

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

May 20, 2010 2:00 P.M.

MINUTES

MEMBERS PRESENT:

Chair Gomez, Director Bilich, Director Botelho, Director De La Cruz, and Alternate Valdivia

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

OTHERS PRESENT:

Dave Murray, Caltrans District 5

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 Valdivia, the Director's unanimously approved the Certificate of Posting.

C. PUBLIC COMMENT:

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson stated that he never sees any Board members at the bankruptcy court trying to help small businesses that are being put out of business by COG's policies. Mr. Thompson stated that COG's policies are strangling and crucifying the small businesses in this County.

Chair Gomez stated for the record that the COG Board received Joe Thompson's public comment correspondence dated March 19, 2010 through May 14, 2010. The correspondence was entered into the public record.

D. EXECUTIVE DIRECTOR'S REPORT:

Ms. Rheinheimer reported that she and Ms. Dinkuhn attended a Central Coast Coordination meeting in San Luis Obispo along with some of the partners in the Regional Transportation Planning Agencies as well as Caltrans staff. There was discussion about Highway 101 and its key connection in terms of north/south travel, trucking, tourist travel, etc... the key economic impacts that HWY 101 has on the Central Coast area from Gilroy down to Santa Barbara and beyond. There will be more discussion on the subject in the near future.

Ms. Rheinheimer stated that she will provide an update on the State Budget in the near future.

Ms. Rheinheimer announced that this week is National Public Works Week. Ms. Rheinheimer recognized all of the people in the Public Works field for their diligent infrastructure work.

Ms. Rheinheimer reported that she will be working over the next year and a half with the American Public Works Association's Monterey Bay Chapter on an infrastructure report card. They will be looking at transportation infrastructure, highways, local streets and roads, aviation, waste water facilities, etc...

Ms. Rheinheimer provided handouts with meeting dates from the Association of Monterey Bay Area Governments for Community Planning Forums 2010 on water. You may sign up online: www.ambag.org/amember/signup.php The other handout listed 2010 Public Workshops for the 2035 Regional Blueprint, Envisioning Monterey Bay Area. Two workshops will be held in Hollister at the Veterans Memorial Building, Room 218 on: June 16, 2010 from 5-7pm and June 26, 2010 from 10am-12pm.

E. BOARD OF DIRECTOR'S REPORTS: None

Director Botelho asked staff to follow up on the possibility of placing a "No truck Route" sign on some of the County's rural roads.

Director Botelho responded to Mr. Thompson's public comment and invited him to bring in clients of his who have gone bankrupt due to COG policy. Director Botelho stated that if there is a small business that has gone bankrupt due to one of COG's policies, then the COG Board should address the matter.

Director De La Cruz expressed appreciation to Ms. Postigo and Ms. Rheinheimer for their work on the Budget and added that staff does a great job answering questions from the Board.

Director De La Cruz directed staff to provide an update and follow up with Caltrans regarding the installation of a light at Buena Vista Road and Highway 156.

Alternate Director Valdivia commented on behalf of Director Emerson and directed staff to place an item on next months agenda regarding an update on the Highway 25 Bypass route transfer.

Chair Gomez directed staff to look into the possibility of placing signs along Highway 156 from San Juan Bautista continuing on to Highway 25, encouraging people to drive towards Hollister for services.

Chair Gomez also acknowledged all of the people in the Public Works field for their diligent infrastructure work.

Ms. Rheinheimer asked the Board to approve moving some agenda items around in order to allow Director Botelho the opportunity to comment on Item 18. The Board was asked to begin with the Regular agenda in the following order; Item 18, Item 16, Item 17, and Item 19, Consent Agenda and Closed Session.

Upon a motion duly made by Director De La Cruz, and seconded by Director Botelho, the Director's unanimously approved the amended agenda as noted above.

REGULAR AGENDA

TRANSPORTATION ITEMS:

- 18. 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 – Rheinheimer

Ms. Rheinheimer provided a Power-Point presentation on the Hollister to Gilroy State Route 25 Widening and Route adoption.

There was extensive discussion amongst Board members and staff.

Director De La Cruz inquired if homeowners have to disclose that there is a potential for right-of-way take when they decide to sell their property.

Ms. Rheinheimer stated that homeowners do have to disclose, however, they will be compensated for fair market value at highest and best use when the property is sold.

Director Botelho asked if the value of the industrial park has been taken into account as well as the proximity of the highway to the airport runways and the industrial land adjacent to it.

