

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

June 21, 2010

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

MEMBERS ATTENDING

Councilwoman Peggy Neely, Chair
Mayor Thomas L. Schoaf, Litchfield Park,
Vice Chair
Mayor Hugh Hallman, Tempe, Treasurer

Mayor Marie Lopez Rogers, Avondale
Mayor James M. Cavanaugh, Goodyear
Mayor Scott Smith, Mesa
Mayor Jim Lane, Scottsdale

* Not present

Participated by video or telephone conference call

1. Call to Order

The Executive Committee meeting was called to order by Chair Neely at 12:05 p.m. Chair Neely 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

Chair Neely noted 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. She 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 Neely noted that no public comment cards had been received.

3. Consent Agenda

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

Chair Neely requested a motion to approve the consent agenda. Mayor Schoaf noted a correction in the minutes under agenda item #6 that is the reference to Vice Mayor Schoaf which should be Vice Chair Schoaf. Dennis Smith stated that correction will be made.

Mayor Schoaf then moved to approve items #3A and #3B. Mayor Lopez Rogers seconded the motion and the motion carried unanimously.

3A. Approval of the May 17, 2010 Executive Committee Meeting Minutes

The Regional Council Executive Committee, by consent, approved the May 17, 2010, Executive Committee meeting minutes.

3B. Amendment to the FY 2010 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 the budget amendment to the FY 2010 MAG Unified Planning Work Program and Annual Budget (UPWP) to add a new Intergovernmental Agreement that increases the FY 2010 MAG UPWP by \$192,385. The FY 2010 MAG Unified Planning Work Program and Annual Budget (UPWP) was approved on May 27, 2009. A new intergovernmental agreement for Human Services that was not included in the FY 2010 MAG UPWP was awarded to MAG recently. This item is to recommend approval of an amendment to the MAG 2010 UPWP increasing the budget in Human Services for a new intergovernmental agreement received from the City of Phoenix to conduct human services transportation coordination planning. This planning 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. The intergovernmental agreement increases the FY 2010 MAG UPWP by \$192,385.

5. Sustainable Communities Program Grant

This agenda item was taken out of order. Chair Neely suggested that the Committee consider agenda item number 4 last due to the anticipated length of discussion.

Amy St. Peter thanked the Executive Committee for the opportunity to provide an update on the Sustainable Communities Program Grant. She stated that the HUD Sustainable Communities Planning Grant Program makes \$100 million available nationally to support the creation of regional plans for sustainable development. Of this amount, \$5 million is available for large metro areas and \$2 million is available for small metro or rural areas. Ms. St. Peter stated that the advance notice did not define eligible applicants or regions and the Notice of Funding Availability (NOFA) still has not been released. She noted that information on this item was presented to this Executive Committee in April and May, and to Regional Council in May as well. She stated that at the request of the Regional Council in May, MAG surveyed member agencies to determine if they intended to apply for this grant on their own; if they supported MAG applying on behalf of the MAG region; and if they supported MAG working with the Pima Association of Governments (PAG) and the Central Arizona Association of Governments (CAAG) to apply on behalf of the Sun Corridor. Ms. St. Peter stated that 24 responses were received, and of this number, two member agencies intend to submit their own applications for the \$2 million category; five agencies have expressed interest in submitting a West Valley application for the \$2 million category; fifteen agencies supported MAG applying on behalf of the region, with eight agencies undeclared and one neutral. Ms. St. Peter explained that Maricopa County was approached by ASU to develop an application for the \$5 million category. Maricopa County told them they are prioritizing a MAG application and would

only work with them if it was not in competition with the MAG application. She noted that PAG and CAAG continue to express interest in working with MAG to submit a consolidated application on behalf of the Sun Corridor. This would include all of Maricopa County.

Chair Neely asked for the number of agencies that are supportive of the Sun Corridor application. Ms. St. Peter stated that of the agencies that responded, fourteen were supportive on applying on behalf of the Sun Corridor; eight agencies did not have a position; one agency was neutral; and one agency did not support the Sun Corridor application because they were concerned that the money would not cover the entire Sun Corridor. She summarized that the majority of MAG member agencies are supportive of MAG applying for this grant on behalf of the region and on behalf of the Sun Corridor. She noted that staff is looking for direction as to whether either of these options should be pursued. She stated that hopefully, the Notice of Funding Availability will lend clarity and help determine the most competitive approach for the region to adopt. Ms. St. Peter stated that it is MAG's highest priority to support the member agencies and not to compete with them in any way. She noted that it appears that applying for such funds could make the region more competitive in the future if regional plans become a requirement with the reauthorization of transportation funding. In addition, the trend in federal funding has been to focus on and reward collaborations and partnerships. Ms. St. Peter stated that more than 20 community agencies have approached MAG wanting to collaborate. She noted that if our intention is not to do so, staff should notify them so they can develop other plans. She also noted that, to date, there has been no indication that receiving these funds would incur additional requirements. Ms. St. Peter assured the Executive Committee that staff will carefully review the Notice of Funding Availability when it is released to determine if that is still the case. She then thanked the Committee for their time and stated she would be happy to answer any questions.

