

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
MAG REGIONAL COUNCIL EXECUTIVE COMMITTEE

April 18, 2011
MAG Offices, Cholla Room
302 N. 1st Avenue, Phoenix, Arizona

MEMBERS ATTENDING

Mayor Thomas L. Schoaf, Litchfield Park, Chair	Mayor Jim Lane, Scottsdale
Mayor Hugh Hallman, Tempe, Vice Chair	#Mayor Michael LeVault, Youngtown
#Mayor Marie Lopez Rogers, Avondale, Treasurer	Councilwoman Peggy Neely, Phoenix
	Mayor Scott Smith, Mesa

* Not present

Participated by video or telephone conference call

1. Call to Order

The Executive Committee meeting was called to order by Vice Chair Hallman at 12:05 p.m. Vice Chair Hallman stated that public comment cards were available for those members of the public who wish to comment. Transit tickets were available from Valley Metro for those using transit to come to the meeting. Parking validation was available from MAG staff for those who parked in the parking garage.

2. Call to the Audience

Vice Chair Hallman stated that, according to the MAG public comment process, members of the audience who wish to speak are requested to fill out the public comment cards. He stated that there is a three-minute time limit. Public comment is provided at the beginning of the meeting for items that are not on the agenda that are within the jurisdiction of MAG, or non-action agenda items that are on the agenda for discussion or information only. Vice Chair Hallman noted that no public comment cards had been received.

3. Consent Agenda

Vice Chair Hallman noted that prior to action on the consent agenda, members of the audience are provided an opportunity to comment on consent items that are being presented for action. Following the comment period, Committee members may request that an item be removed from the consent agenda. Vice Chair Hallman noted that no public comment cards had been received.

Vice Chair Hallman requested a motion to approve the consent agenda. Councilwoman Neely moved to approve items #3A through #3D. Mayor Lane seconded the motion and the motion carried unanimously.

3A. Approval of the March 21, 2011 Executive Committee Meeting Minutes

The Regional Council Executive Committee, by consent, approved the March 21, 2011 Executive Committee meeting minutes.

3B. Consultant Selection for the MAG Managed Lanes Network Development Strategy - Phase One

The Executive Committee, by consent, approved the selection of Parsons Brinckerhoff to conduct Phase I of the MAG Managed Lanes Network Development for an amount not to exceed \$500,000. The Transportation Policy Committee, at its October 20, 2010 meeting, passed a motion to conduct the MAG Managed Lanes Network Development Strategy - Phase I project. From this motion, the fiscal year (FY) 2011 MAG Unified Planning Work Program and Annual Budget, as approved by the MAG Regional Council in May 2010, was amended in November 2010 to include \$500,000 to conduct the project. This is a multi-phase project for a study that begins with an examination of the entire freeway system for introducing managed lanes as a strategy for congestion relief and as a potential private-public-partnership for implementation. A consultant selection process began on December 10, 2010 with a Request for Proposals to interested consultants to conduct the study. Proposals were due to MAG on January 6, 2011. The seven proposals that were received were evaluated by a member agency review team and MAG staff. Based upon the evaluation process, the committee conducted an interview process of four teams on March 8, 2011. At the conclusion of the interview process, the review team recommended to MAG the selection of Parsons Brinckerhoff to conduct the first phase of study.

3C. Amendment of the FY 2011 MAG Unified Planning Work Program and Annual Budget to Increase the Funding for the Transportation Planning Services On-Call Project

The Executive Committee, by consent, approved to amend the FY 2011 MAG Unified Planning Work Program to add \$200,000 to the Transportation Planning Services On-Call Project. The FY 2011 Work Program included \$100,000 for Transportation Planning On-Call Services. Staff is proposing that an additional \$200,000 be added to the project to enable additional planning projects to be performed. One project currently being considered is to update a 2000 study conducted by the Arizona Department of Transportation that examined the cost of putting the Wellton Branch railroad line back in service. Also to be examined would be the cost for a new railroad line in the Hassayampa Valley, to connect the Union Pacific Railroad line to the Burlington Northern Santa Fe Railroad line. In addition, the cost of a new railroad line from Buckeye to the Union Pacific main line in Gila Bend would be examined.