Ms. Rheinheimer agreed with Director Botelho's comments and stated that it is problematic with Alternative A and Alternative 1.

Director Botelho expressed concern on both Alternatives because it leaves the existing road as the frontage road and Highway 156 dissects it. Director Botelho stated that this would create another dangerous intersection for the frontage road, the existing Highway 25, and the new Highway 25, with either Alternative A or B. Director Botelho inquired if a flyover is being considered to eliminate a stop light.

Ms. Rheinheimer explained that all of the Alternatives were phased in a way to save costs. The first phase would not include an interchange at Highway 156 and Highway 25. The interchange would be included in future phases.

Director Botelho suggested having an Alternative C which would provide two lanes adjacent to the existing two lanes on Highway 25, or spend the money on installing an overpass at Highway 156.

Ms. Rheinheimer stated that it becomes problematic to simply add two lanes to the existing roadway due to the relocation of utilities and numerous businesses as well as private homes that need to be relocated, which would cost more. In addition, you would still have to put in a frontage road.

Director De La Cruz stated that the Board must be very cautious with this project because it will change the value of people's property.

Chair Gomez stated that he is concerned with building a new road, which will in the end, have the same traffic problems at the intersection.

Chair Gomez also stated that as part of the decision making body, he would like to be able to view all of the Alternatives to be able to make a well informed decision.

Ms. Rheinheimer reviewed the two Alternatives and the two Build Alternatives with the Board. Staff recommended the selection of Route Adoption Alternative 2 and Build Alternative B as the preferred alternative.

After extensive discussion, there was a consensus from the Board to be granted an extension from Caltrans on the comment letter, in order to make a well informed decision.

Director Botelho suggested taking this item to the Board of Supervisors as well as the City Council's for their input and then bring the item back to the COG Board.

Ms. Rheinheimer noted that the comment letters are due to Caltrans by June 10, 2010, which doesn't provide the Board with much time. Ultimately, Caltrans' District Director makes the final determination on the Alternative. Highway 25 is not a focus route for Caltrans because the route takes people from Hollister to Gilroy. If the project moves forward it's going to be because San Benito County and the City of Hollister community make it move forward.

PUBLIC COMMENT:

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that the COG Board does not have any jurisdiction over this item. Only the Board of Supervisors has jurisdiction on this item.

Marvin Jones
Hollister, CA

Mr. Jones concurred with Director Botelho's comments. He commented that an overpass would serve better than expanding the road. Mr. Jones suggested that the Board direct staff to contact Caltrans and recommend building an overpass instead.

Dave Murray from Caltrans District 5 stated that the Board may request an extension from Caltrans however; he couldn't answer whether the extension would be granted. Mr. Murray stated that Caltrans must follow CEQA guidelines.

Ms. Rheinheimer suggested asking Caltrans for the extension and requesting that their design team be present at the next Board meeting to answer questions from the Board.

Mr. Murray concurred with Ms. Rheinheimer's comments and added that it may be helpful for the Board to understand why and how the design team came up with the two Alternatives.

Ms. Bilich stated that her concern is that the Board has had very little input in the design of the project.

Ms. Rheinheimer mentioned that there has not been much involvement at the Board level, however there has been extensive involvement in the project at a staff level. Caltrans has put together a project development team, which includes City and County staff, Caltrans staff, COG staff, and Water District staff, to evaluate some of the issues involved with the project.

Upon a motion duly made by Director Botelho, and seconded by Director De La Cruz, the Director's unanimously voted to direct staff to request an extension from Caltrans to comment on the project, to allow time to educate at all Board levels.

Deputy County Counsel, Shirley Murphy provided a legal comment on the CEQA issue. Ms. Murphy stated that the 45 day time period is minimum and there is not a prohibition to providing a longer period for public comment.

Director Botelho excused himself from the rest of the meeting.

16. RECEIVE Presentation from the Kings County Area Public Transit Agency on their Agricultural Industries Transportation Services (AITS) Vanpool Program – Lezama

Ms. Lezama introduced Mr. Ron Hughes, Executive Director and Carmen Mora, Vanpool Coordinator, from the Kings County Area Public Transit Agency, who provided a presentation on the Agricultural Industries Transportation Service (AITS) program.

The purpose of the Agricultural Industries Transportation Service (AITS) program is to provide efficient and safe transportation services for seasonal and residential farm workers while commuting to/from agricultural work sites (fields, packing facilities) within Fresno, Kings, and Tulare Counties in the Central Valley.

