

**SAN BENITO COUNTY
COUNCIL OF GOVERNMENTS
REGULAR MEETING**

June 19, 2014, 3:00 P.M.

FINAL MINUTES

MEMBERS PRESENT:

Chair Gomez, Director Boch, Director Botelho, Director Muenzer, and Director Scattini

STAFF PRESENT:

Deputy County Counsel, Barbara Thompson; Executive Director, Lisa Rheinheimer; Transportation Planning Manager, Mary Gilbert; Administrative Services Specialist, Kathy Postigo; Transportation Planner, Veronica Lezama; Transportation Planner, Betty LiOwen; Transportation Intern, Regina Valentine; Secretary, Monica Gomez

OTHERS PRESENT:

Brandy Rider, John Olejnik, Richard Rosales, Caltrans District 5; Maura Twomey, Association of Monterey Bay Area Governments (AMBAG), Richard Daulton, Rincon Consulting

CALL TO ORDER:

Chair Gomez called the meeting to order at 3:01 P.M.

A. PLEDGE OF ALLEGIANCE

B. CERTIFICATE OF POSTING

Upon a motion duly made by Director Botelho, and seconded by Director Scattini, the Directors acknowledged the Certificate of Posting. Vote: 5/0 motion passes.

C. PUBLIC COMMENT:

Bob Scales

Parsons Transportation Group

Mr. Scales stated that he wanted to make a correction in regards to a comment that he “supposedly” made under Closed Session Item 1. On April 17, 2014, a threat of litigation was made by Mr. Bob Scales of Parsons Transportation Group to the Council of Governments Board during a break in the meeting. Mr. Scales stated that if he said something, he had no intention of making any threat. He stated that what he did say was that if you do not follow the Regional Transportation Plan guidelines you are setting yourself up for the possibility of an unnecessary lawsuit.

Chair Gomez stated for the record that the COG Board received Joe Thompson’s public comment correspondence dated May 19, 2014. The correspondence was entered into the public record.

D. EXECUTIVE DIRECTOR’S REPORT: Rheinheimer

Ms. Rheinheimer reported that the Local Transportation Authority’s County Express service provided

free transit to the Hollister Air Show on Saturday and Sunday. Unfortunately, there were only twelve passenger trips (6 people). Of those six people, three of them were her husband, her son, and herself. She stated that this will be a discussion for the Board next year, as to whether or not they want to continue the service.

Ms. Rheinheimer reported that the Highway 25 Bypass is now in Caltrans control and ownership. Any questions or concerns about the Highway 25 Bypass will have to be directed to Caltrans from now on.

Ms. Rheinheimer reported that it was with both sadness and great joy to announce that it was Regina Valentine's last day at San Benito COG, as COG's Intern. Ms. Rheinheimer stated that Regina accomplished a great deal while at COG and she has accepted a higher level position in Modesto. Ms. Rheinheimer and COG staff wished her the best of luck.

Lastly, Ms. Rheinheimer announced that she submitted her letter of resignation as COG's Executive Director, effective August 10th. Ms. Rheinheimer thanked the Board for their support over the last 7 ½ years. She enjoyed working with the Board, Supervisors, City Council, other elected officials, community members, and COG staff. Ms. Rheinheimer stated that many things were accomplished during her time with COG such as the Highway 25 Bypass project, and the Highway 25 Safety project. She stated that she was very proud of the work that was done with the Transit Operations because it is absolutely vital to the community to have access to transit. She stated that she learned a great deal and had grown professionally over the last 7 ½ years with the Board's support. She stated that the COG Board has a very dedicated staff. She thanked COG staff for their professionalism and their commitment to high quality public service. Finally, she wished the Board the best of luck in the future.

Chair Gomez thanked Ms. Rheinheimer for all of her work and wished her the best of luck at her new job.

E. CALTRANS DISTRICT 5 REPORT: Gubbins

Brandy Rider reminded the Board about the California Freight Mobility Plan (CFMP) public workshop June 23, 2014 at the Marina Public Library from 4:00 P.M. – 7:00 P.M.

