

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

February 18, 2010 2:00 P.M.

FINAL MINUTES

MEMBERS PRESENT:

Chair Gomez, Director De La Cruz, Director Bilich, Director Botelho, and Director Emerson

STAFF PRESENT:

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

OTHERS PRESENT:

Rob Snyder, Pavex Construction; Tony Mercado, MV Transportation; Carla Vincent, Parsons; Jeff Bingham, Parsons

CALL TO ORDER:

Chair Gomez called the meeting to order at 2:01 P.M.

A. PLEDGE OF ALLEGIANCE

B. CERTIFICATE OF POSTING

Upon a motion duly made by Director Botelho, and seconded by Director Emerson, the Director's unanimously approved the Certificate of Posting.

C. Committee Appointments

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

Chair Gomez appointed Maggie Bilich as Delegate to CALCOG for 2010. Chair Gomez appointed Doug Emerson as Alternate to CALCOG for 2010.

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

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

D. PUBLIC COMMENT:

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson expressed gratitude for the Board's open door policy.

Mr. Thompson stated that the lawsuit he has filed on behalf of the taxpayers has been resolved in two of the three counts. The Mobility Partnership meetings are now opened to the public and he received a response to his Public Records Act request. The third count has not been resolved, he is asking that the Board obey the Constitution and respect the civil and constitutional rights of the citizens of three districts because they don't have an elected representative on the COG Board.

Chair Gomez stated for the record that the COG Board received Joe Thompson's public comment correspondence dated June 19, 2009 through February 17, 2010. The correspondence was entered into the public record.

E. EXECUTIVE DIRECTOR'S REPORT: None

F. BOARD OF DIRECTOR'S REPORTS:

Director Botelho directed staff to provide an update on the Highway 25 Bypass route transfer at a future meeting.

Director De La Cruz commended Ms. Rheinheimer for addressing a street sign issue that he brought to her attention. Director De La Cruz stated that he is going to provide Ms. Rheinheimer with a list of items between both the City and County that need to be addressed, such as removal of weeds and striping between City and County roads etc. so that Ms. Rheinheimer can provide a status report which would include the responsible jurisdiction to the COG Board.

Director Emerson stated that another venue that may be appropriate to handle City and County issues is the Inter-Governmental Committee.

G. Closed Session:

1. Conference with Legal Counsel – Existing Litigation

No. of cases: 1

Authority: California Government Code Section 54956.9(a)

Joseph P. Thompson v. San Benito County Council of Governments, San Benito County Board of Supervisors

COG reconvened from closed session at 2:23 p.m.

Deputy County Counsel Shirley Murphy reported out of closed session that the COG Board unanimously voted to authorize San Benito County Counsel's office to defend the case Joseph P. Thompson, individually and doing business as San Benito County Small Business Incubator, Abraham Lincoln Learning Fortress for Responsible Enterprise Education, and on behalf of all San Benito County taxpayers similarly situated vs. Council of San Benito County Governments.

CONSENT AGENDA:

1. **APPROVE** Council of Governments Draft Meeting Minutes Dated January 21, 2010 – Gomez
2. **APPROVE** Council of Governments Transaction Report (Financial Claims) Dated January 2010 – Postigo
3. **Auction of COG Owned Building** – Rheinheimer
 - a. **MAKE** a Finding that the Council of Governments Owned Building at the Former South Valley Trailer Location (APN 053-380-003) Is Not Required for Public Use
 - b. **AUTHORIZE** the Executive Director to Hold a Public Auction at the Council of Governments Conference Room, 330 Tres Pinos Road, Suite C-7, Hollister, California for Sale of Said Building per Government Code Section 25363 (4/5 vote required)
4. **APPROVE** Amendment No. 1 to the Contract with Schipper Design for the Design and Print of Safe Routes to School Flyers and Bikeway Brochures for an Amount Not to Exceed \$10,000 - Lezama
5. **RECEIVE** Council of Governments FY 09/10 Budget Report – Postigo

