

Comments submitted to:

City of Toronto Executive Committee for Quayside Update (6.1) on June 6, 2019.

By: Cybele Sack

From: “Minority Reports” of Residents Reference Panel report, Sidewalk Toronto (May 2019, pages 60-62):

We can be in favour of innovation and cautious about how we do it. And that cautiousness starts with asking some hard questions about this Sidewalk Labs project proposal:

1 – Will children be under surveillance, and how will their information be used? One of the greyed out buildings in the Public Realm drawing is a proposed public school. Will Sidewalk Labs (SWL) follow international rules for the protection of children on the internet?

2 – Does SWL have ambitions to increase privatization of public services, such as health care? Could this be comparable to what has happened with Google Classroom, where Google now mediates many interactions between teachers and students? We need public dialogue about potential impacts, before considering digital public-private partnerships for service delivery.

3 – Is SWL planning to install ubiquitous 3D sensors, which use lasers to capture moving images of residents as they go about their day, to build traffic management systems? Do they plan to mix private and public data, to create digital twin communities (i.e. SimCity), to test policy impacts? These technologies were proposed to Waterfront Toronto’s Digital Strategy Advisory Panel (DSAP) by SWL and/or exist in little-viewed SWL youtube videos. But this technology has not been discussed at the SWL Roundtables nor by this reference panel. The public deserves to know what is under consideration, if we are to be asked for meaningful consent.

4 – Will Toronto residents and visitors be able to travel through this community without having their meetings watched? Can SWL build street lanes and lighting that morph for socially beneficial purposes but not allow these tools to be manipulated for political or commercial reasons? Freedom of assembly and freedom of movement are protected rights.

5 – Can residents live in social housing at Quayside but opt-out of as much data collection as they want? Will people on social housing wait lists have to choose between access now or privacy later?

6 – How might surveillance and prescriptive technology potentially amplify historic bias and discrimination against minorities and vulnerable groups?

7 – Will SWL share data from the public realm with police and security companies, and if so, under what circumstances?

8 – What does inclusion even mean: does it actually create equitable transformation or just treat everyone like they have a right to be a data point or customer?

9 – Can SWL charge more for energy at peak times but not hurt those who stay home because they don't have the legal right to work or who have a disability? If a decision based on data is harmful to them, will they need to disclose their status to SWL to be exempted from it?

10 – Can de-identification work well enough? When data is mixed and collection ubiquitous, members of minority populations stand out and are easier to re-identify.

11 – Is opting out a strong enough measure to effectively exclude oneself, once enough people are counted in? How much can we be understood by knowledge of our herd?

I've seen no evidence of SWL engaging with the public about these hard questions. Senior staff from SWL do know these are problems; they've acknowledged this to me privately. But they don't know how to solve them and I have heard no plans for them to open up dialogue about it.

Dan Doctoroff, CEO of SWL, admitted to our House of Commons Ethics Committee that there is a "policy vacuum" around the world in dealing with Big Data, including in smart cities. Should we slow this process down so regulators can catch up?

Do our levels of government have the capacity to oversee this project and hold SWL accountable, especially when public-private partnerships are under consideration, or if use of data by them or a third party contravenes civil rights? The signs don't look good so far. The Auditor General issued a report lambasting the RFP process and other elements of this, but there was no mea culpa. The former Privacy Commissioner quit the project but there was no major turnabout. Some have expressed concern about regulatory capture, when there is a revolving door between government and working for SWL or Waterfront Toronto on the SWL project. SWL has done a lot of work to reach out to regulators at various levels of government, but this may raise questions about behind the scenes influence in creating a favourable business climate.

In the interim report of the Resident Reference Panel, my appended comments included additional proposed solutions to address responsible data use. I add this commentary here again:

It is difficult to anticipate all the larger-scale implications of a future-oriented development project on the Toronto waterfront, but we recognize the need to include measures to protect privacy and ensure the ethical use of data.

Data can be misused in ways that harm individuals but there are also risks to groups or populations of people that must be prevented or mitigated. Therefore:

- Solutions should ensure data protections for privacy, (including de-identification and protections from re-identification), measures to prevent group profiling from aggregate data, as well as algorithmic transparency and other measures to prevent, mitigate against and even transform bias.

