

**SAN BENITO COUNTY
COUNCIL OF GOVERNMENTS
MEETING**

January 15, 2009 2:00 P.M.

FINAL MINUTES

MEMBERS PRESENT:

Chair Botelho, Director De La Cruz, Director Edge, Director Emerson, Director Gomez

STAFF PRESENT:

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

OTHERS PRESENT:

David Murray, Caltrans District 5; Steve Mellon and Kerry Theran, Quincy Engineering; Brenda Aguilar-Guerrero, Erickson, Beasley, Hewitt & Wilson LLP; Tony Mercado, MV Transportation

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 De La Cruz and seconded by Director Emerson, the Directors unanimously approved the Certificate of Posting.

C. PUBLIC COMMENT: None

D. PRESENT Certificates of Appreciation to Outgoing Board Members

Vice Chair Botelho presented certificates of appreciation to outgoing Board members Don Marcus and Brad Pike.

Board members expressed gratitude to Director Marcus for his dedication and service to the Council of Governments.

Vice Chair Botelho acknowledged Chair Pike (who was not present) for his service and dedication to the Council of Governments and mentioned that staff would deliver his certificate.

E. 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: COG v. Hollister Inn/Roberts, COG v. K&S Market.

2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: COG Executive Director

Deputy County Counsel Shirley Murphy stated that this item would be continued until 5:00 p.m.

F. ELECT COG Chairperson for 2009

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Directors elected Anthony Botelho as COG's Chairperson for 2009.

G. ELECT COG Vice Chairperson for 2009

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Directors elected Rick Edge as COG's Vice Chairperson for 2009.

H. COMMITTEE APPOINTMENTS

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

Chair Botelho appointed Victor Gomez as Associate Member to AMBAG for 2009.

Chair Botelho appointed himself as the Alternate Member to AMBAG for 2009.

2. Delegate and Alternate to the California Association of Councils of Governments (CALCOG)

Chair Botelho appointed Rick Edge as Delegate to CALCOG for 2009. Chair Botelho appointed Doug Emerson as Alternate to CALCOG for 2009.

3. Two Members to the Ad-Hoc South Santa Clara County/San Benito County Mobility Partnership

Chair Botelho appointed himself and Alternate Director Pat Loe to the Ad-Hoc Mobility Partnership for 2009.

4. Representative to Speak on Behalf of COG at California Transportation Commission Meetings

Chair Botelho appointed Director De La Cruz as COG's representative at California Transportation Commission Meetings and Alternate Director Pat Loe as the alternate.

I. COG DIRECTORS' REPORT:

Director Emerson welcomed Director De La Cruz and Director Gomez to COG.

Chair Botelho directed staff to provide a presentation on the list of projects that were included with the Traffic Impact Fees as a benefit to new members of the Board.

J. EXECUTIVE DIRECTOR'S REPORT

Executive Director Lisa Rheinheimer welcomed new Board members, Director Gomez and Director De La Cruz to COG and encouraged them to call staff with any questions or concerns they may have.

Ms. Rheinheimer announced that there will be a Bicycle and Pedestrian Advisory Committee Public Meeting February 3, 2009 at the Hollister Community Center from 6:30 p.m. to 8 p.m.

There will be a public meeting for the San Juan Road Interchange Project February 5, 2009 at the Aromas San Juan School from 4:00 p.m. to 7:00 p.m.

Ms. Rheinheimer noted that Caltrans distributed information regarding upcoming planning grants. Ms. Rheinheimer asked the Board to let staff know if there are any projects that they are interested in moving forward so that staff can verify if the project qualifies for the grant.

Director De La Cruz directed staff to email Board members with the dates of upcoming meetings.

Public Comment:

Item J.

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson commented on the Executive Director's report and stated that she did not mention the "taxpayer injustice". Mr. Thompson stated that the report also failed to mention the need for an intermodal facility for the agricultural community.

