

**SAN BENITO COUNTY  
COUNCIL OF GOVERNMENTS  
Regular Meeting  
January 18, 2007 6:00 P.M.**

**MINUTES**

**MEMBERS PRESENT:**

Chair Dias, Director Valdivia, Director Pike, Director Marcus, and Director Botelho

**STAFF PRESENT:**

Deputy County Counsel, Shirley Murphy; Interim Executive Director, Bob Davies; Transportation Planning Manager, Mary Dinkuhn; Transportation Planner, Veronica Lezama; Administrative Services Specialist, Kathy Postigo; Secretary, Monica Gomez

**CALL TO ORDER:**

Vice Chair Dias called the meeting to order.

**CERTIFICATE OF POSTING**

*Upon a motion duly made by Director Botelho, and seconded by Director Valdivia, the Directors unanimously approved the Certificate of Posting.*

**PRESENT CERTIFICATE OF APPRECIATION**

Vice Chair Dias pulled Item C. and asked to continue to the next COG Meeting.

*Upon a motion duly made by Director Valdivia, and seconded by Director Pike, the Directors voted to continue Item C. to the next COG Meeting.*

**ELECTION OF OFFICERS:**

**D. Elect COG Chairperson for 2007**

*Upon a motion duly made by Director Botelho, and seconded by Director Pike, the Directors unanimously elected Director George Dias as Chairperson for 2007.*

**E. Elect COG Vice Chairperson for 2007**

*Upon a motion duly made by Director Valdivia, and seconded by Director Botelho, the Directors unanimously elected Director Brad Pike as Vice Chairperson for 2007.*

**F. Appoint an Associate Member to the Association of Monterey Bay Area Governments (AMBAG) and an Alternate**

*Upon a motion duly made by Director Botelho, and seconded by Director Marcus, the Directors unanimously appointed Director Pauline Valdivia as AMBAG Associate Member and Director Brad Pike as AMBAG Alternate Associate Member for 2007.*

**G. Appoint One Delegate and an Alternate to CALCOG**

*Upon a motion duly made by Director Marcus, and seconded by Director Valdivia, the Directors unanimously appointed Chairperson George Dias as CALCOG Delegate and Director Brad Pike as CALCOG Alternate Member for 2007.*

**G-1. URGENCY ITEM**

Transportation Planning Manager Mary Dinkuhn requested to add urgency item #13.1 to the Agenda: Consider First Amendment to Possession and Use Agreement with Heritage Plaza Associates, LLC, a California Limited Liability Company.

*Upon a motion duly made by Director Valdivia, and seconded by Director Botelho, the Directors unanimously voted to add urgency item #13.1 to the COG Agenda.*

Chair Dias requested that the Board members allow staff and public comment speakers to complete their presentation or comments prior to members asking any questions of them.

Chair Dias also noted that the time limit for public comment will be enforced.

**PUBLIC COMMENT:** (Opportunity to address the Board on items not appearing on the agendas. No action may be taken unless provided by Govt. Code Sec. 54954.2. Speakers are limited to 3 minutes.)

**Joe Thomspson  
Tres Pinos, CA**

Mr. Thompson asked to abolish urban mass transit in San Benito County. Mr. Thompson believes that public-sector transit is less efficient, more expensive, and yields less transport, than private sector transport.

Mr. Thompson stated that the Silicon Valley and Salinas Valley is the largest urban area in North America without an intermodal facility. Mr. Thompson added that rail is the option that we are denying our shippers and receivers on the Central California Coast because we have policy makers that don't consider options in the private sector.

**Joseph A. Zanger Sr.  
Casa De Fruta**

Mr. Zanger stated that he would like to discuss the flyover on Highway 156 and Barnheisel Road. Mr. Zanger mentioned that he has already had some discussion with

Mr. Davies and he will wait to discuss at a later time. Mr. Zanger stated that it is important that something is done.

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson believes that our elected officials need to be like elected officials all over the States, who have saved the taxpayers in their jurisdictions millions of dollars by privatizing their public sector transportation. Small rural counties need this more than other counties like San Francisco and Los Angeles who derive most of the tax dollar benefits that we pay to Sacramento.

Mr. Thompson asked the COG Board to declare this to be a sanctuary county and tell the legislature that we are going to defend 99.6% of the taxpayer's in San Benito County.

Chair Dias closed the public comment section of the meeting.

