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POLICY ADVISORY COMMITTEE

Executive Minutes

Date: Friday, September 11, 2015

Time: 10:00 AM

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

Members Present:

Nicole Zieba, City of Reedley
Jack Castro, City of Huron
Andy Haussler, City of Clovis
Chad McMullen, City of San Joaquin
Ken McDonald, City of Firebaugh
Bernard Jimenez, Fresno County
Alex Henderson, City of Kingsburg
John Mulligan, City of Sanger
Ken Grey, City of Selma
Cristian Gonzalez, City of Mendota

Others Attending (see attached)

Ms. Zieba (Reedley) Chair, called the meeting to order.

PRESENTATIONS

JOINT Transportation Technical Committee / Policy Advisory Committee

The TTC and the PAC meets as a joint Committee to consider scheduled public presentations brought before the Committees. This portion of the meeting is scheduled to begin at 10:00 a.m.

1. Caltrans Report [CALTRANS]

Michael Navarro, Caltrans provided an update at the meeting on current Caltrans activities. A copy of the Caltrans Quarterly Report is included as an exhibit to this item.

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

POLICY ADVISORY COMMITTEE

I. TRANSPORTATION CONSENT ITEMS

About Consent Items:

All items on the consent agenda are considered to be routine and non-controversial by COG staff and will be approved by one motion if no member of the Committee or public wishes to comment or ask questions. If comment or discussion is desired by anyone, the item will be removed from the consent agenda and will be considered in the listed sequence with an opportunity for any member of the public to address the Committee concerning the item before action is taken.

- A. Executive Minutes of July 17, 2015 [APPROVE]
- B. FY 2015-16 Transportation Funding Claims [Fawcett] [APPROVE]
- C. FY 2014/15 Local Transportation Fund (LTF) Surplus [Fawcett] [INFORMATION]
- D. Transportation Development Act Triennial Audit Consultant [Fawcett] [INFORMATION]
- E. 2016 State Transportation Improvement Program (STIP) Update [Garza] [INFORMATION]
- F. Financial Management Information System (FMIS) (project funding authorization tool) [Garza] [INFORMATION]
- G. CMAQ/RSTP Call for Projects [Chargin] [INFORMATION]
- H. 2015 FTIP Amendment No. 8, 2014 RTP Amendment 1, Corresponding Conformity [Chargin] [INFORMATION]
- I. Celebrating National Drive Electric Week [Dawson] [INFORMATION]
- J. Fresno/Madera Origin-Destination Study [Terry] [INFORMATION]
- K. I-5/SR-99 Goods Movement Study [Terry] [INFORMATION]
- L. Cap and Trade [Terry] [INFORMATION]
- M. Prop 84/Greenprint Update [Terry] [INFORMATION]
- N. Circuit Engineer Request for Proposals [Arnest] [INFORMATION]
- O. Update on "Keep California Moving – Fix the Roads" Roundtable [Boren] [INFORMATION]
- P. Monthly Grant/Call for Projects/Request for Proposals [Chargin] [INFORMATION]

For a complete summary of these items, please see the September 11, 2015 Annotated Agenda.

Following an expressed opportunity for public comment, a motion was made by Mr. Grey (Selma) and seconded by Mr. Jimenez (County) to recommend approval of the Transportation Consent Items as presented. A vote was called for and the motion carried.

II. TRANSPORTATION ACTION / DISCUSSION ITEMS

- A. **Measure "C" Amendment #3 - Allocate an Amount Not to Exceed \$750,000 from the Measure 'C' High Speed Rail Program to Open Real Estate Escrows with Security Deposit on**

Land that has been Identified as Suitable for the Future California High Speed Rail Heavy Maintenance Facility [PUBLIC HEARING - September 24, 2015] [Boren] [DIRECTION BY POLICY BOARD]