6. **RECEIVE** Update on the Buena Vista Street Light Project Located at State Route 156 – Lezama
7. **Fiscal Year 2010/2011 Transportation Planning Grants – LiOwen**
 - a. **ADOPT** Resolution 10-01 to Sponsor the San Benito County Local Transportation Authority’s Application for Transportation Planning Grants for Fiscal Year 2010/2011.
 - b. **SUPPORT** AMBAG’s Partnership Planning Grant for an Origin and Destination Survey.
8. **RECEIVE** Construction Projects Report – Caltrans District 5
9. **APPROVE** Amendment to Employment Agreement #4 Between the County of San Benito and the Council of San Benito County Governments and Lisa Rheinheimer, COG Executive Director, Which Adds “Accomplishments in 2009 and Performance Goals and Objectives for 2010”. – Postigo
10. **APPROVE** Preliminary List of Projects for Possible Jobs for Main Street Act of 2010 – Rheinheimer
11. **RECEIVE** Update on the San Juan Road Interchange Project at US 101 and the Red Barn and **APPROVE** Letter of Support to Congressman Farr – Rheinheimer

Ms. Rheinheimer noted a correction on Item 3. The correct APN is 053-380-015, which was also noted in the staff report.

Chair Gomez pulled Items 4, 5, and 7 from the Consent Agenda.

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director’s unanimously approved Items 1-3(with the corrected APN number),6, and 8-11 of the Consent Agenda.

Item 4

Director De La Cruz inquired about the amendment to the contract with Schipper Design. Director De La Cruz believed that the contract agreement changed from when it originally went out to bid and other bidders were not given the opportunity to incorporate their logo on the printed materials.

Transportation Planner, Veronica Lezama stated that staff received three bids which all came in closer to \$14,000 and included design and printing services. Staff received a grant for \$10,000, so they decided to proceed with design services and omit printing services until funding could be secured for printing services. Schipper Design was willing to sponsor the printing service with the condition that they would be able to include their logo on the printed materials.

Ms. Rheinheimer noted that the printing and design services were included in the request for proposal as separate items so bidders were aware that optional services could be selected. The proposals were reviewed and the selection was made based on the quality and cost of the proposal.

Director Botelho stated that he was in support of the contract with Schipper Design and with the fact that they are a local company who has done great work for COG in the past.

There was brief discussion between staff and the Board regarding the selection process for this contract.

Upon a motion duly made by Director Emerson, and seconded by Director Botelho, the Director’s approved Item 4, with Director De La Cruz voting No.

Item 5

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that this is part of the unresolved cause of action in the taxpayer’s lawsuit against COG, because the expenditure not just by two county districts citizens and taxpayers, but also between all five county districts taxpayers. Mr. Thompson stated, “leakage occurs under our current system” which was the system in Virginia until the Virginia State Supreme Court declared it unconstitutional in Virginia.

Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously approved Item 5.

Item 7

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that the same principle is going on with Item 7. The grant money is coming from all 5 Districts in the County. Mr. Thompson stated that there is an illegal process occurring with this item as well.

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

REGULAR AGENDA

Transportation Items:

12. APPROVE Semi Final Payment for Close-out of the Highway 25 Bypass Project – Rheinheimer

Ms. Rheinheimer stated that staff is working to conclude close-out items relating to the Highway 25 Bypass Project. One outstanding item is a semi final payment to Graniterock, dba Pavex Construction Division for various exceptions to the Council of Governments' proposed final estimate. The last semi final payment will be for the plant establishment, which will conclude in 2012.

Ms. Rheinheimer stated that Graniterock has dropped all Notice of Potential Claims and are requesting to be paid within the contract.

Staff recommended that the Board approve a semi final payment of \$833,273.48 to Graniterock, dba Pavex Construction Division. The last semi final item, plant establishment at Santa Ana Creek, is undisputed and will be paid in 2012.

Ms. Rheinheimer noted that Rob Snyder, the General Manager on the job, was present to answer any technical questions from the Board.

Director De La Cruz inquired about the final payment of \$836,223.48.

Ms. Rheinheimer stated that the final payment of \$836,223.48 includes the \$2,950.00 of the plant establishment work.

Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously approved Item 12.

13. Highway 25 Safety and Operational Enhancements Project – Rheinheimer

- a. **RECEIVE** Update on the Highway 25 Safety Project,
- b. **APPROVE** Daytime Detour Plan, and
- c. **APPROVE** Break in the Median Barrier at Grant Line Road.

Ms. Rheinheimer reported that work continues in February with construction scheduled to be complete next May. The contractor is nearly complete with Stage I of the construction on the west side and has begun construction of Stage II on the east side of the project. Winter rains have slowed construction considerably. Pavex Construction will continue work as weather permits.

Ms. Rheinheimer stated that the construction manager has proposed a daytime detour of Highway 25. The detour would allow the contractor to complete paving during the spring given warmer temperatures during the daytime. The real advantage at this time is that the project would be completed a couple of weeks to one month sooner than originally scheduled. Staff is not sure if there will be a cost savings at this time.

Chair Gomez inquired about the anticipated opening date of the project.

Ms. Rheinheimer stated that the anticipated opening date of the project is in early May.

Director Emerson inquired about the detour hours.

Ms. Rheinheimer stated that the daytime detour hours would be between 7am – 5pm, approximate duration per detour would be 5-10 days, with the actual dates of the detour yet to be determined.

There was discussion about directing traffic onto San Felipe Road and avoiding Highway 25 altogether. There was concern about the traffic impact on the Highway 152 and Frazier Lake Road intersection.

Ms. Rheinheimer stated that the Technical Advisory Committee discussed several issues at their meeting and one of the recommendations they made was to have a changeable message sign in a couple of areas so that commuters can make an informed route decision.

Director Botelho inquired about the cost savings with day work vs. night work and working 24 hours a day.

Ms. Rheinheimer stated that she is waiting to hear from the project manager regarding whether or not there is a cost savings.

Ms. Rheinheimer asked Rob Snyder from Pavex Construction for his expertise with regard to detours and doing night work.

Mr. Snyder stated that in his experience with detours he wouldn't expect there to be much if any cost savings because nighttime work requires lighting equipment and there is additional labor costs due to special shifts working at night. There are also costs associated with the detours due to signage that is required.

Ms. Rheinheimer recommended that the Board allow staff to move forward with the detour if necessary.

Upon a motion duly made by Director Emerson, and seconded by Director Bilich, the Director's unanimously approved item 13b.

Ms. Rheinheimer stated that a break in the median barrier is necessary to allow access to Grant Line Road for property owners along the east side. A solution has been agreed to by Caltrans and the designer where a two way center lane on Highway 25 at Grant Line would provide access both to the north and south. The property owners and Caltrans have both agreed to this new arrangement.

The Board expressed concern with having a dual left turn lane especially for a big rig truck.

Ms. Rheinheimer stated that Caltrans reviewed the solution and approved the plans and the property owners are satisfied with having storage space for one truck.

Staff asked that the Board approve the break in the median barrier at Grant Line Road

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

14. APPROVE Amendment to Agreement for Purchase of Property – Rheinheimer

Ms. Rheinheimer stated that the Council of Governments has acquired all of the right-of-way needed for the Highway 25 Safety and Operational Enhancements project. An amended agreement with one property owner is necessary to provide access to Grant Line Road.

Upon a motion duly made by Director Emerson, and seconded by Director Bilich, the Director's unanimously approved Item 14.

Ms. Rheinheimer asked to move Item 18 up on the agenda.

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's voted to move Item 18 up next on the agenda.

3:00 P.M. Public Hearing (Or As Soon Thereafter As the Matter May Be Heard)

18. Unmet Transit Needs Hearing – LiOwen

- a. **RECEIVE** Report on Unmet Transit Needs Hearing.
- b. **OPEN** Public Hearing.
- c. **CLOSE** Public Hearing.
- d. **DIRECT** Staff to Return to the Council of Governments with a Recommendation at the May 20, 2010 Meeting.

Transportation Planner, Betty LiOwen provided a report on the Unmet Transit Needs.

Chair Gomez opened the Public Hearing at 3:10 p.m.