**CONSENT AGENDA:**

- 1. Approve Department Claims dated November 1, to December 31, 2006**
- 2. Approve COG Meeting Minutes dated July 24, 2006**
- 3. Approve COG Meeting Minutes dated October 19, 2006**
- 4. Approve COG Meeting Minutes dated November 16, 2006**
- 5. Approve COG Special Meeting Minutes dated December 4, 2006**
- 6. Approve Amendment No. 4 to Agreement between COG and Erickson, Beasley, Hewitt for Legal Services for the Highway 25 Bypass Project**

*Upon a motion duly made by Director Valdivia and seconded by Director Botelho the Directors approved Items #1 - #6, with Director Marcus and Director Pike abstaining on Items 2-5.*

**REGULAR AGENDA:**  
**TRANSPORTATION ISSUES**

**7. Interim Executive Director's Report**

Mr. Davies stated that COG expects that AMBAG will receive the grant for Blueprint planning. In anticipation of the grant, COG's Technical Advisory Committee (TAC) will probably put together a subcommittee of planners to work together and prepare for the planning document.

Mr. Davies attended the CALCOG Meeting in December and mentioned that most of the discussion was about the bonds, allocations, and how the funds will be distributed.

Mr. Davies stated that he and Carolyn Gonot from VTA, provided a presentation to two of the CTC Commissioners and the Executive Director in advocating for projects that COG has nominated for San Benito County, along with Caltrans, for CMIA funding, as well as the projects that the VTA and Caltrans District 4 are moving forward with. The meeting was very successful and he believes that COG's needs were understood. There is very active advocacy between San Benito County and Santa Clara County to move forward with the CMIA projects that both Counties are pursuing.

COG was granted a four-month extension for contract award for the Highway 25 Bypass at the CTC meeting. The delay was due to PG & E not providing all the documentation that is required to move forward with the project.

Mr. Davies mentioned that COG staff has met with the consultant for the Short Range Transit Plan. Mr. Davies added that he expressed the Boards concerns with regard to specific items that need to be evaluated within the transit plan. The consultant has experience with small counties with similar issues. A "Visioning" meeting will be scheduled, where the Board will have the opportunity to meet with the consultant to voice their concerns. Ms. Lezama will provide a more detailed report later in the agenda.

Mr. Davies and Carolyn Gonot from VTA attended a meeting with the Caltrans Directors from District 4 and District 5 to discuss the Barnheisel Road Intersection. District 5 has assigned the Barnheisel Intersection a project number which enables their staff to begin work on design and cost issues. The work is underway, and both District 4 and District 5 are looking at ways to address the issues at Barnheisel Road.

Mr. Davies announced that the City of Gilroy has also passed a resolution similar to the resolution passed by San Benito County and COG, which identifies Highway 152 as a major concern and priority to get the East/West traffic moving across the northern part of San Benito County.

VTA staff will be requesting approval of funding for a consultant to put together a scoping document for the Highway 152 realignment at its February Board meeting. Mr. Davies mentioned that it is critically important to COG because the scoping document will help determine the feasibility of what the alignment may be, what the costs will be, and what the environmental issues and community concerns may be. VTA staff would like the project to be completed in six months. VTA has identified a firm that will be able to complete the document in six months, which will allow us to pursue funding for a realignment of Highway 152.

Directors Pike and Marcus directed staff to compose letters to the City of Hollister and San Juan Bautista requesting that they also extend their support for the Resolution on Highways 152, 156, and 25.

Director Botelho asked for clarification on how many lanes the realignment of Highway 152 will allow in either direction.

Mr. Davies stated that the realignment of Highway 152 is designed so that it can be expanded to 4-lanes (two lanes in each direction) going either way. Currently, it will be built with one lane each way; however, there will be enough space left so that it may be expanded to 2-lanes each way.

Mr. Dave Murray with Caltrans District 5 provided an update with regards to Mr. Davies' report on the Blueprint Grant. Mr. Murray stated that he was pleased to announce that AMBAG has received approval of the Blueprint Grant. AMBAG's Board approved the grant and they are now in the process of incorporating the funds.

## **8. Receive Update on Highway Projects in San Benito County**

Transportation Planning Manager Mary Dinkuhn stated that the Highway 25 4-lane widening project continues to move forward through the design process and a final environmental document for the project is expected to be completed in October of 2008.

The Highway 156 Improvement Project is under consideration for the Corridor Mobility Improvement Account funding under the bond program. The final Environmental Document is expected to be completed in February 2008.

