538412570000>, Accessed 4/28/23.

²⁸ “Smart allots \$14M to build second Petaluma train station,” Will Houston, *Marin Independent Journal*, October 21, 2022, <https://www.marinij.com/2022/10/20/smart-allots-14m-to-build-second-petaluma-train-station/>, Accessed on 4/3/23. see also SMART’s Final Environmental Impact Report, June 2006, projected a range of 400-1,000 additional daily riders if transit oriented housing projects are built. Sonoma Marin Area Rail Transit Project, Final Environmental Impact Report, June 2006, http://scta.ca.gov/pdf/smart/final/final_eir.pdf, Accessed on 4/3/23.

²⁹ <https://www.northbaybusinessjournal.com/article/article/smart-ridership-rebuilding-but-gm-says-increased-costs-will-temper-new-pro/>, Accessed on 4/7/23.

³⁰ “SMART Pathway funds programmed for Marin and Sonoma by the Metropolitan Transportation Commission,” <https://sonomamarintrain.org/node/519>, Accessed on 4/9/23

Regaining the public's trust and confidence

Another “opportunity” arises because the general public, as the Grand Jury has heard in interviews, via direct observation, and in published reports, lost confidence and trust in SMART’s Board and *prior* management team. The failed passage of the sales tax extension in March 2020 was attributed partially to the public’s questioning whether the Board and management were being fully transparent.³¹

When SMART was created and voters were asked in 2008 to approve a tax measure, advocates promoted the idea that it would be open to public input and scrutiny. Voters were promised the creation of a “Citizens Oversight Committee (COC)...to provide input and review on (SMART’s) Strategic Plan” and to conduct an ongoing review of the System’s finances.³² The value of this independent citizens oversight body was highlighted by both the 2013-14 Marin Grand Jury and the 2021-22 Sonoma County Grand Jury.³³

After the 2020 defeat of Measure I, the Sonoma County Grand Jury reiterated a concern that SMART’s Board and prior management team neglected or chose not to solicit input from the Citizens Oversight Committee.³⁴ It found that the SMART Board’s lack of citizen input contributed to voters’ distrust or disbelief of the system’s financial need and thus led to the defeat of the 2020 Measure I.³⁵ SMART’s Board just recently acknowledged the problem and agreed to accept the Sonoma Grand Jury’s recommendations “ensuring that COC will have an opportunity to provide timely feedback to the SMART Board of Directors.”³⁶

The SMART Board and new General Manager have taken several steps, including “listening tours,” designed to solicit greater public input from those who have been critical of SMART’s decisions. They also promised to have the COC’s reports become public and available on the SMART’s website.³⁷

³¹ “New SMART general manager must change the culture,” Mike Arnold, *Marin Independent Journal*, December 1, 2021, <https://www.marinij.com/2021/12/31/marin-voice-new-smart-general-manager-must-change-the-culture/> , Accessed on 4/7/23.

³² 2008 Marin County Voter Information Pamphlet, Measure Q <https://www.marincounty.org/-/media/files/departments/rv/elections/past/2008/nov/measureq.pdf>, Accessed on 3/31/23.

³³ Report: <https://www.marincounty.org/depts/gj/reports-and-responses/reports-responses/2013-14/smart-down-the-track> and Response: https://www.marincounty.org/-/media/files/departments/gj/reports-responses/2013/responses/smart_bos.pdf, Accessed on 4/23/23.

³⁴ <https://sonoma.courts.ca.gov/system/files/smart-decision-making.pdf>, Accessed on 4/23/23.

³⁵ “SMART Decision Making, Citizen Feedback is Critical For Success,” Sonoma County Civil Grand Jury, 2021-2022, page 2. <https://sonoma.courts.ca.gov/system/files/smart-decision-making.pdf>, Accessed on 4/7/23.

³⁶ <https://sonoma.courts.ca.gov/system/files/grand-jury/smart-decisionmaking-smartsbod.pdf> Accessed on 4/7/23.

³⁷ <https://sonoma.courts.ca.gov/system/files/grand-jury/smart-decisionmaking-smartsbod.pdf>, Accessed on 4/7/23.

SMART's Threats and Challenges

The primary “threat” to SMART is its dependency on the locally imposed sales tax. As recognized in its own SWOT analysis, a well-funded and organized opposition to the sales tax could very likely cause the service to end.