Ms. Rider reported that Caltrans has installed new billboards along Highway 101 specifically there is one in Chualar and San Luis Obispo County. Essentially, the billboard says "be alert, my mom's at work, or my dad's at work" It is part of a new safety campaign to remind people to be conscious of Caltrans employees, contractors, and all of the workers that are out there on the roadway.

Ms. Rider stated that on behalf of Caltrans she wanted to thank Ms. Rheinheimer, who has been a wonderful partner with Caltrans. Ms. Rider stated that Ms. Rheinheimer, along with her staff, have been instrumental in achieving quite a bit in San Benito County. Ms. Rider stated that Caltrans wished her the best in her endeavors and they looked forward to working with her in a slightly different capacity.

F. BOARD OF DIRECTORS REPORTS:

Director Botelho stated that Ms. Rheinheimer's leadership at COG would certainly be missed. He stated that he appreciated her work and open mindedness on the Highway 156 project and her ability to bring the community together.

Director Muenzer reported that on June 11th AMBAG adopted the 2035 MTP Sustainable Communities Strategies for the Region. He also stated that he wanted to thank Ms. Rheinheimer for all of the work she had done for the County and the COG Board and that she would be missed.

Upon a motion duly made by Director Scattini, and seconded by Director Botelho, the Directors unanimously voted to convene into Closed Session. Vote: 5/0 motion passes.

CLOSED SESSION:

Deputy County Counsel, Barbara Thompson reported:

1. Conference with Legal Counsel-Anticipation of Litigation
Significant Exposure to litigation pursuant to subdivision (d) of Section 54956.9:
Closed session is authorized by Section 54956.9 (d) (2), (e) (2), (e) (3), and (e) (4)
On April 17, 2014, a threat of litigation was made by Mr. Bob Scales of Parsons Transportation Group to the Council of Governments Board during a break in the meeting.

On May 5, 2014, the Council of San Benito County Governments received correspondence from the law firm of L+G, LLP, alleging that action taken at the Council of San Benito County Governments Board meeting on April 17, 2014 on Item no.5 was in violation of the Brown Act.

Deputy County Counsel, Barbara Thompson requested that the Board remove Item 2 from the agenda because it was no longer needed. She also requested that the Board move Item 3 to the end of the agenda.

2. Conference with Real Property Negotiators – Pursuant to Government Code Section 54956.8
Property: 600 Del Monte Drive, Hollister
Agency Negotiators: Shirley Murphy, Deputy County Counsel, Lisa Rheinheimer, Executive Director, and Mary Gilbert, Transportation Planning Manager
Negotiating Parties: Leslie Marie Clark Trust
Under Negotiation: Price and Terms of Payment

Upon a motion duly made by Director Scattini, and seconded by Director Botelho, the Directors unanimously voted to convene into Closed Session. Vote: 5/0 motion passes.

The COG Board convened to Closed session at 3:15 p.m.

The COG Board reconvened from Closed session at 3:32 p.m.

Deputy County Counsel, Barbara Thompson stated that there was no reportable action taken under Item 1.

CONSENT AGENDA:

4. **APPROVE** Council of Governments, Local Transportation Authority Draft Special Joint Meeting Minutes Dated May 15, 2014 – Gomez
5. **APPROVE** Council of Governments Draft Meeting Minutes Dated May 15, 2014 – Gomez
6. **APPROVE** Council of Governments Draft Special Meeting Minutes Dated May 29, 2014 – Gomez
7. **APPROVE** Council of Governments Transaction Report (Financial Claims) Dated April through May 2014 – Postigo
8. **APPROVE** the Fiscal Year 2014/2015 Final Overall Work Program, Which Includes Planning Activities to be Performed by the Council of Governments and **AUTHORIZE** Executive Director to Sign Overall Work Program Agreement – Gilbert
9. **RECEIVE** Construction Projects Report – Caltrans District 5
10. **APPROVE** FY 2014/15 Council of Governments Final Budget – Postigo

Upon a motion duly made by Director Scattini, and seconded by Director Muenzer, the Directors unanimously approved Items 4-10 from the Consent Agenda. Vote: 5/0 motion passes.