3D. Amendment to the FY 2011 MAG Unified Planning Work Program and Annual Budget to Provide Additional Funding for the MAG Air Quality Associate

The Executive Committee, by consent, approved to amend the FY 2011 MAG Unified Planning Work Program and Annual Budget to add \$24,000 to the associate contract for MAG Air Quality Technical Assistance. The FY 2011 MAG Unified Planning Work Program and Annual Budget includes an associate contract for air quality technical services not to exceed \$130,000. The air quality technical assistance includes air quality modeling, emission inventories, air quality plan preparation, tracking implementation of committed control measures, transportation conformity and other technical analyses. The modeling and plan development workload has increased with

the preparation of the new Five Percent Plan for PM-10. Also, the Environmental Protection Agency (EPA) sent a letter to MAG on March 14, 2011 indicating that additional modeling analyses need to be conducted for the MAG Eight-Hour Ozone Maintenance Plan that was submitted to EPA in February 2009. The additional federal funding requested from the Work Program is \$24,000 which would increase the current associate contract amount from \$130,000 to \$154,000.

4. Development of the FY 2012 MAG Unified Planning Work Program and Annual Budget

Becky Kimbrough reported on the FY 2012 MAG Unified Planning Work Program and Annual Budget. She stated that the draft budget is on the agenda for information only. She explained that each January, the budget review process starts by presenting the proposed dues and assessments. Ms. Kimbrough stated for FY 2012, MAG staff is proposing that the dues and assessments be maintained at 50 percent. She also noted that the 2010 Census population was finalized and the revised Dues and Assessments draft with the updated census was provided to the members.

Ms. Kimbrough stated in February 2011, staff brought forward the draft proposed projects. In March, the draft MAG work program with narrative and some allocation financial tables was delivered. She noted that the revisions to the work program since the March mail out were provided to the members. She stated the cover pages of the revisions lists the detail of all of the updates to the budget since it was mailed. She added that most of the revisions were made in order to update project narratives. Ms. Kimbrough highlighted some of the revisions: the Dues and Assessments draft was updated with the 2010 Census numbers; the budget for the remodel of the MAG floors has been carried forward to the FY 2012 capital budget; and there has been a copy machine added for \$5,610 to the capital budget. She noted the proposed capital budget for FY 2012 is located on page A-18 in the appendix of the draft budget.

Ms. Kimbrough stated that there are requests for two transportation positions and one position in Information Services. She noted the transportation position for an ITS and Safety Engineer is to handle additional technical support in this area. She explained that part of the additional work in ITS includes work in Transportation Safety due to the added HSIP federal funds that have recently become available. The other transportation position is for an engineering position to support transportation modeling. Ms. Kimbrough also stated the Information Services position is to support the increased work in Geographic Information Systems Socioeconomic work. Four interns are included in the budget and the need for interns may vary throughout the year. She noted that the FY 2012 draft budget does not include any projected salary increases for FY 2012.

Ms. Kimbrough mentioned additional resources may be needed later in the year for assistance to the Economic Development Committee. She noted the additional resources may be for an associate, an intern or an employee, and possible resources for web site development.

Ms. Kimbrough stated MAG is awaiting formal remarks from the Intermodal Planning Group meeting that was held on March 29, 2011. She noted that staff received numerous good comments during this meeting and is not anticipating any major changes as a result of this meeting.

Ms. Kimbrough thanked the Committee for their time. Vice Chair Hallman asked if the Committee had any questions.

Dennis Smith stated that Eric Anderson would like to address a request that was received regarding opportunities for smaller MAG member agencies to participate in the consultant assistance. Mr. Anderson will explain how this is being addressed in the Work Program. Mr. Anderson stated that the concept is to offer certain transportation planning services to many of the small communities. He noted that there are approximately 15 MAG member agencies that are less than 50,000 in population. Given the economic times in many of the cities, staff thought it would be appropriate to offer transportation planning service to those small communities. Mr. Anderson stated that we do not want to duplicate assistance that is already in place, such as in the Bike and Pedestrian program or ITS. He noted that one of the concepts being discussed is to offer a type of reconnaissance service to small communities. He explained this would include a high-level look and discussions with city staff and possibly stakeholders within the community, as well as the elected officials. The purpose is to try to identify or prioritize possible transportation planning projects that may be needed in the community. He noted that one example might be synchronization of traffic signals.

