

MINUTES OF THE  
MARICOPA ASSOCIATION OF GOVERNMENTS  
MAG REGIONAL COUNCIL EXECUTIVE COMMITTEE  
September 12, 2011  
MAG Offices, Ironwood Room  
302 N. 1<sup>st</sup> Avenue, 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 Hallman at 12:09 p.m.

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.

Chair Hallman asked Dennis Smith to introduce a new MAG staff member, Linda Priano, who will be assisting with the Executive Committee and Economic Development Committee.

2. Call to the Audience

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. Chair Hallman noted that no public comment cards had been received.

3. Consent Agenda

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. Chair Hallman noted that no public comment cards had been received.

Chair Hallman requested a motion to approve the consent agenda. Mayor Schoaf moved to approve items #3A through #3I. Vice Mayor LeVault seconded the motion and the motion carried unanimously.

3A. Approval of the July 18,2011 Executive Committee Meeting Minutes

The Regional Council Executive Committee, by consent, approved the July 18, 2011 Executive Committee meeting minutes.

3B. Amendment to the FY 2012 MAG Unified Planning Work Program and Annual Budget to Add \$46,000 to the FY 2012 Bicycle Count Project and Decrease the FY 2012 Bicycle Education on Buses and Bus Shelters Project by \$46,000

The Regional Council Executive Committee, by consent, approved amending the FY 2012 MAG Unified Planning Work Program and Annual Budget to add \$46,000 to the FY 2012 Bicycle Count Project, for a total of \$96,000, and decrease the FY 2012 Bicycle Education on Buses and Bus Shelters project by \$46,000, for a total of \$30,000. The fiscal year (FY) 2012 MAG Unified Planning Work Program and Annual Budget (UPWP), approved by the MAG Regional Council in May 2011, included \$165,000 for the Regional Bicycle and Pedestrian Planning program for consultant work. Of this amount, \$119,000 of project work was estimated to be completed in the current year, and the remaining \$46,000 of project work was estimated to be completed in FY 2013. After discussions in the MAG Bicycle and Pedestrian Committee meetings, a recommendation has been made by the committee to start and complete all of the consultant projects for this program during FY 2012. In addition, the project scope for the Bicycle Education on Buses and Bus Shelters project was inadvertently put in the final FY 2012 UPWP at \$76,000. This will be corrected to reflect the original budget of \$30,000. An amendment to the FY 2012 MAG UPWP is needed to make these changes.

3C. Amendment of the FY 2012 Unified Planning Work Program and Annual Budget to Provide Funding for a Northwest Valley Local Transit System Study

The Regional Council Executive Committee, by consent, approved amending the FY 2012 MAG Unified Planning Work Program and Annual Budget to include \$238,000 for a Northwest Valley Local Transit System Study. In December 2010, dial-a-ride services provided through Sun Cities Area Transit (SCAT) were eliminated. Since that time, MAG and Valley Metro/RPTA staff have been meeting with stakeholders to discuss opportunities to improve transit options in the Sun City area. As part of these discussions, the Arizona Department of Transportation has offered to provide \$160,000 in Section 5304 Statewide Planning funds to evaluate the short- and long-term transit needs for this area, which includes both rural and urbanized land. The proposed Northwest Valley Local Transit System Study would also include \$78,000 of matching funds from the MAG Regional Area Road Fund (RARF) for planning and administering the Regional Transportation Plan. On August 11, 2011, the MAG Transit Committee recommended amending the FY 2012

MAG Unified Planning Work Program and Annual Budget. The fiscal year (FY) 2012 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2011, includes \$280,000 for the Southwest Valley Local Transit System Study. The purpose of the study is to identify opportunities and strategies for improving the existing transit service in the southwest valley and to develop a short, mid, and long range local transit plan that effectively provides circulation within the southwest valley and also connects to the regional transit system. On May 28, 2011, MAG issued a Request for Proposals to conduct the study. MAG received proposals from six consultant firms. A multi-agency review team evaluated the proposals on July 14, 2011, and conducted consultant interviews on July 21, 2011. The evaluation team recommended to MAG that URS Corporation be selected to develop the Southwest Valley Local Transit System Study.

