

Fresno County Regional Transportation Mitigation Fee Agency

Executive Minutes

Date: Thursday, September 24, 2015

Time: 5:30 PM

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

Members Attending:

Mayor Nathan Magsig, City of Clovis
Mayor Ron Ramsey, City of Coalinga
Mayor Craig Knight, City of Firebaugh
Mayor David Cardenas, City of Fowler
Mayor Sylvia Chavez, City of Huron
Mayor Stephen Hill, City of Kerman
Mayor Robert Silva, City of Mendota
Mayor Victor Lopez, City of Orange Cove
Mayor Pro Tem Raul Villanueva, City of Parlier
Councilmember Robert Beck, City of Reedley
Mayor Amarpreet Dhaliwal, City of San Joaquin
Mayor Scott Robertson, City of Selma
Supervisor Henry Perea, County of Fresno

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

Absent:

Mayor Chet Reilly, City of Kingsburg
Mayor Pro Tem Raul Cantu, City of Sanger
Councilmember Clinton Olivier, City of Fresno

QUORUM: At the start of the meeting there were 13 members present representing 42.70% of the population and there was a quorum to conduct business. (Clovis, Coalinga, Firebaugh, Fowler, Huron, Kerman, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Selma and Fresno County)

Mayor Dhaliwal (San Joaquin), Chair, called the meeting to order at 5:30 pm, prior to the Fresno COG Policy Board meeting.

I. Minutes of June 25, 2015 [APPROVE]

Following an expressed opportunity for public comment, a motion was made by Councilmember Beck (Reedley) and seconded by Supervisor Perea (County) to approve the June 25, 2015 Executive Minutes as presented. A vote was called for and the motion carried.

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

Les Beshears, Finance Director, reported 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.

Mr. Beshears pointed out that 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. 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.

Mr. Beshears reported that 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 and the Committee concurred with staff recommendation.

There was a brief discussion and further explanation of how the process would work. Following an expressed opportunity for public comment, a motion was made by Mayor Cardenas (Fowler) and seconded by Mayor Lopez (Orange Cove) to adopt 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.

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 at 5:41 pm.

Respectfully submitted,

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

Tony Boren, Executive Director

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