

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

**March 18, 2010 2:00 P.M.**

**MINUTES**

**MEMBERS PRESENT:**

Chair Gomez, Director Bilich, Director Botelho, Director De La Cruz, 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; Randy Deshazo, AMBAG; Linda Meckel, AMBAG; Tad Stern, PMC

**CALL TO ORDER:**

Chair Gomez called the meeting to order at 2:02 P.M.

**A. PLEDGE OF ALLEGIANCE**

**B. CERTIFICATE OF POSTING**

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

**C. PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson stated that it was one of the saddest days in California because it was the day that the Green House Gas (GHG) regulations go into effect.

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. Mr. Thompson asked the Board if they would be willing to stipulate to honor and respect the civil rights of all five districts citizens in the County.

Chair Gomez stated for the record that the COG Board received Joe Thompson's public comment correspondence dated January 5, 2010 through March 18, 2010. The correspondence was entered into the public record.

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

Ms. Rheinheimer announced that the next Mobility Partnership is April 14, 2010 at 3:00 p.m. at the Board of Supervisors Chambers in Hollister.

Regarding the High Speed Train, comments on the Supplemental Environmental Impact Report are due April 26, 2010. Staff will review the document and bring a draft comment letter to the Board, if warranted. Board members may provide comments to staff at the April 15th COG meeting.

Ms. Rheinheimer announced that Transportation Planner, Betty LiOwen received a scholarship to attend a conference where they will be learning about taxi service and how in the future transit agencies may be able to supplement their demand response transit services with taxi services. Ms. LiOwen will provide a report to the Board after she returns from the conference.

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

Director Botelho was pleased to announce that the County completed the chip seal and striping on County roads.

**F. 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 2:19 p.m.

Deputy County Counsel Shirley Murphy stated that there was no reportable action taken under Existing Litigation: Joseph P. Thompson v. San Benito County Council of Governments, San Benito County Board of Supervisors.

**CONSENT AGENDA:**

- 1. APPROVE** Council of Governments Draft Meeting Minutes Dated February 18, 2010 – Gomez
- 2. APPROVE** Council of Governments Transaction Report (Financial Claims) Dated February 2010 – Postigo
- 3. AUTHORIZE** Staff to Submit Three Applications to the Monterey Bay Unified Air Pollution Control District for Consideration of FY 2010/11 Assembly Bill 2766 Vehicle Emission Reduction Program Funds – Lezama
- 4. APPROVE** Memorandum of Understanding with the Bay Area Metropolitan Transportation Commission for Access to the 511 Ridematch System Database – Lezama
- 5. 2010 Economic Stimulus Transit Project List – LiOwen**
  - a. ADOPT** Resolution 10-03 Authorizing the Executive Director to Apply for and Accept Funds from the Hiring Incentives to Restore Employment Act.
  - b. ADOPT** Resolution 10-04 Authorizing the Executive Director to Apply for and Accept Funds from the Jobs for Main Street Act.
- 6. 2009 San Benito County Bikeway and Pedestrian Master Plan – Lezama**
  - a. ADOPT** Resolution No. 10-05
    - 1) Adopting a Mitigated Negative Declaration for the 2009 San Benito County Bikeway and Pedestrian Master Plan; and
    - 2) Adopting the 2009 San Benito County Bikeway and Pedestrian Master Plan; and
  - b. FORWARD** the 2009 Bikeway and Pedestrian Master Plan to the City of Hollister, the City of San Juan Bautista, and the County of San Benito for Adoption.
- 7. RECEIVE** Construction Projects Report – Caltrans District 5

**8. RECEIVE** List of Caltrans Projects in San Benito County Funded by the State Highway Operation and Protection Program – Rheinheimer

Chair Gomez pulled Item 5 from the Consent Agenda to allow Public Comment.

*Upon a motion duly made by Director Emerson, and seconded by Director De La Cruz, the Director's unanimously approved Items 1-4 and 6-8 from the Consent Agenda.*

**PUBLIC COMMENT:**

**Item 5**

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

Mr. Thompson stated that the title of Item 5 did not make any sense unless it was a giveaway program. Mr. Thompson stated that transit drains money away from the private sector. Mr. Thompson stated that the Board's policy mistake is that they do not see the difference between the creation of the infrastructure and the operation of business, and carriage of passengers on that infrastructure.