The System Analysis of Routes 101, 156, and 152 is a project that Caltrans District 5 is completing where they are looking at different scenarios for improvements of the three highways. Caltrans is completing technical review on the modeling data that was completed over the summer and COG staff is awaiting a summary report from Caltrans.

Chair Dias directed staff to include the appointment of a partnership Ad-Hoc subcommittee for the Mobility Partnership for the COG agenda in February.

### **PUBLIC COMMENT:**

**Stephen Rosati**  
**Hollister, CA**

Mr. Rosati has become concerned about some references in the local newspaper leaving the impression that the 3 in 1 is an official option in relieving traffic circulation problems. Mr. Rosati believes it would be more appropriate to call it "2 in 1" and not mention the Highway 156 "GAP".

Mr. Rosati requested that a COG representative meet with the editors of the two local papers in an effort to educate them on the status of COG's political position as well as the City of Gilroy and to specifically mention the resolutions that were previously discussed. Mr. Rosati stated that it is important that COG has the support of the local newspapers.

**9. Approve Agreement with City of Hollister Related to Funding for the Construction of the Highway 25 Bypass Project**

Transportation Planning Manager Mary Dinkuhn stated that it was determined through previous discussions with the City of Hollister that the City would appropriate \$17 million of Traffic Impact Fees to help pay for construction of the Highway 25 Bypass.

Staff recommended that the COG Board authorize the COG Executive Director to sign the Agreement. The Agreement sets forth procedures for the deposit of funds from the City and also notes that in the event that the Bypass is not constructed, the funds will be returned to the City of Hollister.

Director Marcus asked how many property negotiations are left.

Ms. Dinkuhn stated that there are five property negotiations left and staff will go over the status of each property in closed session.

*Upon a motion duly made by Director Botelho and seconded by Director Valdivia the Directors unanimously approved Item #9.*

**10. Receive Update on Union and Mitchell Road Intersection Improvements Project at Highway 156**

Transportation Planner Veronica Lezama reported that the project team had its kick-off meeting on December 19, 2006. Staff expressed the Boards concerns on the potential duplication with the Highway 156 Improvement Project. Caltrans will provide Higgins and Associates with aerial topographical information and the proposed design for the Highway 156 Improvement Project to ensure consistency between the projects.

Higgins Associates may need to make adjustments to data as necessary. Caltrans will provide the 2030 AMBAG forecast with Highway 156 as a four-lane road.

Director Botelho emphasized the importance of a double turn lane coming out of Union Road, especially with the moratorium being lifted in Hollister.

**PUBLIC COMMENT:**

**Stephen Rosati  
Hollister, CA**

Mr. Rosati recommended that the City of Hollister include the Union and Mitchell Road Improvements Project in their traffic model study so that the City may begin collecting fees. The fees need to be at least doubled to prepare for the impact the County will face

once the moratorium is lifted.

Director Pike asked Mr. Rosati to attend the City Council Meeting to convey the same recommendation to the City Council.

**11. Approve Revocable Licensing Agreement with Patrick Stone Family Enterprises, Inc.**

Transportation Planning Manager Mary Dinkuhn stated that the Patrick Stone Family Enterprises, Inc. is being relocated as part of the Relocation Assistance Program for the Highway 25 Bypass. The business must be relocated in order for the Bypass to be constructed on the leased property.

Because COG has legal possession of the property, a licensing agreement is required to allow the tenants to remain on the property. The tenant is requesting that COG grant a new agreement that will allow the tenants to stay on the property until March 15.

Staff recommended approval of the extension as it will not interfere with the Bypass construction. Ms. Dinkuhn added that in the event that the property is required before March 15, the tenant is required to vacate upon 7 days written notice from COG.

*Upon a motion duly made by Director Valdivia and seconded by Director Botelho the Directors approved Item #11, with Director Marcus abstaining.*

**12. Approve Submittal of Agricultural Worker Transportation Program (AWTP) Application to Caltrans for Consideration of FY 2006/2007 Grant Funding and Certify Resolution COG N. 07-01**

Transportation Planner Veronica Lezama reported that last year the COG Board identified an unmet transit need in the county as a lack of transportation for farm workers.

Under Senate Bill 1135 the Department of Transportation is required to establish a one-time appropriation of \$20 million for the implementation of an Agricultural Worker Transportation Grant Program. The intent of the program is to provide safe, efficient, reliable, and affordable transportation services, utilizing vanpools or buses, to agricultural workers commuting to/from worksites statewide.