REGULAR AGENDA

TRANSPORTATION ITEMS:

11. **Final On the Move: 2035 – San Benito Regional Transportation Plan** – Rheinheimer

- a. **ADOPT** Resolution 14-06, Adopting CEQA Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program Related to the Environmental Impact Report Certified by The Association of Monterey Bay Area Governments for the *On The Move:2035* – San Benito Regional Transportation Plan, as Lead Agency Under CEQA
- b. **REVIEW** Modifications to Draft *On the Move: 2035* - San Benito Regional Transportation Plan Proposed for Inclusion in the Final Document, and
- c. **ADOPT** Resolution 14-07 Adopting the Final *On the Move: 2035* – San Benito Regional Transportation Plan, With the Proposed Revisions Incorporated.

Ms. Rheinheimer stated that she wanted to express her gratitude to COG staff for all of their hard work over the last six months in putting this plan together. She stated that there were a lot of ups and downs with the plan. She stated that the Board will find that the plan reflects the needs of the region over the next 25 years. She asked that the Board keep in mind that this plan is updated every four years and amendments may occur in the meantime.

Ms. Gilbert echoed Ms. Rheinheimer's comments regarding COG staff, who worked tirelessly over the past months to get the final document to the Board.

Ms. Gilbert provided a Power-Point presentation to the Board.

Ms. Rheinheimer noted for the record that she provided a memo to the COG Board regarding some late comments that were received at the AMBAG Board meeting regarding the San Benito COG RTP and the constrained list.

There was no discussion from the Board.

PUBLIC COMMENT:

Brandy Rider Caltrans District 5

Ms. Rider thanked COG staff and the COG Board for working with Caltrans as they made comments to the RTP and for taking the time to incorporate and consider those comments. She stated that Caltrans is very supportive of this RTP and its consistency with the MTP in the Region.

Upon a motion duly made by Director Muenzer, and seconded by Director Boch, the Directors Adopted Item 11 A and 11 C per staff recommendation, with Chair Gomez and Director Scattini opposed. Vote: 3/2 motion passes.

12. APPROVE Caltrans Proposed Cost and Schedule to Complete the Highway 25 Route Adoption Environmental Document – Rheinheimer

Ms. Rheinheimer reported that staff submitted a request for a time extension to the Federal Highway Administration as a first step in moving this project forward. Staff had not received a response yet and until staff knows that the Federal Highway Administration is going to grant the extension, staff will not know if they will need the cost. However, Caltrans proposed a cost and schedule to ensure that the project can meet an extension deadline. She mentioned that Caltrans' Richard Rosales was present to answer any questions from the Board.

Ms. Rheinheimer provided an overview of the Hollister to Gilroy State route 25 Widening and Route Adoption Options Comparison Table – 05-484500 (attachment 2 of the staff report). She mentioned that in the past it appeared that the COG Board wanted to move forward with Option 4.

Chair Gomez thanked Mr. Rosales for taking the time and working with staff on this item.

Chair Gomez inquired about the funding that is currently available with regard to Option 4.

Ms. Rheinheimer stated that there is a balance of about \$750,000 left in the Highway 25 Safety Project, of which \$365,000 worth could be moved to the Highway 25 Route Adoption. This would meet the deadline and avoids paying back \$4.6 million back to the Federal Highway Administration.

Director Botelho inquired if the environmental work ever expires. He stated that he was concerned about how you are supposed to fund the construction of the project because he didn't want to approve spending the funds to do the environmental work and then have it expire.

Ms. Rheinheimer stated that environmental work does have a certain shelf-life. She stated that the purpose of the Route Adoption is mainly for planning purposes to ensure that future development has a clear line as to what areas to avoid. Ms. Rheinheimer stated that the biggest challenge for Highway 25 is finding the money to fund the project.

