

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
MAG REGIONAL COUNCIL EXECUTIVE COMMITTEE
July 18, 2011
Phoenix Transit Office
302 N. 1st Avenue, Suite 900, Phoenix, Arizona

MEMBERS ATTENDING

*Mayor, Hugh Hallman, Tempe, Chair
#Mayor, Marie Lopez Rogers, Avondale,
Vice Chair
Mayor Scott Smith, Mesa, Treasurer
Mayor Jim Lane, Scottsdale

Mayor Michael LeVault, Youngtown
Vice Mayor Thelda Williams, Phoenix
Mayor Thomas L. Schoaf, Litchfield Park,
Past Chair

* Not present

Participated by video or telephone conference call

1. Call to Order

The Executive Committee meeting was called to order by Mayor Schoaf at 12:01 p.m. Mayor Schoaf thanked the City of Phoenix Transit Department for the use of the meeting room.

Mayor Schoaf 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

Mayor Schoaf 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. Mayor Schoaf noted that no public comment cards had been received.

3. Consent Agenda

Mayor Schoaf 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. Mayor Schoaf noted that no public comment cards had been received.

Mayor Schoaf requested a motion to approve the consent agenda. Mayor Lane moved to approve

items #3A and #3B. Vice Mayor Williams seconded the motion and the motion carried unanimously.

3A. Approval of the June 13,2011 Executive Committee Meeting Minutes

The Regional Council Executive Committee, by consent, approved the June 13, 2011 Executive Committee meeting minutes.

3B. Revised Social Media Policy

The Executive Committee by consent, approved the revised Social Media Policy. At the February 16, 2010, Regional Council Executive Committee meeting, a draft social media policy for MAG was approved. Under MAG's current policy, MAG instituted the use of social media platforms such as Facebook, Twitter and YouTube. Based on a year of successful implementation, MAG staff is proposing to update the policy to incorporate public feedback and allow flexibility for incorporating ever-changing technologies and platforms. For example, the original policy called for the comment function on social media sites to be turned off; however there may be applications, such as the MAG Facebook page, where such interaction is warranted in order to serve as an effective communication tool. The more generalized policy would provide MAG the flexibility necessary to expand its social media efforts based on changing customer needs to provide an enhanced user experience. Under the revised policy, the MAG Executive Director will create internal policies and controls, including developing protocols regarding content generation and authorities, to ensure that the activities of these social media platforms uphold the principles and mission of MAG. The change in policy is aimed at ensuring that MAG is nimble and able to respond to day-to-day issues that uphold MAG's goal to be responsive to the public.

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

Lindy Bauer stated that on June 29, 2011, the Maricopa County Farm Bureau invited the Mayors in the Southwest Valley to their annual policy meeting to discuss PM-10 issues. At this meeting, Mayor Schoaf emphasized the importance of preventing PM-10, and asked the Farm Bureau to join all the cities and counties, with MAG, to help prevent exceedances. She noted that the Farm Bureau was asked to do a similar approach to the rapid response action plans to prevent exceedances. Ms. Bauer thanked Mayor Schoaf and the Southwest Valley mayors. She also noted that comments were submitted by MAG, by the deadline of June 30, 2011, on the Draft Guidance Documents on the Implementation of the Exceptional Events Rule issued by the Environmental Protection Agency (EPA). We also received comments submitted by WESTAR and the Arizona Department of Environmental Quality (ADEQ), who had shared many of the same concerns as MAG. Ms. Bauer stated that there were a lot of exceptional events and activities the week of July 2 through July 7, 2011. She noted that the MAG region had micro bursts, high winds, and dust storms. She noted that EPA has informally indicated that these were clearly exceptional events. She also noted there was residual dust left in the air that also caused some issues at the monitors. EPA noted that there is a precedent for handling residual dust. She stated that micro bursts, high winds, and dust storms are similar to a national disaster that happens as a result of volcanic activity. She stated that MAG will be working with the State to prepare documentation on these exceptional events. Ms. Bauer stated

that cities and the county successfully used their rapid response.

Ms. Bauer stated that MAG staff has taken a different approach on how to calculate the five percent reduction in emissions target. This approach is more accurate as far as the impact of the measures. She noted that EPA confirmed that MAG was able to use this approach. She noted that under the existing measures, there are enough benefits to meet the five percent reduction target. She noted that there is a surplus. She noted Cathy Arthur from the MAG staff developed this approach. Ms. Bauer then introduced Bob Baxter from Technical & Business Systems to provide an update on the private unpaved roads survey.