Mayor Schoaf asked if it was possible for an agency to be a part of several different grant applications. Ms. St. Peter replied that at this point, it seems as though that is a possibility. She stated that when the NOFA is released, that may be limited. Mayor Lopez Rogers stated that she is supportive of the Sun Corridor application, but is hesitate not knowing what strings may be attached. She also asked that if MAG receives the grant, will there be a need to hire additional staff. Mr. Smith responded that at the present time, there are no plans to hire staff. He noted that maybe it could be interns or contractors, which have already approached MAG. Mr. Smith stated that we are unclear right now until the NOFA is released. He stated that we will have more information at the next Executive Committee meeting after the NOFA is released. Mayor Lopez Rogers stated that there are a lot of questions. She has heard that they really want serious applications and that there may be a very large percentage of match required. Ms. St. Peter responded that some of the other cities also expressed their concern about the match. She noted that right now the advanced notice had indicated a 20 percent match, which could be in-kind. She also noted that it looks like plans like this may become a requirement of the federal transportation reauthorization funding. Chair Neely stated that it has become clear that the State of Arizona will only be awarded one application, if any. She noted that HUD is encouraging the application to be more than just Maricopa County, and recognizes that this makes some member agencies uncomfortable. Chair Neely stated that this is the chance to look at opportunities we have not looked at before. She noted that this may be an opportunity to assist us in finding solutions for air quality issues in the region. Chair Neely stated that the Committee needs to give staff some direction today and her suggestion is that we do not compete against member agencies for the small level grants, but we should look at the Sun Corridor region in the grant application.

Mayor Smith stated that he agrees. He noted that there is \$100 million available nationwide, and that is a small amount. He agreed that the Sun Corridor is something that would stand out in the application competition. Mayor Smith stated that his preference would be the Sun Corridor application. Chair Neely asked that this Committee stand ready to meet if need be and asked staff to provide more information and direction once the NOFA becomes available. Chair Neely thanked Ms. St. Peter for her report.

6. Transit Planning Responsibilities

Dennis Smith stated that in the Committee's packet is the revised responsibilities chart. He noted that at the last Executive Committee meeting, there was a legal question that the Committee asked staff to research. He stated that Fredda Bisman, MAG legal counsel, and Eric Anderson have been in discussions about that question. Mr. Smith stated that Mayor Schoaf also had a question at the last meeting regarding the other portion of the law that refers to MAG already being the agency to approve any changes to the TIP and RTP. He then asked Eric Anderson to update the Committee.

Mr. Anderson stated that the memorandum of understanding (MOU) was signed April 6th and SB1063 is due to go into effect on July 29, 2010. He noted that there are a number of concepts both in the MOU and SB 1063 that raises some questions. He stated that one of the major questions is what does the language in SB1063 that references the Transit Life Cycle Program (TLCP) mean. The bill language says, "changes to the budget that materially impact the performance of the Regional Transportation Plan...or that add or delete current or planned regional service and corridor, shall be approved by the Regional Planning agency..." He noted that there are several questions within that one statement. Mr. Anderson stated that he had discussions with the MAG attorney as to whether there are any legal or statutory definitions that might guide us in terms of what the clause "materially impact the performance of the Regional Transportation Plan (RTP)" really means. Fredda Bisman stated that there is nothing in the legislation that references what the intent of "materially" means. She also noted that she did not find any cases that refers to material changes or impacts in regards to the Transportation Plan. She stated that we could look at is general case law about what "material" means. She noted that this does not clarify much. Ms. Bisman stated that generally the reference to adding or deleting current or planning regional service was thought to cover most of what would be material changes. Mr. Anderson suggested that it was unlikely that there would be anything that would have a significant impact that is not one of those factors. He noted that the more important language is "add or delete current or planned additional service in a corridor." He gave an example as part of the Life Cycle Program approved earlier this year, there were substantial reductions in planned bus rapid transit service in the region. Mr. Anderson stated under the new language in SB 1063, those changes would come to MAG for approval. He explained that those changes would also represent a material impact to the Plan, because we are actually changing or deleting major service that was part of the Regional Transportation Plan.

