

**SAN BENITO COUNTY  
COUNCIL OF GOVERNMENTS  
MEETING**

**May 15, 2008 2:00 P.M.**

**FINAL MINUTES**

**MEMBERS PRESENT:**

Vice-Chair Botelho, Director Marcus, Director Emerson, and Director Valdivia

**STAFF PRESENT:**

Deputy County Counsel, Shirley Murphy; Executive Director, Lisa Rheinheimer; Transportation Planning Manager, Mary Dinkuhn; Administrative Services Specialist, Kathy Postigo; Transportation Planner, Betty Li; Secretary, Monica Gomez

**OTHERS PRESENT:**

Brenda Aguilar-Guerrero, Erickson, Beasley, & Hewitt; Kerry Theran, Quincy Engineering; Aileen Loe, Caltrans District 5

**CALL TO ORDER:**

Vice-Chair Botelho called the meeting to order at 2:10 P.M.

**A. PLEDGE OF ALLEGIANCE**

**B. CERTIFICATE OF POSTING**

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

**CLOSED SESSION:**

**1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

No. of cases : 5

Authority: California Government Code Section 54956.9(a)

- a) Council of San Benito County Governments v. Hollister Inn
- b) Council of San Benito County Governments v. McNamee
- c) Council of San Benito County Governments v. K&S Market
- d) Council of San Benito County Governments v. Roberts (South Valley Trailers)
- e) Council of San Benito County Governments v. Hollister Farms

Deputy County Counsel Shirley Murphy stated that there was no reportable action taken under Existing Litigation: COG v. Hollister Inn, COG v. McNamee, COG v. K&S Market, COG v. Roberts (South Valley Trailers), and COG v. Hollister Farms.

**2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant Exposure to Litigation

Authority: California Government Code Section 54956.9 (b)

Deputy County Counsel Shirley Murphy reported out of closed session that there was no reportable action taken under Anticipated Litigation Significant Exposure to Litigation.

### **3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Initiation of Litigation

No. of Cases: 1

Authority: California Government Code Section 54956.9 (c)

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

### **C. PUBLIC COMMENT:**

**Joe Thompson**  
**Tres Pinos, CA**

Mr. Thompson requested that the COG Board resign, but not before asking AMBAG to resign. Mr. Thompson stated that an intermodal option is gravely needed.

### **D. COG DIRECTORS' REPORT**

None

### **E. EXECUTIVE DIRECTOR'S REPORT**

Executive Director Lisa Rheinheimer reported that this week is "Bike to Work Week". Ms. Rheinheimer noted that several COG employees rode their bikes to the COG meeting.

Ms. Rheinheimer congratulated MV Transportation Manager Tony Mercado, who just welcomed his first baby into this world.

Ms. Rheinheimer stated that she will provide a report on the Governor's May revised Budget at the next Council of Governments meeting.

### **CONSENT AGENDA:**

- 4. APPROVE** Council of Governments Transaction Report (Financial Claims) dated April 1, 2008 to April 30, 2008 – Postigo
- 5. APPROVE** Council of Governments Special Meeting Minutes dated April 3, 2008 – Gomez
- 6. APPROVE** Council of Governments Meeting Minutes dated April 17, 2008 – Gomez
- 7. APPROVE** Special Joint Meeting minutes dated April 17, 2008 – Gomez
- 8. APPROVE** Contract between COG and Kathy Wood & Associates for Right of Way Acquisition Services for the San Juan Highway Bike Lanes Project – Dinkuhn
- 9. Assembly Bill 2766 Vehicle Emission Reduction Grant Program – Lezama**
  - 1. AUTHORIZE** Staff to submit two (2) applications to the Monterey Bay Unified Air Pollution Control District for consideration of FY 08/09 Assembly Bill 2766 Vehicle Emission Reduction Program funds; and
  - 2. ADOPT** Resolution Number 08-08 **AUTHORIZING** the Executive Director of COG to sign all necessary documents to obtain Assembly Bill 2766 Vehicle Emission Reduction Grant Program funding.
- 10. APPROVE** Proclamation No. 08-10 Declaring May 11-17, 2008 Bike Week in San Benito County – Lezama
- 11. APPROVE** Contract with Alta Planning + Design for Transportation Planning Consultation Services to Prepare an Update of the San Benito County Bikeway and Pedestrian Master Plan – Lezama

Executive Director Lisa Rheinheimer requested that Items 8 and 9 be pulled from the consent agenda.

*Upon a motion duly made by Director Marcus and seconded by Director Emerson, the Directors unanimously voted to approve Items 4 -7, 10, and 11.*

Regarding Item 8: Transportation Planning Manager Mary Dinkuhn reviewed some minor modifications that were made to the contract between COG and Kathy Wood & Associates for Right of Way Acquisition Services.

Modifications included a new item 5. Termination, which indicates some insurance limits of \$1 million each for comprehensive general liability insurance, professional liability insurance, and motor vehicle liability insurance.