Bob Baxter stated the purpose of private unpaved roads survey is to review the attributes of private unpaved roads, such as the locations, traffic volumes, limits of speed, stabilization, road materials, access restrictions and road type, width and predominate use. He also noted they collected additional qualitative data on PM-10 emissions, such as photos of the road (front and rear) and relative PM-10 concentrations from a vehicle-mounted monitor versus vehicle speed. Mr. Baxter provided a background on how dust plume from an unpaved road develops; PM-10 concentrations and deposition rates with distance; PM-10 impacts from unpaved road dust; and how unpaved road dust emissions are estimated. He noted that data was collected through mobile sampling methods using cameras, dust monitoring, and GPS location system. Mr. Baxter presented preliminary data collection from the Apache Junction Region on both public and private roads. He noted the correlation between speed and PM-10 dust emissions from the road. He also noted that gravel helps to control speed that also controls the dust.

Mr. Baxter presented the preliminary data collection at the West 43rd Avenue monitor region. He noted that while miles of unpaved roads are significantly less around the West 43rd monitor than the Apache Junction monitor, the roads location relative to the West 43rd monitor may have more of an impact. He stated that roads are generally better graded allowing higher vehicle speeds, and the unpaved roads are up wind of the monitor. Mr. Baxter stated that preliminary data collection shows a private road south of West 43rd Avenue creates high dust values with higher speeds. Mr. Smith stated that this road may not be totally private. Mr. Baxter stated that this is a highly traveled road and is up wind of the monitor.

Mr. Baxter presented a summary of the preliminary observations. He noted that based on the measured air quality data at the Apache Junction monitor, it appears that private and public unpaved roads do not cause PM-10 exceedances, as demonstrated by Apache Junction monitor. This is due to the nature of the road that does not allow for higher speeds, a rapid decrease in PM-10 concentration with distance, and location of the roads relative to the monitor and the prevailing wind direction. He noted that even though unpaved roads do not appear to cause exceedances at this specific monitor, the emissions still contribute to the PM-10 burden in the non-attainment area.

Mr. Baxter stated that based on the measured air quality data at the West 43rd monitor, it appears that unpaved roads may contribute to the PM-10 exceedances at the monitor. He noted that with the high traffic volume, the location of the monitor, and the fairly rapid decrease in concentrations downwind of the road may still contribute to the values observed at the West 43rd site. He stated that for other monitors that do show exceedances, the local PM-10 emissions can be reduced by

control of unpaved road emissions. This can be done by paving, dust suppressants, alternative road materials, and traffic speed control. He noted that paving is expensive averaging approximately \$500,000 per mile, which does not include right of way purchase. Mr. Baxter concluded by noting how to achieve the most for the money in controlling emissions. This includes focusing on controlling unpaved roads near monitors; controlling unpaved roads (private or public) with high traffic volumes; controlling unpaved roads near residences and businesses with high traffic volume; and limiting the speed of travel on unpaved roads.

Mayor Schoaf thanked Mr. Baxter and turned the meeting over to Mayor Smith to Chair. Dennis Smith stated this is a perfect example of a road with high volume and close to a monitor. He noted that this road has questionable status as to the ownership. He noted that this was the question raised at the last Executive Committee meeting. Mr. Smith stated that the Miami road is owned partially by the municipality and partially privately owned. He noted the question is, how is dust controlled by paving enforced on this type of road. He then asked Fredda Bisman to address this question.

Fredda Bisman stated this is a legal problem, a resource problem and a policy problem, and that there are two legal issues. The first issue is regarding the "gift clause." She stated that the constitution states that the government can not lend its credit or give a subsidy to private entities. She also noted that in addressing this issue, two questions need to be addressed: 1) does the use of the money serve a public purpose and 2) is the consideration paid or the benefit provided by the public proportional to the benefit received. Ms. Bisman stated that there seems to be a good argument that the issue of paving dirt roads has a public purpose, in both the health benefits that result from dust control, as well as the issue of the loss of resources if the region does not comply with PM-10. She noted that there is a good argument to be made for public purpose. Ms. Bisman noted that the second legal issue is that of regulatory taking. She stated the question is, can we require a property owner to allow us to come onto the property and do the paving. She noted this is theoretically problematic, in that there are several United States Supreme Court cases holding that any physical invasion of the property such as would result there, constitutes a taking. In light of these cases, can government require the private land owner to pave or provide dust stabilization on the road through legislation? However, she also indicated that there are possible solutions to this problem and stated she does not feel these issues are insurmountable. She noted that we need to determine a targeted approach; what is the problem, i.e. which roads are causing; and what is the solution, including the possibility that at least some landowners may voluntarily agree to allow paving or dust stabilization on their roads. She summarized by saying that in addressing the problem, we must look not only at the law, but at policies and resources, in determining how best to approach it.

