

MADERA COUNTY TRANSPORTATION COMMISSION

EXECUTIVE MINUTES

Date: Wednesday, October 12, 2005
Time: 3:10 P.M.
Place: Madera County Government Center,
Board of Supervisor Chambers

Members Present:

Chairman Gordon Skeels – Councilman, City of Madera
Frank Bigelow – Supervisor, Madera County
Max Rodriguez – Supervisor, Madera County
Alfred Ginsburg – Councilman, City of Chowchilla

Members Absent:

Gary Gilbert– Supervisor, Madera County
Robert Poythress – Councilman, City of Madera

Policy Advisory Committee:

Above Members present and Caltrans Representatives:
Steve Curti

MCTC Staff Present:

Patricia S. Taylor, Executive Director
Sheila Kingsley, Administrative Assistant
Derek Winning, Planner II

MCTC sitting as the Transportation Policy Committee.

I. PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENT

This portion of the meeting is reserved for person(s) wishing to address the MCTC on items within their jurisdiction but not on this agenda.

There were no public comments.

III. TRANSPORTATION CONSENT ITEMS

A. *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)*

On Wednesday, August 10, 2005, President Bush signed into law, new federal surface transportation legislation. The legislation is titled the Safe Accountable Flexible and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU). The bill provides \$286.4 billion in guaranteed funding for federal surface transportation programs over five years through FY 2009. Of this amount, 79% is provided for highway programs, 18.5% for transit and the remaining 2.5% is for behavioral safety grants and enforcement under the jurisdiction of Department of Transportation agencies other than the Federal Highway Administration and the Federal Transit Administration. In addition to providing formula driven transportation funding to the states and operational funding for Metropolitan Planning Organizations (MPOs), the legislation also identifies specific project funding (a.k.a. earmarks) for some 6,371 transportation projects throughout the nation. The earmarks represent approximately \$24 billion or approximately 9% of the total bill.

The Madera County region was successful in obtaining the following transportation project earmark in SAFETEA-LU:

- Improve SR99 and SR 145 Interchange. City of Madera is the lead agency. \$2,400,000

Action: Information and Discussion Only.

B. *Federal Fiscal Year 2005 Delivery*

Over the past number of years the United State Department of Transportation Office of Inspector General has reported that States are obligating more Federal-aid highway funds on transportation projects that than needed and are failing to de-obligate excess Federal-aid highway funds in a timely manner when projects are complete. Consequently, these “inactive obligations” are tying up Federal funds that could be more effectively put to use to fund today’s federally eligible projects. The Director of Transportation, Will Kempton, is requesting agencies to remove projects from the inactive list.

Although the California Department of Transportation and Local Agencies have been working to reduce the level of inactive obligations there is more that can and must be done. The Department is taking a fresh look at how we manage Federal funds for State-administered projects and is implementing procedural changes to reduce the level of inactive obligations. The Department is also committed to see that any Federal funds provided by a region to the Department for a State-administered project remain active and that any excess Federal funds are returned to the region.

Local Agencies will soon receive a letter from the Department’s Division of Local Assistance addressing this issue. The letter will outline procedural changes being implemented by the Department to reduce the level of inactive obligations and to identify projects where funds can be released.

Action: Information and Discussion Only.

C. *2006/07 Bicycle Transportation Account (BTA) Cycle*

The Bicycle Transportation Account (BTA) funds local agency projects that improve safety and convenience for bicycle commuters. Local agencies must have an approved Bicycle Transportation Plan to participate in the BTA program. Applications for the 2006/2007 fiscal year are due in the District 6 Local Assistance Office by December 1, 2005.

Cities and counties are the eligible applicants. Caltrans encourages local agency officials to solicit input from various stakeholders, community based organizations, and tribal governments when developing project applications to determine if interested in becoming involved with the development of a project. It is encouraged to discuss ideas with them and incorporate their ideas in the application for this, or future, program funding cycles.

The Local Assistance Program Guidelines, Chapter 21, Bicycle Transportation Account is attached. The Guidelines, application forms and contact information are also available on the State of California Department of Transportation Division of Local Assistance website at: <http://www.dot.ca.gov/hq/LocalPrograms/>.