In addition, throughout the contract in the scope of work, reference to the cost associated with each task was deleted. The contract is a “not to exceed contract” and it will be billed based on an hourly rate schedule that is provided in the contract.

A modification was made to the language on the Scope of Services. The introductory clause now says, “The contractor will provide the following services regarding the San Juan Highway Bike lanes Project”.

Director Marcus inquired about the number of firms that responded to the bid.

Ms. Dinkuhn stated that only two firms responded to the solicitation that was made through the International Right of Way Association.

The Board directed staff to try to get at least three bids for any future projects.

*Upon a motion duly made by Director Emerson and seconded by Director Marcus, the Directors unanimously voted to approve Item 8.*

Regarding Item 9:  
**PUBLIC COMMENT:**  
**Joe Thompson**  
**Tres Pinos, CA**

Mr. Thompson stated, “We are hypocrites to say we are in favor of vehicle emission reduction, when we are running 98% empty bus seats”.

*Upon a motion duly made by Director Emerson and seconded by Director Marcus, the Directors unanimously approved Item 9.*

Vice-Chair Botelho stated for the record that the COG Board received Joe Thompson’s public comment correspondence dated March 24, 2008 through May 12, 2008. The correspondence was entered into the public record.

**2:30 p.m.**  
**REGULAR AGENDA:**  
**TRANSPORTATION ISSUES**

## **12. 2008 Legislative Program**

- 1. Receive** Update on 2008 Legislative Program,
- 2. Approve** Resolution 08-11 opposing Proposition 98 on limitations to eminent domain,
- 3. Oppose** Senate Bill 375 regarding new requirements for Regional Transportation Plans,
- 4. Oppose** Senate Bill 286 regarding Transportation Enhancement funds, and
- 5. Oppose** Senate Bill 1507 prohibiting construction of roadways near schools

Executive Director Lisa Rheinheimer introduced Deanna Sessums from the League of California Cities who provided a report on Proposition 98 limitations to eminent domain.

Ms. Sessums provided a brief update on the Governor's proposed State Budget May Revision. Ms. Cecums also reported on Proposition 98, which will be on the June ballot. Ms. Sessums stated that the League of California Cities is encouraging a "yes vote" on Proposition 99 and a "no vote" on Proposition 98 and encouraged the Board to approve Resolution 08-11.

**PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson recommended that the Board support Proposition 98 and oppose Proposition 99. Mr. Thompson stated that there was a court of appeals decision which states that local governments cannot act on an eminent domain issue locally.

After brief discussion amongst Board members regarding Proposition 98 and Proposition 99, Director Marcus stated that he could not vote in support of Resolution 08-11, and Director's Emerson and Botelho voted in favor of Resolution 08-11.

*Upon a motion duly made by Director Emerson and seconded by Director Botelho, the Directors approved Resolution 08-11, with Director Marcus voting no.*

Due to time constraint, Executive Director Lisa Rheinheimer asked to move the rest of Item 12 to the June 19<sup>th</sup> agenda.

**13. Receive Update on the Blueprint Plan for the Monterey Bay Area Region**

Executive Director Lisa Rheinheimer introduced AMBAG's planning manager Mark Griffin, who provided a Power-Point presentation on the Blueprint Plan update.

Mr. Griffin announced that AMBAG received a second year of funding for their Blueprint plan from Caltrans. Mr. Griffin expressed appreciation to the County, City of Hollister, City of San Juan Bautista, and the Council of Governments for their participation in the first year of funding.

The focus of the second year will be "growth visioning". AMBAG will be contacting local jurisdictions to schedule a scoping meeting to set the parameters of what local jurisdictions want to look at for the "visioning workshops" to be held throughout the region, giving residents an opportunity to participate in the development of the Blueprint Plan. AMBAG anticipates having the "visioning workshops" completed by late summer or fall.

There was discussion amongst the COG Board and Mr. Griffin regarding the Blueprint Plan.

Director Emerson inquired if one would be able to view possible traffic impact of potential economic development at the airport in Hollister.

Mr. Griffin stated that one would be able to perform a hypothetical analysis to see what the traffic impact may look like locally and regionally as well.

**PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson stated, "The Blueprint is a roadmap to failure for California's small business".

Vice-Chair Botelho expressed appreciation to Mr. Griffin for his Blueprint presentation.

#### **14. Issue Draft San Benito County Regional Housing Needs Plan**

Executive Director Lisa Rheinheimer noted that staff included the City of Hollister's request in the draft Regional Housing Needs Plan.

The Regional Housing Needs Allocation Plan is due to the State Department of Housing and Community Development by August 31, 2008, one year prior to the due date for the General Plan Housing Element updates by the cities and County.

#### **PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson stated that this is a constitutional defect and a "Joint Powers Authority" cannot make decisions for the electorate about housing.

