

**SAN BENITO COUNTY
COUNCIL OF GOVERNMENTS
MEETING**

October 16, 2008 2:00 P.M.

MINUTES

MEMBERS PRESENT:

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

STAFF PRESENT:

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

OTHERS PRESENT:

Kerry Theran, Quincy Engineering; David Murray, Caltrans District 5

CALL TO ORDER:

Vice-Chair Botelho called the meeting to order at 2:04 P.M.

A. PLEDGE OF ALLEGIANCE

B. CERTIFICATE OF POSTING

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

C. CLOSED SESSION:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

No. of cases: 3

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 noted a correction to the agenda for the record. Total number of cases under Closed Session should be 2, not 3 cases.

Deputy County Counsel Shirley Murphy stated that there was no reportable action taken under Existing Litigation: COG v. Hollister Inn/Roberts, COG v. K&S Market.

D. PUBLIC COMMENT:

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson stated that COG has to start charging fares that are greater than its service cost, and apply “generally accepted accounting principles”.

Vice-Chair Botelho stated for the record that the COG Board received Joe Thompson’s public comment

correspondence dated September 20, 2008 through October 15, 2008. The correspondence was entered into the public record.

E. COG DIRECTORS' REPORT:

None

F. EXECUTIVE DIRECTOR'S REPORT

None

CONSENT AGENDA:

1. **APPROVE** Council of Governments Transaction Report (Financial Claims) dated September 2008 – Postigo
2. **APPROVE** Council of Governments Meeting Minutes dated September 18, 2008 – Gomez
3. **RECEIVE** Construction Projects Report – Caltrans District 5
4. **SET** Special Meeting for December 11, 2008, Which Combines Regular Meetings of November and December – Postigo

Upon a motion duly made by Director Marcus, and seconded by Director Emerson, the Director's unanimously voted to approve Items 1-4, with an abstention on Item 2 from Director's Edge and Valdivia.

REGULAR AGENDA:

ADMINISTRATION ISSUES:

5. **FISCAL YEAR 2007/2008 Budget Report** – Postigo
 - a. **RECEIVE** Fiscal Year 2007/2008 Budget Report
 - b. **APPROVE** Budget Adjustments/Transfers for Year End Closing June 30, 2008

Administrative Services Specialist, Kathy Postigo provided an overview of the Council of Governments Budget Report and accomplishments for fiscal year 2007/2008, and answered questions from the COG Board.

Director Marcus inquired about the Contracts Special Department Expense under the Transportation Planning State Subvention account.

Ms. Postigo stated that she would have to research what the Contract Special Department Expense was for and report back to Director Marcus.

Director Valdivia inquired about the San Juan Bike Lane project.

Executive Director Lisa Rheinheimer stated that staff will be providing a status report for the San Juan Bike Lane project at the December meeting however, she mentioned that an updated engineer's estimate indicates a construction funding shortfall of approximately \$1.2 million. Staff is exploring various grant opportunities to fund the construction phase of the project.

Upon a motion duly made by Director Emerson, and seconded by Director Valdivia, the Director's unanimously voted to approve Item 5.

6. RECEIVE Report on Council of Governments Formation, Purpose and **APPROVE** Mission Statement – Rheinheimer

Executive Director, Lisa Rheinheimer provided a report and Power Point presentation which covered many of the questions the Board of Directors posed at the July meeting regarding the Council of Governments formation and purpose.

Director Valdivia stated that it is also important to note that the Council of Governments participates and votes on the Housing Element process.

Director Marcus inquired if there are certain grants that are available that only the COG can apply for, and the County Board of Supervisors and/or City Board of Supervisors cannot.

Ms. Rheinheimer stated that two grants that are specifically granted to the COG are the Transportation Development Act, and the State Transportation Improvement Program. It is the COG's responsibility to administer these funds to the City of Hollister and San Benito County, and ensure that they are meeting the needs of San Benito County residents and the people who travel through the County.

Director Marcus recommended adding to the Power Point, a page that clarifies the COG Directors' responsibilities and restrictions such as the MOU, legislation, and Brown Act information, for future presentations.

PUBLIC COMMENT:

Joe Thompson
Tres Pinos, CA

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. Mr. Thompson stated that not one member of the COG Board was elected to the COG by San Benito County voters.

Board members were pleased with the report and recommended that staff include the recommendations that were noted above.

Upon a motion duly made by Director Valdivia, and seconded by Director Edge, the Directors unanimously approved Item 6.

TRANSPORTATION ISSUES:

7. RECEIVE Update on the Highway 25 Bypass Project and **APPROVE** Contract Change Orders for an Amount Not to Exceed \$34,699 – Dinkuhn

Transportation Planning Manager Mary Dinkuhn stated that the project construction is 94% complete.

The contractor is completing final items of work for the project

Ms. Dinkuhn stated that with regards to the AC shoulder cracks, the contractor submitted a plan for correction that was rejected by staff and the consultant team. The contractor has been directed to reconstruct roadway shoulder throughout the project where lime treatment of soil was not completed per project plan. This work, as well as consultant time required to review the test results, is being completed at the Contractor's expense.

Staff is concerned that the delay of work will extend the project's completion schedule beyond November. Staff asked the Board for their input with regards to rescheduling the "Grand Opening Ceremony".

After brief discussion, the Board recommended that staff delay the “Grand Opening Ceremony” until the project is closer to completion.

There was discussion regarding a written complaint that was submitted to staff and the Board from a local business owner, who stated that his business is being greatly affected by the sound wall that was placed in front of his business.

