

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

June 17, 2010 2:00 P.M.

MINUTES

MEMBERS PRESENT:

Chair Gomez, Director Bilich, Director De La Cruz, Director Emerson and Alternate Loe

STAFF PRESENT:

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

OTHERS PRESENT:

Dave Murray and Richard Rosales; Caltrans District 5; Mike Zen, MNS Engineering; Tony Mercado, MV Transportation

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

C. PUBLIC COMMENT:

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson stated that the he was called to the State Assembly Transportation Committee to testify in support of AB2121, which terminates financing for the Bullet Train. Mr. Thompson urged the Board to protect the local taxpayers by supporting AB2121.

Mr. Thompson requested that the Board support the Economic Development Corporation of Gilroy, as they oppose VTA's eminent domain abuse and their expansion of the Caltrain corridor. Mr. Thompson asked the Board to support "business friendly transportation" not the kind of transportation that is seen by Joint Powers Authorities.

Mr. Thompson asked that the Board write a letter to the Chairman of the Transportation and Infrastructure Committee representative, telling him that his idea for the next highway bill is a bad idea.

D. EXECUTIVE DIRECTOR'S REPORT:

Ms. Rheinheimer presented a Certificate of Appreciation to Frances Kelly. Ms. Rheinheimer stated that Frances Kelly has been COG's Office Assistant for the last 5 ½ years during which time she has kept staff on track in making sure that the office runs smoothly. Ms. Rheinheimer thanked Ms. Kelly for all of her support and dedicated service during the past 5 ½ years.

Chair Gomez expressed his appreciation to Ms. Kelly for her dedicated service as well.

Ms. Rheinheimer reported that there was a successful Blueprint meeting that took place last night. There were approximately ten people from the community who attended. Ms. Rheinheimer stated that there will be an additional Blueprint Workshop which will be held June 26, 2010 from 10am-12pm at the Veteran's Memorial Building.

Ms. Rheinheimer noted that staff provided a flyer with information on two Public Workshops on "Designing for Friendlier Transit, Transit Design Guidelines". The workshops will take place on the same day, Wednesday, June 30, 2010 from 10am - 12pm and from 4pm - 6pm at the Veteran's Memorial Building.

Ms. Rheinheimer reported that staff continues to work on the advertisement on transit buses, however staff requires more time to work on the matter and will provide a report to the Board at a future meeting.

Ms. Rheinheimer stated that staff will provide a report to the Board at its July meeting on Caltrans' Route 156 short-term improvements.

Ms. Rheinheimer noted that COG staff, Mary Dinkuhn, has changed her name to Mary Gilbert.

Ms. Rheinheimer asked to pull Item F. Closed Session from the agenda. Staff also requested that the Board add an urgency item under Item 17-E. The basis for the motion is that the item came to staff's attention after the agenda was posted and it must be acted on before the next COG meeting to prevent delay of contract construction.

Upon a motion duly made by Director Emerson, and seconded by Director Bilich, the Board unanimously moved to approve the urgency item to consider a supplemental contract change order for the Highway 25 Safety and Operational Enhancements Project and add it as Item 17-E to the agenda, based on the fact that the item came to staff's attention after the agenda was posted and it must be acted on before the next COG meeting to prevent delay of contract construction.

E. BOARD OF DIRECTOR'S REPORTS:

Director De La Cruz stated that he would excuse himself from the COG meeting at approximately 3:45 p.m. and would return at approximately 4:15 p.m.

F. Closed Session:

1. Conference with Legal Counsel – Existing Litigation

No. of cases: 2

Authority: California Government Code Section 54956.9(a)

Council of San Benito County Governments v. Hollister Inn

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

Board of Supervisors

Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously voted to strike Item F. from the agenda.

CONSENT AGENDA:

1. **APPROVE** Council of Governments Draft Meeting Minutes Dated April 15, 2010 – Gomez
2. **APPROVE** Council of Governments Draft Special Meeting Minutes Dated April 15, 2010 – Gomez
3. **APPROVE** Council of Governments Draft Meeting Minutes Dated May 20, 2010 – Postigo
4. **APPROVE** Council of Governments Draft Special Meeting Minutes Dated May 20, 2010 – Postigo
5. **APPROVE** Council of Governments Transaction Report (Financial Claims) Dated May 2010 – Postigo
6. **APPROVE** COG Office Closure Days as Part of the Work Furlough Program – Postigo
7. **RECEIVE** Construction Projects Report – Caltrans District 5
8. **APPROVE** FY 2010/2011 Council of Governments Budget – Postigo
9. **RECEIVE** Update on the Highway 25 Safety and Operational Enhancements Project – Dinkuhn
10. **APPROVE** Scope of Services and Fee Schedule with the Association of Monterey Bay Area Governments for Metropolitan Planning Services for FY 2010/11 in an Amount Not to Exceed \$4,865 – Lezama
11. **RECEIVE 2010** San Benito County Bike Week Participation Report – Lezama

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's unanimously approved Items 1-11 from the Consent Agenda with an abstention from Director Emerson on Items 3 and 4, and an abstention from Director Loe on Items 1, 2, 3, and 4..