Executive Director stated for the record that Mr. Thompson's comments during the Public Hearing were included in the plan along with COG's response to his comment.

*Upon a motion duly made by Director Marcus and seconded by Director Emerson, the Directors unanimously approved Item 14.*

#### **15. Unmet Transit Needs Findings**

- a) Consider Resolution 08-09 Concerning Unmet Public Transportation Needs Funding and Program for Fiscal Year 08/09, and**
- b) Direct Staff Regarding Unmet Transit Needs Findings**

Transportation Planner Betty Li provided a Power-Point presentation on the Transportation Development Act's goal and requirements.

#### **PUBLIC COMMENT:**

**Pauline Valdivia, Executive Director  
Jovenes de Antaño**

Ms. Valdivia reiterated the importance of an additional dialysis run for Jovenes de Antaño. Ms. Valdivia stated that Jovenes de Antaño provides transportation to an average of 10 residents to the Gilroy Dialysis Center, 6 days a week. Unfortunately, there are residents that drive themselves or have a family member transport them because there is not enough funding for this service. Currently, Jovenes de Antaño is the primary provider for specialized transportation for the elderly and people with disabilities in the community. Unfortunately, due to insufficient funding, vehicles, and staffing, Jovenes de Antaño has had to refuse service due to lack of capacity..

Ms. Valdivia highly recommended that the Board consider both Unmet Needs recommendations as noted in Resolution No. 08-09 and expressed appreciation for their continued funding support.

**Diane Ortiz, Executive Director  
Hollister Youth Alliance**

Ms. Ortiz stated that the Hollister Youth Alliance is a non-profit organization that serves the youth of San Benito County. The Hollister Youth Alliance serves over 300 children from 1st through 8<sup>th</sup> grade on a daily basis at four different school sites. These students may be considered "at-risk teens" and about 20% of the children at each school site have transportation issues. Ms. Ortiz asked the Board to consider this need as a means of working together as a community to come up with a creative and innovative solution that shows School Districts', Non-Profits', and County Governments', working together to provide a safe passage for the youth in our community.

**Jack Bachofer, Chief Business Officer  
Hollister School District**

Mr. Bachofer spoke to liability issues and stated that school districts are liable for students from the time that they leave their house until they arrive at school and return back home in the evening. This includes children who ride the bus as well as children who walk to school. In the case of the Youth Alliance students using the deviated Fixed Route service, the School District is liable except for the period of time when the student is riding County Transit, at which time liability would fall on County Transit.

Mr. Bachofer stated that the Hollister School District is in full support of adding a deviated Fixed Route after normal Fixed Route service hours as proposed in Resolution No. 08-09.

**Patricia Marquez, Site Coordinator  
Hollister Youth Alliance**

Ms. Marquez emphasized on how important the Hollister Youth Alliance services are for the youth in our community and added that it is very unfortunate that some students are not able to participate in the program because there is a transportation barrier. Ms. Marquez asked the Board to consider supporting the addition of a deviated Fixed Route after normal Fixed Route service hours.

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson stated that everyone may sympathize with the needs mentioned above; however, the issue is not the need, but how to pay for the need.

There was discussion amongst the Board and staff regarding the two Unmet Needs findings.

Although the Council of Governments recognizes that there is a need in the community for the additional dialysis service, the Board expressed concerns with offering service to a limited number of individuals. After receiving the presentation and listening to public comment, the Board determined the following:

- Funding for additional dialysis run for Jovenes de Antaño  
*Unmet Transit Need, Not Reasonable to Meet*
- Funding for additional deviated Fixed Route service for County Express  
*Unmet Transit Need, Reasonable to Meet*

*Upon a motion made by Director Marcus and seconded by Director Emerson, the Directors unanimously approved adopting Resolution No. 08-09 including item No. 2, but not item No. 1.*

**16. Receive Construction Projects Report**

Caltrans District 5, Aileen Loe, provided the construction project update at Dunneville from East of Tequisquito Slough Bridge to East of Fairview Road. The asphalt overlay started last week and it is estimated to be completed in June 2008.

**ADMINISTRATION ISSUES:**

**17. Receive 3<sup>rd</sup> Quarter 2007/2008 Budget Report**

Administrative Services Specialist Kathy Postigo stated that the FY 2007/2008 3<sup>rd</sup> Quarter Budget Report, ending March 31, 2008, summarizes the quarterly expenditures and revenues. Also included in the report were budget adjustment/transfers. Ms. Postigo stated that during the third quarter, total expenditures for COG accounts were \$391,358.

**PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson asked why COG is condoning this kind of expense and added that there must be another way to provide transportation for fewer dollars.

*Upon a motion duly made by Director Marcus and seconded by Director Emerson, the Director's unanimously voted to adjourn the COG meeting.*

**ADJOURN to COG Meeting on Thursday, June 19, 2008 at 2:00 p.m.**