- Solutions should consider especially the greater risks from data collection and use faced by vulnerable, marginalized and minority populations, including people at risk of discrimination based on human rights grounds (such as Indigeneity, race, ethnicity, disability, age, gender, sexual orientation, religion, immigration and refugee status) as well as survivors of domestic violence, people living in poverty, and those with experiences of conflict with the law.
- Solutions should borrow from best practices for data management including data trusts, humane smart cities, policies for the data protection of children, and international best practices in legislation (such as GDPR), including the right to be forgotten and the chance to review, correct and delete data. These solutions should be implemented except where newer or better solutions provide more extensive protections.
- Data solutions should consider how they overlap with other Sidewalk Toronto priorities, such as mobility and the public realm. Autonomous vehicles, for example, may be monitored for effectiveness and safety or they may be used to monitor and manage ridership patterns. Flexible street use can provide new opportunities to gather or pose risks of diminishing them. Freedom of movement and assembly must be protected and care should be taken to avoid entrenching patterns of movement such that it is more difficult to experience chance encounters that diversify the city experience.

It is also very important for the public to understand the history of this land parcel in terms of contamination and status as a brownfield, and to ensure that site remediation is done to a high standard for public safety and use and environmental health. These discussions were not tabled within our time together but are important going forward.

While I appreciate the opportunity to participate on this well-organized panel, and appreciate the time and effort my fellow panelists, Mass LBP, Sidewalk Labs, Waterfront Toronto staff and our guest speakers put into this process, I have some remaining concerns:

Missing Green space: SWL did not prioritize or ask us about how we might value restored natural green space. Despite this, our panel raised this issue repeatedly and added it to the report because it was probably our biggest shared value, based on discussions we had in our communities and with our neighbours. I believe the final report does not sufficiently emphasize this, and it is a gap in the plans of the Public Realm team. The Mississaugas of the Credit also spoke of their core value of land and water stewardship and restoration.

Lack of Transparency about Big Data collection and use: Data collection and use is the central concern about the Sidewalk Toronto project, but there was virtually no transparency about this and we were not provided with the resources to unpack it. I requested that our organizers invite a (now former) member of Waterfront Toronto's Digital Strategy Advisory Panel (DSAP) to help us dive deep into the important concerns about data privacy, governance and ethics, but was denied (and no replacement was provided). The panel and the public deserve to learn more about the risks and opportunities of Big Data and surveillance capitalism – and we need this context, if we are to engage in democratic decision-making about it.

Silence on Scale-Up: We were redirected to discussing Quayside only, every time anyone asked about scale-up to the Portlands, across the Waterfront, or beyond. We were not informed about the ambition of SWL to scale-up, nor were we asked for commentary about it.

Kept in the Dark on Media Coverage: We spent five days together and were given many documents to review. Despite this, we were often caught off guard by media coverage, such as the story in the Toronto Star about the proposed diversion of tax funds to SWL to pay for infrastructure, which appeared after our last panel meeting. We had a meeting about business models shortly before this story came out, with John Brodhead, in which he touched on financing of infrastructure, but we were not informed about the proposal discovered by the media. Likewise, as resignations and criticism piled up about this project in the press, our panel was not kept informed about them. Some of us learned about these events independently, but there was no venue provided for related discussion.

Sold on Smart City: There was an element of this process that felt like a sales job. We were instructed not to choose whether we wanted this project or not, but to provide specific feedback on elements of it. The panel had a lot of good questions and expressed concerns, including about the need for more government regulation. But some parts of the report present a message that we think this project is a great idea and that the government should stop holding it back. This does not ring true to me as member of the panel. It would be more accurate to express that there was a range of opinion, from those who were gung-ho to those who were more cautious, and that there may be times when the public wants to say no. There needs to be room to set boundaries and I'm not sure that's clear here.

Misrepresentation: Is Sidewalk Toronto the name for the partnership between Waterfront Toronto (government) and SWL (Alphabet company)? Not according to Waterfront Toronto leadership, who says that Sidewalk Toronto is only a division of SWL. The panel was led to believe that we were volunteering for the partnership, not for the private developer. The distinction of ownership and logos should be clarified.

Safe Examples: Our panel did not address the data-related questions I raised above. This is mostly because we couldn't get to hard questions when SWL consistently chose safer examples to frame the conversation. Let's talk about potholes, they said. Or make sure an older woman can have extra time to cross the street. Who would object to these? If we are going to solve the hard problems, we need to be honest about what they are.

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[Notes:

These were not issues of debate with the other panelists but relevant issues that were not addressed adequately in this highly managed consultation.

In addition to mine, there are other minority reports on pages 60-62 of the Residents Reference panel document.]