Action: Information and Discussion Only .

D. *Revised Programming Estimates for Congestion Mitigation and Air Quality (CMAQ) and Regional Surface Transportation Program (RSTP)*

On Wednesday, August 10, 2005, President Bush signed into law, new federal surface transportation legislation. The legislation is titled the Safe Accountable Flexible and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU). Passage of SAFETEA-LU provides a basis for revised programming estimates for Congestion Mitigation and Air Quality (CMAQ) and regional Surface Transportation Program (RSTP) funds. Revised estimates for Federal Fiscal Years 2005-06 and 2006-07 where enclosed in the Commissioner’s packet and will be used for programming and planning purposes. Actual allocations for 2005-06 will be provided when the information becomes available.

Action: Information and Discussion Only.

E. State Highway Operation & Protection Program (SHOPP) – Status Report

Per MCTC's agreement with Caltrans, Caltrans on a quarterly basis submits to MCTC a status report on Caltrans' State Highway Operation and Protection Program. Included in the Commissioner's packet was a copy of the October 2005 status report.

Action: Information and Discussion Only.

F. City of Madera – Bicycle and Pedestrian Facilities Plan – Resolution 05-13

The Policy Board previously in January 2004 accepted the final version of the Madera County 2004 Regional Bicycle Transportation Plan. In order to become eligible for the State of California Bicycle Transportation Account (BTA) Grant Program cities and counties must have an approved Bicycle Transportation Plan (BTP). The City of Madera approved the Madera County 2004 Regional Bicycle Transportation Plan in the summer of 2005.

To be eligible for BTA funds, local agencies must prepare and adopt a BTP that discusses the topics described in Streets and Highways Code, Section 891.2, items a. - k. The appropriate regional transportation planning agency and Caltrans Bicycle Facilities Unit must approve the plan. Local agencies applying for 2006/07 BTA funds must have a BTP adopted January 2002 or later. The 2006/07 cycle will provide \$5 million to city and county agencies for projects that improve safety and convenience for bicycle commuters.

Included in the Commissioner's packet was a copy of the City of Madera Resolution. The City of Madera intend to apply for the BTA FY2006/07 Cycle. Applications are due to Caltrans Bicycle Facilities Unit no later than December 1, 2005.

Action: Approve Resolution 05-13.

Transportation Consent Calendar Action: Upon motion by Commissioner Bigelow, seconded by Commissioner Ginsburg to approved the Transportation Consent Calendar (Item III A-F). A vote was called and the motion carried.

IV. TRANSPORTATION ACTION/DISCUSSION ITEMS

A. 2006 State Transportation Improvement Program Fund Estimate

Included in the packet were tables containing the 2006 Fund Estimates for Tiers 1(B) and 2(A) that were presented to the California Transportation Commission (CTC) on September 29, 2005. These estimates are based on programming through June 30, 2005. Staff provided a verbal report on the process and procedures for submittal of the 2006 Regional Transportation Improvement Program.

Action: Information and Discussion Only.

B. California Regional Blueprint Planning Program – Resolution 05-12

The California Regional Blueprint Planning Program is a new planning grant opportunity. This program will provide grants to help California's regions plan for future growth and quality of life through the integration of transportation, housing, land use, economic development and environmental protection. This integration will result in a more efficient and effective transportation system and land use pattern, one aimed at achieving three elements that help to define quality of life:

1. a prosperous economy;
2. quality environment; and
3. social equity for all Californians.

Governor Schwarzenegger has made \$5 million available annually in both FY 2005-06 and FY 2006-07 for the voluntary preparation of Regional Blueprints. The program will be administered by the Department of

Transportation's Division of Transportation Planning, in cooperation with the Department of Housing and Community Development.