3D. Consultant Selection for the Southwest Valley Local Transit System Study

The Regional Council Executive Committee, by consent, approved the selection of URS Corporation to conduct the Southwest Valley Local Transit System Study for an amount not to exceed \$280,000. The fiscal year (FY) 2012 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2011, includes \$280,000 for the Southwest Valley Local Transit System Study. The purpose of the study is to identify opportunities and strategies for improving the existing transit service in the southwest valley and to develop a short, mid, and long range local transit plan that effectively provides circulation within the southwest valley and also connects to the regional transit system. On May 28, 2011, MAG issued a Request for Proposals to conduct the study. MAG received proposals from six consultant firms. A multi-agency review team evaluated the proposals on July 14, 2011, and conducted consultant interviews on July 21, 2011. The evaluation team recommended to MAG that URS Corporation be selected to develop the Southwest Valley Local Transit System Study.

3E. Consultant Selection for the MAG Municipal Aging Services Project

The Regional Council Executive Committee, by consent, approved Wholonomy Consulting, LLC to conduct evaluation services for the Municipal Aging Services project for an amount not to exceed \$25,000. On March 14, 2011, the MAG Regional Council Executive Committee amended the fiscal year (FY) 2011 MAG Work Program and Annual Budget to reflect a \$110,800 grant from the Virginia G. Piper Charitable Trust to support the MAG Municipal Aging Services Project. This project will result in a municipal aging services model that will assist local governments in meeting the needs of older adults. The budget for this project includes \$30,000 to conduct a survey and \$45,000 for evaluation services. On May 16, 2011, the MAG Executive Committee approved the selection of the ETC Institute to conduct the survey. MAG staff has been conducting activities related to the evaluation services. It is proposed to contract with Wholonomy Consulting, LLC, to complete the remainder of the evaluation service activities for an amount not to exceed \$25,000. A Request for Proposals was not issued because the firm is under State contract.

3F. Consultant Selection for the 2012 MAG Airport Travel Model Update and Data Collection

The Regional Council Executive Committee, by consent, approved the selection of HDR Engineering, Inc. to conduct the 2012 MAG Airport Travel Model Update and Data Collection for an amount not to exceed \$400,000. If negotiations with HDR Engineering, Inc. are not successful, that MAG negotiate with its second choice, Resource Systems Group, Inc., to conduct the project. The fiscal year (FY) 2012 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2011, includes \$400,000 for the 2012 MAG Airport Travel Model Update and Data Collection. The purpose of the project is two-fold: to collect travel, economic and demographic data for both airport passengers and people picking up or dropping off passengers and to improve and update modeling of airport related travel in the MAG regional travel forecasting model. The data will be collected for Sky Harbor International Airport and Phoenix-Mesa Gateway Airport. On June 23, 2011, MAG issued a Request for Proposals to conduct the 2012 MAG Airport Travel Model Update and Data Collection. Four proposals were received, and on August 10, 2011, a multi-agency evaluation team reviewed the proposals and recommended to MAG the selection of HDR Engineering, Inc., to conduct the 2012 MAG Airport Travel Model Update and Data Collection.

3G. Consultant Selection for the Designing Transit Accessible Communities Study

The Regional Council Executive Committee, by consent, approved the selection of Wilson and Company to conduct the Designing Transit Accessible Communities Study for an amount not to exceed \$200,000. The fiscal year (FY) 2012 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2011, includes \$200,000 for the Designing Transit Accessible Communities Study. The purpose of the study is to develop strategies to make transit more accessible for bicyclists and pedestrians. On May 26, 2011, MAG issued a Request for Proposals to conduct the study. MAG received proposals from seven consultant teams. On July 20, 2011, a multi-agency evaluation team interviewed three consultant teams and recommended to MAG the selection of Wilson and Company to conduct the study.