Director Botelho inquired if staff is requesting funds to purchase a replacement vehicle for one of the Jovenes De Antaño buses.

Ms. Rheinheimer stated that staff is requesting to purchase a replacement vehicle for Jovenes de Antaño, which will be addressed under the LTA agenda.

Director De La Cruz asked for clarification regarding the creation of jobs from economic stimulus funds.

Ms. Rheinheimer stated that President Obama had just signed the Hiring Incentives to Restore Employment Act; however, staff was not yet sure on the specifics, as they would relate to transit, so staff would have to report back to the Board at a future meeting.

Director De La Cruz stated that when the Congress approved this Act it was to provide the government with more money instead of helping the backbone of the community, which is the private business.

*Upon a motion duly made by Director Botelho, and seconded by Director Emerson, the Director's approved Item 5(a) Resolution 10-03, with Director De La Cruz voting no.*

*Upon a motion duly made by Director Botelho, and seconded by Director Emerson, the Director's approved Item 5(b) Resolution 10-04, with Director De La Cruz voting no.*

**2:00 P.M. Public Hearing (Or As Soon Thereafter As the Matter May Be Heard)**

**9. Regional Transportation Plan – Rheinheimer**

- a. **RECEIVE** Presentation on the Draft 2010 Regional Transportation Plan.
- b. **OPEN** Public Hearing.
- c. **CLOSE** Public Hearing.
- d. **DIRECT** Staff to Respond to Public Comments Received in the Final 2010 Regional Transportation Plan.

Ms. Rheinheimer reported that the Council of Governments released the draft 2010 Regional Transportation Plan for public comment on February 24, 2010. A hearing during the comment period is necessary to receive public comments. The public comment period closes on April 12, 2010. The Plan sets forth goals, policies, and a list of planned short-term and long-term transportation projects for the San Benito County region.

Chair Gomez opened the public hearing at 2:29 p.m.

**PUBLIC COMMENT:**

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

Mr. Thompson thanked the Executive Director for making the pagination corrections he had mentioned at the last meeting. Mr. Thompson stated that the comments he made in 2000 and 2005 regarding the Regional Transportation Plan remain the same today. Mr. Thompson stated that he has provided the Board with six pages of valid criticism against bad policy. Mr. Thompson asked, "What will it take to change the policy in this County".

Chair Gomez closed the public hearing at 2:32 p.m.

Director Botelho stated that he supported the Draft 2010 Regional Transportation Plan.

Staff will report back to the Board with the Final Regional Transportation Plan in May.

**10. Draft Supplemental Environmental Impact Report Public Hearing – Rheinheimer**

- a. RECEIVE** Presentation on the Draft Supplemental Environmental Impact Report for the 2010 Monterey Bay Area Metropolitan Transportation Plan Public Hearing.
- b. OPEN** Public Hearing.
- c. CLOSE** Public Hearing.
- d. DIRECT** Staff to Forward Public Comments Received to the Association of Monterey Bay Area Governments.

Ms. Rheinheimer reported that the Association of Monterey Bay Area Governments released the Draft Supplemental Environmental Impact Report (SEIR) for the 2010 Monterey Bay Area Metropolitan Transportation Plan for public comment. The SEIR represents the environmental review for the Monterey Bay region's Regional Transportation Plans. The Supplemental Environmental Impact Report describes the programmatic environmental impacts associated with the Regional Transportation Plans for Monterey, Santa Cruz, and San Benito Counties.

Director Botelho inquired if this Plan was a part of the Blueprint Plan.

Ms. Rheinheimer stated that the Blueprint Plan is a separate component which will help to drive the sustainable community's strategy that will be a part of the 2012 Regional Transportation Plan.

Director Botelho inquired about the commercial study and whether or not it will be a part of the study.

Randy Deshazo from AMBAG stated that commercial study is not completed yet. There is an ongoing Central Coast commercial flow study to look at impediments to freight movements throughout the five counties of the Central Coast, which includes Santa Barbara all the way up to Santa Cruz. AMBAG is partnering up with Caltrans and with the other MPO's along the Central Coast. The effort will identify principle bottlenecks to freight movements in the five counties, as well as improvements that can be made.