Chair Gomez stated that Highway 25 is a big concern for him and removing it from the Traffic Impact Fee Program years ago was a mistake. Developers are coming in and they are not paying their fair share of the Highway 25 project. He stated that the Board needs to keep their options open and understand that 60% of the population in and surrounding Hollister travels to the Bay area for work and the developers that are building those homes for the commuters should pay for the roads that they're going to use. He mentioned that he is one of those commuters who paid traffic impact fees for Highway 25 and now it is not on the constrained list because it has been removed from the list as of today. He stated that the Board needed to move forward with some type of plan for Highway 25. It would be detrimental if they did not move forward with completing this work and looking at viable options for the future of Highway 25. He stated that this is why he was in support of Option 4.

Director Scattini wanted to know when the environmental document would expire.

Deputy County Counsel, Barbara Thompson stated that she was not aware that there was a hard and fast expiration date, it becomes staler over time and it also depends on what type of development occurs in the meantime.

Richard Rosales stated that for the type of document that would be done for Option 4 Tier I, is specifically for the route adoption. The environmental document for that Environmental Impact Report Environmental Impact Statement would not allow you to go right to a build project. You would still have to do environmental studies for whatever build project that comes off of this route adoption. It is for the purposes of producing an Environmental Impact Report, Environmental Impact Statement that would be used to finalize the project report, project approval and then go to the CTC for the route adoption. Anything after that would be looked at separately. For this reason staff and Caltrans were proposing to do this option first and then work on what type of build segment could come next. Mr. Rosales stated that once you do a build project approval with the environmental document, it is good for 3 years.

Director Botelho asked if there was any possible state or federal funding available for this road if the Board moves forward with the environmental work. Since it is a state highway of significance importance going to the Pinnacles National Park.

Mr. Rosales stated that Highway 25 is not a focus route such as Highway 156. Highway 25 doesn't rate very high in terms of the pot of money for the interregional area. He stated that it doesn't hurt to ask for funds, it has been done elsewhere. Sometimes they received funding and sometimes the funding wasn't there. He stated that adding the significance of the Pinnacles National Park to the narrative may change the importance when submitting a request for funding.

There was no further discussion or public comment.

Ms. Rheinheimer stated that originally she had wanted the item approved, however without having the FHWA time extension approval, the Board could defer the item to another meeting when they know that information.

The item was deferred to a future COG meeting.

13. Regional Traffic Mitigation Fee Nexus Study Update – Gilbert

- a. **RECEIVE** Information about Timing of the San Benito County General Plan Update;
- b. **SELECT** an Option to Hire a Consulting Firm to Update the Study; and
- c. **CONSIDER** Appointment of COG Director to Interview Consultants to Update the San Benito County Transportation Impact Mitigation Fee Nexus Study.

Ms. Gilbert stated that this item was continued at the Board's direction at the May 15 Board meeting.

Ms. Gilbert reported that COG has prepared a traffic impact fee study for the City of Hollister and San Benito County since the mid-1990s, on a 4-5 year update schedule. The last comprehensive update was completed in 2011. Given new conditions in 2014, COG staff is proposing that the study be updated. Staff will pursue a contract with a consultant to complete the work.

Ms. Gilbert stated that the Board had the option to consider negotiating a contract with an On-Call Consultant from COG's approved list of qualified on-call consulting firms to complete the work. A second option would be to issue a Request for Proposals for the completion of the fee study, which would take approximately 3-4 months.

Ms. Gilbert stated that in order to facilitate Board involvement in the consultant selection, staff was requesting that the Board appoint a representative to interview consultants prior to contract negotiation.

After brief discussion, the COG Board directed staff to move forward with the On-Call Consultant list.

There was no public comment.

Upon a motion duly made by Director Botelho, and seconded by Director Scattini, the Directors unanimously approved Item 13 b as noted above. Vote: 5/0 motion passes.

Upon a motion duly made by Director Scattini, and seconded by Director Botelho, the Directors unanimously approved Item 13 c, appointing Chair Gomez to interview consultants. Vote: 5/0 motion passes.

14. CONSIDER Reaffirming Caltrans as Ex-Officio Member of COG and **RECOMMEND** that the Cities and County Approve an Amended Joint Powers Agreement – Rheinheimer

Ms. Rheinheimer stated that at the May 2014 meeting, the COG Board expressed interest in adding Caltrans as an ex-officio member. The benefit of adding Caltrans as an ex-officio member is that it strengthens the partnership between the two agencies on transportation projects and programs of mutual interest. This action would allow for a meaningful discussion of items of interest without the limitation of the 3-minute public comment period.

