

**SAN BENITO COUNTY
COUNCIL OF GOVERNMENTS
MEETING**

February 19, 2009 2:00 P.M.

FINAL MINUTES

MEMBERS PRESENT:

Vice-Chair Edge, Director De La Cruz, Director Emerson, Director Gomez, Alternate Director Loe

STAFF PRESENT:

Deputy County Counsel, Shirley Murphy; Executive Director, Lisa Rheinheimer; Administrative Services Specialist, Kathy Postigo; Transportation Planner, Veronica Lezama; Transportation Planner, Betty LiOwen; Secretary, Monica Gomez

OTHERS PRESENT:

David Silberberger, Aileen Loe, Mark McCumsey, Caltrans District 5; Kerry Theran, Quincy Engineering

CALL TO ORDER:

Vice-Chair Edge called the meeting to order at 2:03 P.M.

A. PLEDGE OF ALLEGIANCE

B. CERTIFICATE OF POSTING

Upon a motion duly made by Director De La Cruz and seconded by Director Emerson, the Directors unanimously approved the Certificate of Posting.

C. PUBLIC COMMENT:

**Marvin Jones
Hollister, CA**

Mr. Jones stated that he observed 9 buses with a combined total of 10 passengers last week. Mr. Jones noted that although there have been some service reductions, he's not sure if they are efficient since there are still empty buses driving around.

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson stated that there has been a lawsuit filed by San Benito County citizens against Caltrans with regards to Highway 156. Mr. Thompson proposed that the citizens file a complaint and intervention seeking a declaratory judgment and injunctive relief against the Board of Supervisors. Mr. Thompson stated that the COG Board should give serious consideration to the provisions in the California Constitution, whereby, this Joint Powers Authority and other JPA's in California are unconstitutional.

Vice-Chair Edge stated for the record that the COG Board received Joe Thompson's public comment correspondence dated October 2008 through February 2009. The correspondence was entered into the public record.

D. CLOSED SESSION:

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

No. of cases: 2

Authority: California Government Code Section 54956.9(a)

- a) Council of San Benito County Governments v. Hollister Inn/Roberts
- b) Council of San Benito County Governments v. K&S Market

Deputy County Counsel Shirley Murphy stated that there was no reportable action taken under Existing Litigation: a) COG v. Hollister Inn/Roberts.

Deputy County Counsel Shirley Murphy reported out of closed session that the COG Board approved settlement of case b) COG v. K&S Market, acquiring fee simple right of way takes and temporary construction easement 3,974 square foot fee simple right of way takes along the Tres Pinos Road frontage on APN: 057-25-33A, 1,382 square foot fee simple right of way along Airline Highway frontage for APN: 057-25-33B, and a temporary construction easement of 787 square feet for APN: 57-25-33E , the compensation is \$340,000 in construction cost to include excess land and soft cost for plans and generating permits, etc. an additional \$5,000 in lieu of interest, under Code Civil Procedure Section 12 68.310. In addition, the Klauer family will be provided title to the excess land if and when the California Transportation Commission deems it excess and agrees to the distribution.

2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: COG Executive Director

Deputy County Counsel Shirley Murphy stated that there was no reportable action taken under Public Employee Performance Evaluation.

E. COG DIRECTORS' REPORT: None

F. EXECUTIVE DIRECTOR'S REPORT

Executive Director Lisa Rheinheimer provided an update on the Highway 25 Safety and Operational Improvements Project.

Ms. Rheinheimer reported that the State Budget was passed by the Senate this morning. Information about how the cuts may impact transportation funding is unknown at this time. More information and analysis will be presented at the March meeting.

Ms. Rheinheimer announced that the League of Cities and AMBAG are hosting an SB 375 event for city staff and elected officials. The event information is as follows: Thursday, February 26, 2009, from 10:00 a.m. – 12:00 p.m. at the Oldemeyer Center, Blackhorse Room, 986 Hilby Avenue, Seaside, CA.

Public Comment:

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson's comment was in regards to the League of Cities and AMBAG SB375 event. Mr. Thompson asked Board members who attend the event, to let the League of Cities and AMBAG know what they are doing to San Benito County citizens and their businesses.

CONSENT AGENDA:

- 1. APPROVE** Council of Governments Transaction Report (Financial Claims) dated January 2009 – Postigo

2. **APPROVE** Council of Governments Special Meeting Minutes dated January 15, 2009 – Gomez
3. **RECEIVE** Construction Projects Report – Caltrans District 5
4. **APPROVE** Amendment No. 1 to the Contract with Shipper Design for Bike Week Consultant Services, Decreasing the Contract by \$200 for a Total not to Exceed \$3,398 – Lezama
5. **APPROVE** Amendment No. 1 with Alta Planning + Design for the Preparation of Safe Routes to Schools Maps for the Bikeway and Pedestrian Master Plan, Increasing the Contract by \$4,515 for a Total not to Exceed \$84,515 – Lezama
6. **APPROVE** Memorandum of Understanding with the Council of Governments, the San Benito County Airport Land Use Commission, the City of Hollister, and the County of San Benito for the Airport Land Use Compatibility Plan for the Hollister Municipal Airport – Lezama
7. **APPROVE** Project Nominations for FY 2009/2010 Transportation Planning Grant Program – Lezama
8. **APPROVE** Memorandum of Understanding with the Association of Monterey Bay Area Governments, the Santa Cruz County Regional Transportation Commission, and the Transportation Agency for Monterey County for the Environmental Impact Report for the 2010 Regional Transportation Plan Update for an Amount not to Exceed \$17,500 – Dinkuhn
9. **APPROVE** Comment Letter on Notice of Proposed Mitigated Negative Declaration for San Benito County Use Permit 1006-08 – Dinkuhn

Vice-Chair Edge pulled Items 6-9 for discussion.