On December 9, 2009, the Association of Monterey Bay Area Governments entered into an agreement with the Kings County Area Public Transit Agency to provide vanpool services in San Benito, Monterey, and Santa Cruz Counties. As part of the agreement, AMBAG agreed to provide a monthly financial incentive for up to \$350.00 for new vanpools leased under the AITS program.

Director De La Cruz inquired if this program would be competitive with the local labor camps that provide these types of services.

Mr. Hughes stated that the service is provided to individuals that approach AITS who want to drive themselves and others to work. It cannot be somebody that is sent by the employer to solicit a van, it cannot be a foreman. The driver signs an agreement stating that he's totally independent and has no relationship with the grower.

Director De La Cruz inquired if COG would have a liability if it participated in the program.

Mr. Hughes stated that agency he is forming is its own entity and is legally responsible. If the agency were to collapse all of the assets would be sold and it would go away.

Chair Gomez mentioned that he saw the presentation at AMBAG last year and asked staff to look into it, although, he thought it was too good to be true.

Mr. Hughes stated that as a member of the agency you may leave the agency at any time.

Director De La Cruz asked why Mr. Hughes is presenting the program to COG, instead of simply publicizing to the private industry.

Mr. Hughes stated that it has to run through a public transit agency because a vehicle is considered a farm labor van, unless a public transit agency operates it.

Director De La Cruz stated that he was concerned over the possibility of vanpool participants becoming county employees five years down the road, which would lead to added costs in health benefits and becomes taxpayer's expense.

Mr. Hughes stated that the program would not survive if it had to collect enough funds to pay the drivers and reminded the Board that the project operates on revenues from the vanpool participants.

PUBLIC COMMENT:

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that this is an "invitation to get onto a slippery slope". He was happy to hear that the operating costs are covered by the users. Mr. Thompson stated that he hopes Kings County continues to support free enterprise.

Chair Gomez thanked Mr. Hughes for the presentation and asked what the next step would be.

Mr. Hughes stated that currently the six agencies are moving towards adopting a joint powers agreement. Three of the agencies, including AMBAG, are making sure they can adopt the agreement under their current bylaws. Once the Joint Powers Authorities come back and sign the agreement, it will be recorded

at the state. The organization should be created sometime in January.

17. APPROVE Comment Letter on Santana Ranch Specific Plan Draft Environmental Impact Report – Dinkuhn

Ms. Dinkuhn reported that staff has reviewed the Draft Environmental Impact Report (EIR), with a focus related to Traffic and Circulation and Air Quality.

Staff prepared a comment letter for the EIR. The comments included correction of some errors regarding COG's functions and some projects. The comments also focused on the need for the project to be designed in accordance with recent legislation, including AB1038, SB375, and AB32, which encourages sustainable development to improve the environment and create livable communities.

Chair Gomez thought that staff completed a thorough review of the EIR, and was satisfied with the comment letter that staff prepared.

Upon a motion duly made by Director Bilich, and seconded by Director Valdivia, the Director's unanimously approved Item 17.

19. DEMOLITION AND REMOVAL OF COG OWNED EXCESS BUILDING – Rheinheimer

- a. RECEIVE** Report on Notice of Intent to Adopt a Mitigated Negative Declaration of Environmental Significance and Notice of Availability for Public Review and Draft Initial Environmental Study for COG Owned Excess Building Located at 530 San Felipe Road, and
- b. DISCUSS** Funding Options to Pay for the Project

Ms. Rheinheimer reported that staff reviewed the requirements for disposing of the building and has learned that there are more requirements that must be met before the building can be removed. Staff prepared a project schedule and draft environmental document to move the project forward.

Ms. Rheinheimer mentioned that COG staff and County Public Works staff are exploring an option to employ the Public Works crew to demolish the building after the asbestos and lead have been removed by a licensed contractor. There will be more information on the cost of this option at a later date.

Ms. Rheinheimer noted that in order to comply with the California Environmental Quality Act, staff prepared a Notice of Intent to Adopt a Mitigated Negative Declaration of Environmental Significance and Notice of Availability for Public Review and Draft Initial Environmental Study. Mitigation measures are included in the environmental document to ensure that demolition and removal activities have a less than significant effect on the environment.

Ms. Rheinheimer stated that COG does not have the funding available from the Highway 25 Bypass project for this work. Ms. Rheinheimer mentioned that Redevelopment Agency funds could be an option that the Board may consider.

