

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

**January 21, 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; Supervising Mechanic, Pat Dunn

**OTHERS PRESENT:**

Dave Murray, Caltrans District 5; Tony Mercado, MV Transportation

**CALL TO ORDER:**

Chair Botelho called the meeting to order at 2:00 P.M.

**A. PLEDGE OF ALLEGIANCE**

**B. CERTIFICATE OF POSTING**

*Upon a motion duly made by Director Gomez, and seconded by Director De La Cruz, the Director's unanimously approved the Certificate of Posting.*

**C. Elect COG Chairperson for 2010**

*Upon a motion duly made by Chair Emerson, and seconded by Director De La Cruz, the Director's elected Victor Gomez as COG's Chairperson for 2010.*

**D. Elect COG Vice Chairperson for 2010**

*Upon a motion duly made by Director Botelho, and seconded by Director Emerson, the Director's elected Jaime De La Cruz as COG's Vice Chairperson for 2010.*

**E. Committee Appointments**

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

*Chair Gomez appointed himself as Associate Member to AMBAG for 2010. Chair Gomez appointed Anthony Botelho as the Alternate Member to AMBAG for 2010.*

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

Chair Gomez continued this Item to the February meeting.

**3. One Member to the Ad-Hoc South Santa Clara County/San Benito County Mobility Partnership**

*Chair Gomez appointed Anthony Botelho to the Ad-Hoc South Santa Clara County/San Benito County Mobility Partnership for 2010.*

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

Chair Gomez continued this Item to the February meeting.

**F. PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson stated COG's Joint Powers Authority is unconstitutional and violates the civil and constitutional rights of the citizens of three districts because they don't have an elected representative on the COG Board. Mr. Thompson stated that the COG Board continues the course of other wasteful government agencies in the state.

**G. EXECUTIVE DIRECTOR'S REPORT:**

Executive Director Lisa Rheinheimer congratulated COG's Administrative Services Specialist, Kathy Postigo, who was recognized by the County Board of Supervisors for over 25 years of service with the County.

Ms. Rheinheimer provided a brief update on the State Budget and stated that transportation is being proposed for several cuts, however there will be a lot of discussion between now and June so she will provide a more informative report at a later date.

Ms. Rheinheimer stated that she will have to provide an update at the next meeting regarding the Boards inquiry for an update from Caltrans on the status of the streetlight at Buena Vista Road and Highway 156.

**H. BOARD OF DIRECTOR'S REPORTS:**

Director De La Cruz inquired about the change in COG meeting dates for February.

Ms. LiOwen stated that COG will be holding the Unmet Transit Needs Hearings Thursday, February 18, 2010 at 3 p.m. and 6 p.m. at the Board of Supervisor's Chambers and on Friday, February 19, 2010 at 1:00 p.m. at the Community Center/Senior Center.

Director Botelho stated that he was in attendance at the American Public Works Association, Monterey Chapter ceremony, where the Council of San Benito County Governments was awarded the 2010 Project of the Year Award for the Highway 25 Bypass Project. Director Botelho congratulated COG staff for their hard work and accomplishment.

Director Botelho thanked Ms. Rheinheimer for following up with Caltrans regarding the status of the streetlight at Buena Vista Road and Highway 156, as well as following up with the use of state property as a car lot on Highway 156.

**I. Closed Session:**

**1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Title: COG Executive Director

COG reconvened from closed session at 2:35 p.m.

Deputy County Counsel Shirley Murphy stated there was no reportable action taken under Public Employee Performance Evaluation Title: COG Executive Director.

**CONSENT AGENDA:**

1. **APPROVE** Council of Governments Draft Meeting Minutes Dated December 17, 2009 – Gomez
2. **APPROVE** Council of Governments Transaction Report (Financial Claims) Dated December 2009 – Postigo
3. **APPROVE** Contract with Schipper Design for the Design of Ten Safe Routes to School Flyers and One Bikeway Brochure for an Amount Not to Exceed \$9,255 – Lezama
4. **RECEIVE** Construction Projects Report – Caltrans, District 5
5. **RECEIVE** Update on the Highway 25 Safety and Operational Enhancements Project – Rheinheimer
6. **AUTHORIZE** Request for Proposals (RFP) for Triennial Performance Audit Services and **AUTHORIZE** Publication of Request for – Postigo

*Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously approved Items 1-6 of the Consent Agenda, with an abstention from Director Emerson on Item 1.*

**REGULAR AGENDA**

**Transportation Items:**

7. **Approve** 2010 San Benito County Regional Transportation Improvement Program – Rheinheimer

Ms. Rheinheimer stated that the State Transportation Improvement Program (STIP) remains largely unchanged from the 2008 STIP cycle. The 2008 STIP included nearly \$21 million in programmed projects for San Benito County. Ms. Rheinheimer stated that staff is proposing a continuation from the 2008 STIP, where the San Benito Route 156 Improvement project is funded through construction. The program also includes the San Juan Highway Bike Lanes project for construction.