Ms. Rheinheimer stated that should the Board desire to add Caltrans as an ex-officio member, staff prepared an Amended Joint Exercise of Powers Agreement that would be brought before the county Board of Supervisors and the city Councils of Hollister and San Juan Bautista for approval.

Director Botelho stated that although he was apprehensive about this idea at first, he believed that in an effort of possibly improving communications and relationships with Caltrans it would be a positive step forward at this time.

Director Scattini and Chair Gomez concurred with Director Botelho's comments.

Brandy Rider with Caltrans stated that Caltrans would be honored to be a part of the COG Board. She stated that it would be a good first step in strengthening the partnership between the two agencies and finding collaborative and consensus building ways to move forward with a variety of projects including Highway 156 and Highway 25 and a lot of the issues that are near and dear to all of their hearts.

There was no public comment.

Ms. Rheinheimer noted that a correction was made to page 249 of the agenda packet, article 3.2.3, regarding the first COG meeting in January. It used to say July, but staff corrected it to say January.

Upon a motion duly made by Director Scattini, and seconded by Director Boch, the Directors unanimously approved Item 14 per staff recommendation. Vote: 5/0 motion passes.

15. RECEIVE Information about Highway 25 Bypass Operations at Santa Ana And Meridian-Rheinheimer

Ms. Rheinheimer reported that at the COG meeting in May, the Board requested an agenda item on the subject of Highway 25 Bypass operations at Santa Ana and Meridian. The Board received correspondence from a concerned resident about the safety of the intersections.

Ms. Rheinheimer stated that as she mentioned in her opening remarks, the Bypass has been transferred to Caltrans and the correspondence has been forwarded to Caltrans for their consideration.

Ms. Rheinheimer stated that Chair Gomez asked for accident data for the two intersections which was requested from Hollister Police Department. However, the information was not available in time for this meeting.

Caltrans has indicated that their traffic operations team will make a site visit, collect relevant data including accident history and traffic volumes, and analyze the possibility of a protective left turn phase.

Chair Gomez thanked Ms. Rheinheimer for bringing this item back. He stated that he hadn't received any information from the Hollister Police Department either. Once they do receive the information they can share it with Caltrans. He stated that he appreciated Caltrans for taking the time to look into this and looking at any viable options for improvements at those intersections.

16. DIRECT Staff to Negotiate a New Five Year Lease with Cost Savings Between the Council of Governments and The Pivetti Company for Office Space Located at 330 Tres Pinos Road, Suite C7 – Postigo

Ms. Postigo reported that the lease for COG's office facilities is set to expire on July 31, 2014. Because the current office space location and size meets the needs of both customers and employees, staff recommended that a new lease be negotiated for a five year term for a cost savings of \$2,412.

Ms. Postigo stated that a total cost savings for a new five year lease is \$2,412 compared to paying the current amount for another five years.

Director Scattini asked if there was a penalty for getting out of the contract before the lease is up.

Deputy County Counsel, Barbara Thompson stated that it would depend on how the contract is drafted.

Ms. Postigo stated that she would have to look into it, because it was not part of the lease agreement currently.

There was no further discussion or public comment.

Upon a motion duly made by Director Muenzer, and seconded by Chair Gomez, the Directors approved Item 16 per staff recommendation. Vote: 5/0 motion passes.

Chair Gomez moved to the LTA, MEA, and SAFE meetings at 4:36 p.m.

The COG Board convened to Closed session at 4:38 p.m.

Closed Session

Item 3. Public Employee Performance Evaluation

Title: COG Executive Director

The COG Board reconvened from Closed session at 4:52 p.m.

Deputy County Counsel, Barbara Thompson stated that there was no reportable action taken under Item 3.

Upon a motion duly made by Director Boch, and seconded by Director Muenzer, the Directors unanimously adjourned the COG meeting at 4:52 p.m. Vote: 5/0 motion passes.

ADJOURN TO COG MEETING JULY 17, 2014.