

**Fresno County Regional Transportation
Mitigation Fee Agency****Date: Thursday, May 29, 2014****Time: 5:30 PM****Place: COG Sequoia Conference Room****2035 Tulare St., Suite 201, Fresno, CA****IMMEDIATELY FOLLOWING THE FRESNO****COG POLICY BOARD MEETING - ALL POLICY
BOARD MEMBERS****Americans with Disabilities Act (ADA) Accommodations**

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RTMF Full Meeting Package**FRESNO COUNTY RTMF AGENCY AGENDA****I. Minutes of April 24, 2014 [APPROVE]****II. Superior Court of California - Law and Minute Order – Clovis Herndon LLC [Beshears]
[Information]**

Summary: On October 25, 2012 the RTMF Board heard an Appeal by Clovis Herndon LLC protesting the fee collected for Clovis Crossing Shopping Center. During the hearing a motion was made to the effect the fee did not apply to Clovis Herndon LLC. That motion failed. Clovis Herndon LLC subsequently filed suit in Fresno Superior Court and the hearing was held January 15, 2014. After reviewing the record, on April 15, 2014, the judge ordered the *Fresno County Regional Transportation Mitigation Fee Agency to hold a new hearing on petitioner's appeal, make a new determination on petitioner's appeal, and make appropriate findings in support of whatever order it may make on that hearing. Any review of subsequent findings shall be initiated by petition for writ of mandate.*

Staff initially scheduled the new hearing ordered by the Judge to occur at the May 29, 2014 meeting, however without waiving privilege, on advice of County Counsel, this matter has been continued.

Action: Information. Direction may be provided at the discretion of the Board.

III. OTHER BUSINESS**A. Items from Staff****B. Items from Members****IV. 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. **Note: Prior to action by the Board on any item on this**

agenda, the public may comment on that item. Unscheduled comments may be limited to 3 minutes.

FOR YOUR INFORMATION:

*Items listed as information still leave the option for guidance/direction actions by the Committee.

**All enclosures are available on our website at www.fresnocog.org

Fresno County Regional Transportation Mitigation Fee Agency

Date: Thursday, April 24, 2014

Time: 5:30 PM

Place: COG Sequoia Conference Room

2035 Tulare St., Suite 201, Fresno, CA

IMMEDIATELY FOLLOWING THE FRESNO COG POLICY BOARD MEETING - ALL POLICY BOARD MEMBERS

Members Attending: Mayor Pro Tem Nathan Magsig, City of Clovis
Councilmember Ron Lander, City of Coalinga
Mayor David Cardenas, City of Fowler
Councilmember Steve Brandau, City of Fresno
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 Amarpreet Dhaliwal, City of San Joaquin
Mayor Joshua Mitchell, City of Sanger
Councilmember Scott Robertson, City of Selma
Supervisor Judith Case McNairy, County of Fresno

Janelle Kelley, Legal Counsel
Tony Boren, Executive Director
Les Beshears, Finance Director

Absent: Mayor Marcia Sablan, City of Firebaugh
Mayor Gary Yep, City of Kerman

Others Attending:
Bob Hillison, Caswell Bell Hillison

Mayor Dhaliwal, Chair, called the meeting to order.

QUORUM: At the start of the meeting there were 14 members present representing 97.70% of the population and there was a quorum to conduct business. (Clovis, Coalinga, Fowler, Fresno, Huron, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, Selma and Fresno County)

I. Minutes of March 20, 2014 [APPROVE]

A motion was made by Mayor Lopez (Parlier) and seconded by Mayor Beck (Reedley) to approve the Minutes of March 20, 2014 as presented. A vote was called for and the motion carried.

II. Consideration of Request by City of Fresno to Postpone Regional Transportation Mitigation Fee (RTMF) Appeal Hearing for Spencer Enterprises Project Located at North Fig Garden Drive and West Bullard Avenue [Beshears] [INFORMATION/DISCUSSION]

Summary: Earlier this month at our Policy Advisory Committee (PAC) meeting, the City of Fresno requested PAC support for a motion to postpone the scheduled RTMF Appeal Hearing for a Spencer Enterprises project located at North Fig Garden Drive and West Bullard Avenue. Fresno's basis for the postponement request is that the project "may" qualify for a reduced RTMF as a result of the completion of the RTMF Study update which is now underway and is scheduled to be completed in the Fall of 2014. The premise is that the updated RTMF study may provide a provision for reduced fees for projects that qualify as "in-fill" under the updated RTMF fee structure.

Lengthy discussion of the issue by the PAC and COG staff revealed several areas of concern including:

1. Legal concerns regarding the melding of the RTMF collection process, which is governed by state law in conjunction with the State Subdivision Map Act and Fresno COG's SB 375 Sustainable Communities regional planning process which is voluntary in nature at this point in time.
2. Continuing the appeal several months into the future and introducing an issue (in-fill) unrelated to the central issue of RTMF "fee collection" could adversely complicate the collection of the RTMF on projects with similar vesting issues.
3. Financial implications for the RTMF fund balance in the event the appeal is upheld and other groups who have already paid the RTMF begin to seek their refunds.
4. Uncertainty of whether the updated RTMF Ordinance's definition of "in-fill" will apply to the Spencer project and how it would retroactively be applied should it be enacted as a part of the update.
5. The Spencer appeal is not an application for a future development. The fee has been paid and the project is complete.

Upon conclusion of the discussion, a motion was made by the City of Fresno, seconded by Reedley to recommend the Policy Board consider postponing the Spencer RTMF Appeal hearing scheduled for April 24, 2014, until the RTMF update is complete. The motion passed 11 ayes to 1 no (County of Fresno).

Information/Discussion: Direction may be provided at the discretion of the RTMF Board.

Before staff made its presentation, Mayor Mitchell (Sanger) made a motion to postpone the RTMF Appeal Hearing for Spence Enterprises until the RTMF update is complete. The motion was seconded by Councilmember Brandau (Fresno). Janelle Kelley, Legal Counsel, requested that the public have the opportunity to comment. There were no comments.

III. Regional Transportation Mitigation Fee-Figarden Drive Apartments, LLC Appeal [Beshears]
[REVIEW/ACTION] POSTPONED UNTIL FUTURE DATE PER MOTION UNDER ITEM II.

IV. OTHER BUSINESS

- A. Items from Staff

Mr. Boren provided a handout listing possible future hearings.

B. Items from Members

V. 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 were no public presentations.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Tony Boren, Executive Director

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