Mayor Schoaf stated the discussion so far has been theoretical, but it looks like we now have a specific situation that appears to be contributing to the problem at the West 43rd monitor. He recommended concentrating on this particular set of roads and find out who owns them, which jurisdiction they are in, and then come up with a plan. He stated that it does not make sense to have a billion dollar transportation program in jeopardy when the fix may only be a few hundred thousand dollars.

Mayor LeVault agreed with Mayor Schoaf. He noted that this region so clearly has a potential

contributor to the PM-10 that is up wind of the monitor. Mayor LeVault asked for clarification on the ownership of Miami Road. Vice Mayor Williams stated that Phoenix owns less than a quarter of the road. Mayor Smith stated that we need to look at why we are doing this and what is the status. He noted this appears to be an easement being used for commercial traffic with access to several businesses. It is the ownership that is question. He noted that property owners give up certain rights by allowing an easement, which allows public access. He suggested starting discussions. Dennis Smith stated this road is a half mile in length at \$250,000. He noted the next question is if MAG wanted to help fund part of the paving project, what are the options. He asked Eileen Yazzie to provide a brief update on the Congestion Mitigation Air Quality (CMAQ) funds. Ms. Yazzie stated the CMAQ funds can be use for paving dirt roads, but part of the eligibility criteria is that it must be a public road. Mr. Smith noted that the Phoenix portion of the road can be funded by CMAQ. Mayor Smith stated that we need to clarify if these roads can be paved for dust control purposes without having to install curb cuts and gutters. Ms. Yazzie stated that she would have to research the City of Phoenix history on paving dirt roads, but there have been situations where CMAQ funds have been used to pave dirt roads and no curb and gutters were installed. Mayor Schoaf suggested that staff work on this project and answer those questions, including if there needs to be changes in municipal codes to allow a dirt road to be paved without installing curb and gutters. He also noted that staff should identify the ownership of the roads in questions. Mr. Smith stated that staff will meet with the City of Phoenix and return to the September meeting with answers to those questions. Mayor Lane asked what avenue for funding is available to pave private dirt roads?

Vice Mayor Williams stated that there are other options for dust control besides paving, such as gravel or chip and seal. She noted that Phoenix staff is committed to working with MAG and the property owners. Mayor Smith stated that we should not loose sight of what the problem is - that we live in a nonattainment area that has a PM-10 problem. He noted there are compelling reasons to address this issue, such as loss of funding and public health. The Committee agreed that staff should work on answering these questions and return to the September meeting with an update.

5. Draft Phoenix West Memorandum of Understanding

Eric Anderson stated that this is an agreement among Valley Metro Rail, the Arizona Department of Transportation (ADOT), the Maricopa Association of Governments (MAG) and the City of Phoenix. He noted that one of the Proposition 400 projects was the Phoenix light rail extension on I-10 out to 79th Avenue. Because it is co-locating some of the light rail facilities in the ADOT right of way, these agencies have been working together on a number of different planning issues. Mr. Anderson stated that the Memorandum of Agreement (MOA) outlines the points of agreement that have been reached and provides the framework for future cooperation as the highway and transit projects move toward engineering and construction. He noted that this agreement also sets forth an agreement to cooperate in the future. He explained that one of the purposes of this agreement is not only to memorialize the agreements made so far, but to also set forth the spirit of cooperation. Mr. Anderson stated that this agreement could be an important element in future grant opportunities by demonstrating to both the Federal Highway Administration and the Federal Transit Administration that these projects are truly being developed jointly. He noted this item is requesting possible action to direct the Executive Director of MAG to sign this document.

Vice Mayor Williams. moved to direct the MAG Executive Director to sign the Memorandum of Agreement among Valley Metro Rail, ADOT, MAG, and City of Phoenix. Mayor LeVault seconded the motion and the motion carried unanimously.

6. FY 2011 Federal Discretionary Grants

Alice Chen stated that it is expected that in FY 2011, discretionary grants will replace earmarks as funding mechanisms. She noted that on June 24 and 27th, the Federal Transit Administration (FTA) released five grants related to planning, transit facilities and bus replacements. Ms. Chen stated that on July 6, 2011, MAG staff met with transit stakeholders to discuss strategies and eligible projects in the region. She noted that as a result of that meeting, the group identified a list of projects to submit collaboratively as a region. She noted that many of these projects are already funded with formula grants. She explained that by displacing some of the formula grant funds with discretionary or additional funds can be replaced with preventive maintenance. Ms. Chen noted that on the list are six collaborative applications. She noted that by consolidating these projects, it will give the region an advantage. She noted the list of projects is being forwarded to the Executive Committee to meet the short deadline for projects to be submitted to the FTA. Mr. Smith clarified the motion, and stated that because of the short deadline, this item would need to read “approval to support the list of collaborative projects.” Vice Mayor Williams asked because of the short time frame, staff will move forward and submit the applications. Mr. Smith confirmed, with Phoenix as the designated recipient.