Lack of ridership not only contributes to public questioning of the system’s value, but it also means less revenue. SMART cannot survive on ridership revenue alone. Rather, it requires a public subsidy to continue operating. This is not atypical; all the largest public transit systems in the San Francisco Bay Area are financed by public subsidies. The question is how much of a subsidy will voters accept.

An operation such as SMART has significant fixed costs to operate. This means that regardless of the number of riders or the fares that it charges its riders, SMART’s operating expenses do not vary significantly over time. As demonstrated in Table 1 below, SMART’s annual operating expenses (which exclude capital expenditures and debt service) have remained about \$27 million since 2019. But in the past four years revenue from riders approached \$4 million just once.

The data speaks for itself and the lesson is clear: SMART cannot survive just from its farebox. It requires some form of public subsidy. SMART’s primary source of operating revenue is and has always been the local sales tax. In FY 2022, sales tax receipts were \$49 million compared to \$1.2 million obtained from the farebox. The current FY 23 budget forecasts \$51.6 million in sales tax collections.

As demonstrated in Table 1, SMART’s ridership, and therefore its farebox revenues, declined precipitously during the pandemic and have yet to recover.³⁸ SMART’s farebox recovery ratio, i.e., the amount received by paying customers relative to operating costs, dropped from 15 percent in 2019 to as low as 3 percent in 2021, and 5 percent in 2022. The end result is that the sales tax has subsidized SMART ridership, ranging from \$32 to \$75 per ride, with a high of \$196 in 2021.

³⁸ The pandemic has demonstrated that transit agencies highly dependent on riders are facing severe financial challenges, a phenomenon described as “facing a fiscal cliff.” see: “BART faces its ‘most challenging revenue outlook’ in history as low ridership numbers persist,” Ricardo Cano, *San Francisco Chronicle*, February 10, 2022, <https://www.sfchronicle.com/bayarea/article/BART-faces-its-most-challenging-revenue-16849200.php>. Accessed on 4/9/23.

Table 1
How Well is SMART Performing?

BASIC MEASURES & INDICATORS	2019	2020	2021	2022
Boardings	716,847	567,103	122,849	354,291
Passenger Miles	18,371,183	13,516,234	3,148,345	7,855,912
Operating Expense	\$ 27,490,190	\$ 28,757,008	\$ 24,833,822	\$ 27,834,598
Fare Revenues	\$ 4,094,540	\$ 3,090,457	\$ 706,938	\$ 1,283,112
Farebox Recovery (Fare Revenues/Operating	15%	11%	3%	5%
Subsidy per Boarding [(Cost - Fare)/ Boardings]	\$ 32.64	\$ 45.00	\$ 196.39	\$ 74.94

Source: SMART Fiscal Year 2022-2023 Budget, page B-8, and Audit for FY 2022

Other sources of available revenue

Even sales tax collections have been insufficient to both operate and build the complete system. Nearly every public transit agency in the country uses federal funds, and often state programs as well, to build their systems. Recently, the federal government and the State of California have expanded their programs to also help pay ongoing maintenance and operating costs. The federal government’s program provides SMART approximately \$4 million annually for preventive maintenance. By 2025, SMART will be eligible to receive funds from another federal program, called “State of Good Repair,” that is expected to provide about \$6 million annually.³⁹

State of California public transit assistance programs have supplied SMART with additional funds for both capital and operational purposes. SB 1, the State Rail Assistance program, allocated more than \$21 million for SMART’s operations.⁴⁰ Additional funds have been received from Metropolitan Transportation Commission programs designed to help construct the bicycle pathway.⁴¹

The Grand Jury has investigated possible alternative funding sources for SMART operations, besides the sales tax, that exist or might become available prior to 2029. One new source of funds San Francisco Bay Area voters approved in 2018 came from increasing bridge tolls (Regional Measure 3). The money, which is restricted to capital improvements, was not distributed until a court challenge was finally decided in January 2023. This measure allocated a large share of the funding necessary for completing the route to Windsor and Healdsburg (\$81 million) and finishing the bike paths (\$3 million).⁴²

³⁹ “Short Range Transit Plan (SRTP) Update – Metropolitan Transportation Commission (MTC)” report to the SMART Board, January 4, 2023, www.sonomamarintrain.org/sites/default/files/Board/COC%20Documents/Agenda%20Item%20%239%20-%20SRTP%20Bay%20Area%20Transit%20Recovery%20Scenario%20Planning.pdf, page 8, Accessed on 4/23/23.

