

Fresno County Regional Transportation Mitigation Fee Agency

EXECUTIVE MINUTES

Date: Thursday, June 26, 2014

Time: 5:30 PM

**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
- Mayor David Cardenas, City of Fowler
- Mayor Ashley Swearingin, City of Fresno
- Mayor Sylvia Chavez, City of Huron
- Mayor Gary Yep, City of Kerman
- Mayor Chet Reilly, City of Kingsburg
- Mayor Robert Silva, City of Mendota
- Mayor Gabriel Jimenez, City of Orange Cove
- Councilmember Raul Villanueva, City of Parlier
- Mayor Robert Beck, City of Reedley
- Mayor Joshua Mitchell, City of Sanger
- Mayor Ken Grey, City of Selma
- Supervisor Henry Perea, County of Fresno

Arthur Wille, Legal Counsel
Tony Boren, Executive Director
Les Beshears, Finance Director

Absent:

- Mayor Marcia Sablan, City of Firebaugh
- Mayor Amarpreet Dhaliwal, City of San Joaquin

Others Attending:

- Robert Hillison, CB&H
- Mr. Paynter, Clovis-Herndon LLC
- Melissa Garza, FCOG
- Brenda Veenendaal, FCOG
- Marla Day, FCOG

QUORUM: At the start of the meeting there were 14 members present representing 98.76% of the population and there was quorum to conduct business. (Clovis, Coalinga, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, Sanger, Selma and Fresno County)

Mayor Cardenas (Fowler) Vice Chair, called the meeting to order.

I. Minutes of May 29, 2014 [APPROVE]

Following an expressed opportunity for public comment, a motion was made by Councilmember Lander (Coalinga) and seconded by Mayor Grey (Selma) to approve the Executive Minutes of May 29, 2014 as submitted. A vote was called for and the motion carried.

II. Clovis-Herndon LLC Appeal [Beshears] [DIRECTION]

This appeal was initially heard by the board and denied on October 25, 2012. It is being heard a second time pursuant to court order. The verbatim transcript from the 2012 hearing was enclosed.

Les Beshears, Finance Director introduced this item. (For a complete summary of this item please see the June 26, 2014 Agenda.) Mr. Beshears explained the reasons for the appeal being reheard. A copy of the letter received from Caswell Bell & Hillison LLP on May 20, 2014 was distributed to the Board members prior to the presentation by Mr. Hillison.

Mr. Hillison gave a powerpoint presentation presenting Clovis-Herndon LLC appeal. Mr. Hillison contended that staff enforcement of the fee was contrary to language in Board adopted resolutions, that the fee was not applicable to development approved prior to January 1, 2010. He also advised that Clovis-Herndon LLC had an Equal Protection argument because residential development was treated different from commercial development.

In rebuttal Mr. Beshears (FCOG) stated that the language in board adopted resolutions clearly defined New Development in terms of construction activity, the approval document for construction is a building permit, and this is consistent with state law and board adopted policy. Since Clovis-Herndon LLC had no building permit until after the imposition of the fee, the fee is applicable to the Clovis Herndon Development. In response to the Equal Protection claims raised by Mr. Hillison, Mr. Beshears demonstrated that there was no unequal treatment between residential and commercial development.

Mayor Swearingin questioned staff assessment of the legal interpretation of language in board resolutions.

Mayor Mitchell (Sanger) asked why legal counsel had not provided a legal opinion.

Mr. Wille (Legal Counsel for FCOG) recommended the public hearing continue until all testimony is complete, then close the public testimony, table the issue and county counsel would provide a legal assessment of all the facts presented by Mr. Hillison and Mr. Beshears.

Mayor Reilly (Kingsburg) questioned the circumstances surrounding approval of the project in 2003, 2007, and June 2009.

Mr. Paynter discussed the CEQA challenges and the court stay that prevented the city from issuing building permits.

Mr. Beshears advised that the building permit was issued two years and eight months after the final June 2009 approval and two years and one month after the court lifted its stay on building permits.

Mayor Mitchell (Sanger) made a motion to table the item. The motion was seconded by Mayor Swearingin (Fresno)

Mayor Cardenas (Fowler) (Vice Chair) called the question and the motion passed. The matter will be brought before the Board on July 31st.

III. OTHER BUSINESS

A. Items from Staff

None

B. Items from Members

None

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.

There were no public presentations.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Tony Boren, Executive Director

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