REGULAR AGENDA

TRANSPORTATION ITEMS:

12. **Hollister to Gilroy State Route 25 Widening and Route Adoption** – Rheinheimer
 - a. **Receive** Report on the State Route 25 Widening Project and
 - b. **Approve** Comment Letter on Hollister to Gilroy State Route 25 Widening and Route Adoption Draft Environmental Impact Report and Tier I Draft Environmental Impact Statement

Chair Gomez inquired if Director Botelho should be present for this item since this project is of great interest to him.

Ms. Rheinheimer stated that in conversations with Director Botelho, he did not ask staff to continue this item.

Alternate Director Loe stated that she spoke with Director Botelho regarding this item prior to the meeting.

Ms. Rheinheimer provided a Power-Point presentation on the Hollister to Gilroy State Route 25 Widening and Route Adoption and answered questions from the Board.

Ms. Rheinheimer recognized that Dave Murray and Richard Rosales, Caltrans Project manager were present to answer questions from the Board.

Director De La Cruz stated that he did not see a partnership effort between Caltrans and San Benito County and added that he would not support this project, unless Caltrans commits funds to this project as well.

PUBLIC COMMENT:

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that the COG Board cannot move forward and make these decisions because they are a Joint Powers Authority and do not have jurisdiction to represent all five County Districts.

Mr. Thompson asked to take a moment to remember the late Janet Graham, who was killed in a head on collision on Route 25.

Steve Rosati
Hollister, CA

Mr. Rosati stated that this is a big project and looked forward to the possibility that San Benito County will get some commitment from the California Transportation Commission. Mr. Rosati stated that as difficult as it may be, there has to be a partnership to move forward because it will save a lot of money in the long run. Mr. Rosati mentioned that there are two more projects on the books for San Benito County and it only takes a few political errors to send the wrong message to the CTC and have them place the County's projects aside.

Mr. Rosati stated that this project will require a lot of input, but hoped that the smallest footprint is looked at. Mr. Rosati stated that he understands going east or west from the part of the project at the existing 156/25 intersection to Hudner Lane, but from that point forward he hopes they keep the existing plan line in place. He favors the plan that is a bit more westerly.

Brad Pike
Hollister, CA

Mr. Pike stated that it's been ten years since the community started the petition drive for the 25 Safety Corridor and a lot has occurred since that time. Mr. Pike wanted to remind the Board about the support from the community with 23,762 signatures for the 25 Safety Corridor project.

Mr. Pike stated that he is dedicated to this project and believes the community still has the desire to see more improvements made to Highway 25. Mr. Pike stated that it is important to continue to be supportive as a body and offered his support to the Board. Mr. Pike urged the Board to continue to move forward collectively.

Marvin Jones
Hollister, CA

Mr. Jones stated that he gets the impression that San Benito County has to come up with the funds for phase I and phase II of the project, and then the project will be placed on the shelf. Mr. Jones agreed that without the commitment from Caltrans it will be very difficult to come up with the \$35- \$40 million at this time.

Ms. Rheinheimer stated that the Board made a conscious choice in the early 2000's to select Caltrans as the consultant of choice to move forward with the design, preliminary engineering and environmental work of the project because it is a Caltrans facility. Ms. Rheinheimer agreed that this is a big project, however if the Board wants to move forward with this project, everyone must be on the same page because it will not get anywhere if you don't start somewhere.

Director Emerson stated that a decision must be made to either move forward or not. Director Emerson believes that it has been the consensus of the community that something must be done on this route. Director Emerson stated that in order to get the projects completed we must take a step forward with what we have and work in increments to show that it is the desire of the community to build this road. Director Emerson stated that if the Board takes the approach to wait for a guarantee from Caltrans, 20 years from now they will be in the exact same place they are today. Director Emerson stated that the Board should move forward with the project.

Director De La Cruz stated that Director Emerson made valid points, but cautioned that once the Board moves forward it becomes a variable in the equation in terms of Traffic Impact Fees. Director De La Cruz asked how they are going to go to the community and ask for another \$300 million to fund the project.