3H. Amendment of the FY 2012 Unified Planning Work Program and Annual Budget to Increase the Mesoscopic to Microscopic Conversion Tool On-Call Project by \$10,000

The Regional Council Executive Committee, by consent, approved amending the FY 2012 MAG Unified Planning Work Program and Annual Budget to increase the budgeted amount by \$10,000 for the Mesoscopic to Microscopic Conversion Tool on-call project. The fiscal year (FY) 2012 Unified Planning Work Program and Annual Budget (UPWP), approved by the Regional Council in May 2011, includes \$30,000 for an on-call consultant project for developing the Mesoscopic to Microscopic Conversion Tool. This project will develop a conversion tool to be used by MAG in simulation modeling. This software tool will be utilized by MAG for converting the output, from the DynusT Regional ITS Operations Planning Model, into input required for the VISSIM microscopic traffic simulation model. It is now estimated that the budget required for the level of effort required by an on-call consultant to develop this tool is \$40,000. An increase of the on-call

project budget by \$10,000, through an amendment of the FY 2012 UPWP, is required to carry out this project.

3I. Amendment to the FY 2012 MAG Unified Planning Work Program and Annual Budget to Accept Funding from the City of Phoenix for Human Services Transportation Coordination Planning

The Regional Council Executive Committee, by consent, approved to accept FTA 5321 (\$81,559) and FTA 5316 (\$100,000) funding from the City of Phoenix, for a total of \$181,559, and to amend the FY 2012 MAG Unified Planning Work Program and Annual Budget to add the funding from the City of Phoenix that increases the FY 2012 MAG UPWP by \$181,559. The FY 2012 MAG Unified Planning Work Program and Annual Budget (UPWP) was approved on May 25, 2011. The UPWP did not include funding from the City of Phoenix for Human Services transportation coordination planning. Since the approval of the UPWP, the City of Phoenix has notified MAG that funding for Human Services transportation coordination planning is available. This funding is comprised of FTA 5321 (\$81,559) and FTA 5316 (\$100,000), for a total of \$181,559. This award will fund planning that is required by SAFETEA-LU and affects any applicants for Section 5310, Elderly Persons and Persons with Disabilities; Section 5316, Job Access and Reverse Commute; and Section 5317, New Freedom. This agenda item is to accept funding from the City of Phoenix and to approve an amendment to the FY 2012 MAG UPWP for \$181,559.

4. Chair Hallman suggested moving agenda Item #4 to be heard last due to possible Executive Session. The committee agreed.

5. Appointments of the Chair and Vice Chair of the MAG 3-1-1 Business Plan Committee

This item was taken out of order. Chair Hallman noted that on July 13, 2011, the formation of a MAG 3-1-1 Business Plan Committee was established by the Management Committee. Chair Hallman stated members of the 3-1-1 Business Plan Committee that are interested in being considered for the positions of Chair or Vice Chair were requested to send a letter of interest to the MAG office by August 31, 2011.

Chair Hallman stated according to the MAG Committee Operating Policies and Procedures, approved by the MAG Regional Council in July 2009, officer appointments for technical and other policy committees, with exception of the MAG Regional Council, Transportation Policy Committee, and Management Committee, will be made by the MAG Executive Committee and The Regional Council Executive Committee.

Chair Hallman stated on August 25, 2011 Jane Morris, Executive Assistant to the City Manager expressed interest in serving as Chair of the Maricopa Association of Governments 3-1-1 Business Plan Committee. David Stevens, Deputy CIO of Maricopa County offered his name for Vice Chair, along with a member of the City of Tempe, who recently withdrew her name. Chair Hallman noted the Chair and Vice Chair are eligible for one-year terms, with possible reappointment to serve up to one additional term by consent of the respective committee.

Major Schoaf moved to appoint Jane Morris as Chair and David Stevens as Vice Chair of the MAG 3-1-1 Business Plan Committee. Mayor LeVault seconded the motion and the motion carried unanimously.

