

Fresno County Regional Transportation Mitigation Fee Agency

Date: Thursday, March 20, 2014

**Place: COG Sequoia Conference Room
2035 Tulare St., Suite 201, Fresno, CA**

Members Attending:

Mayor Lynne Ashbeck, City of Clovis
Councilmember Ron Lander, City of Coalinga
Councilmember Marcia Sablan, City of Firebaugh
Mayor David Cardenas, City of Fowler
Mayor Sylvia Chavez, City of Huron
Mayor Chet Reilly, City of Kingsburg
Mayor Robert Silva, City of Mendota
Mayor Gabriel Jimenez, City of Orange Cove
Mayor Armando Lopez, City of Parlier
Mayor Robert Beck, City of Reedley
Mayor Kenneth Grey, City of Selma
Supervisor Judith Case McNairy, County of Fresno

Arthur Wille, Legal Counsel
Tony Boren, Executive Director
Les Beshears, Finance Director
Marla Day, Fresno COG

Absent:

Mayor Ashley Swearingin, City of Fresno
Mayor Gary Yep, City of Kerman
Mayor Amarpreet Dhaliwal, City of San Joaquin
Mayor Joshua Mitchell, City of Sanger

Mayor Cardenas, Vice Chair, called the meeting to order at 7:15 pm.

QUORUM: At the start of the meeting there were 12 members present representing 42.09% of the population and there was a quorum to conduct business. (Clovis, Coalinga, Firebaugh, Fowler, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, Selma and Fresno County)

I. ELECTION OF CHAIR AND VICE CHAIR

Current:

Mayor Amarpreet Dhaliwal (San Joaquin) Chair
Mayor David Cardenas (Fowler) Vice Chair

The nominations were opened. A motion was made by Supervisor Case McNairy (County) and seconded by Mayor Chavez (Huron) to reappoint Mayor Dhaliwal (San Joaquin) Chair and Mayor Cardenas (Fowler) Vice Chair. There were no other nominations. A vote was called for and the motion carried.

II. Minutes of October 24, 2013 [APPROVE]

A motion was made by Mayor Lopez (Parlier) and seconded by Mayor Ashbeck (Clovis) to approve the Executive Minutes of October 24, 2013 as submitted. A vote was called for and the motion carried.

At 7:20 pm. Mayor Swearengin (Fresno) was still in meetings at City Hall. In order to give the Mayor additional time to arrive at the meeting, the meeting was adjourned to the Fresno County Rural Transit Agency meeting.

At 7:48 pm the meeting was called to order again, it was determined that Mayor Swearengin would not be able to attend the meeting. The appellant requested that their appeal be continued to April to give the City of Fresno an opportunity to weigh in on the appeal.

A motion was made by Mayor Jimenez (Orange Cove) and seconded by Mayor Lopez (Parlier) to continue the appeal to April. A vote was called for and the motion carried.

III. [Measure C Regional Transportation Mitigation Fee Program \[Beshears\] \[INFORMATION\]](#)

Les Beshears, Finance Director reported the RTMF is intended to ensure that future development contributes its fair share towards the cost of infrastructure to mitigate the cumulative, indirect regional transportation impacts of new growth in a manner consistent with the provisions of the State of California Mitigation Fee Act. The fees help fund improvements needed to maintain the target level of service in the face of higher traffic volumes brought on by new developments. The RTMF was enacted in January, 2010. The total amount collected from inception as of December 31, 2013 is \$9.036 million. Because every building permit issued throughout the county is assessed for the RTMF, a snapshot of the building trends over the last three years shows that single family homes make up most of the fees collected, followed by retail commercial.

During the 2012-2013 Fiscal Year (July 1, 2012 to June 30, 2013) Fresno COG processed 1,564 applications subject to the RTMF, resulting in the collection of \$3,187,554.73. The amount collected during FY 2012-2013 represent 35% of the total collected since the RTMF was enacted. \$1.68 million of the 2012-13 fees were for single family homes; and \$1.065 million were for retail development.

This was an information item and required no further action by the Board.

IV. [Measure C Regional Transportation Mitigation Fee \(RTMF\) Five Year Update \[Beshears\] \[INFORMATION\]](#)

Mr. Beshears went on to report that PB Americas provided a Scope of Work (SOW) to update the RTMF Nexus Study at an estimated cost of \$95,589. The proposed SOW was included in the meeting package and provides the minimum services to update the Nexus per state law. Any additional services beyond this scope must be negotiated. As implementing agency for the RTMF, the Transportation Authority will take the SOW to their Board in April to authorize the budget. Mr. Beshears reported that a subcommittee meeting was held on March 17, 2014 @ 1:30 PM to review the SOW and discuss consensus on the approach. Any consulting cost associated with the subcommittee will be picked up by Fresno COG's on-call contract with PB Americas.

This was an information item and required no further action by the Board.

THIS ITEM WAS CONTINUED TO APRIL.

**V. [Regional Transportation Mitigation Fee-Figarden Drive Apartments, LLC Appeal \[Beshears\]](#)
[\[REVIEW/ACTION\]](#)**

Summary: In July 2013, Figarden Drive Apartments, LLC paid, under protest, \$198,794.28 in Regional Transportation Mitigation Fees (RTMF) to Fresno COG. The RTMF fees are for a 160-unit multi-family project being developed at the subject location in the City of Fresno. The appellant is claiming that Parcel Map 2006-20 was vested per the State of California's Subdivision Map Act which governs these issues. The fact that the map was vested is not under contention by COG staff, however it is COG staff's contention that the map was "vested" with zoning in place for a C-2 (Community Shopping Center) only. It was not vested for a multi-family residential development.

With this in mind, when the developer requested a rezone to allow residential development, staff determined through consultation with our RTMF consultant- PB America and our legal counsel, that per state law and RTMF adopted policy, the new rezone constituted a new entitlement and therefore the RTMF fee was applicable. The key point in the staff determination is that per the Subdivision Map Act, a tentative map is vested in substantial compliance with the ordinances, policies, and standards in place at the "time of acceptance". The City of Fresno zoning ordinance prohibits residential development in a C-2 zoned parcel therefore a residential development clearly is not in compliance with the ordinances, policies, and standards of a commercial development. Staff met with Figarden Drive LLC prior to the zoning change and explained our perspective on the issue, however they chose to proceed with the development and now wish to contest the fee.

Recommendation – Staff recommends the appeal be denied and the Board make the following Findings of Fact.

Findings of Fact

1. Section 66498.1 provides that approval of a vested map shall confer a vested right to proceed with development in substantial compliance with the ordinances, polices, and standards in effect at the time the vested map is approved.
2. When originally approved, Vested Parcel Map 2006-20 was approved for C2 Zoning.
3. Residential Apartments are prohibited under City of Fresno C2 Zoning.
4. Vested Parcel Map 2006-20 included no conditions indicating approval for an inconsistent use per Section 66498.3 (a).

Action: Board to hear the appeal and take action.

VI. [OTHER BUSINESS](#)

A. Items from Staff

None

B. Items from Members

None

VII. PRESENTATIONS

A. Public Presentations

This portion of the meeting is reserved for persons wishing to address the Board on items within its jurisdiction but not on this agenda.

There being no further business, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in blue ink that reads "Tony Boren". The signature is written in a cursive style with a blue ink color.

Tony Boren, Executive Director

\md