Staff requested that the Board authorize the grant submittal of \$108,300 for the purchase of two 15-passenger vanpools, the installation of two Global Positioning System (GPS) for the two vanpools, a computer, a printer, and funds for staff's time spent on the project. Staff also requested that the Board authorize a \$20,000 local contribution, which includes funding from the existing Vanpool Program budget.

Ms. Lezama explained that the Agricultural Transportation Program is an expansion of the current vanpool program and staff would be receiving additional vans at no cost to COG.

The Board members asked several questions with regard to the Agricultural Transportation Program. Several Board members were concerned about whether or not the vans will be able to be used for other transportation needs if the program doesn't succeed.

Ms. Lezama explained that if awarded, COG will receive funding even if the vehicles are not successfully leased to agricultural workers. However, a good faith effort must be made to lease the vehicles to agricultural workers.

Mr. Dave Murray from Caltrans reiterated what Ms. Lezama stated and added that the Agricultural Transportation Program is a one-time grant that was approved by the legislature.

Director Botelho voiced his concerns about the program. He believes that the program will not work for this type of labor pool and mentioned that he is concerned about misuse of the vans.

Chair Dias mentioned that the vanpools will be leased out similar to how the 3 current vanpools are leased out.

Ms. Lezama explained that the established fees that are being used by the current vanpools will apply to the agricultural vanpool as well. All vanpool passengers are made aware of what those fees are.

**PUBLIC COMMENT:**

**Marvin Jones  
Hollister, CA**

Mr. Jones stated that he was a driver for one of the government-sponsored vanpool vans for 6-8 years. Mr. Jones mentioned that he enjoyed it and it was very inexpensive.

Mr. Jones stated that now that he is retired he has concerns about the program.

Chair Dias closed the public comment portion of the meeting.

Discussion continued and Chair Dias called the vote.

All five COG Directors voted against the submittal of the Agricultural Worker Transportation Grant Program application to Caltrans

### **13. Schedule Unmet Transit Needs Hearing Dates for February 2006**

Transportation Planning Manager Mary Dinkuhn stated that every year, the Council of Governments is required to hold Unmet Transit Needs hearings so that it is eligible to receive Transportation Development Act funds. The hearings provide a forum for residents, transit users, and community members to express concerns with the local transit service. The Unmet Needs process allows staff to identify segments of the community that are underserved by the current transportation system.

Staff recommended that the Board schedule two hearing dates for the same week on February 13, 2007 and February 15, 2007. The February 13<sup>th</sup> meeting would be held at the Hollister Community Center at 1:00 P.M. and the February 15<sup>th</sup> meeting would be held in conjunction with the regular COG Board meeting at 6:00 P.M.

Chair Dias requested that staff post the Unmet Needs Hearings flyers throughout San Juan Bautista as well.

Director Valdivia asked how staff will make sure that the community is made aware of the hearings.

Ms. Dinkuhn noted that staff will post the general legal public notice at the Administration building and Courthouse bulletin boards. There will be advertisements in the local newspapers and a press release. KMPG, the Spanish language radio station, will also be contacted to provide public service announcements. There will be flyers on board the transit vehicles and sent to all the social service agencies throughout the community. Staff will ensure that the notices are posted in San Juan Bautista as well.

#### **PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson stated that the Unmet Transit Needs public notices should state that the COG Board is trying to increase the deficit spending by increasing the number of fares. The COG Board should look at the statute that says Unmet Transit Needs that are reasonable to meet, which does not mean unreasonable as long as the taxpayers are paying most of the cost of it. Mr. Thompson stated that we will end up with no transit in our community if this continues.

Chair Dias closed the public comment portion of the meeting.

Director Valdivia stated that it was important to note that the Social Services Transportation Advisory Committee makes the recommendations to the COG Board, and the Board decides whether or not to accept the recommendations.

*Upon a motion duly made by Director Botelho and seconded by Director Valdivia the*

*Directors approved the two Unmet Needs Hearing dates as recommended by staff.*

### **13.1 Consider First Amendment to Possession and Use Agreement with Heritage Plaza Associates, LLC, a California Limited Liability Company**

Transportation Planning Manager Mary Dinkuhn stated that the agreement grants COG possession of the property prior to COG making an offer and negotiating a settlement with the property owner(s). This will allow COG to certify right-of-way and begin construction of the project.