Director De La Cruz asked what would become of the property once the building is removed.

Ms. Rheinheimer stated that in this particular case, the City has expressed interest in retaining ownership of the property.

Chair Gomez stated that the project does seem to fit within the Redevelopment Agency's district of removing physical and economic blight.

Ms. Rheinheimer stated that she will bring this item back at the June meeting with a proposal and final cost estimate from Public Works.

CONSENT AGENDA:

1. **APPROVE** Council of Governments Draft Meeting Minutes Dated 18, 2010 – Gomez
2. **APPROVE** Council of Governments Draft Special Meeting Minutes Dated February 19, 2010 – Gomez
3. **APPROVE** Council of Governments Transaction Report (Financial Claims) Dated April 2010 – Postigo
4. **RECEIVE** Construction Projects Report – Caltrans District 5
5. **RECEIVE** Council of Governments FY 09/10 3rd Quarter Budget Report – Postigo
6. **RECEIVE** Update on the Highway 25 Safety and Operational Enhancements Project – Dinkuhn
7. **2010 UNMET TRANSIT NEEDS REPORT** – LiOwen
 - c. **RECEIVE** 2010 Unmet Transit Needs Report.
 - d. **ADOPT** Resolution 10-08 Concerning Unmet Public Transportation Needs Funding and Program for Fiscal Year 2009/2010.
8. **ADOPT** Resolution Number 10-09 AUTHORIZING the Executive Director to Apply for and Accept Federal Transit Act Section 5311 Funds for Fiscal Year 2010 – LiOwen
9. **SAN JUAN HIGHWAY BIKE LANES PROJECT** – Dinkuhn
 - e. **ADOPT** Resolution No.10-10, Approving Right of Way Documents for the San Juan Highway Bike Lanes Project and
 - f. **APPROVE** Amendment No. 2 to Contract with Kathy Wood & Associates
10. **APPROVE** Request for Proposals for Financial Audit for Fiscal Year Ending June 30, 2010 – Postigo
11. **APPROVE** Memorandum of Understanding between COG and San Benito County Health & Human Services Agency for the Provision of Paid Work Experience Subsidized Employment and **AUTHORIZE** the Executive Director to Sign – Postigo
12. **APPROVE** Amendment No. 1 to the Fiscal Year 2009/2010 Overall Work Program to Include Federal Transit Administration Section 5304 Funding for the Implementation of Google Transit – Lezama
13. **APPROVE** Revised Memorandum of Understanding with the Bay Area Metropolitan Transportation Commission for Access to the 511 Ridematch System Database and **AUTHORIZE** Executive Director to Sign – Lezama
14. **APPROVE** Allocation of Federal Regional Surface Transportation Program Funds to the County of San Benito in the Amount of 411,046 – Rheinheimer
15. **APPROVE** Legal Services Agreement between the Council of Governments and Meyers, Nave, Riback, Silver, & Wilson for an Amount Not to Exceed \$200,000 and **AUTHORIZE** the Chairperson to Sign – Dinkuhn

Chair Gomez pulled Items 7-14 from the Consent Agenda to allow Public Comment.

Staff asked to pull Item 15 from the Consent Agenda.

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

PUBLIC COMMENT:

Item 7

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that he did not understand how so many items are on the consent agenda, before five people who have not been elected to serve on the Joint Powers Authority. Mr. Thompson stated that the COG Board refuses to put a cap on Unmet Transit Needs and continues to violate the citizens' civil rights.

Upon a motion duly made by Director Bilich, and seconded by Director Valdivia, the Director's unanimously approved Item 7 from the Consent Agenda.

PUBLIC COMMENT:

Item 8

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that the COG Board needs to stop making these decisions that are ruining the future of his children, grandchildren, and great grandchildren.

Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously approved Item 8 from the Consent Agenda

PUBLIC COMMENT:

Item 9

Director De La Cruz inquired if the Amendment was only to extend the contract and not to increase the contract amount.

Ms. Rheinheimer confirmed that the Amendment was only to extend the contract.

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that there are unused bike paths in this County, yet it is said that there is no money. Mr. Thompson stated that there is a lot of money, which has been taken from the motorist gas tax revenues and is then put towards "silly projects, like COG's non-transportation projects." Mr. Thompson stated that the Board should vote against this "waste".

Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously approved Item 9a and 9b from the Consent Agenda

PUBLIC COMMENT:

Item 10

Director De La Cruz wanted to ensure that COG was going to use a different Certified Public Accountant (CPA) for COG's Financial Audit.

Ms. Rheinheimer confirmed that another CPA would be used.

Joe Thompson
Tres Pinos, CA

Mr. Thompson advised the Board to demand a "legal audit". Mr. Thompson stated that the Board should do the taxpayers a favor and require the auditor to use "generally accepted accounting principles" when completing the audit.

Deputy County Counsel, Shirley Murphy, advised the Board that there are legal parameters that apply to the Financial Audit and the Auditor will be required to follow those.

Upon a motion duly made by Director De La Cruz, and seconded by Director Valdivia, the Director's unanimously approved Item 10 from the Consent Agenda.

PUBLIC COMMENT:

Item 11

Director De La Cruz inquired if staff was planning on filling a vacant position through the Memorandum of Understanding for subsidized employment with the Health & Human Services Agency.

Ms. Rheinheimer stated that the person will not be filling a vacant position and will only be working in the office until September 30, 2010, as stated per the Memorandum of Understanding.

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson stated that he objected to this item on behalf of every small business owner in the County and asked the Board to resign.

Director De La Cruz stated that this program is available to private businesses as well, and only two businesses had responded.

Upon a motion duly made by Director Valdivia, and seconded by Director De La Cruz, the Director's unanimously approved Item 11 from the Consent Agenda.

PUBLIC COMMENT:

Item 12

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson asked why the Board would even consider growing such "blight as Public Transit" in this County. Instead, they should grow the private sector, which pays taxes into the local government and grows the local economy and creates jobs.

Upon a motion duly made by Director Valdivia, and seconded by Director Bilich, the Director's unanimously approved Item 12 from the Consent Agenda.

PUBLIC COMMENT:

Item 13

**Joe Thompson
Tres Pinos, CA**

Mr. Thompson reiterated his previous comments and asked why this item was placed on the Consent Agenda. The Board does not represent everyone in the County.

Upon a motion duly made by Director Valdivia, and seconded by Director Bilich, the Director's unanimously approved Item 13 from the Consent Agenda

PUBLIC COMMENT:

Item 14

Ms. Rheinheimer noted that there was an amendment to the dollar amount on this item. Ms. Rheinheimer stated that there is a local match requirement, which will come out of the same allocation. The correct amount is \$ 464,302, an increase of \$53,266.

Joe Thompson
Tres Pinos, CA

Mr. Thompson stated that this cannot continue and we can't afford to continue doing this. Mr. Thompson stated that all of the people that are able to generate tax revenue dollars are being driven out of the County with decisions like this one.

Upon a motion duly made by Director De La Cruz, and seconded by Director Valdivia, the Director's unanimously approved Item 13 from the Consent Agenda

Item 15

Ms. Dinkuhn noted that the revised agreement was handed out to the Board prior to the meeting.

Ms. Dinkuhn noted that the agreement is for an amount not to exceed \$200,000. Staff is carrying over \$129,000 under the current agreement with Erickson, Beasley, and Hewitt. Staff added additional funding in anticipation of a trial that is coming up.

Upon a motion duly made by Director Valdivia, and seconded by Director Bilich, the Director's unanimously approved Item 15 from the Consent Agenda.

Ms. Rheinheimer requested that the Board move Item F. Closed Session, after the LTA Agenda.

Upon a motion duly made by Director De La Cruz, and seconded by Director Bilich, the Director's unanimously voted to adjourn the COG meeting and reconvening COG's Closed Session after the ALUC Meeting.

The COG meeting reconvened at 4:40 p.m.

F. Closed Session:

1. Conference with Legal Counsel – Existing Litigation

No. of cases: 3

Authority: California Government Code Section 54956.9(a)

Council of San Benito County Governments v. Hollister Inn

Council of San Benito County Governments v. McNamee

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

Board of Supervisors

Deputy County Counsel Shirley Murphy withdrew the first case listed: Council of San Benito County Governments v. Hollister Inn.

Deputy County Counsel Shirley Murphy stated that there was no reportable action taken under Existing Litigation: No. of cases: 2

Council of San Benito County Governments v. McNamee and

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

Board of Supervisors

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

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

ADJOURN TO COG MEETING JUNE 17, 2010. AGENDA DEADLINE IS JUNE 8, 2010 AT 12:00 P.M.