Ms. Rheinheimer noted that changes are needed for the 2010 Regional Transportation Improvement Program to add funding to the San Juan Highway Bike Lanes project, delay funding for the transit vehicle replacement, and add funding for Planning, Programming, and Monitoring. The changes were included in the proposed programming for 2010.

The San Benito County 2010 Regional Transportation Improvement Program is due to the California Transportation Commission by February 12, 2010. The proposed programming is subject to California Transportation Commission approval and future allocations.

Director De La Cruz inquired about the additional funding for Planning, Programming, and Monitoring for personnel and asked if COG depends on the 5% funds to meet staff payroll.

Ms. Rheinheimer stated that COG is allowed to use up to 5% of the total funds for staffing programs, though less than 5% has been used in the past, COG does depend on the funds to meet staff salaries.

Director Botelho stated that he was against the inclusion of the Highway 156 project in the 2010 Regional Transportation Improvement Program because the alignment and cost is uncertain and the description of the project is misleading. Director Botelho stated that the Highway 156 project should be removed from the list until there is clarification on an alignment and true cost of the project from Caltrans.

Ms. Rheinheimer stated that by removing the project from the list, they would do away with the advanced funds and would not be able to use the monies for any other local project. Additionally, the money is tied

up with \$27.9 million from Caltrans for this project. If the Board decides to take out the \$9.6 million dollars they would also do away with the \$27.9 million that Caltrans has dedicated to the project.

**PUBLIC COMMENT:**

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

Mr. Thompson stated that if the Joint Powers Authority spends taxes from all five County districts, but there is no representative on the Joint Powers Authority from three County districts, they are depriving three County districts taxpayers their right to vote for taxes. Mr. Thompson stated that the civil rights of three County districts citizens are being violated and the item should not be approved.

**Scott Fuller**  
**San Juan Oaks Golf Club**

Mr. Fuller urged that the Board maintain the \$9.6 million in the Regional Transportation Improvement Program (RTIP) as the County's match for Highway 156 Improvements. Even those who have opposed the current design have publicly stated that significant improvements are needed and we should not lose the funds that the state has allocated for the project. Mr. Fuller added that he finds it hard to believe that we would throw back \$50 million when there are communities that are fighting over these types of funds to make traffic improvements.

**Stephen Rosati**  
**Hollister, CA**

Mr. Rosati stated that the Highway 156 Project should be included in the Regional Transportation Improvement Program. Mr. Rosati stated that wrong decisions have been made in the past, such as the mistake of taking the million dollars of Federal funding that ended up costing us millions of dollars for the Highway 25 Bypass. Mr. Rosati stated that cost estimates are there, and there is a pretty good idea of what it's going to cost (plus or minus 25%). Mr. Rosati stated that the exact location of the project and the litigation are all part of the long process that must go on and he urged the Board to not disrupt the process.

Director Emerson stated that the true cost of any construction project is never certain until you reach the end of the project. There is a good idea of what that cost of the project will be and it does not make sense to remove the project from the list because the exact cost is uncertain. Director Emerson stated that the same arguments about why Highway 156 should not be completed come up every time, however at the end of the process, the majority of the COG votes to move forward. Director Emerson stated that based on the comments that he receives at the City, the majority of the COG Board represents the large majority of San Benito County residents, and that is to move forward.

*Upon a motion duly made by Director Emerson, and seconded by Director De La Cruz, the Director's approved Item 7, with Director's Botelho, and Bilich voting No.*

**8. Highway 25 Bypass Project – Rheinheimer**

- a. RECEIVE** Update on the Highway 25 Bypass Project of the Year Award, Route Transfer Report, and Construction Closeout,
- b. CONSIDER** a "Welcome to Hollister" Monument Sign on COG Owned Property at the Southwest Corner of San Felipe Road and Highway 25 Bypass, and
- c. APPROVE** Ninth Amendment between the Council of Governments and Erickson, Beasley & Hewitt LLP for an Additional Amount Not to Exceed \$200,000 and **AUTHORIZE** the Chairperson to Sign.

Executive Director, Lisa Rheinheimer made the Highway 25 Bypass Project of the Year Award available at the meeting for Board members to see. Ms. Rheinheimer stated that the Project will be forwarded to the American Public Works Association at a national level to compete with other projects for project of the year as well.

Ms. Rheinheimer noted that staff continues to work on completing construction contract closeout, route transfer, and final right-of-way items.

Regarding Item 8b, Ms. Rheinheimer introduced Jerry Muenzer of San Benito County Leadership, who together with a group of classmates volunteered to help the City of Hollister construct a “Welcome to Hollister” sign.

Tara Yuste and Jerry Muenzer of San Benito County Leadership addressed Board members by stating that the Leadership class is interested in constructing a “Welcome to Hollister” sign. Ms. Yuste stated that they went to the Hollister Downtown Association and their Design Committee to acquire their assistance. Ms. Yuste introduced David Huboi, a local architect, who agreed to help by designing the sign.

Mr. Huboi provided a design sketch of the “Welcome to Hollister” sign. Mr. Huboi described the design sketch and materials that would be used for the proposed sign and answered questions from the Board.