Mr. Smith noted that on the consent agenda today was the on-call contract for additional funding. He noted that this resource could be used if assistance was needed for this concept. He noted that another important area is access management because these small communities sometimes become large communities.

Vice Chair Hallman asked if there were any questions from the Committee. There were none.

5. Annual Regional Council Meeting

Dennis Smith stated that the MAG By-Laws instruct that the annual meeting for the Regional Council is to be held in Phoenix in June. He noted this summer, MAG will be remodeling the second floor conference rooms and will need to find a place for the Regional Council meeting to be held in both June and July. Mr. Smith noted another compounding issue is that the election of officers is now every year instead of every other year, which coincided with the Desert Peaks Awards event. He stated that Kelly Taft has looked at this issue and is here to give a report.

Kelly Taft thanked the Executive Committee for their time. She stated that staff is requesting input into the annual meeting that will be held this year on June 29, 2011. She noted the MAG Committee Operating Policies and Procedures, passed in 2009, calls for the officers of the Regional Council to change every year, with the election taking place during the June Annual Meeting. Ms. Taft explained that, in the past, officers typically changed every two years, which coincided with the biennial Desert Peaks Awards Program. The two-year cycle included the passing of the gavel ceremony and honoring the new officers at the Desert Peaks event.

Ms. Taft noted that because this year's change of officers will take place during a year when MAG will not host a Desert Peaks event, MAG is seeking input on how the Executive Committee would like to commemorate the passing of the gavel and what type of event should be hosted. She stated that hosting an event at MAG is not an option, because the second floor will be under construction and meetings are being relocated to an offsite location.

Ms. Taft also mentioned the MAG By-Laws issue that requires the annual meeting be held in the Central City, which is one of the reasons the Desert Peaks Awards program is always held in the

City of Phoenix. She noted that, after speaking with the MAG attorney, holding the meeting outside of Phoenix could be achieved with the agreement of the Executive Committee and Regional Council for an exception to the By-Law rule. Ms. Taft then reviewed some options, such as holding the annual meeting at a municipal facility or venue that could be secured free of charge and utilize our regular caterers to provide dinner. She noted that staff has been exploring this option and has had difficulty finding a suitable location. A second option would be to hold the meeting at a hotel or banquet facility and keep our costs within a reasonable budget. She noted that staff has explored several such locations that could work. Ms. Taft stated that one question is how many people would need to be accommodated. She noted that the quotes being secured are based on an estimate of approximately 40 to 50 people. This would accommodate all Regional Council members and a limited number of staff. She noted that a decision would need to be made as to whether others could be invited and whether additional guests would be charged.

Ms. Taft stated that several venues have been contacted, such as the Sheraton hotel in Phoenix, which is willing to work with us. She also noted that since our outgoing chair is from the West Valley, we have also explored two West Valley options, which would require that exception vote from the Committee. She stated staff has looked at the Glendale Civic Center as one possible location, as well as the Wigwam resort, both of which we could make work if the group was 50 or fewer. Ms. Taft stated that staff is open to additional suggestions from the Committee.

Vice Chair Hallman stated that since MAG is not holding the Desert Peaks event, the event will not be as large. He then proposed that the honoring of the outgoing Chair be held at the July meeting. He noted that typically the annual (June) meeting has little substance on the agenda, and given the tight time frame, it might be good to wait until the July meeting where the Regional Council can conduct significant business, as well as honor Mayor Schoaf for his service to MAG. Vice Chair Hallman suggested that the election of officers be conducted in June by telephone conference.

Mayor Smith asked if we would have the same problem in July. Mr. Smith confirmed that the July meeting would need to be held offsite due to the construction. Vice Chair Hallman clarified that gives staff more time to find an adequate facility.

Chair Schoaf joined the Executive Committee meeting at 12:19 p.m.

Vice Chair Hallman summarized his proposal to conduct the June Regional Council meeting via telephone conference call while staff locates a facility to hold a more formal event for honoring the outgoing Chair in July. He noted the only item on the agenda in June would be the election of officers.