Les Beshears, Finance Director, reported on this item. Amendment #3 would make available (if needed) an amount not to exceed \$750,000 to reimburse a local developer (Tim Jones) who is willing to use his "own funding" to open real estate escrows with security deposits on the land that has been identified as the most suitable in Fresno County for the location of the future High Speed Rail Heavy Maintenance Facility (HMF). The funding would come from the \$25 million previously set aside by Measure "C" Amendment # 1. Approved by the Policy Board in 2010, Amendment #1 established a new Measure "C" High Speed Rail Facilities Program. Funding available from this program is to be used to provide capital for a variety of uses associated with development of the High Speed Rail Heavy Maintenance Facility. Conditions in Amendment #1 state that funding can only be accessed "after" the California High Speed Rail Authority awards Fresno the HMF site. Amendment #3 would make \$750,000 available for use "before" the California High Speed Rail Authority select the HMF site.

The land acquisition process would work as follows: The developer will work at "his cost", making offers to willing sellers to purchase the subject parcels by opening escrows with security deposits to ultimately buy the parcels. The initial term of the escrows will be one year. At the end of the initial term of the escrow, if the developer has been unable to package the HMF parcels, the developer may choose to close the escrow accounts and withdraw his security deposits. In the event a decision is made to extend the escrow beyond the initial year, a forfeiture of the initial security deposits occurs, and new escrows would have to be established to continue to hold the properties. It is the "extension of the escrows" where the developer would be getting reimbursed for his initial security deposits. There are three potential scenarios were explained:

Scenario #1-Fresno is awarded the facility.

The \$750,000 is not in play. The developer will negotiate an agreement with the California High Speed Rail Authority to acquire the parcels and pass title.

Scenario #2-Fresno is not awarded the facility.

The \$750,000 is not in play. The escrows will be structured to allow the escrow to be closed and the security deposit money withdrawn. The developer will close out the escrows and withdraw the security deposits at his cost.

Scenario #3-No decision is made by the CHSRA on the HMF site during the initial one year term of the escrows.

A decision would have to be made by the COG and FCTA Boards to extend the escrows beyond the initial one year term, the developer would then be reimbursed for his initial security deposits, not to exceed \$750,000.

The Measure "C" Oversight Committee discussed Amendment #3 at their meeting on September 10, 2015 and Mr. Beshears reported that after several questions the Committee concurred with the new proposal. A public meeting is being held on September 16th at Fresno COG at 5:30 pm to give members of the public an opportunity to comment on the proposed amendment. A Public Hearing will be held on Thursday, September 24, 2015 during the Fresno COG Policy Board meeting.

Lee Ann Eager, EDC commented on the meetings that have been held and gave an explanation of the process and timing.

There were questions regarding the escrow period of one year and if the item will be reheard before the escrows are closed or extended. Mr. Beshears said that would be another process. Mr. Beshears explained that the developer will work directly with the High Speed Rail Authority.

Following an expressed opportunity for public comment, a motion was made by Mr. Grey (Selma) and seconded by Mr. Henderson (Kingsburg) to agree with the new proposal. A vote was called for and the motion carried with the City of Clovis abstaining.

B. Establish Project Development Team for Cycletracks Feasibility Study [Thompson]
[DIRECTION]

Clark Thompson (FCOG) explained that Work Element 110, Regional Streets and Highways Planning, of the Fresno COG 2015/16 Overall Work Program (OWP), includes a task to "Conduct Cycle Tracks Feasibility Study in the metropolitan area." One hundred thousand dollars (\$100,000) is available for this study, the impetus for which, and its subsequent inclusion in the OWP, came from Bruce Rudd, Fresno City Manager, by letter dated November 20, 2014 (enclosed).