Director De La Cruz stated that he would support moving forward because he supported the project under the Board of Supervisors, however he wanted to add his concerns about how they will come up with the funds for the project.

Ms. Rheinheimer reminded the Board that the only action staff was recommending today was to approve a comment letter to Caltrans. Ms. Rheinheimer stated that any comment letter submitted to Caltrans becomes part of the Environmental Document and Caltrans will have to respond to each comment.

After some discussion with regards to funding for the project, the Board directed staff to add comment #9 to the letter as follows:

9. This project requires a great deal of funding and as such Caltrans should work with the Council of Governments and community members in identifying a source of funding and strategy to move forward with this project.

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's unanimously voted to amend the Draft Comment Letter to include Item 9 as noted above.

Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's unanimously approved the amended Comment Letter.

13. Highway 25 Bypass Project – Gilbert/ Rheinheimer

a. Discuss Highway 25 Route Transfer, and

b. Authorize the Executive Director to Sign an Amendment to the Contract with Kelley Engineering and Surveying to Extend the Termination Date of the Contract to December 31, 2010

Ms. Rheinheimer stated that this Item was placed on the agenda as a request from Director Emerson.

Ms. Gilbert reviewed the steps that must be taken in order to complete the Highway 25 Route transfer.

Ms. Gilbert noted that there are two methods that Caltrans uses to accept new roadways into the state highway system and to give up jurisdiction of their existing facilities: route relinquishment and route transfer. In a route relinquishment, Caltrans commits to bringing its existing facility to a state of good repair prior to its relinquishment. Under a route transfer, there is no commitment to repair the existing roadway. For the Highway 25 Bypass project, Caltrans has committed to follow the route transfer process and has indicated that it has no funding to bring the existing route to a state of good repair.

Ms. Gilbert stated that in order for the Route Transfer to be complete, COG must prepare and submit a Route Transfer Report to Caltrans. Once the Report is approved, the California Transportation Commission (CTC) must take action to accept the new roadway and transfer the existing route to the local jurisdiction. At this time, staff is finalizing the Route Transfer Report for submittal to Caltrans with anticipation of CTC action in September or October.

Ms. Rheinheimer recommended that staff meet with the COG Chair and City staff to discuss the improvements and repairs to the existing roadway that are needed prior to the change in ownership. Staff will then request a meeting with the Caltrans District Director to initiate transfer negotiations.

Director Emerson stated that he was very displeased with the decision from Caltrans to call this a "route transfer" instead of a "route relinquishment". Director Emerson stated that the Highway 25 Bypass was

built to a state of very well condition, with local funds, and local tax dollars and now the City is left with a roadway that has not been maintained and is in poor condition.

Director Emerson stated that the City of Hollister does not have the funds to repair San Benito Street either and should not have to take this. Director Emerson stated that Assemblywoman, Anna Caballero has made a commitment to help the City of Hollister make a stronger stand and say the City of Hollister shouldn't have to pay for this.

Director Loe agreed with Director Emerson's comments and stated that COG should take a stronger stand on this matter and perhaps the first step is when meeting with the Caltrans District Director.

PUBLIC COMMENT:

**Steve Rosati
Hollister, CA**

Mr. Rosati stated that Caltrans is getting a brand new road and they were expected to bring San Benito Street to a state of good repair.

Mr. Rosati also mentioned that part of the transfer discussion that should take place in the meeting with the Caltrans Director is the inclusion of the Truck Route, which was part of the Resolution. The Bypass was built for the trucks and the transfer should not occur until the truck route is part of it.

**Gordon A. Machado
Hollister, CA**

Mr. Machado reiterated Mr. Rosati's comments regarding the truck route. Mr. Machado provided some history from the Measure A Committee. Mr. Machado stated that the focus of the Committee was to get funding from the community for the Highway 25 Bypass and Highway 156 Project with the stipulation that once the Bypass was completed Caltrans would rebuild the highway and dedicate it to the City. Mr. Machado stated that a commitment was made to the community and it must be fulfilled to show the credibility of the local and state government.

Chair Gomez reiterated the comments that were made by fellow directors. Chair Gomez stated that he expected a much smoother transition.

The Board directed staff to include the truck route issue in the discussion when meeting with Caltrans. The Board also recommended that staff invite Mr. Machado or Mr. Rosati, because they know the history on the project, to sit in at the meeting as well.

Ms. Rheinheimer stated that staff will set up the meeting between the City, Caltrans District Director, and a representative from Anna Caballero's office, Director Loe, Mr. Machado or Mr. Rosati, and COG staff and report back to the Board.