The San Joaquin Valley Regional Blueprint

While the Blueprint is intended to help California's regions plan for future growth and quality of life through the integration of transportation, housing, land use, economic development and environmental protection, it is not meant to supersede local jurisdictions' land use authority. Local agencies would determine how their jurisdiction would accommodate the regional vision. The San Joaquin Valley Regional Blueprint would be a visualized representation of the goals expressed in valley Regional Transportation Plans and General Plans. However the San Joaquin Valley Regional Blueprint effort would allow an articulation and graphic representation of a Valley Vision. MCTC staff has participated with the eight Valley MPOs and with the Great Valley Center to collaborate on the preparation of a San Joaquin Valley Regional Blueprint grant application. Merced County Association of Governments (MCAG) is taking the lead to coordinate the project. The draft proposal, which will be circulated at each of the Valley MPOs' September meetings, and accompanying board resolution which was included in the Commissioner's packet. The signed resolution and letters of support must be submitted to MCAG by September 26th for inclusion with the Valleywide proposal. An agenda item will suffice for those MPO Boards that will not hear the item before that date (with the resolution to follow when passed). Key elements of the proposal include:

- The San Joaquin Valley Regional Blueprint will be a Valleywide vision of how we want our region to develop over the next several decades. This collaborative effort will be implemented at the local level, using local land use authority.
- The San Joaquin Valley Regional Blueprint is anticipated to work hand-in-hand with the Governor's recently established California Partnership for the San Joaquin Valley, which is charged with providing recommendations to improve the economic conditions of the San Joaquin Valley. Both the Blueprint and the Partnership programs will have oversight by the Secretary of the Business Transportation and Housing Agency.
- Funding decisions will be announced in December 2005.
- The San Joaquin Valley Regional Blueprint Program will commence in January, 2006 and continue through December 2007.

Action: Upon motion by Commissioner Ginsburg, seconded by Commissioner Bigelow to approve Resolution 05-12 in support of the San Joaquin Valley Regional Blueprint grant application. A vote was called and the motion carried.

C. *Fresno/Madera County Interchange Deficiency Study (Phase I) – Final Report and Re-evaluation of MCTC Staff participation in Phase II*

Included in the Commissioner's packet was a copy of the Executive Summary and Conceptual Improvements section for the studied interchanges located in Madera County from the *Interchange Deficiency Study in Fresno and Madera Counties – Final Report*.

The Fresno/Madera County Interchange Deficiency Study has identified eleven deficient interchanges within Madera County and provides recommended improvements for the years 2004 and 2025 as necessary to address severe interchange traffic congestion and associated mainline bottlenecks. The recommended improvements are presented in a mini Project Study Report (PSR) format including project descriptions, conceptual drawings, and detailed cost estimates.

The major Interchange Deficiency Study (Phase I) tasks completed include the following:

1. Establish evaluation criteria
2. Evaluate Freeway Interchange System Performance
3. Identify Improvements
4. Identify benefit zones and origins of impacts
5. Summary of trip contributions by benefit zones
6. Preliminary impact fee estimate by jurisdiction

Fresno/Madera County Interchange Deficiency Study (Phase II)

On September 29, 2004, the MCTC Policy Board provided direction to staff to refrain from participating in Phase II of the Interchange Deficiency Study. The issue primarily rests with desire of Caltrans and the City of Fresno to develop a Fresno/Madera "Regional" Impact Fee to address interchange deficiencies caused by development across jurisdictional boundaries.

Since the initial stages of the Phase I project, the emphasis has shifted toward identifying the impacts upon interchanges resulting from the development within each local jurisdiction.

The Interchange Deficiency Study (Phase II) is a logical progression of the current study that will provide a more detailed analysis that could be used as the basis for establishing impact fees for new development in accordance with the Mitigation Fee Act (AB 1600) and CEQA. It is envisioned that this study could facilitate the development of regional (Fresno and Madera Counties), metropolitan, or local only impact fees for improvements to the regional transportation system. At a minimum, the freeway interchanges studied as part of Phase I will be considered. It is understood that the results of which would be available for each governing jurisdiction's consideration.