Assembly Bill 1193, amending the Streets and Highways Code relating to bikeways, was approved by Governor Brown on September 20, 2014. While bikeways for decades have been grouped into three categories of facilities, this bill established a fourth category, or Class IV Bikeways, also referred to as Cycle Tracks or Protected Bike Lanes or Separated Bike Lanes. Basically, these are bike lanes that provide a right-of-way designated exclusively for bicycle travel within a roadway protected from traffic with some kind of vertical barrier, not just paint. Many potential cyclists may avoid on-street cycling if no physical separation from vehicular traffic is provided. Because Cycle Tracks may increase the number of bicycling trips, they can help reduce traffic congestion and meet local and state greenhouse gas emissions reductions goals, and improve health and quality of life by helping more people be active.

An initial step in the development of this study is to determine the composition of and nomination of individuals to serve on the Project Development Team that will assist with the study, initially with regard to the development of a Request for Proposals. Given the complexity and expected interest in this study, staff recommends representation from the cities of Fresno and Clovis and the County of Fresno (from both Public Works and Planning Departments), Caltrans, Fresno Cycling Club, Fresno's Bicycle/Pedestrian Advisory Committee, and the Building Industry Association. Your Committee may wish to propose additional organizations/individuals. For information/questions regarding the Cycle Tracks Feasibility Study, contact Fresno COG staffmember Clark Thompson at clarkt@fresnocog.org or (559) 233-4148 x203.

The feasibility study was discussed at some length. Mr. Grey (Selma) wanted to make sure that the smaller cities outside the metropolitan area not be left out of this study.

Following the discussion, a motion was made Mr. Henderson (Kingsburg) and seconded by Mr. McDonald (Firebaugh) to include Fresno County cities outside the metropolitan area. A vote was called for and the motion carried.

Staff committed to their inclusion, not just in terms of their participation on the Project Development Team but also in that the study information and findings would benefit these other cities as well.

C. Needs Assessment Consultant Selection [Cai] [APPROVE]

Kristine Cai (FCOG) reported that the Needs Assessment program is one of the three SCS implementation programs approved by the Policy Board in May 2014. \$100,000 was budgeted to conduct a county-wide transportation needs assessment as directed by the Board. A Needs Assessment Steering Committee was formed to provide guidance for the development of the program. The Steering Committee identified the scope of work for the Needs Assessment program, which will be carried out separately by COG staff, the Fresno State Community and Regional Planning Center and a team of consultants. Fresno COG staff will be working on collecting bike/pedestrian plans from the cities and the County, and will be responsible for various mappings identified in the scope; two Fresno State students have been hired to conduct sidewalk inventories; and consulting service is being sought to identify regional gap projects for bike/trail facilities and conduct a connectivity and accessibility analysis for the 10 regional/sub-regional facilities identified by the Steering Committee that provide basic service to the residents.

An RFP for consultant service was issued in July for the amount of \$100,000. Three proposals were received. A Scoring Committee was formed that consisted of a representative from each of the following entities: Fresno COG, County of Fresno, City of Fresno, City of Clovis, East-side cities, West-side cities and the general public. The Scoring Committee reviewed the proposals and conducted interviews with the three consultant teams on September 4th. Fehr & Peers was recommended by the Scoring Committee.

Following an expressed opportunity for public comment, a motion was made by Mr. Henderson (Kingsburg) and seconded by Mr. McDonald (Firebaugh) to recommend approval of Fehr & Peers as recommended by the Scoring Committee for the Needs Assessment study, and recommended authorization for the Executive Director to enter into contract with the selected consultant team for the amount specified in the proposal. A vote was called for and the motion carried.

D. Circuit Planner Planning Consultant Selection [Terry] [APPROVE]

Rob Terry (FCOG) reported that Fresno COG requested proposals for a planning consultant to serve as a Circuit Planner, continuing the services offered through Fresno COG over the past few years. As previously conducted, the selected firm/individual will act as a liaison between Fresno COG and the 13 smaller cities (those with populations less than 50,000) within Fresno County to (1) assist with integrating Sustainable Communities Strategies and the Blueprint Smart Growth Principles into local planning processes, and (2) assist with coordinating transportation planning and project development between local agencies and Fresno COG, in collaboration with the Fresno COG Circuit Engineer (consultant yet to be determined) and local agency staff. This position is not meant to supplant contract planners that local agencies are currently working with but rather complement those local planning arrangements.