The amendment extends the deadline for COG to make an offer to the property owner to February 15, 2007.

Director Marcus asked if this allows COG to take possession of the property prior to negotiating a price.

Ms. Dinkuhn stated that the property owners will still have the right to go through the condemnation process. If necessary, COG could adopt a resolution of necessity; which would initiate condemnation.

Director Pike asked Deputy County Counsel Shirley Murphy if he has to exclude himself from voting because he lives near the Highway 25 Bypass.

Deputy County Counsel Shirley Murphy stated that unless Director Pike's property is within 500 feet of this particular property he should not have any problems.

*Upon a motion duly made by Director Marcus and seconded by Director Valdivia the Directors unanimously approved Item #13.1.*

### **ADMINISTRATION ISSUES:**

#### **14. Discuss Potential Contract with R. W. Davies for Ongoing Consulting Services for an Interim Period Following the Appointment of a Permanent, Full Time Executive Director**

Interim Director Bob Davies stated there had been informal discussions from the previous Board to retain his services past the hiring of the permanent Executive Director to assist with the transition period and follow through with some of the projects and processes that are in place.

Mr. Davies noted that once the permanent Executive Director is appointed the current contract with Mr. Davies will be terminated.

Mr. Davies stated that if the Board is still interested in continuing the contract with him he recommended that the Board allow Chair Dias to discuss and negotiate a contract with

Mr. Davies. Mr. Davies added that based on conversations he has had with the incoming Executive Director, they are both in agreement with continuing his contract to the end of February 2007 to allow for a transition period.

*Upon a motion duly made by Director Botelho and seconded by Director Valdivia the Directors unanimously authorized the Chair to negotiate a contract with Mr. Davies for consulting services based on an hourly rate with an ending date of February 28, 2007.*

#### **15. Legislative Analyst Services Contract Recommendation**

Mr. Mike Graves opted to cancel his contract as COG's Legislative Analyst by submitting a 30-day termination notice.

Mr. Graves stated that he enjoyed the time and service he provided to COG. Mr. Graves submitted all his COG records to COG staff and wished everyone the best.

The Directors extended their appreciation to Mr. Graves.

Staff recommended that the Board accept the termination notice and end the contract effective January 27, 2007.

*Upon a motion duly made by Director Marcus and seconded by Director Valdivia the Directors unanimously voted to accept the Legislative Analyst's termination notice.*

#### **CLOSED SESSION:**

#### **16. Consider Public Employee Appointment for the Position of COG Executive Director**

Deputy County Counsel Shirley Murphy reported out of closed session that there was no reportable action taken.

#### **17. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

No. of cases: 6

Authority: California Government Code Section 54956.9(a)

- a) Council of San Benito County Governments v. Gibson
- b) Council of San Benito County Governments v. Janet P. Roberts
- c) Council of San Benito County Governments v. Janet P. Roberts (Hollister Inn)
- d) Council of San Benito County Governments v. McNamee
- e) Council of San Benito County Governments v. K&S Market
- f) Council of San Benito County Governments v. Casillas

Deputy County Counsel Shirley Murphy reported out of closed session that there was no reportable action taken with Council of San Benito County Governments v. Gibson, Council of San Benito Governments v. Janet P. Roberts, Council of San Benito County Governments v. Janet P. Roberts (Hollister Inn), Council of San Benito County Governments v. McNamee, Council of San Benito County Governments v. K & S Market, and Council of San Benito County Governments v. Casillas.

**18. CONFERENCE WITH REAL PROPERTY NEGOTIATOR**

Authority: California Government Code Section 54956.8

**Property:** 057-070-063

Agency Negotiator: Rick Jones, SR/WA

Negotiating parties: Rick Jones, Brenda Aguilar-Guerrero, and Bob Davies, on behalf of Council of San Benito County Governments & Kathy Pak, esq. On behalf Heritage Plaza Associates

Under negotiation: Price and Terms

Deputy County Counsel Shirley Murphy reported out of closed session that there was no reportable action taken.

*Upon a motion duly made by Director Botelho, and seconded by Director Valdivia, the Directors unanimously motioned to adjourn the COG Meeting.*

**ADJOURN TO COG MEETING ON THURSDAY, FEBRUARY 15, 2007  
AGENDA DEADLINE IS FEBRUARY 07, 2007 AT 12:00 P.M.**