Upon a motion duly made by Director De La Cruz, and seconded by Director Edge, the Director's unanimously approved Items 1-5 with an abstention from Director Loe on Item 2.

Item 6

Public Comment:

Marvin Jones
Hollister, CA

Mr. Jones stated that COG is asking the City and County to “pony up the difference of the high bid.” Mr. Jones recommended that the COG Board consider reducing the scope of services in order to reduce the cost of the proposal.

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that there is “overkill on the small businesses” and COG is condoning it.

There was discussion amongst the Board and staff in regards to the selection process among bidders.

Ms. Rheinheimer stated that by law, staff must select the most qualified bidder. Under the Memorandum of Understanding, the City of Hollister and the County will each contribute an amount not to exceed \$32,500 to the Council of Governments for the preparation of the Plan.

Upon a motion duly made by Director Emerson, and seconded by Director Gomez, the Director's unanimously approved Item 6.

Item 7

Public Comment:

Joe Thompson

Comment was not made.

Upon a motion duly made by Director Emerson, and seconded by Director Gomez, the Director's unanimously approved Item 7.

Item 8

Public Comment:

Joe Thompson

Mr. Thompson asked the Board to do San Benito County taxpayers a favor and recommended that the Board renounce any connection with AMBAG, SSRTC, and TAMC.

Upon a motion duly made by Director Emerson, and seconded by Director De La Cruz, the Director's unanimously approved Item 8.

Item 9

Director Gomez inquired about the last sentence of the comment letter which stated "The Betabel Road interchange appears to be sufficient to handle the additional trips." Director Gomez asked what steps would be taken if the Betabel Road interchange is not sufficient to handle the additional trips.

Ms. Rheinheimer stated that staff consulted with Caltrans, who believed that the traffic that would be put on Highway 101 would not create a lot of congestion. In the future, if there is a lot of congestion on Highway 101, Caltrans in conjunction with COG staff would have to evaluate what types of improvements would be needed.

Upon a motion duly made by Director Gomez, and seconded by Director Emerson, the Director's unanimously approved Item 9.

REGULAR AGENDA

ADMINISTRATIVE ISSUES:

Vice-Chair Edge moved Item 13 up on the agenda due to staff's request.

13. San Juan Road Interchange Project

- a. RECEIVE** Presentation on the San Juan Road/Highway 101 Interchange Project in San Benito and Monterey Counties
- b. COMMENT** on the Environmental Document, and
- c. APPROVE** Letters of Support for the Project to Senator Boxer and Representative Sam Farr – Dinkuhn

Ms. Rheinheimer introduced David Silberberger, Project Manager for the project.

Mr. Silberberger provided a Power-Point presentation on the San Juan Road/ Highway 101 Interchange Project. Mr. Silberberger reviewed the two alternatives with the Board.

Public Comment:

Joe Thompson

Tres Pinos, CA

Mr. Thompson stated that the Project is in Monterey County and they're coming up with one third of the funds. Mr. Thompson stated that the Caltrans presentation was an "abject lesson in how transportation funding works today."

After brief discussion from Board members, the Board supported Alternative 10D.

Upon a motion duly made by Director Loe, and seconded by Director De La Cruz, the Director's unanimously approved Item 13(b) (c).

10. RECEIVE 2nd Quarter 2008/2009 Budget Report and **APPROVE** Budget Adjustments/Transfers – Postigo

Administrative Services Specialist Kathy Postigo reported that the FY 2008/2009 2nd Quarter Budget Report, ending December 31, 2008, summarizes the quarterly expenditures and revenues.

The FY 2008/2009 2nd Quarter Budget Report shows that overall expenditures for COG programs are low at 3.09% while revenues are at 40.18%.

Staff recommended that the Board approve budget adjustments/transfers.

Public Comment:

Joe Thompson
Tres Pinos, CA

Mr. Thompson commented on the grants that are in the Budget and added that they are taxpayer dollars put to waste. Mr. Thompson stated that the priorities are all wrong in transportation funding.

Upon a motion duly made by Director Gomez, and seconded by Director Emerson, the Directors unanimously approved Item 10

11. REVIEW and COMMENT on Fiscal Year 2009/2010 Budget Assumptions – Postigo

Administrative Services Specialist Kathy Postigo stated that staff is beginning to prepare a draft FY 2009/2010 Budget. In preparing the draft budget, staff is assuming various revenues and expenditures based on the proposed State Budget and anticipated programs and projects in the coming fiscal year.