An RFP for consultant services was released on July 7, 2015, with proposals due on August 7, 2015. The contract period is anticipated to run through December 31, 2016. Due to the receipt of a single proposal (VRPA Technologies), interviews were deemed unnecessary. Review of the proposal indicated that the project scope was clearly understood; and that the firm's previous experience with transportation planning, engineering, and local agency assistance, made for an excellent fit for the position.

Following a brief discussion and opportunity for public comment, a motion was made by Mr. Grey (Selma) and seconded by Mr. Haussler (Clovis) to recommend approval to the Fresno COG Policy Board to authorize the Executive Director to negotiate a scope of services and to enter into a contract with VRPA, not to exceed \$49,999.98, as indicated in the consultant's proposal, to serve as Fresno COG's Circuit Planner. A vote was called for and the motion carried.

E. Ag Ad-Hoc Committee Update [Terry] [INFORMATION]

Mr. Terry went on to report that On July 22, 2015, the Committee took formal action on seven individual items, containing a recommended policy, implementation activities, and additional general recommendations to direct COG assistance efforts and future activities. To ensure that the activities of the Committee are clearly articulated, a whitepaper (attached) has been prepared which frames the creation, purpose, and activities of the Committee. It is anticipated that staff will deliver a full presentation to the TTC and PAC, including a request for action/recommendation regarding consideration of preservation ratios and/or activities from the PAC (as indicated in the whitepaper), at the November 2015 meeting. Leading up to this meeting, staff requests that you review the whitepaper, and continually work with staff as the

presentation containing the identification of potential preservation ratios and activities is prepared.

Mr. Grey (Selma) thanked Mr. Terry for his work on this project dealing with the difficult issues involved. Mr. Jimenez also commented.

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

III. ADMINISTRATIVE CONSENT ITEMS

About Consent Items

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- A. Fresno Area Express (FAX) JARC\New Freedom Contract Extensions [Beshears] [APPROVE]
- B. San Joaquin Valley Regional Policy Council Valley Voice Washington, DC Agenda and Materials [Garza] [INFORMATION]
- C. Transportation Funding Update Session [Chargin/Boren] [INFORMATION]
- D. Multi-Jurisdictional Housing Update [Chargin] [INFORMATION]
- E. Monthly Legislative Update [Garza] [INFORMATION]
- F. Regional Clearinghouse [Arnest] [APPROVE]

For a complete summary of these items, please see the September 11, 2015 Annotated Agenda.

Following an expressed opportunity for public comment, a motion was made by Mr. Jimenez (County) and seconded by Mr. Henderson (Kingsburg) to recommend approval of the Administrative Consent Items as presented. A vote was called for and the motion carried.

IV. ADMINISTRATIVE ACTION/DISCUSSION ITEMS

- A. **FY 2015-16 Overall Work Program Amendment #1 [Beshears] [APPROVE]**

Mr. Beshears presented this item, explaining that when Congress extended MAP-21 they only appropriated 5/6th (ten month's worth) of the appropriations for FHWA PL and FTA 5303 Planning funds. This did not adversely affect the 2014/15 budget because we had adequate amounts of PL & 5303 carryover programmed; however it effectively reduces the amount of carryover we have to bring into the following year and leaves the 2015/16 budget over programmed. While there is a possibility that the lost two months of revenue may be restored

by future congressional action, we cannot operate on that premise and Caltrans requires us to amend our budget so the amount of PL carryover programmed in 2015/16 is in line with the residual carryover after the apportionment reduction. To that extent we are reducing PL funds by \$243,264 and increasing 5303 funds by \$122,378 for a net reduction of \$120,886. However, there are other increases in the budget explained below that bring the net decrease to \$1,548.

