

## Fresno County Regional Transportation Mitigation Fee Agency

### AGENDA

**Date: Thursday, September 24, 2015**

**Time: 5:30 PM**

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

### **FOLLOWING THE FRESNO COG POLICY BOARD MEETING - ALL POLICY BOARD MEMBERS**

#### **Americans with Disabilities Act (ADA) Accommodations**

The Fresno COG offices and restrooms are ADA accessible. Representatives or individuals with disabilities should contact Fresno COG at (559) 233-4148, at least 3 days in advance, to request auxiliary aids and/or translation services necessary to participate in the public meeting / public hearing. If Fresno COG is unable to accommodate an auxiliary aid or translation request for a public hearing, after receiving proper notice, the hearing will be continued on a specified date when accommodations are available.

- I. **Minutes of June 25, 2015 [APPROVE]**
  
- II. **Regional Transportation Mitigation Fee Agency - Procedures for Resolving Appeals of the Regional Transportation Mitigation Fee Where the Board is Deadlocked [Beshears] [ADOPT]**

**Summary:** During the recent prolonged Regional Transportation Mitigation Fee (RTMF) appeal hearing, the Policy Board became deadlocked due to the dual weighted voting requirement. The dual weighted voting requirement was adopted in the initial bylaws of the Fresno Council of Governments and incorporated into the voting structure of the RTMF JPA. It presently requires a majority of the members (9) carrying 40% of the population to pass a motion. This voting process generally has served the board well over the years, as it provides representation by larger members based on population while allowing member coalitions to block controversial issues. However, it becomes a significant problem during an appeal process, when due process mandates a decision shall be rendered. To this extent, during the recent RTMF appeal hearing that resulted in a prolonged deadlock, the Policy Board directed County Counsel to prepare a methodology to break the deadlock; however, on the advice of County Counsel, that action was postponed because of due process concerns regarding on-going litigation. Those concerns have been resolved and it is now appropriate for the board to consider the issue.

When the COG was originally formed, the initial voting requirement to pass a motion required a majority of the members representing a majority (50%) of the population to support the motion. However, in 1989, when the City of Fresno's population exceeded 50% of the population, the Policy Board formed a subcommittee of Board members that conducted extensive negotiations to arrive at the current requirement. During that negotiation it became apparent there are subtle and complex dynamics involved in a voting structure wherein almost 82% of the population vote resides in the three largest members, with thirteen members aggregating the remaining 18%. Simply lowering the threshold beyond a certain point negates the reason for having a population threshold. The 40% threshold was arrived at after lengthy deliberation by Board members and is structured so that no one agency can pass or block a motion without a coalition of at least one or more other agencies. Respecting the sensitive balance struck in 1989 when the board renegotiated the dual weighted voting system, staff does not

recommend tampering with voting methodology. However, the issue of a deadlock arising in a situation that requires due process remains; therefore, a different track is proposed that will specifically apply only when an appeal is deadlocked essentially denying due process. The proposed deadlock rule shall not be applicable to voting on any other issue or situation.

Staff recommends the RTMF Board modify the appeal process so as to treat a deadlocked vote on an appeal as a “Technical Denial” of the appeal on the basis the votes cannot be generated to grant the appeal, and directs staff to issue policy based findings to support the denial.

This issue was run through the Policy Advisory Committee in July. In response to concerns by the City of Fresno, staff withdrew the item to allow members more time to contemplate the issue; however, during the discussion the City of Clovis proposed the deadlock rule should not apply until the Board had three opportunities to resolve the issue in open session. Resolution 2015-01 has been modified to incorporate this recommendation; therefore, the deadlock rule shall not apply unless the Board remains deadlocked after three appeal hearings. The issue was again run through the Policy Advisory Committee in September who concurred with staff recommendation.

**Action:** Staff recommends adoption of Resolution 2015-01, modifying the appeal process to provide a resolution should the vote remain deadlocked after three appeal hearings.

**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:**

\*All enclosures are available on our website at [www.fresnocog.org](http://www.fresnocog.org)