Mayor Lane moved to hold the June Regional Council meeting via telephone conference while staff locates a facility to hold a more formal event for honoring the outgoing Chair at the July Regional Council meeting. Mayor Smith seconded the motion and the motion carried unanimously.

Councilwoman Neely suggested that the Committee give staff some direction for the July event. Vice Chair Hallman stated that it was left open to give staff more time to research and secure a venue. Mr. Smith stated that one suggestion is to do a short "Year in Review" via a PowerPoint presentation and discuss the accomplishments. Ms. Taft asked for clarification on whether staff

would pursuing a plated dinner type of event. Chair Schoaf replied that staff should pursue what they feel is appropriate.

6. Remodel of MAG Office Space Update

Dennis Smith stated that MAG has been working for quite some time on the remodel of the MAG office space. He noted that Monique de los Rios will give the report. Mr. Smith stated that Ms. de los Rios was an architect in a past career. He also noted that her father is a famous architect in South America. He stated that Monique has done a tremendous job on the MAG office space.

Ms. de los Rios stated that she will provide an update of the MAG Tenant Improvement project. She noted that in December of 2010, MAG signed a lease with the City of Phoenix building owner to include approximately 12,500 square feet, which is the entire fourth floor. She stated the first phase of the project includes moving four divisions, which include Environmental Programs, Information Services, Human Services and Information Technology, from the second and third floors to the fourth floor. Ms. de los Rios stated the second phase includes extensive demolition and reconstruction of the second floor. She noted that 100 percent architectural and engineering plans have been completed and the packet is being submitted to the City for plan review and permits. She added that construction is anticipated to start the first week in June and the proposed occupancy date is September 1, 2011. She also noted that extensive construction activities during the summer will require MAG meetings to be relocated.

Ms. de los Rios provided the Committee with a floor plan of the second floor proposed MAG meeting room facility. She noted that a total of five new meeting rooms are planned along with a catering/server room adjacent to Saguaro, a remodeled copy center, and a new prep kitchen and reception area. Ms. de los Rios provided a floor plan for the fourth floor that will house four MAG divisions. She noted that there will be a total of 14 new hard-wall offices and 30 cubicles, along with an improved network room and storage that will serve the entire agency. She also noted that there will be two staff meeting rooms, a document review room, and a break room on this floor. Ms. de los Rios stated that MAG will be specifying energy efficient lighting, as well as installing several pieces of modular furniture donated by Valley Metro.

Chair Schoaf asked if there were any questions. Mayor Lopez Rogers asked if there were any plans to reconfigure the seating in the Saguaro room so that it was not so tight in the back. Ms. de los Rios responded that there are plans to reconstruct the Saguaro room seating. She also mentioned that there is very little room to maintain the horseshoe arrangement that sits all our members comfortably. She stated that we are exploring reducing the space by one table that will allow for extra room in the front and back. Mayor Rogers replied that would be helpful. Mr. Smith stated when the remodeling is through, Monique will then look at the third floor. Chair Schoaf thanked Ms. de los Rios for her report.

7. Open Meeting Law Update

Chair Schoaf noted that there is a provision for executive session if any member wishes to utilize that provision. Fredda Bisman stated that the provision was put on the agenda in case the Executive Committee would like legal advice regarding this item to take place in Executive

Session. She noted that otherwise, she is prepared to discuss this in regular session. The Committee agreed regular session was adequate.

Vice Chair Hallman stated that this topic originated with a discussion between himself and Fredda Bisman after losing a quorum at a MAG meeting. He noted that there are a number of staff prepared to make presentations and others who have traveled a long distance to participate in a meeting. He noted that he and Fredda discussed how we may continue with these presentations and recognizing that once we lose a quorum, there is no longer a meeting. Vice Chair Hallman stated the intent is to be cautious not to engage in a violation of the Open Meeting Law, if a member of the Committee later has a discussion about what was presented. He then asked Fredda Bisman to talk about the substance of their discussion and what might be proposed.