CONSENT AGENDA:

1. **APPROVE** Council of Governments Transaction Report (Financial Claims) dated December 2008 and November 2008 – Postigo
2. **APPROVE** Council of Governments Special Meeting Minutes dated December 11, 2008 – Gomez
3. **RECEIVE** Construction Projects Report – Caltrans District 5
4. **RECEIVE** Fiscal Year 2007/2008 Final Audit Report – Postigo/Grace
5. **APPROVE** Contract Between Council of Governments and URS Corporation for Design Services During Construction of the Highway 25 Safety and Operational Enhancements Project – Dinkuhn
6. **APPROVE** List of Project Nominations to be Submitted for the State Highway Operation and Protection Program (SHOPP) – Lezama
7. **APPROVE** Contract with Shipper Design for Bike Week Consultation Services – Lezama
8. **Airport Land Use Compatibility Plan** – Lezama
 - a) **ADOPT** Resolution No. 09-02 Accepting AB2766 Emission Reduction Grants Program Funds in the Amount for \$45,000 for the Airport Land Use Compatibility Plan and
 - b) **APPROVE** Memorandum of Understanding with the City of Hollister and County of San Benito for the Airport Land Use Compatibility Plan for the Hollister Municipal Airport.
9. **ADOPT** Resolution 09-03 and Resolution 09-04 Authorizing the Executive Director, Transportation Planning Manager, and Transportation Planner to Apply for and Accept Financial Assistance from the State of California's Office of Homeland Security – LiOwen

Chair Botelho pulled Items 4, 8, and 9 for discussion.

Upon a motion duly made by Director De La Cruz, and seconded by Director Edge, the Director's unanimously voted to approve Items 1-3 and Items 5-7.

Item 4

Director Emerson inquired as to how often the Council of Governments rotates its Auditor.

Executive Director, Lisa Rheinheimer stated that the general practice is to rotate the Auditor every three years. The current auditor is on year two of its contract.

Director De La Cruz commented on the auditor's recommendation regarding the Management Report and directed staff to provide a report to the Board every three months showing what staff has done to meet the auditor's recommendation.

Public Comment:
Marvin Jones

Mr. Jones's comment was in regards to the closed session item. Mr. Jones stated that the Board of Supervisor and City Council meetings hold closed session at the end of meetings so that staff is able to return to work and inquired if COG should be doing the same.

Upon a motion duly made by Director De La Cruz, and seconded by Director Gomez, the Director's unanimously voted to approve Item 4.

Item 8

Executive Director, Lisa Rheinheimer asked to pull Item 8 and continue Item 8(b) to the February meeting due to last minute changes that were made, however staff did ask that the Board adopt Item 8 (a).

Upon a motion duly made by Director Emerson, and seconded by Director De La Cruz, the Director's unanimously voted to approve Item 8 (a).

Upon a motion duly made by Director Emerson, and seconded by Director Edge, the Director's unanimously voted to continue Item 8 (b) to the February meeting.

Item 9

Public Comment:
Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that the COG Board is "unconstitutional".

Upon a motion duly made by Director Edge, and seconded by Director Emerson, the Director's unanimously voted to approve Item 9.

REGULAR AGENDA:
TRANSPORTATION ISSUES:

10. RECEIVE Update on the Highway 25 Bypass Project and **APPROVE** Contract Change Orders for an Amount not to Exceed \$19,100 – Dinkuhn

Transportation Planning Manager Mary Dinkuhn stated that the project construction is 97% complete. The contractor anticipates construction will be complete in mid February 2009.

Staff is planning a soft grand opening ceremony which will occur prior to the opening of the Bypass to the public.

There was discussion between the Board and staff regarding some of the change orders and standard guidelines that are followed for budgeting contingency items.

Kerry Theran from Quincy Engineering stated that there is generally a 10% contingency set aside for projects and this project is still within the guidelines at about 10% -11%, which is reasonable for this project.

Upon a motion duly made by Director Emerson, and seconded by Director Edge, the Directors unanimously approved Item 10 for an amount not to exceed \$19,100.