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

Chair Hallman asked Lindy Bauer, MAG Environmental Director, to provide an update on the MAG Five Percent Plan for PM-10. Ms. Bauer noted that there were two representatives from Phoenix who would also be speaking. Mr. Todd Belzner of the City of Phoenix Real Estate Division and Syd Anderson with the City of Phoenix Street Transportation. Ms. Bauer noted that during the summer of 2011 there have been 82 exceedances of the PM-10 standard, with 81 of them being due to exceptional events, such as haboobs, dust storms, localized thunderstorms, microbursts, and residual dust. Ms. Bauer noted that it takes the Environmental Protection Agency approximately 120 days to review each exceptional event and provide initial comments. San Joaquin Unified Air Pollution Control District has indicated that it takes approximately 453 staff hours to prepare the documentation for one high wind exceptional event.

Ms. Bauer noted there were 17 days of exceptional events, which equates to approximately 963 workdays to prepare the requested documentation for the exceptional occurrences. This creates a magnitude of work. Ms. Bauer stated although the EPA developed guidelines meant to streamline the process, it is still resource intensive. Due to the number of these exceptional events, the Arizona Department of Environmental Quality (ADEQ) has been overwhelmed. Staff from MAG and the Maricopa County Air Quality Department are providing technical assistance.

Dennis Smith suggested that Ms. Bauer provide detail on some of the ideas that could help to address this issue on a Region IX level and the national level. Ms. Bauer indicated that the states are closest to the problem so perhaps the states could make the determination on their own exceptional events, in consultation with EPA. Ms. Bauer indicated that the states know their own meteorology and perhaps this could allow documentation to be completed much faster.

Chair Hallman asked Ms. Bauer why she thought the federal government would allow states to control this process when the goal is to hold each state responsible. Ms. Bauer stated that EPA has been trying to streamline the process, but at this point, this is just an “in house” thought. Ms. Bauer suggested perhaps the states could make a determination, in consultation with the EPA. Ms. Bauer also noted that previously there was a Natural Events Policy that the EPA and Arizona Department of Environmental Quality thought worked. However, in 2005, there was an amendment to the Clean Air Act to include exceptional events language, which may have come from WESTAR. Ms. Bauer noted when WESTAR was contacted, they stated the concern was there could be lawsuits if the exceptional events were only addressed in an EPA policy rather than as part of the Clean Air Act. WESTAR further noted the federal land managers wanted to make sure that if something went wrong with a prescribed fire that it would be included as an exceptional event. WESTAR did agree that it would make the process easier and more efficient if each state could make its own determination.

Mr. Smith recommended contacting Region IX to discuss the exceptional events, and the magnitude of the work at EPA. He noted a potential solution could be if the states make the determination in consultation with the EPA, and explore going back to the Natural Events Policy to find wording and language that is acceptable. He indicated that we have been in contact with Patton Boggs and Crowell & Moring in Washington to have them work on this issue and come up with some language that works for us.

Ms. Bauer introduced the City of Phoenix staff to discuss the PM-10 issue. Mr. Todd Belzner, City of Phoenix Real Estate Division, noted three streets were identified as major sources of dust emissions: Miami Street, Superior and the 49<sup>th</sup> Avenue (extended) alignment south of Lower Buckeye Road. Mr. Belzner noted each of these roadways are in the City of Phoenix and due to their unpaved surface, heavy-duty truck use, and proximity to the county air monitors, have been a significant dust issue over the last decade. He noted that at the previous Regional Council Executive Committee meeting, it was requested that the City of Phoenix develop a solution to this issue and come back with a preliminary protocol that could be transferable to other MAG members. Mr. Belzner stated the challenge in paving these type of roads is that they are privately owned and the city cannot pave them without obtaining right-of-way (ROW) by dedication or purchase. Mr. Belzner noted strategies that are under consideration are to request a dedication of ROW easements. This is the lowest cost process whereby the City would not need to appraise the property or pay for the ROW. Mr. Belzner noted, obtaining an easement eliminates the need for Phase I Environmental Assessment. Mr. Belzner stated that a second option would be to purchase row easements. Appraisals would need to be ordered and the easements would need to be purchased. He noted this option does allow the City to condemn if an owner is not willing to sell an easement to the City, but the full process could take up to six months to complete.