Ms. Postigo reported that with the delay of the 2008/2009 State Budget, funding for the 2009/2010 State funding is unknown at this time. The State Controller has indicated that there will be no allocation to the State Transit Assistance for fiscal year 2009/2010.

Staff will present the draft FY 2009/2010 budget to the Board in March. The Board may choose to set up an ad-hoc committee to review the budget before bringing it back to the Board or the Board may direct staff to schedule budget hearings to allow public comment.

Vice-Chair Edge stated that he would be in favor of holding budget hearings.

Director Gomez inquired about the stimulus funding San Benito County should be receiving.

Ms. Rheinheimer stated that the stimulus package includes \$8-\$12 billion for transit projects. San Benito's portion is estimated at \$364,071 for transit. However, the stimulus package is generally set aside for capital.

Director Loe stated that this is the ideal moment to take a serious look at the Budget and find out which programs are working and which programs are not working in order to best meet the needs of the community. Board members agreed with Director Loe's comment.

Public Comment:

Joe Thompson
Tres Pinos, CA

Mr. Thompson complimented Board members on their comments, and for “thinking outside of the box.” Mr. Thompson recommended looking at private sector solutions.

The Board directed staff to schedule the budget hearings for April and May, and present the final budget in June.

Ms. Rheinheimer stated staff will take the Board’s direction and schedule the budget hearings. In addition, staff will take a serious look at the programs and figure out how staff can best meet the community’s needs and save the budget as well.

TRANSPORTATION ISSUES:

12. Highway 25 Bypass Project

- a. **RECEIVE** Update on the Highway 25 Bypass Project
- b. **APPROVE** Contract Change Orders for an Amount not to Exceed \$83,251.20
- c. **APPROVE** Actual Moving Expense Claim for an Amount not to Exceed \$36,795.89 – Dinkuhn

Executive Director Lisa Rheinheimer provided an update on the Highway 25 Bypass project.

Ms. Rheinheimer noted that staff revised Item 12(b) and is asking that the Board approve Contract Change Orders for an amount not to exceed \$13,251.20 instead of the original amount of \$83,251.20.

The project was opened to traffic on February 5. Minor work on drainage inlets and other items is still outstanding and will be completed under traffic control and lane closures as needed.

Staff will be monitoring the speed limit concern and will meet with representatives from the California Highway Patrol, Hollister Police Department, and Caltrans to further discuss the issue and make adjustments as necessary.

Upon a motion duly made by Director Loe, and seconded by Director Emerson, the Directors unanimously approved Item 12(b) for an amount not to exceed \$13,251.20 and 12(c) moving expense claim for an amount not to exceed \$36,795.89.

14. American Recovery and Reinvestment Act of 2009

- a. **RECEIVE** Report on the American Recovery and Reinvestment Act of 2009 and
- b. **APPROVE** List of Projects for Economic Stimulus Funding, and
- c. **APPROVE** Resolution Number 09-05 – Rheinheimer

Ms. Rheinheimer reported that the American Recovery and Reinvestment Act of 2009 would authorize around \$900 billion for job preservation, job creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization.

Ms. Rheinheimer stated that a list of potential projects was compiled with the assistance of the County and City of Hollister Public Works Departments, San Juan Bautista City Manager, Sunnyslope County Water District staff, and Gavilan College District staff.

The list previously presented to the Board of Directors was fine tuned to better match funding targets and project delivery deadlines. Staff also revised this list to include only transportation projects. A resolution authorizing the executive director to apply for and accept economic stimulus funding is necessary to receive transit funding.

The Technical Advisory Committee reviewed this list and recommends that the Council of Governments approve it for economic stimulus funding.

Ms. Rheinheimer recommended using the monies that were set aside for Transportation Enhancement projects, for the San Juan Highway Bike Lanes Project because it is ready to go.

There was brief discussion amongst the Board and staff with regards to safety concerns that may come about with the San Juan Highway Bike Lanes Project.

Director De La Cruz inquired about the inclusion of a Bike Lane on Buena Vista Road.

Transportation Planner Veronica Lezama stated that the bike lane on Buena Vista Road is already included as one of the recommendations in the Bikeway and Pedestrian Master Plan and staff will be bringing the item to the Board in the near future.

Public Comment:

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that transit funds should be used to purchase SUV's at Tiffany's, and then given to the local taxi service to provide transportation for the community.

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's unanimously approved Item 14(b)(c).

15. APPROVE Draft 2009 Legislative Program and **ENDORSE** the California Consensus on Federal Transportation Authorization for 2009 – Rheinheimer

Ms. Rheinheimer recommended that the Board continue Item 15 to the March COG Board meeting.

Upon a motion duly made by Director Loe, and seconded by Director De La Cruz, the Director's unanimously voted to continue Item 15 to the March COG meeting.

Upon a motion made by Director De La Cruz, and seconded by Director Gomez, the Director's unanimously voted to adjourn the COG meeting.

ADJOURN TO COG MEETING MARCH 19, 2009. AGENDA DEADLINE IS MARCH 10, 2009 AT 12:00 P.M.