Director De La Cruz inquired if any materials had been donated.

Mr. Muenzer stated that recycled rubber has been donated to the project.

Chair Gomez along with fellow Board members acknowledged the San Benito County Leadership Class for all of their efforts in putting the project together.

Director De La Cruz inquired if there were any legal issues that may have to be considered in the future.

Ms. Rheinheimer stated that she discussed the project with Caltrans staff and they advised that ultimately Highway 25 will be widened in the future and people should be aware that the sign will need to be moved. Ms. Rheinheimer also mentioned the Board consideration for an encroachment permit to indemnify the COG when the sign is put in.

County Counsel, Shirley Murphy stated that there is concern of potential liability because the sign will be located on COG’s property. If someone traveling on Highway 25 or San Felipe Road is in an accident and is able to establish that the accident was caused due to problems with sight distances caused by the sign’s location, there is a level of potential liability risk.

Mr. Muenzer stated that they were asking for the Board’s consent to move forward and work with COG staff to address any issues that come up.

Director Emerson reiterated appreciation to the San Benito County Leadership class for moving forward on a project that is going to have a lasting affect in San Benito County.

**PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson made reference to an infamous court of appeals case, Wycoff vs. Santa Clara County and Valley Transportation Authority (VTA). He stated that whenever design questions are brought before a Joint Powers Authority, like the VTA, on an agenda and adopted by the Joint Powers Authority Board, they’re given the governmental immunity from design defect liability in a situation like this.

The Board directed staff to work together with San Benito County Leadership to address any concerns or liability issues that come up with the construction of the sign.

Regarding Item 8c, Ms. Rheinheimer stated that a Ninth Amendment between the COG and Erickson, Beasley, Hewitt & Wilson LLP attorneys for an additional amount not to exceed \$200,000 is required for legal services associated with two outstanding cases.

*Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously approved Item 8c.*

#### **TRANSPORTATION ITEMS:**

##### **9. Draft 2010 Regional Transportation Plan – Rheinheimer**

- 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 11, 2010.
- c. SET** Public Hearing Date on the Draft Plan for March 18, 2010

Ms. Rheinheimer reported that COG has completed the Draft 2010 Regional Transportation Plan and it was presented to the Bicycle and Pedestrian Advisory Committee and the Social Services Transit Advisory Committee in January for input.

The Draft Environmental Impact Report will be finalized in early February. Staff recommended that the Board authorize the release of the Draft Plan for a 45-Day Public Review period, starting February 11, 2010, concurrent with the draft Environmental Impact Report prepared by AMBAG.

Ms. Rheinheimer mentioned that the Meridian Street extension was not included in the Plan because it would be inconsistent with the City of Hollister's General Plan. The inclusion of Meridian Street has to be driven by the City of Hollister, in order to include it in the Plan.

#### **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 violates Proposition 218. It violates the requirement to follow generally accepted accounting principles. It encourages unaccountability in government and it is nontransparent government because you cannot read or understand the financials. 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.

**Steve Rosati**  
**Hollister, CA**

Mr. Rosati stated that he did not know what occurred at the City level to remove the Meridian Street extension from its General Plan. He stated that it was presented to the public for many years that if there was money it would be constructed all the way to Fairview, especially since there are now two schools on Meridian Street. Mr. Rosati urged the Board and City to get the Meridian Street extension back on their corresponding Plans.

Director Botelho agreed with Mr. Rosati's comments regarding the Meridian Street extension and said that it should be included in this Plan. Director Botelho expressed concern about not being too inclusive with the public on developing the Plan and suggested putting together an advisory committee to be part of

this effort. In addition, there is no reference point with regards to the efforts that are being made by the Mobility Partnership and the Valley Transportation Authority. Lastly, Director Botelho voiced his concerns about the Highway 156 Improvement Project and the unknowns with the project.

Director Emerson stated that the City of Hollister has a responsibility to go back and re-visit the Meridian Street extension and why it was removed from its Plan because he agreed that there is a need for the extension. Director Emerson also inquired why the Mobility Partnership was not included in the Plan.

Ms. Rheinheimer apologized for the oversight and stated that the Mobility Partnership realignment will be included in the Plan. Ms. Rheinheimer stated that there was some community outreach. Staff held a public meeting, distributed surveys, and met with a number of community groups. Ms. Rheinheimer stated that staff could include more public involvement for the next go around, however the Plan needs to be adopted by June 2010; otherwise COG will be out of compliance.

Chair Gomez agreed with the inclusion of public input as well as the inclusion of Meridian Street extension.

Director Botelho suggested continuing this item to the February meeting so that staff includes language regarding the Highway 152 Realignment project description and long term goals in the Plan.

*Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's voted to continue Item 9 to the February meeting to allow staff to incorporate the above noted comments regarding the Highway 152 Realignment Project.*

*Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's voted to continue Item 9c to the February meeting.*

*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 FEBRUARY 18, 2010. AGENDA DEADLINE IS FEBRUARY 9, 2010 AT 12:00 P.M.**