PUBLIC COMMENT:

**Lorna Gilbert, Director Special Services
County Office of Education & School Districts
Homeless Liaison**

Ms. Gilbert stated that she was asked to share the mandates the schools face from the McKinney-Vento Homeless Education Act. Ms. Gilbert provided a brochure which provided an overview of the McKinney-Vento Homeless Education Act. Ms. Gilbert stated that one of the mandates is to assist children from transitioning or homeless families with transportation costs.

Ms. Gilbert provided an example: If there is a first grade student who requires County Express transportation, he/she is too young to travel alone as a result, 6 tokens are required to get to and from school for both child and adult in one day. Two tokens are required for the child and adult to get to school and one token is required for the adult to return home. The reverse process occurs after school to pick the child up.

Ms. Gilbert stated that the school districts are finding that this is where there is a tremendous amount of expense; therefore, they are asking the Board to consider an alternative option. Perhaps, a flat fee monthly pass or a volume discount for schools on the purchase of tokens.

Director Botelho inquired what the typical length of time is that a student is considered homeless.

Ms. Gilbert stated that the state homeless liaison coordinator looks at the situation from school year to school year and often times they've found that the child is considered homeless for at least the rest of that school year.

Dale Rosskamp

Mr. Rosskamp stated that his child uses the Dial-A-Ride service. Mr. Rosskamp stated that normally you hear complaints or bad press, but he came to the meeting to state that the Dial-A-Ride service is essential. Mr. Rosskamp stated that he has two children that get out of school at essentially the same time. He is able to pick up one child during his lunch hour and the other child is able to use the Dial-A-Ride service to safely return home.

Mr. Rosskamp stated that if Board members ever question the service, he encouraged them to ride the bus when schools get out so they can see for themselves that the buses are filled with children of working class parents who want to ensure that their children get a safe ride home.

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson stated that there's good and bad in both the public and private sector, but asked that if the public option worked would we be facing all of the financial ruin that is facing us at all three levels of government today. Mr. Thompson stated that it would be cheaper to buy people automobiles or hire limousines to provide transportation service.

Chair Gomez closed the Public Hearing at 3:22 p.m.

Director Botelho commented that the State of California passed an act that makes it a requirement to provide public transportation and he is pleased that public transportation service is provided in this County. Director Botelho stated that there is a lot of need in the community for the homeless and it's a growing problem. He encouraged a partnership with the school districts, City, and County to try to provide these services in our community. He mentioned that a fellow Board member as well as others in the community who cannot drive relies on the service.

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's directed staff to return to the Council of Governments with a recommendation at the May 20, 2010 meeting.

15. Draft 2010 Regional Transportation Plan – Lezama

- a. **RECEIVE** and **COMMENT** on the Draft 2010 Regional Transportation Plan; and
- b. **AUTHORIZE** Release of the Draft Plan for a 45-Day Public Review Period, Starting February 24, 2010.
- c. **SET** Public Hearing Date on the Draft Plan and Environmental Impact Report for March 18, 2010.

Ms. Rheinheimer stated that the Council of Governments has completed the Draft 2010 Regional Transportation Plan. Staff added a Purpose and Need statement in the project description section of Chapter 4 – Action Plan for the San Juan Road Interchange Project, U.S 101 Improvement Project (Route 129 to Monterey Street in Gilroy), and the State Route 152 Realignment Project. These corrections entailed matching project costs with financial projections and adding the Hospital Road and Union Road Bridges to the financially constrained project list.

Staff recommended that the Board authorize the release of the Draft Plan for a 45-Day Public Review period, starting February 24, 2010 and set the public hearing date on March 18, 2010 at 2:00 p.m. at the Board of Supervisors Chambers.

Director Botelho asked if they should consider incorporating the Union Road and Highway 156 Improvement in the Plan as well.

Ms. Rheinheimer stated that the project study called for a \$4 million construction project and COG does not have the funds to construct the project at this time. In addition, a large portion of the project would be considered throw away given construction of the Route 156 Project.

Chair Gomez inquired if there would be any issues if the Highway 156 Improvements Project does not go through and the Union/Mitchell Project is not included in the Plan.