Interchange Deficiency Study (Phase II) tasks include:

1. Identify Policy Issues – interest to continue to study
2. What should be included in the study: Interchanges Only and/or arterial/roads?
3. Identification of projected deficiencies, together with the associated costs of appropriate mitigation measures will be further reviewed and refined if necessary
4. Review and refinement of each jurisdiction's quantified impacts and associated fair share proportional cost for improvements that may be used as the basis to develop a development impact fee system by local jurisdictions
5. Identification of three tiers (regional, metro, and local) of impacts for which impact fees could be reasonably assessed
6. Review, analysis, and development of appropriate fee program structures to address each tier
7. Identification of appropriate land use trip generation rates
8. Development of a Fee Ordinance for each tier
9. Development of MOU between local jurisdictions and Caltrans for the collection and expenditure of impact fees collected
10. Preparation of an Impact Fee Program Update schedule and process
11. Coordination among affected agencies and jurisdictions within the region and within the metropolitan area of Fresno and Clovis including the following: Caltrans; Fresno COG; MCTC; County of Fresno and Madera; and cities of Fresno and Madera.
12. Development of a Public Involvement Program to review the impact fee programs with interested organizations and individuals.

The Interchange Deficiency Study (Phase II) will benefit and enhance the transportation planning efforts with respect to the Regional Transportation Plan, Improvement Program, and Measure A Extension Expenditure Plan development. Phase II will provide an opportunity to broaden the scope of studied interchanges and will provide a more detailed and accurate project cost analysis especially for right-of-way acquisition. The project level information provided by the study is valuable in the development of PSRs and can become the basis for preliminary project design. The study will also provide the basis (if desired) for funding the needed improvements through a Freeway Interchange Impact Fee.

In light the recent atmosphere of regional cooperation and MCTC's subsequent involvement in the San Joaquin River Study to determine developmental impacts on the need for future river crossings between Fresno and Madera Counties, for which a impact fee may be assessed, MCTC Staff requested to participate in Phase II of the Interchange Deficiency Study.

Action: Upon motion by Commissioner Ginsburg, seconded by Commission Bigelow authorizing staff to participating in Phase II of the Interchange Deficiency Study. A vote was called and the motion carried.

D. Use of Proposed Measure “A” Extension Sales Tax to Special District Roads

Background:

During the discussion and development of the 2002 Measure “A” Expenditure Plan process, the issue of expending Measure “A” funds in the County’s MDAs surfaced. Commission staff decided to seek a legal opinion from County Counsel on this issue. During the 2005 effort to reauthorize Measure “A”, the issue of funding Maintenance Districts surfaced once again. As you are aware, staff sought a second legal opinion regarding the matter. Preliminary stakeholder interviews and the public opinion survey have been completed, and both have positively indicated that there is clear support for passage of Measure “A” in November 2006 only if there is no opposition. The issue of utilizing Measure “A” funds in MDA’s must be resolved before moving forward to ensure necessary unified support of a new measure for local governmental bodies.

Issue:

During various Policy Board meetings, outside meetings and the stakeholder interviews, the question regarding whether or not Measure “A” funds could be expended on MDAs continues to be raised. Based upon the information received, this issue seems to be a major obstacle toward full support needed from elected officials. Approximately 25 additional stakeholder interviews are currently being completed to elicit at what level there is support for a new measure.

The recent public opinion poll indicates that it is essential to create an expenditure plan with widespread support from voters as well as community leaders and elected officials, reaching consensus on the final plan. Active, organized opposition has the potential to derail the measure (as shown by the survey, in which arguments against the measure drop support from a high 76% back down near its original level of 68%), leaving NO margin for error. At 68% in favor of the measure compared to 27% opposed and 6% undecided, Madera County voters are at just above the necessary two-thirds threshold (66.6%) to pass such a measure. Again, there is NO margin for opposition.

In order to proceed with the development of an Expenditure Plan for a new measure it is desirable to have a consensus approach (i.e. projects and/or programs and percentages). Presently, there is not a clear consensus on the ability to expend Measure “A” funds in Maintenance District Areas located in the County. Under its broadest interpretation, current legislation, might allow some expenditure in special districts; however County Counsel’s clear interpretation is that enabling legislation and county policy does not provide for expenditure of sales tax proceeds within the special districts.