Mr. Deshazo mentioned that AMBAG is also doing a new study that will specifically look at an intermodal truck to rail facility in Monterey County. This study will be incorporated into the larger study.

Director Botelho inquired if the studies that are currently in progress will be incorporated into the Plan.

Mr. Deshazo stated that the data from the studies will be “lightly addressed in this update”. The results of the studies will be included in the 2012 Plan.

Chair Gomez opened the public hearing at 2:37 p.m.

**PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson stated that the number one impediment to freight flow is the government.

Mr. Thompson stated that regarding the EIR, the California Supreme Court has said that you will not take into consideration economic impacts when considering an environmental impact report. Mr. Thompson said that he did not see the logic in us trying to be good to the environment and be kind to the other species when we can't take care of the number one species.

Chair Gomez closed the public hearing at 2:41 p.m.

The COG Board directed staff to forward public comments received to the Association of Monterey Bay Area Governments.

**REGULAR AGENDA**

**Transportation Items:**

**11. RECEIVE** Update on the Highway 25 Safety Project and **APPROVE** Contract Change Orders Totaling \$1,330,860.87 – Rheinheimer

Ms. Rheinheimer stated that work continues in March with construction scheduled to be complete in June. Little has changed since February as winter rains have slowed construction considerably. Rain days have pushed the completion date out to June 2010.

Ms. Rheinheimer reviewed the five change orders that were brought before the Board for consideration and answered questions from the Board. Ms. Rheinheimer mentioned that because there are sufficient funds remaining in contingency, staff may come back to the Board with another change order recommending a 55 mm overlay on the project instead of a 45 mm overlay.

Director Emerson inquired if COG loses the state funds if there are any state project funds leftover.

Ms. Rheinheimer confirmed that COG would lose any remainder state funds.

Ms. Rheinheimer noted that the contractor has agreed to a set price for the asphalt on the overlay piece of the project.

Director Botelho stated that he would support the overlay change order because it would provide a more complete project. However, he noted that staff should continue to look for ways to keep costs down and perhaps come in under budget on this project.

Chair Gomez inquired if staff would return to the Board in the future with a change order request for the 55 mm overlay.

Ms. Rheinheimer stated that staff would return to the Board with a recommendation in the future.

*Upon a motion duly made by Director De La Cruz, and seconded by Director Emerson, the Director's unanimously approved Item 11.*

**12. RECEIVE** Update on the Highway 25 Bypass Project Route – Rheinheimer

Ms. Rheinheimer reported that the Highway 25 Bypass Route Transfer Report will be submitted to Caltrans in late April or early May. Caltrans has reviewed the draft Report and had several items of concern that will be addressed in the April/May final Report.

Ms. Rheinheimer mentioned that once Caltrans agrees with the Route Transfer Report, it will go before the California Transportation Commission for approval. Upon approval, the route is considered transferred. Staff would like to bring the Report to the Commission in September 2010.

Director Emerson inquired if the issue that came up months ago with regards to the signal at Meridian Street changing very quickly was ever resolved.

Ms. Rheinheimer stated that the issue was resolved. The contractor went out and replaced the controller box (which was still under warranty) at Meridian Street.

Chair Gomez asked if staff keeps an open dialogue with the Hollister Downtown Association, since they often keep an eye on these types of issues.

Ms. Rheinheimer confirmed that she keeps open communication with the Hollister Downtown Association. She attends and provides reports at the Economic Restructuring Committee meetings.

**13. RECEIVE** Report on the State Assembly Gas Tax Swap – Rheinheimer

Ms. Rheinheimer reported that on March 4<sup>th</sup>, the State Assembly passed several bills dealing with transportation financing. The first is a gas tax swap that eliminates the sales tax on gasoline and replaces it with an excise tax. The second tax swap increases the sales tax on diesel fuel and reduces the excise tax by an equivalent amount. The price at the pump is predicted to be consistent to what it would have been under current law.

Ms. Rheinheimer noted that in total, the State Budget has taken \$1.5 million away from transit operations in San Benito County over the last two fiscal years. This amount could have backfilled the Local Transportation Funds which would have allowed the Council of Governments to apportion some of the money for local streets and roads.