Fredda Bisman stated that she is aware that there are cities that do continue meetings in some form after losing a quorum. She noted that she put the question out on the City Attorney list serve. The majority of the respondents answered that when they lose a quorum, they do allow the non-meeting to continue with no voting. Ms. Bisman stated that one of her colleagues responded that they received a letter from the Attorney General (AG) stating that process was a violation of the Open Meeting Law and that at least two major cities do not allow discussion to continue after the quorum is lost. She stated that after a discussion with Mayor Hallman, he proposed that, if the Executive Committee and Regional Council wish to change the current practice, the group could continue with just the presentations with no discussion. Ms. Bisman stated that she felt that was an appropriately conservative approach. She noted that the problem with discussion comes when one member of the Committee leaves the meeting and then later discusses the presentation with another member of the Committee. She stated this is a serial communication and a violation. Vice Mayor Hallman noted that is referred to as a "daisy chain." Ms. Bisman stated there are three options: 1) adjourn the meeting when the Committee loses a quorum; 2) continue with presentations and discussion with no action; 3) continue with presentations with no discussion and no action. Chair Schoaf asked if the members had any comments.

Vice Chair Hallman noted that he is very conservative when it comes to these matters. He noted that presentations for information should be the only basis on which the meeting should continue, once a quorum is lost and the meeting is officially adjourned. He noted that the information being presented is typically on the MAG web site. Vice Mayor Hallman noted that if the Committee believes there is value in hearing the presentation, then they should be heard. He also noted speakers get the value from the preparation and members from having convened the meeting.

Mayor Lane asked if a committee does not have the discussion associated with the presentation, by virtue of the establishment of an agenda and a posting, does that item need to come back to the committee. Chair Schoaf noted that in most cases, presentations are provided for information only. He noted he believes it is appropriate to be provided the presentation without discussion from the Committee. Mr. Smith asked if the MAG Committee Operating Policies and Procedures need to be amended. Ms. Bisman asked the Committee for permission to review that policy and work with MAG staff to clarify this section. The Committee concurred.

Mayor Smith stated that he respects the open meeting law, but when the meetings lose a quorum, it is typically when people hang up the phone or the system disconnects people. He commented that this almost becomes absurd. Mayor Smith asked if this situation would be under the same

basic rules as public comment, where the committee listens to the comments, but does not respond or discuss. Ms. Bisman stated that is what she heard Mayor Hallman suggest. Mr. Smith asked for clarification on if a committee could start a meeting without a quorum. Councilwoman Neely stated that the discussion is about a solution to a problem and should be about the problem. She noted the problem seems to be lack of commitment. She noted that the members need to be responsible to their commitment to be on the committee and participate.

Mr. Smith asked at what point do the minutes stop. Chair Schoaf stated that presentations should be referenced in the minutes and noted that there was no discussion.

Vice Mayor Hallman moved to approve that a meeting should not begin without a quorum, a meeting may continue with presentations when a quorum is lost, but with no discussion, and the minutes should reference the presentations with no discussion. Councilwoman Neely seconded the motion and the motion carried unanimously.

8. Update on the MAG Five Percent Plan for PM-10

Lindy Bauer provided an update on the Five Percent Plan for PM-10. She noted that Maricopa County provided the revised 2008 Annual PM-10 Emissions Inventory that will serve as the foundation for the Plan. Ms. Bauer noted the handout of the emissions inventory. She stated this chart represents the sources in entire Phoenix nonattainment area. She also noted that even a small percentage of this pie chart can cause an exceedance if dust is generated next to a monitor. Ms. Bauer then referenced the bar chart that shows the original 2008 PM-10 Emissions in June 2010 compared to the revised emissions done in March 2011. She noted the difference is due to new methodologies, models and information. She explained the EPA had overestimated the amount of paved road dust. She noted that on both charts, unpaved roads is a significant amount. Ms. Bauer stated that there are approximately 1,884 miles of unpaved roads in the PM-10 nonattainment area. She noted that 613 miles are public unpaved roads and the remainder 1,271 miles are private unpaved roads. She stated it is prohibited under the gift clause in the Arizona Constitution to use public money to paved private roads. She noted that local governments have had difficulty coming up with the match money to paved unpaved roads, however, the commitments made in the Plan have been met.