Syd Anderson noted that there are eight different ownerships and the city has made contact with some of the owners and it has all been very positive. He noted that option one is the least expensive and quickest option as they could treat approximately 30' width of all streets (approximately ½ width of Superior and Miami) with asphalt dust proofing on the travel lines and the untreated portions could be privately maintained for parking by agreement with private parties. Mr. Anderson stated that the likely completion dates would be the end of December 2011, depending on the ability to contact private parties and their willingness to grant ROW easements.

Mayor Smith asked Mr. Anderson to explain what exactly is asphalt dust proofing. Mr. Anderson explained that they are reviewing different types of options from a hard surface paving material to asphalt treatment options so there is a hard surface to drive on.

Major Schoaf thanked Mr. Anderson and Mr. Belzner for moving so aggressively on this matter. He noted that the Committee appreciates all their efforts.

Ms. Bauer stated that on September 2, 2011, the United States District Court of Arizona issued a court order in a lawsuit filed by the Arizona Center for Law in the Public Interest. She noted that this lawsuit was filed against the State over the repeal of the Local Transportation Assistance Fund

(LTAF). Ms. Bauer noted that in 2010, the Arizona Legislature had repealed the LTAF and swept the funds. The court found that the lottery funding requirement that was included in the air quality plans remains in full force and effect. She noted that the Court intends to enter an appropriate injunction to reinstate the deposit and the disbursement of the lottery funds into and from LTAF as required by the air quality plans. Ms. Bauer reported that the court gave the parties until September 23, 2011 to jointly agree upon the wording of the injunction. She noted that if the parties do not agree, they will each need to submit a memorandum not to exceed seven pages. She stated that the focus is on what portion of LTAF would be restored.

Dennis Smith asked Ms. Bauer to share with the Committee what this all means to MAG. Ms. Bauer stated that in 1993, the legislature passed a bill and one of the measures in the bill was that some of the lottery funds would be used for transit. She noted that in 2010, due to budget issues and the economy, the State swept this funding. Ms. Bauer stated that the U.S. District Court is ordering that the funds be reinstated. She noted the question is how much money will be reinstated.

Ms. Bauer indicated that the commitment for LTAF was made by the Legislature. If the Legislature reinstates the funds and leaves them reinstated, it will not be necessary to make changes to the air quality plans. However, the State may still want the LTAF removed from the air quality plans. We are hearing from the ADEQ staff that they would like MAG to proceed with taking it out of the plans.

Ms. Bauer stated that after the Legislature repealed the LTAF, the ADEQ had requested that we evaluate the impacts and start pulling it out of the air quality plans. In addition, the Environmental Protection Agency sent a letter to MAG in March 2011 indicating that since the Legislature had repealed the LTAF, the LTAF issue had to be addressed along with some additional modeling in a revision to the Eight-Hour Ozone Maintenance Plan. To date, we have provided some draft modeling to EPA for their review, as requested. Currently, the LTAF measure is still in the air quality plans.

Ms. Bauer indicated that the lottery funds are a source of funding for transit. Transit is an important part of the multi-modal MAG Regional Transportation Plan. The MAG Transportation Improvement Program gives priority to transportation control measures in the air quality plans. By having transit in the air quality plans, it helps provide funding for transit, since it is a transportation control measure in the air quality plans.

Mr. Smith indicated that the issue is who has standing in this situation. MAG is not a party to the lawsuit. The judge is ordering the Arizona Department of Environmental Quality to sit down with the Arizona Center for Law in the Public Interest, not MAG. The State may decide that they do not want it in the plan. From a local government perspective, we may decide that we want it in the plan. Even though MAG creates the plan, the ADEQ submits the plan to EPA. At some point, everyone needs to come to an agreement about what we are going to do.