11. RECEIVE Report on California State Budget for Transportation Funding and Potential Federal Economic Stimulus Funding – Rheinheimer

Executive Director Lisa Rheinheimer stated that the Fiscal Year 2008/09 State Budget was approved in September 2008 but due to the economic downturn, it has a projected shortfall of \$40 billion over the next 18 months. At the federal level, President-elect Obama and Congress are deliberating over an economic stimulus bill that would provide funding for transportation and other infrastructure projects.

Ms. Rheinheimer stated that based on reports from the California Transit Association and the California Councils of Governments, it appears that State Transit Assistance Funding will be reduced by half. This reduction equates to approximately \$120,000 for San Benito County transit operations.

Ms. Rheinheimer mentioned that the Council of Governments issued a bid for the Highway 25 Safety and Operational Improvements project and will delay opening bids to February 3, 2009, pending more information from the State.

In total, the San Benito County region has over \$12 million worth of projects in the FY 2008/09 budget at risk if transportation funding is suspended.

Director Emerson inquired about Proposition 42 funds and whether they have been suspended.

Ms. Rheinheimer stated that she would have to research Proposition 42 funds and report back to Director Emerson.

Chair Botelho advised the Cities and County to be careful with spending State funds because they may not receive the funds that they originally planned on receiving.

Ms. Rheinheimer reviewed the economic stimulus package and answered questions from the Board. Ms. Rheinheimer stated that COG will provide an updated report at the February meeting.

Public Comment:

Joe Thompson

Mr. Thompson asked why the Board is looking for more persecution on the taxpayers and added that the policy from the State and Federal government is backwards.

Marvin Jones

Mr. Jones commented on the list of projects that may qualify under the stimulus project, and reminded the Board that there may be some “shovel ready projects” however, there may also be change orders attached to those projects.

12. COMMENT on the Notice of Preparation for the El Rancho San Benito Master Community Specific Plan – Rheinheimer

Executive Director, Lisa Rheinheimer reported that the San Benito County Planning Department has issued a Notice of Preparation for the El Rancho San Benito Master Community Specific Plan. The Planning Department is seeking comments and suggestions on the scope and content of the Environmental Impact Report that will be prepared for the project.

Ms. Dinkuhn reviewed the comment letter that was prepared by staff and requested that the Board provide their input.

Director Gomez voiced concerns about the air quality and traffic impacts that this project will impose on the Cities.

Ms. Rheinheimer stated that the project will have to pay into the traffic impact fee program to mitigate its impacts to the road.

Dave Murray, from Caltrans District 5, stated that Caltrans has been working with the developer and consultants on the traffic analysis that is being done for the Environmental Impact Report. Mr. Murray stated that Caltrans looks for cumulative impacts and project specific impacts. Mr. Murray stated that Caltrans' comment letter will focus on assuring that they identify these impacts and adhere to the guidelines, as well as advise that any improvements that are made on the state highway will require an encroachment permit.

Chair Botelho stated that it is very important that the Board continues to receive updates on this project so that they are able to provide comment.

Public Comment:
Joe Thompson

Mr. Thompson reminded the Board about the benefits associated with rail transportation and inquired if the comment letter includes information about the rail branch line.

Chair Botelho stated that Mr. Thompson made a valid point and directed staff to make a reference in the comment letter about maintaining the rail line for potential freight service.

Dave Murray stated that Caltrans comment letter will include a similar reference regarding the rail branch line.

Upon a motion duly made by Director Emerson, and seconded by Director Gomez, the Directors unanimously approved that the Executive Director include comments regarding rail to the letter and authorize the Chair to sign the letter.

13. San Juan Highway Bike Lanes Project – Lezama

- a) **RECEIVE** Presentation on the San Juan Highway Bike Lanes Project and
- b) **ADOPT** Resolution Number 09-01 Accepting AB2766 Emission Reduction Grants Program Funds in the Amount of \$5,000 for the San Juan Highway Bike Lanes Project.

Due to time, Ms. Rheinheimer recommended that the Board continue Item 13 (a) and asked that the Board adopt Item 13 (b).

Public Comment
None

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

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

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