The majority of MDAs are located in District 5 and District 1. It should be noted that District 5 and District 1 include a significant percentage of the voting population. Without the support of District 5 and District 1, it is highly unlikely that Madera County would be successful in passing a measure. Included in your package is a copy of the comparison of the 1990 vs. 2002 election.

Legal Opinion Overview:

County Counsel, Jim Gerecke:

Madera County’s Deputy County Counsel prepared an opinion for the MCTC dated November 21, 2003 regarding whether or not sales tax proceeds of the proposed “Measure A Extension” allotted to the County may be expended within the various special districts (maintenance districts and county service areas) of the County.

It is the opinion of the County Counsel that “Measure A Extension” funds may not be used and would be “improper” as they may be spent only on designated projects. Further, the County generally has no obligation to expend funds on special district roads as the special districts are intended to be self-funding, and such expenditures are generally prohibited except on a loan basis.

In summary, key reasons cited include:

- ◆ The proposed expenditure is not authorized by the enabling legislation.
- ◆ The County has no responsibility for maintenance of most special district roads.
- ◆ Special districts are contemplated by the legislature to be self-funding.
- ◆ Expenditure of County funds is prohibited except by loan.

Section 5820 of the Streets and Highways Code, according to County Counsel, addresses how to set up a maintenance district by resolution and how to be funded. Section 5830 and 5832 states that the County annually establishes a budget for Maintenance Districts and determines at that time how the district is funded. Therefore, conceivably when funds become available the County can determine annually if funds will be allocated to the district.

Zachary Wasserman, Wendel, Rosen, Black and Dean LLP:

Mr. R. Zachary Wasserman of the Oakland, California law firm of Wendel, Rosen, Black & Dean LLP was retained on behalf of the Madera County Transportation Authority to analyze whether sales tax revenue raised pursuant to Public Utilities Code §§ 180000, *et seq.* could be used to improve and maintain roads that are currently maintained by privately-funded maintenance districts in Madera County and formed under Streets & Highway Code §§ 5820, *et seq.*

Based upon the attached legal opinion, Mr. Wasserman concluded that Measure A funds could be spent to improve and maintain roads in Madera County. Specifically, Mr. Wasserman indicated that “Public Utilities Code § 180205 authorizes the use of sales tax revenue raised under that chapter to fund the construction, maintenance, improvement, and operation of local streets, roads, and highways. Although the Public Utilities Code does not define these terms, the Streets and Highways Code and case law broadly define these terms to include privately-owned property that is used by the public. The roads maintained by a maintenance district would fall within these broad definitions of streets and roads, even if they are privately-owned or maintained through private funds, because they are open to the public.”

Mr. Wasserman also concluded that Streets & Highways Codes § 5821 and § 5830 authorize the local legislative body creating maintenance districts to determine whether the costs of maintaining and operating the roads would be borne wholly or partially by the district. As a result, the statute contemplates and implies shared funding with public sources.

Staff evaluation:

The two legal opinions discussed above indicate that while the Board of Supervisors’ has established a County policy that MDA’s be self-funded, PUC Code 180205 and Streets & Highways Codes authorize the use of sales tax funds to improve and maintain roads currently maintained by privately-funded maintenance districts as long as they are open to public traffic.

Staff is seeking direction from the Policy Board as to whether or not to proceed with an expenditure plan for the new measure given that there may not be a consensus to continue unless funding for MDAs are included in the new measure. Therefore, it is recommended that the Executive Director approach the County of Madera Board of Supervisor’s and explain the issue concerning the need to develop a consensus position and whether or not the Board of Supervisor’s are willing to consider taking necessary steps that would enable such expenditure of funds to occur in Maintenance Districts.

Action: Upon motion by Commissioner Ginsburg, seconded by Commissioner Bigelow authorizing the Executive Director to approach the County Board of Supervisor’s regarding the two legal opinions related to the expenditure of future Measure “A” funds in Maintenance District Areas (MDAs) and to determine whether or not the County Board of Supervisors’ desire to consider taking necessary steps that would enable such expenditures to happen. A vote was called and the motion carried.