Work Element 110 Regional Streets & Roads - \$10,000 is budgeted to hire an Engineering firm to assist Mendota with a proposed roundabout at the intersection of SR 180 & HWY 33.

111 Regional Traffic Modeling – Phase I and II of the SCS\SB375 model is reduced \$36,000. The ITHIM model is reduced \$130,000. \$50,000 for the Urban Footprint will be postponed to the 2016/17 fiscal year if revenues are available. The total reduction is \$216,548.

112 Regional Traffic Counting – The budget for traffic counting equipment is reduced \$12,000.

114 Intelligent Transportation Systems – URS is nearing completion of a \$300,000 ITS study. \$50,000 is carried over into 2015-16.

152 High Speed Rail – As the California High Speed Rail commission decision regarding the Heavy Maintenance Station nears, it is anticipated that various studies may be required to look at environmental or historic structures. \$25,000 is budgeted for this task.

170 Regional Transportation Planning – The RTP process has become complex and lengthy with major work expected to occur in 2016/17. In order to get started, staff requests \$100,000 to develop Population and Employment data.

172 Congestion Management Program - \$150,000 is currently budgeted to update the Congestion Management program per FHWA's request. Without reducing the budget, staff is reducing the PL contribution to the project by \$44,265 and increasing local funds to keep the project intact.

350 Regional Data Center – An \$8,000 budget for Info USA Data is eliminated.

910 COG Administration - \$10,000 is budgeted for Web Casting Software providing potential for public meetings to be viewed over the internet.

912 Transportation Development Act – \$40,000 is budgeted to do the statutory Triennial Performance Audit for fiscal years 2013-15.

Ms. Zieba questioned the amount of money being used for forecasting. Ms. Cai briefly explained the process.

Following an expressed opportunity for public comment, a motion was made by Mr. Jimenez (County) and seconded by Mr. Haussler (Clovis) to recommend approval of FY 2015-16 OWP Amendment #1 reducing the budget by \$1,548. A vote was called for and the motion carried.

**B. Regional Transportation Mitigation Fee Agency - Procedures for Resolving Appeals of the Regional Transportation Mitigation Fee Where the Board is Deadlocked [Beshears]
[ADOPT]**

Mr. Beshears went on to explain that 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 recommended 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. Mr. Beshears noted that Resolution 2015-01 was modified to incorporate this recommendation; therefore, the deadlock rule shall not apply unless the Board remains deadlocked after three appeal hearings.

Following a brief discussion and expressed opportunity for public comment, a motion was made by Mr. Grey (Selma) and seconded by Mr. Haussler (Clovis) to recommend adoption of Resolution 2015-01, modifying the appeal process to provide a resolution should the vote remain deadlocked after three appeal hearings. A vote was called for and the motion carried.

V. OTHER BUSINESS

A. Items from Staff

A copy of the flyer for the September 16th Measure C Public Meeting was handed out.

Ms. Cai reminded the Committee of the upcoming Transportation forum to be held on October 14th. Information will be sent out.

B. Items from Members

None

VI. PUBLIC PRESENTATIONS

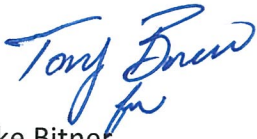
A. Public Presentations

This portion of the meeting is reserved for persons wishing to address the Committee 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,

A handwritten signature in blue ink that reads "Tony Brown" with a large flourish underneath.

Mike Bitner
Deputy Director

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Others Attending:

- Michael Navarro, Caltrans
- Anthony Molina, Fresno BPAC
- Lee Ann Eager, EDC
- Veronica Garibay, Leadership Counsel
- Arthur Littlefield
- Sally England
- Janie Mathurin, HPV

Fresno COG Staff:

- Mike Bitner
- Les Beshears
- Rob Terry
- Kristine Cai
- Lindsey Chargin
- Lauren Dawson
- Laural Fawcett
- Peggy Arnest
- Brenda Veenendaal
- Kai Han
- Marla Day