⁴⁰ SB 1- State Rail Assistance Program, October 2022, calsta.ca.gov/-/media/calsta-media/documents/sra-approved-applications-update---20221018_a11y.pdf, Accessed on 4/9/23.

⁴¹ “SMART pathway funds programmed for Marin and Sonoma by the Metropolitan Transportation Commission” SMART press release February 8, 2023, <https://sonomamarintrain.org/node/519>, Accessed on 4/24/23.

⁴² “Marin transit funding bolstered by state Supreme Court ruling,” *Marin Independent Journal*, Will Houston, January 26, 2023, www.marinij.com/2023/01/26/marin-transit-funding-bolstered-by-state-supreme-court-ruling/,

A similar regional tax plan is currently being considered by the Governor and Legislature. The Bay Area’s regional planning and transit bodies, business community leaders, and legislators representing every county in the region are expressing alarm that the region’s major transportation operators are facing “a fiscal cliff.”⁴³ One possible legislative response being deliberated is another regional tax measure which could appear on either the November 2024 or 2026 ballot.⁴⁴ The Grand Jury recognizes that while such a regional tax or a similar plan may be developed and voter approval would be sought, its impact on SMART is uncertain. The timing of a regional tax measure could influence how voters might treat any Marin-Sonoma local sales tax measure. SMART’s Board of Directors should monitor the progress of this proposed alternative financing option.

The Grand Jury has not been able to identify any single or combination of federal, state, and regional funding programs sufficient to replace the projected \$51 million sales tax annual operating revenue needed to keep the trains running. Moreover, because the State of California’s anticipated revenues are projected to decline significantly, the Governor and Legislature are considering substantial reductions in state transportation funds. Other than locally generated sales tax revenues, no other funds are *guaranteed* to keep the trains operating.

SMART’s FUTURE

The General Manager’s SWOT analysis identifies SMART’s primary “threat” to be the future of the sales tax. The Grand Jury agrees that it should be the Board’s primary focus. In addressing this question, the Grand Jury reminds SMART’s Board of Directors that, while on four separate occasions since 1998, a *majority* of Marin and Sonoma county voters supported an inter-county passenger train, the plan to pay for it did not receive the required *super-majority* voter approval. Local taxpayers have funded a monumental capital infrastructure project and voters have directed SMART’s board as stewards of this investment to manage it wisely.

The table is now set for a critical decision. SMART’s management and Board of Directors need to make the case to voters in Marin and Sonoma why they should continue to support a project that has fallen short of its original goals and promises. SMART should address and acknowledge its performance to date and educate voters on why its continued operation is in the best interest of Marin and Sonoma counties. The analysis should include a clear explanation of its financing options and the likelihood of future success.

SMART is at a crossroads – will it be here tomorrow?

⁴³ “Could the Bay Area Lose BART?”, Richard Cano, *San Francisco Chronicle*, March 13, 2023, <https://www.sfchronicle.com/projects/2023/bart-finance-qa/> Accessed on 4/3/23.

⁴⁴ “Bay Area lawmakers urge state for more transit funding to avoid ‘irreversible’ service harm,” Richard Cano, *San Francisco Chronicle*, January 19, 2023, <https://www.sfchronicle.com/bayarea/article/Bay-Area-lawmakers-urge-state-for-more-transit-17728841.php> and <https://mtc.ca.gov/news/broad-coalition-urges-state-craft-budget-transit-operations-mind>, Accessed on 4/3/23.

FINDINGS

- F1. SMART is heavily dependent on revenue from voter approved Marin and Sonoma County sales taxes for funding its operations.
- F2. SMART has never attained the ridership levels that it promised in 2008.
- F3. SMART's *past* inability to be open and transparent about decision making and operations contributed to the erosion of public confidence leading to the defeat of the Measure I sales tax extension in 2020.
- F4. SMART will likely be forced to discontinue services if Marin and Sonoma County voters do not approve a sales tax extension by the required supermajority in an election before 2029.
- F5. SMART's new leadership, especially its General Manager and Chief Financial Officer, appear qualified, energetic and motivated to take on the many challenges that SMART is facing.
- F6. SMART does not have a comprehensive marketing and communications strategy.