Vice Mayor Williams moved to approve supporting the list of collaborative projects and to forward these projects to the Federal Transit Administration. Mayor Lane seconded the motion and the motion carried unanimously.

7. Update on the Brookings Metropolitan Business Planning Initiative

Amy St. Peter thanked the chair and members of the MAG Executive Committee for the opportunity to provide an update on the Brookings Metropolitan Business Planning Initiative. She noted that staff is excited to announce that MAG has received confirmation that Brookings has selected this region to participate in this round of the Metropolitan Businesses Planning Initiative. This is a great opportunity for the leaders in this region to partner with Brookings to address our economic future. She stated that an email was sent to the MAG policy committees with the announcement and a formal press release will be developed jointly with Brookings. Ms. St. Peter explained that MAG is planning to launch the initiative by having Brookings join the MAG Economic Development Committee scheduled for October 4, 2011. She noted the Leadership Advisory Team will also be invited to meet with Brookings, which includes GPEC, ASU, Thunderbird, and the Morrison Institute. She noted that work will begin with a market scan and an inventory of existing economic development strategies. She stated that this will create a platform to evaluate strategies. Ms. St. Peter stated that this region is sharing this round with Syracuse, Louisville/Lexington, and Memphis and we are eager to share lessons learned with our cohort. She noted that the regions will have a rolling start. Syracuse has started already, and Memphis and Kentucky will follow in September. Ms. St. Peter stated that staff is excited to develop new coordinated strategies to economic development with the region's leaders. She also noted that

Brookings appreciates our offer to assist them in raising \$75,000 per year for two years. She then thanked the Committee for their time.

Dennis Smith stated that he credits Mayor Smith and Mayor Schoaf for their efforts in securing this initiative.

8. Appointment of the MAG Economic Development Committee Member Agency Positions

Denise McClafferty thanked the chair and Executive Committee members. She stated that the Economic Development Committee (EDC) composition includes twelve MAG member agency positions that have one-year terms, with possible reappointment by recommendation of the Executive Committee and approval of the Regional Council. She noted that of those 12 member agency positions, five are designated through their committee appointments, such as the chair and vice chair of the Transportation Policy Committee (TPC). Ms. McClafferty stated that seven committee positions need to be appointed or reappointed. She noted that on June 30, 2011, a memorandum was sent to the Regional Council members soliciting nominations for the member agency positions on the EDC. The letters of interest were forwarded in the agenda packets. She stated that staff received letters from those already sitting on the EDC, and from both the City of Glendale and the City of Chandler. She noted the current EDC composition does not include these two economic centers in the east and west valley. Ms. McClafferty stated that there has been informal discussion on the composition of the EDC being the same as the TPC, as well as discussion on the importance of keeping the continuity of the EDC. She stated that this item is on the agenda today for discussion and recommendation of the EDC member agency positions to be forwarded to the Regional Council.

Mayor Schoaf stated that some of the discussion that occurred regarding the membership of the EDC tried to deal with the complexities of changing the current structure. He noted the difficulty in changing the structure when the Committee is in the middle of a two year feasibility study of the EDC. He noted that most people that have been part of these discussions have come to the conclusion that it would be best not to change the structure of the EDC in any significant way, to make sure the continuity of the Committee is maintained. Mayor Schoaf stated that adding two additional members, one large city from both the east and west valley, would be acceptable. He suggested adding a position on the EDC for the City of Chandler and a position for the City of Glendale, and maintain the current members. Mayor Schoaf stated that it is important to maintain the continuity of the EDC so that at the time of sunset review, the EDC members will be ready to make a recommendation to the Regional Council based on the activities over the past two years. He suggested that the Executive Committee begin the policy discussions on how the representation of the EDC should be put together long-term.

Mayor Schoaf moved to recommend approval to add two positions to the EDC, the City of Chandler and the City of Glendale, and to maintain the current member agency positions of the Economic Development Committee. Mayor Lane seconded the motion and the motion carried unanimously.

Mayor Smith commented that people find value in the EDC. He noted the Brookings Metropolitan

Business Planning Initiative probably does not happen without the EDC because of the unique nature of the committee's makeup. He also noted that it has been a great first year and a good start.

9. Request for Future Agenda Items

Mayor Schoaf asked if there were any requests for future agenda items. None were noted.

10. Comments from the Committee

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

Adjournment

Mayor Schoaf 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 1:08 p.m.

Chair

Secretary