Director Emerson asked if the switch from sales tax to excise tax on gasoline would wipe out the special sales tax measure that was approved by the City of Hollister voters.

Ms. Rheinheimer stated that she believed it was only the state imposed sales tax, and didn't think it would wipe out the City's tax measure.

Board members expressed frustration over the State Assembly Gas Tax Swap and trying to protect local funds for the City and County.

**14. RECEIVE** FY 2010/2011 Council of Governments Draft Budget – Rheinheimer

Administrative Services Specialist, Kathy Postigo, reported that the Council of Governments FY 2010/2011 Draft Budget has been prepared using revenue assumptions that match State funding levels.

Ms. Postigo noted that the most important component of the FY 2010/2011 Budget focuses on cutting spending to match decreased revenues. In summary, the Council of Governments Draft Budget meets the goals and objectives of the agency and matches revenues with expenses.

Director Botelho commended Ms. Postigo and staff for such diligent work on the budget. However, he expressed concern over the anticipated price increase in rent.

Ms. Postigo stated that there is a five year lease contract for COG's administrative offices. The rent increases every year due to common area maintenance costs.

Chair Gomez noted that the yearly rent increase due to common area maintenance is quite typical.

Director Botelho recommended that staff bring back a final budget that shows a reduction in the lease amount of COG's administrative office.

Ms. Postigo mentioned that the big increase in the COG administration was due to the Other Post Employee Benefits (OPEG) which has more than doubled. COG also has to perform its own Actuary Study to verify the OPEB cost.

Director De La Cruz noted that the fiscal liabilities of employees' sick leave hours are not included in the balance sheets and they should be.

Ms. Postigo explained that only retirees who have been with the County for at least five years and vested will receive half of their sick leave payout. Employees who quit do not receive a sick leave payout.

Director De La Cruz stated that the actuary reports do not include a sick leave liability for retirees. Director De La Cruz suggested reviewing the subject with Joe Paul Gonzalez.

Director Emerson asked if County employees receive medical benefits when they retire.

Ms. Postigo stated that a County retiree receives 80% medical coverage (for employee only) and the amount will increase 5% until it reaches 100%.

**PUBLIC COMMENT:**

**Joe Thompson  
Tres Pinos, CA**

Mr. Thompson commended staff for their improvements on the budget reporting. Mr. Thompson asked if it is possible to find out how much money COG gets back from Sacramento and what it really costs us for \$8.8 million. Mr. Thompson asked if it can be agendaized at a future meeting.

Ms. Rheinheimer stated that it would require extensive time and effort for staff to put that type of information together because of all the different types of revenues COG receives, whether they're apportionments, allocations, obligations, grants, or special revenue.

Chair Gomez stated that Mr. Thompson's question was a valid one, however, it would be a very time consuming effort for the Executive Director to have to go through.

Mr. Thompson volunteered his own time to complete the report.

Director De La Cruz suggested contacting Supervisor Loe to discuss the matter, as it is a subject she had requested to get together with staff to analyze the same question Mr. Thompson asked.

**15. RECOMMEND** Layoff of One Part-time COG Employee to County of San Benito - Rheinheimer

Ms. Rheinheimer stated that the Council of Governments has been trying to find ways to reduce its budget over the last two years due to budget cuts at the State level. It is now necessary to layoff one part-time employee effective July 1, 2010 to balance the COG budget.

Chair Gomez inquired if there is a difference between a part-time position's benefits as compared to a full-time position's benefits.

Ms. Rheinheimer stated that the part-time position receives part-time benefits as opposed to the full time benefits.

Director Botelho stated that it is important that staff remains informative to the public about the potential decrease in promptness due to the lack in this position.

Director De La Cruz proposed that Ms. Rheinheimer and staff forego employee step increases for one year to save the part-time position. During the one year staff can try to find the money to fund the part-time position.

Director Botelho stated that he understood Director De La Cruz's point however, since it is a part-time position and there are contracts involved with the other positions which would make things more difficult, he would support staff's recommendation to layoff the part-time position.

*Upon a motion duly made by Director Botelho, and seconded by Director Emerson, the Director's approved Item 15, with Director De La Cruz voting No..*

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

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