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

14. San Benito County 2010 Regional Transportation Plan – Gilbert

- a. Adopt** Resolution No. 10-11, Accepting the Final Supplemental Environmental Impact Report; and
- b. Approve** the San Benito County 2010 Regional Transportation Plan

Ms. Gilbert stated that the Council of San Benito County Governments prepared a 2010 update to the San Benito County Regional Transportation Plan. The update includes a Supplemental Environmental Impact

Report. Both documents have been circulated for public review and comment, and are being brought before the Council of Governments Board for acceptance and approval.

Deputy County Counsel, Shirley Murphy provided amended language for Resolution No. 10-11 under Item (f) in **bold** as follows:

f) The Board of Directors hereby accepts the AMBAG-certified Final Supplemental Environmental Impact Report for the 2010 Monterey Bay Metropolitan Transportation Plan, comprised of the 2010 Monterey County Regional Transportation Plan, the 2010 Santa Cruz County Regional Transportation Plan, and the 2010 San Benito County Regional Transportation Plan, **and adopts the findings with significant impacts related to the 2010 San Benito County Regional Transportation Plan** together with the **portions of the** Mitigation Monitoring and Reporting Program (Exhibit A), **related there to** and directs staff to file a Notice of Determination per CEQA Section 21152, and distribute this document in accordance with applicable laws and regulations.

PUBLIC COMMENT:

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that this RTP is being proposed by a governmental body that lacks legal capacity to impose it on our County and it also lacks competency to do an RTP. Mr. Thompson stated that the authors of this RTP are just as guilty of the same flaws and errors as the authors of the previous two RTP's. Mr. Thompson stated that the results of the current RTP's can be seen in the dismal condition of this County's economy. Mr. Thompson stated that this RTP is the wrong way to go and the Board should tell the authors of this RTP that they don't want to burden their fellow citizens.

Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously adopted Resolution No. 10-11 incorporating the revisions that were read into record by County Counsel and noted above in bold.

15. Discuss Proposed 2011 Traffic Impact Fee Program Update – Gilbert/Rheinheimer

Ms. Gilbert stated that The Traffic Impact Fee Program has generally been updated every three to five years as needed. COG, City, and County staff have discussed the need to update the program for 2011 to ensure that the projects identified in the Program accurately represent the needs of the community and that the established fees are appropriate to fund the projects.

Ms. Gilbert stated that staff is currently developing a scope of work for the Traffic Impact Fee Program update. A proposed scope of work will be brought before the COG Board for approval during the August/September timeframe.

PUBLIC COMMENT:

Steve Rosati
Hollister, CA

Mr. Rosati stated that the Board should not ever decrease the fee. The Board may consider supporting a payment schedule to pay off of the fee over a two-year period with a low interest rate. Mr. Rosati stated that he understands it is difficult to collect the fees when times are hard, however when times were good, people filled their pockets with money and the fees were never increased. It took a lot of dedication from the City and County representatives to raise the fees and it has been proven that they work. The fees provide infrastructure, and improves the quality of life.

Ms. Rheinheimer mentioned that she will work with the City and County Clerks to coordinate a meeting date.

16. Demolition and Removal of COG Owned Excess Building – Rheinheimer

- a. Receive** Report on Demolition and Removal of COG Owned Excess Building,
- b. Request** Funding from the Hollister Redevelopment Agency for Demolition and Removal Costs not to Exceed \$20,000, and
- c. Authorize** Executive Director to Sign all Necessary Documents for the Project.

Ms. Rheinheimer reported that since the May 2010 meeting, staff released the environmental document, discussed demolition options with the County of San Benito Public Works Department, and looked into the cost for removing asbestos and lead based materials. Staff is also preparing an encroachment permit and lease agreement for the Leadership San Benito County class project to install a “Welcome Hollister” sign.

COG staff and County Public Works staff have discussed an option to utilize the Public Works crew to demolish the building after the asbestos and lead have been removed by a licensed contractor. The Public Works crew has recent experience with the removal of the former COG office located on Southside Road.

Ms. Rheinheimer noted that COG does not have funding available from the Highway 25 Hollister Bypass project for this work and suggested the possibility of requesting up to \$20,000 from the City of Hollister Redevelopment Agency Funds to pay for the removal of the building.

After brief discussion from the COG Board’s City representatives, they did not see an issue with using Redevelopment Agency funds to demolish the building.

Upon a motion duly made by Director Emerson, and seconded by Director Bilich, the Director’s unanimously approved Item 16 a and 16 b.