RECOMMENDATIONS

- R1. By December 1, 2023, the Board of Directors should initiate a fully transparent, public process to be completed by April 1, 2024 that examines how SMART might continue funding its operations beyond April 2029, including an evaluation of when the voters would decide whether to continue levying a sales tax for SMART's operations.
- R2. By December 1, 2023, SMART's Board of Directors should direct staff to develop a written strategic marketing communications and public outreach plan and budget focused on educating voters in Marin County about the community benefits derived from the continued operation of the SMART rail system.
- R3. SMART's Board of Directors should consider hiring consultants to help evaluate the feasibility and timing of future tax measures.

REQUIRED RESPONSES

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- The Sonoma-Marín Area Transit System Board of Directors (F1-F6, R1-R3)

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933 (c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

INVITED RESPONSES

- Transportation Authority of Marin (TAM) General Manager
- SMART Citizens Oversight Committee

Note: At the time this report was prepared information was available at the websites listed.
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Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury <u>not</u> contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.
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APPENDIX A

The historical record

Beginning in the late 19th century, a private train system was established to provide freight and some passenger service from Marin to Eureka. After the Atkinson Pacific and Topeka Railroad sold its interest to Southern Pacific in 1929, its subsidiary, the Northwestern Pacific Railroad (NWP), operated the line until it too found the business no longer financially viable. Facing the loss of services deemed essential to numerous businesses along its route, the Legislature in 1989 created the North Coast Railroad Authority (NCRA) to save the NWP from total abandonment. This new agency was also not found to be financially viable.

SMART'S freight business

Because the original route was designed to offer freight services as well as passenger traffic, when SMART was created it was statutorily authorized to operate a freight operation from the Mendocino County border south. In 2018, the NCRA approached SMART requesting they take over the freight line. That year the Legislature passed, and the Governor signed SB 1029 and SB 69 which abolished the North Coast Railroad Authority and gave SMART complete control of the entire route.⁴⁵ On March 1, 2022, SMART formally took over management of the entire freight route from the Sonoma-Mendocino county line to a locale just east of the Napa River. The system thus can move freight onward to Vallejo and the main East-West train route between Sacramento and the East Bay.⁴⁶ But the single largest freight customer contract (storage of oil tankers on a siding) was discontinued in 2022. SMART's Board heard neighbors' complaints and responded by canceling the system's largest freight contract.⁴⁷ Currently, the freight line operates at night after passenger service stops on Tuesdays and Thursdays. The remaining line from Cloverdale to Willits was given to the Great Redwood trails and the NCRA was disbanded in May of 2022.

In December 2021, SMART published a 30 page "Analysis of SMART's Freight Market," characterized as an "unbiased evaluation of existing and potential freight rail customers." The consultants' report noted how future revenue would be highly dependent on the system's willingness to support and promote the business. They cautioned "with restrictive policies, minimal investment, and poor promotion of services, the freight business will likely decline.... On the other hand, by actively promoting... invest in facilities, soliciting grant funding... and providing additional track capacity for car storage, freight revenue can grow considerably from present levels."⁴⁸

⁴⁵ Chapter 934, Statutes of 2018. SB 69, Chapter 423, Statutes of 2021. The law gave SMART \$4 million to acquire the freight rights and equipment from the Northwestern Pacific Railroad.

⁴⁶ The California Rail Plan, March 2023,

<https://dot.ca.gov/-/media/dot-media/programs/rail-mass-transportation/documents/california-state-rail-plan/20230309-casrp-publicdraft-final.pdf>, Accessed on 4/9/23.

⁴⁷ "SMART board approves in-house freight rail operation, ditches gas tanker storage, at a loss," Andrew Graham, *The Press Democrat*, January 14, 2002, www.pressdemocrat.com/article/news/smart-board-approves-in-house-freight-rail-operation-ditches-gas-tanker-st/, Accessed on 4/27/23

⁴⁸ "Analysis of SMART's Freight Market," SMART, December 9, 2021, <https://www.sonomamarintrain.org/sites/default/files/Documents/Final%20Report%20Freight%20Market%20Analysis%20120921.pdf>, Accessed on 4/9/23.