Chair Hallman inquired if it was possible to intervene in the lawsuit. Fredda Bisman, MAG General Counsel, indicated that it was too late.

Mr. Smith indicated that it was his understanding from a local government perspective, that we want the LTAF money, knowing how the transit funds have been depleted by the economy. We need every dollar that we can get. Chair Hallman indicated that we need to get to the table quickly. Mr. Smith indicated that we have been in discussions with ADEQ already. We will remind them of the federal requirement that transportation control measures receive priority.

Chair Hallman asked if there were any other questions or comments. There were none.

#### 4. Update on the Use of Proxies on MAG Committees

This item was taken out of order. Chair Hallman noted the MAG Committee Operating Policies and Procedures, adopted in July 2009, address the use of proxies at the Regional Council, Management Committee, Executive Committee and Technical and Policy Committees, but do not directly address the issue of whether a consultant or contractor may serve as a proxy for a city or town. Mr. Smith stated for some small municipalities, and with the cutbacks in MAG member agency staffing, it may be necessary to have contracted assistance represent the MAG member agency on certain MAG committees.

Mr. Smith noted proxies are not allowed at the Executive Committee or the Transportation Policy Committee. The Policies and Procedures also state that where proxies are allowed, a "like for like" policy is followed, except the provision pertaining to the Regional Council that specifically states that the proxy must be another elected official. Mr. Smith indicated, the MAG General Counsel drafted a procedure that would help resolve whether a conflict or appearance of a conflict exists when using proxies.

Fredda Bisman, MAG General Counsel, stated that a four-step procedure was drafted to address use of proxies on certain MAG committees. Ms. Bisman stated this procedure consists of the following: Where a consultant will represent a MAG member manager or other employee on a MAG Committee, the city/town attorney determines whether the presentation gives rise to a conflict of interest under the state law. She noted that if a conflict is found to exist, the consultant will not represent the MAG member agency on any MAG committee in whose recommendations or decisions the consultant may have a substantial pecuniary or proprietary interest.

Ms. Bisman stated if the city/town attorney determines that there is no conflict, the attorney will provide MAG with a written opinion to that effect. The attorney's opinion will include a description of the relationship between the municipality and the consultant, and will address the reasoning behind the attorney's opinion. MAG's general counsel will review the opinion and if the general counsel has a concern regarding the opinion, the two attorneys will confer with the goal of resolving that concern. The final version of the city/town attorney's opinion will become part of the public record at MAG. Ms. Bisman noted that if the MAG Executive Director believes that

there may be a perception of a conflict that is potentially detrimental to MAG, even where there appears to be no legal conflict, the MAG Executive Director will contact the manager of the municipality, and will attempt to resolve the potential conflict.

Chair Hallman noted that he felt this is more than sufficient. Mayor Smith asked what if a compromise could not be reached. Mr. Smith stated if it is uncertain, the issue would be addressed by the MAG Executive Director in consultation with the Manager for the MAG member agency on a case by case determination.

Mayor Lopez-Rogers asked Mr. Smith if this has been an issue in the past. Mr. Smith stated that the question came up in Management Committee. He noted a consultant working for a smaller community in the West Valley was uncertain of the “like-for like” provisions.

Chair Hallman asked if there were any other questions or comments. There were none. Mayor LeVault moved to approve adopting the four step procedure outlined by MAG General Counsel to resolve potential conflict of interest issues that may arise by proxies serving MAG member agencies on certain MAG committees, and to incorporate the four step procedure into the MAG policies. Mayor Lane seconded the motion and the motion carried unanimously.

7. Request for Future Agenda Items

Chair Hallman asked if there were any requests for future agenda items. None were noted.

8. Comments from the Committee

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

Adjournment

Mayor Lane moved to adjourn the Executive Committee meeting. Mayor LeVault seconded the motion and the motion carried unanimously. There being no further business, the Executive Committee adjourned at 12:52 p.m.

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Chair

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Secretary