Ms. Bauer noted that on a parallel track, efforts to prevent exceedances have been going very well. She also noted that the MAG video is progressing well and should be completed at the end of April. Ms. Bauer stated that cities requested that MAG develop a Rapid Response Action Plan template and that has been completed. She noted that on Thursday, April 21st, MAG will be holding a second workshop to prevent PM-10 exceedances. She noted that the City of Phoenix will be at the workshop to talk about the Phoenix Dust Reduction Task Force to assist other jurisdictions. She also noted the Maricopa County Air Quality Department will be in attendance to discuss how the cities can work with the county to avoid duplication of efforts.

Ms. Bauer stated that on April 11, 2011, there was an amendment put on HB 2208 designed to prevent PM-10 exceedances. She noted that this bill would require the Arizona Department of Environmental Quality (ADEQ) to issue their dust control action forecast five days in advance. She explained the forecast would be received and those entities that already have a dust control permit from Maricopa County would be required to implement their high risk dust control measures

the day before the risk is forecasted and the day of the forecast risk. This would be early implementation designed to prevent exceedances. She noted that for those entities like vacant lots and open areas that do not have a permit from the County, but are regulated, ADEQ would develop a list of best management practices and those areas would be required to implement some of those practices. Ms. Bauer noted there are approximately 100,000 vacant lots in the PM-10 non-attainment area.

Ms. Bauer mentioned the repeal of the LTAF funds for transit by the Legislature. She noted the Arizona Center for Law in the Public Interest had filed an air quality law suit against the state. This includes all pollutants. The State Attorney General's Office requested that MAG prepare two affidavits and sign them for this law suit. The first affidavit is on the air quality impacts of the repeal of LTAF, which are very small. The second affidavit was requested by the Attorney General's Office on transit funding. Ms. Bauer stated the MAG transportation staff accessed the national transit data base created by Congress. She noted that according to Fiscal Year 2008-2009 data, there was \$617 million spent in the region for transit. She stated the Attorney General's office made a comparison back to 1993 when only \$60 million was spent on transit.

Ms. Bauer then responded to Chair Schoaf's question from the March 2011 meeting regarding Clark County's night and weekend inspectors. She stated that Clark County reported they have four inspectors dedicated to weekends and holidays. She noted that night inspectors for Clark County are on a case-by-case basis. This is due to the difficulty for the inspectors to see dust at night.

Chair Schoaf thanked Ms. Bauer for her report and asked if the Committee had any questions. Vice Chair Hallman stated this is impressive work and that 24 percent from unpaved roads is stunning. Mayor Smith noted the "gift clause" means that the benefit to the private owner would far exceed the public, and this would not be the case. He noted that the public benefit is huge. Vice Chair Hallman noted the Goldwater Claims Victory where the public benefit needs to outweigh the private benefit by only \$1.00. Ms. Bauer noted that the majority of private unpaved roads are located in the unincorporated area and are probably associated with lot splits. She noted that Maricopa County does have some requirements under Rule 310.01, which states that once traffic reaches over 150 trips per day, the road is required to be paved. Mayor Smith suggested that staff look into those standards by the County. Vice Chair Hallman proposed a concept that the County change its standards to deal with this issue. He noted that the owner of the property would have the choice of paving the road or allow the County to pave the road. Mayor Lane asked if this means tightening the regulation on how many trips on an unpaved road. Vice Chair Hallman suggested leaving the standard as it is and institute another standard where there is an elective process. Councilwoman Neely stated this involves County property and a representative from the County is missing from this conversation. She suggested that the County provide an update on paved and unpaved roads on County property at the next meeting. Mayor Smith suggested a regulatory framework. Mr. Smith suggested providing the map of the locations of the paved and unpaved roads to the Committee at the next meeting and work with the County and their legal counsel on an item regarding possibilities based on this discussion. Chair Schoaf asked that the location of the monitors be presented on the maps as well. The Committee agreed.

9. Request for Future Agenda Items

Chair Schoaf asked if there were any requests for future agenda items. There were no requests.

10. Comments from the Committee

Chair Schoaf asked if there were any comments for the committee members. There were no comments.

Adjournment

Vice Chair Hallman moved to adjourn the Executive Committee meeting. Mayor Lane seconded the motion and the motion carried unanimously. There being no further business, the Executive Committee adjourned at 1:13 p.m.

Chair

Secretary