Ms. Rheinheimer stated that the Union/ Mitchell Project could be included in the Plan however; a \$4 million project from the financially constrained list would have to be bumped from the Plan. Ms. Rheinheimer also mentioned that if the Union/Mitchell Project is not included in the Plan the project cannot move forward.

Director Botelho believed that the Union/Mitchell Project should be included in the constrained list because he does not believe that the Highway 156 Improvements Project will move forward due to ongoing court proceedings.

Director Botelho also mentioned that he believed the Orchard and Fairview/Prescott and San Juan Highway Improvements noted on the constrained list have already been completed.

Ms. Rheinheimer stated that the Plan Project List went through the Cities and County to ensure that it was up to date and they did not remove the project from the list, however, she will go back to the Cities and County to make sure that the list is correct.

Director Emerson stated that there may not be a court decision on the Highway 156 Project for at least one year; therefore, he was in support of moving forward with the current Draft Plan as is and leaving out the Union/Mitchell project. Director Emerson stated that if something were to happen with the Highway 156 Project, the Plan would have to be revisited anyway.

PUBLIC COMMENT:

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson expressed his continued objection to the 2000, 2005, and the 2010 Regional Transportation Plans. He stated that the proposed Plan continues to violate the constitutional rights of three County districts citizens. It burdens taxpayers of San Benito County with two transit agencies, when even one transit agency is unacceptably wasteful of the County's tax dollars. Mr. Thompson asked the Board to reject the Plan and abolish this Joint Powers Authority. Mr. Thompson stated that the private sector has been frozen out of this discussion by not having an Automobile Policy Committee or a Railroad Advisory Committee.

Chair Gomez stated he was comfortable moving forward with the Draft Plan as is.

Director's Botelho and De La Cruz asked if the projects can be amended at any time.

Ms. Rheinheimer stated that a project may be added to the Plan at any time, the Board would just have to amend the Plan and the Environmental Document. Ms. Rheinheimer noted that this Plan will be updated in two years.

Upon a motion duly made by Director Emerson, and seconded by Director Bilich, the Director's unanimously voted to approve Item 15b and 15c.

16. ADOPT Resolution 10-02 to Support the Local Taxpayers, Public Safety, and Transportation Protection Act of 2010.

Ms. LiOwen reported that the Local Taxpayers, Public Safety, and Transportation Project Act of 2010 would amend the Constitution to constrain the State of California's authority to redirect or make changes to the state and local resources and their allocation after October 21, 2009. If the amendment passes, the State Controller would have to reimburse the affected local governments or accounts within 30 days.

PUBLIC COMMENT:

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that the highway bill and gas taxes have been hijacked by Joint Powers Authorities to run public option transit.

Marvin Jones
Hollister, CA

Mr. Jones comment was to take the word "taxpayer" out of the title because there is no protection for the taxpayer in the State of California or the County of San Benito.

Board members stated that they supported the resolution because it's a way to help protect our local funds.

Upon a motion duly made by Director Bilich, and seconded by Director Emerson, the Director's unanimously voted to approve Item 16.

ADMINISTRATIVE ITEMS:

17. REVIEW and COMMENT on Fiscal Year 2010/2011 Budget Assumptions – Postigo

Administrative Services Specialist, Kathy Postigo reported that staff is beginning to prepare a draft fiscal year 2010/2011 Budget. In preparing the draft budget staff assumed various revenues based on the proposed State Budget and anticipated programs and projects in the coming fiscal year.

Staff will present the draft fiscal year 2010/2011 budget to the Board of Directors at the March 18, 2010 meeting. The Board may consider establishing an ad-hoc committee to review the budget or the Board may also consider directing staff to schedule budget hearings to solicit public comment, although not required by statute.

Director De La Cruz was in support of having budget hearings.

Ms. Postigo stated that in the past the Board has directed staff to schedule budget hearings.

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

ADJOURN TO COG MEETING MARCH 18 2010. AGENDA DEADLINE IS MARCH 9, 2010 AT 12:00 P.M.