V. REAFFIRM ALL ACTIONS TAKEN WHILE SITTING AS THE TRANSPORTATION POLICY COMMITTEE

Action: The Commission unanimously approved to reaffirm all actions taken while sitting as the Transportation Policy Committee.

VI. ADMINISTRATIVE CONSENT ITEMS

A. *Executive Minutes of July 20, 2005*

Included in the Commissioner's packet was a copy of the July 20, 2005 Executive Minutes for review.

Action: Approve Executive Minutes of July 20, 2005.

B. *Proposal for Fiscal Audits and Claimant Audits for FY 2004/05*

The firm of Dedekian, George & Small Accountancy Corporation submitted a proposal, included in the package, to perform Fiscal Audits and Claimant Audits for FY 2004/05. The proposal is for a not to exceed amount of \$24,900 with work to be completed by December 31, 2005.

Action: Approve Proposal for Fiscal Audits and Claimant Audits for FY 2004/05

Administrative Consent Calendar Action: The Commission unanimously approved the Administrative Consent Calendar (Item VI. A - B). A vote was called and the motion carried.

VII. ADMINISTRATIVE ACTION/DISCUSSION ITEMS

A. *FY 2005/06 Revised State Transit Assistance (STA) Estimate – STA Apportionment Resolution 05-02 Amendment No. 1 and STA Allocation Resolution 05-10 Amendment No. 1*

Pursuant to section 99312.7 of the Public Utilities Code (PUC), the State Controller is required to provide a revised estimate of the amount of the State Transit Assistance funds to be allocated to each transportation planning agency for the purposes of sections 99313 and 99314 of the PUC.

The amount of STA funds approved by the Governor in the State Budget for the 2005-06 fiscal year is \$200,615,657. In addition, section 99313 allocations are based on the latest available annual population estimates from the Department of Finance. The Madera County STA estimate is \$384,243 (\$127,533 increase from the original released estimate). The following is a list of STA funds available to each agency:

1. City of Chowchilla -- \$ 23,707 (increase of \$7,868)
2. City of Madera -- \$ 138,544 (increase of \$45,984)
3. County of Madera -- \$ 221,992 (increase of \$73,681)

Staff requested that each agency inform MCTC by email recognizing the revised STA estimate and how those funds should be allocated. Included in the Commissioner's packet was Resolution 05-10 Amendment No. 1 which includes the revised applications from agencies staffs.

Action: Upon motion by Commissioner Bigelow, seconded by Commissioner Rodriguez to approve FY 2005/06 Revised State Transit Assistance (STA) Estimate – STA Apportionment Resolution 05-02 Amendment No. 1 and STA Allocation Resolution 05-10 Amendment No. 1. A vote was called and the motion carried.

B. *Report of TDA Allocations for Fiscal Years ended June 30, 2004 and June 30, 2003 – City of Madera*

MCTC received the Report of Examination of the Revenues and Expenses of the Transportation Development Act (TDA) allocations for the Fiscal Years ended June 30, 2003 and June 30, 2004 for the City of Madera. This report was done in accordance with Section 99245 of the Public Utilities Code by Dedekian, George & Small Accountancy Corporation. Dedekian, George & Small Accountancy Corporation has been unable to complete the audits at this time for the City of Chowchilla and the County of Madera due to the respective agencies have

not finalized their own annual audits.

We are pleased to report that the City of Madera had no adverse findings.

Action: Upon motion by Commissioner Ginsburg, seconded by Commissioner Bigelow to approve the Report of TDA allocations for Fiscal Years ended June 30, 2004 and June 30, 2003 – City of Madera. A vote was called and the motion carried.

VIII. Miscellaneous

A. Items from Caltrans

No Items from Caltrans.

B. Items from Staff

Staff reported the next meeting of the Commission will be January 18, 2006.

C. Items from Commissioners

No Items from the Commissioners.

IX. Adjournment

Meeting adjourned at 4:00 p.m.

Next meeting set for Wednesday, January 18, 2006

Respectfully Submitted,

Patricia S. Taylor, Executive Director
Madera County Transportation Commission