17. Highway 25 Safety and Operational Enhancements Project – Gilbert

- a. Receive** Update on the Highway 25 Safety and Operational Enhancements Project,
- b. Direct** Staff Regarding Agreement with PG&E for Electrical Service and **Authorize** Executive Director to Negotiate and Sign Final Agreement
- c. Authorize** Director Botelho to Sign Letter Releasing 5% of Retention to the Contractor, and
- d. Approve** Contract Change Order NO. 11-S1 for an Amount Not to Exceed \$60,000

Ms. Gilbert reported that work is nearing completion with construction scheduled to be complete in mid-July. Project work this month includes roadway widening, construction of the access roads, installation of fencing, and preparation for pavement overlay. The contractor also anticipates night work to complete the overlay the week of June 26. Staff has sent notice to the newspaper and the changeable message sign at the job site will reflect the dates and time for night work.

Ms. Gilbert stated that as part of the project, new electrical service is required for lighting at Shore Road and at Hudner Lane. PG&E prepared a draft agreement which provides two options to provide the new electrical service: a 10-Year subject to Refund Option and a Non-Refundable 50% discount option. Under the refundable option, COG’s cost would be \$19,175.94. Under the non-refundable option, the cost would be \$14,201.53. Staff recommended the non- refundable option and requested that the Board authorize the Executive Director to negotiate and sign a final agreement with PG&E.

Ms. Gilbert stated that pursuant to its contract with Pavex, COG currently retains 10% of each progress invoice in an escrow account. The Contractor requested that COG reduce the amount of retention withheld to 5% of the total contract billed to date. Because the contract is near completion, staff recommended that the Board approve this request and authorize the release of \$211,087.81 to the Contractor . Ms. Gilbert noted that the approval must be signed by Director Botelho, the COG representative designated in the escrow agreement.

Ms. Gilbert stated that there was one contract change order (CCO #11-S1) for an amount not to exceed

\$60,000. The Contract Change Order reimburses the Contractor for additional excavation that was required due to water saturation in the ground.

Ms. Gilbert reported on the urgency item added under Item 17-E, which asked the Board to consider a supplemental contract change order for the Highway 25 Safety and Operational Enhancements Project.

Director Emerson referred to the updated financial status report and asked for clarification regarding the remaining funding left in contingency after the \$400, 000.

Ms. Gilbert noted that there is a remainder of \$164,891 left in the contingency fund.

Upon a motion duly made by Director Bilich, and seconded by Director Emerson, the Board unanimously approved Item 17-B, directing staff to use the Non-refundable option for an amount not to exceed \$14,201.53, for the PG&E agreement and authorizing the Executive Director to negotiate and sign a final agreement with PG&E.

Upon a motion duly made by Director Emerson, and seconded by Director Bilich, the Board unanimously approved Item 17-C as noted above.

Upon a motion duly made by Director Loe, and seconded by Director Emerson, the Board unanimously approved Item 17-D as noted above.

Upon a motion duly made by Director Emerson, and seconded by Director Bilich, the Board unanimously approved Item 17-E, approving the supplemental change order for an amount not to exceed \$400,000.

18. Implementation of Governmental Accounting Standards Board (GASB) Statement 45 – Postigo

- a. Accept** the COG's Actuarial Study for the OPEB for Medical Coverage
- b. Approve** the Participation Agreement to Set Up an Irrevocable Retiree Benefit Trust through CalPERS
- c. Adopt** a Resolution for Delegation of Authority to Request Disbursements and Sign the CalPERS Certification of OPEB Funding Policy.

Ms. Postigo reported that GASB Statement No. 45 requires public-sector employers to disclose in the notes to the financial statements the full amount of their unfunded actuarial accrued liability for other post employment benefits earned by employees for services rendered to date. The first year of implementation is Fiscal Year 2009-2010.

Ms. Postigo stated that staff reviewed the Actuarial Study prepared by Bickmore Risk Services and Consulting and has found the study to fulfill the GASB 45 requirements. Staff recommended that COG mirror San Benito County and participate in Cal PERS prefunding vehicle for OPEB liabilities, the California Employers Retiree Benefit Trust (CERBT), along with using the prefunding alternative policy with an interest rate of 7.75%, and a level percentage of pay as the amortization method over a period of 30 years.

Upon a motion duly made by Director Emerson, and seconded by Director Bilich, the Board unanimously approved Item 18-A, 18-B, and 18-C.

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

ADJOURN TO COG MEETING JULY 15, 2010. AGENDA DEADLINE IS JULY 6, 2010 AT 12:00 P.M.