Staff mentioned that the sound wall has been part of the project plan and the property owner was aware of it when he entered into an agreement with COG, where COG obtained the access rights onto the roadway.

After discussion between the Board and staff, the Board recommended that staff forward the property owner’s complaint to County Counsel to determine whether or not COG has a legal obligation to the property owner.

There was discussion between the Board and staff regarding some of the change orders.

Ms. Dinkuhn noted that because the price in asphalt has come down, there may be a cost savings of approximately \$175,000 with change order No. 28-S1 (previously approved) for Asphalt Price Index Adjustment; however staff will not be certain until the final asphalt phasing cost is determined.

Upon a motion duly made by Director Edge, and seconded by Director Emerson, the Directors unanimously approved Item 7.

8. Highway 25 Safety and Operational Enhancements Project – Dinkuhn

- a. **RECEIVE** Update on the Project
- b. **APPROVE** Agreement for Possession and Use with Property Reserve, Inc.,
- c. **APPROVE** Agreement with MNS Engineering for Construction Management Services,
- d. **APPROVE** Plans and Bid Documents for Project, and
- e. **AUTHORIZE** Staff to Solicit Bids for Construction.

Transportation Planning Manager, Mary Dinkuhn reported that the design of the Highway 25 Safety and Operational Enhancements Project is complete and has been approved by Caltrans. Following the Boards approval of a Possession and Use agreement with Property Reserve, Inc., all right-of-way necessary to construct the project will have been acquired. The project is ready to be advertised for construction.

There was discussion between Board members and staff regarding the use of Redevelopment Agency funds for this project.

Upon a motion duly made by Director Marcus, and seconded by Director Valdivia, the Directors unanimously approved Item 8(b).

Ms. Dinkuhn stated that in May of 2008, staff solicited funding proposals for construction management services from three consultant firms which were included on COG’s list of approved on-call consultants for construction management services. Two firms, Quincy Engineering and MNS Engineers, provided proposals in response to staff’s request. Although a third proposal was not provided, both proposals received had cost estimates that were consistent with the estimates received in 2005. Based on evaluation of the proposals, and a more favorable cost, MNS Engineers was selected by the review panel to provide the services.

There was discussion amongst staff and Board members regarding the contracted dollar amount with MNS Engineering. Ms. Dinkuhn explained that the contract agreement with MNS Engineering is for an amount not to exceed \$914,830.

Upon a motion duly made by Director Marcus, and seconded by Director Emerson, the Directors unanimously approved Item 8(c).

Ms. Dinkuhn reported that plans, specifications, and bid documents were prepared according to Caltrans standards and review and have been approved by Caltrans. Ms. Dinkuhn noted that the standard contract was not included; however staff will be making it a part of the bid document. Staff will also be removing the requirement in specifications for “all risk builders insurance” because it is not necessary for a project of this type.

Upon a motion duly made by Director Marcus, and seconded by Director Valdivia, the Directors unanimously approved Item 8(d) as modified by staff and reviewed and signed by Caltrans District 5 and Item 8(e) authorizing staff to solicit bids for Construction once the modifications are finalized.

9. APPROVE Comment Letter Regarding the Gavilan San Benito Campus and Fairview Corners Projects Environmental Impact Report – Rheinheimer

Executive Director Lisa Rheinheimer went over the revised comment letter that was distributed to Board members.

After extensive discussion amongst Board members, staff, and Counsel, the COG Board made the following recommendations and changes to the letter:

- Reframe letter to separate comments between the two projects.
- Fairview Corners Project should pay for an update of the Traffic Mitigation Impact Fee Study
- Site specific mitigations should be made part of the project construction
 - Fairview Road should be widened to a minimum of 4-lanes with bicycle lanes from HWY 25 to Sunnyslope Road.
 - Airline Highway should also be widened to 4-lanes from Fairview Road to Sunset road with bicycle lanes.
- New traffic signals should be included as part of the project construction at Fairview Road and HWY 25, Fairview Road and Cielo Vista, and Fairview Road and Hillcrest Road.
- Traffic impact will be felt along Fairview Road, Airline Highway, Union Road, HWY 25, HWY 156, and Shore Road corridors.

Upon a motion duly made by Director Marcus, and seconded by Director Edge, the Directors unanimously approved Item 9 authorizing the Executive Director to sign the letter once the changes noted above are made.

10. RECEIVE Report on California State Budget for Fiscal Year 2008/2009 Relating to Transportation Funding - Rheinheimer

Executive Director, Lisa Rheinheimer reported that Fiscal year 2008/09 State Budget was approved in September and largely spares transportation funding. The majority of the \$15.2 billion in cuts were generally in non-transportation programs. Public Transportation Account funds were diverted to other programs.

Ms. Rheinheimer noted that the City of Hollister, the City of San Juan Bautista, and the County of San Benito will be receiving Proposition 42 funding. In addition, the Council of Governments and the County will receive funds from the State Transportation Improvement Program which is funded in part with Proposition 42 funds and Proposition 1B funds.

Ms. Rheinheimer announced that COG recently received notification that there is approximately \$93,000 in Bond funds to be used for Transit Security. Staff will be working with the State, Tony Mercado from

MV Transit, as well as the County and the Office of Emergency Services to determine what types of projects will be beneficial to the community.

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

ADJOURN TO SPECIAL COG MEETING DECEMBER 11, 2008. AGENDA DEADLINE IS DECEMBER 3, 2008 AT 12:00 P.M.