Mr. Anderson stated that there is another part of the statute that deals specifically with the Regional Transportation Plan (RTP), Title 28-6353, which is the provision in state law that provides guidance in terms of how we deal with the RTP. He noted that from a policy standpoint, the question is, when the Regional Public Transportation Authority (RPTA) is making changes in the Transit Life Cycle Program, how does that agency proposing changes get concurrence or approval for those changes by MAG. Mr. Anderson stated that we did get comments from RPTA on trying to assist in some of the definition issues and they suggested that we go back to how "material change" is defined in the TLCP policies. He confirmed that was a good suggestion, but those definitions apply to projects

themselves and how costs and scopes change on a project basis, and what the language in SB 1063 refers to is how the overall Plan is impacted. Mr. Anderson stated that staff will need to do more research, but the big question is how do we coordinate the Board actions/approvals by RPTA on the TLCP with the Board action of the MAG Regional Council.

Mr. Smith stated that in the statute on the freeway side, it is obvious that MAG has had the authority all along. He noted that what we have are two agencies with similar missions and we are trying to sort out the missions of the two agencies. Mr. Smith noted that on the highway side, we do not have a board approving something and then sending it to MAG. Mr. Anderson provided the information on the historical practice regarding changes to the TLCP. He noted that after the TLCP is approved by the RPTA board, MAG staff then takes that TLCP information and incorporates that information into the RTP and the TIP that then goes to the Regional Council for approval. Mr. Anderson stated that in a technical sense, MAG is approving the changes to the TLCP as part of the MAG TIP and RTP. He noted that MAG is not taking separate action on these changes. He noted that changes in the State Law as it relates to changes in the TLCP would indicate that MAG needs to take a separate action on the TLCP proposed changes.

Chair Neely stated that she agrees that we have been the body approving these changes through incorporation into our TIP and RTP. She suggested that we provide clarification that MAG will now approve these changes separately. Mayor Hallman agreed with Chair Neely and suggested this process be in writing and then adopted by the MAG Executive Committee and Regional Council. Chair Neely agreed. Mayor Schoaf stated the in SB 1063, one of the sections states that the Regional Planning agency shall “develop” the public transportation element of the RTP. He asked whether develop implies that all the work is done in RPTA and then MAG simply votes to approve or disapprove, or is MAG staff working on developing this element so that when brought to the Executive Committee it is a product of the MAG process. Mr. Anderson replied that our plan is to develop the public transit element of the RTP within MAG. He added that we will certainly work with the transit operators, RPTA, City of Phoenix and Tempe, as we develop the plan. Mayor Schoaf stated that there are some policy decisions that have been made in developing the regional transportation transit portion of our plan in the past, and those policy issues will drive a number of the planning answers. He asked whether those policy issues will be decided at MAG so that we agree on what the policy will be to drive this planning effort. Mr. Anderson replied that there are some policies and procedures in place as adopted by the RPTA board that govern the TLCP and how changes to that TLCP are handled within the RPTA structure. He noted that MAG may be able to comment or impact those, but whether MAG could change those is up to further discussions. He noted that there are some policies related to transit, from a long-term planning perspective, that are important to begin to have a regional dialogue and need to be imbedded in the RTP. Mr. Anderson noted that those are creating a regional transit vision for the region with basic concepts in terms of service levels, as well as integrating transit with other modes to provide a more effective system.

Mayor Schoaf asked if those policies that drive planning will be policies that MAG will review and adopt as MAG policies, or will they be policies that have been adopted by RPTA and MAG must follow with some possible input. Mr. Anderson stated that MAG as an agency and within our planning responsibilities can establish policies for transit that can drive transit in this region. Mayor Schoaf stated that MAG will look at various issue that drive these types of planning decisions and adopt policies that are appropriate given the MAG process. Mr. Anderson confirmed that was correct. Mr. Smith stated that another component that MAG needs to bring to the transit discussion

on making these decisions is the technical foundation and modeling. Chair Neely suggested that the process be put in writing for review and adoption by the board. Mayor Smith asked if there was anything that could materially impact the performance of the regional plan that does not involve adding or deleting service in a corridor. Mr. Anderson replied that statement probably covers 90 percent of the potential changes. Mayor Smith stated that the issue may be with frequency of service and whether that is adding or deleting service. Mr. Anderson stated that staff will address that issue with the partners.

Chair Neely noted that we are talking about planning and should not cloud the discussion with operations issues. Mayor Smith agrees, but stated that it is sometimes hard to determine where operations ends and planning begins. He suggested refining what is in the agreement and keep it at a high level. Mayor Hallman stated that he is focused on keeping policy versus implementation and local control versus regional interests clearly separated. Chair Neely stated that she agrees and noted this is our chance to show that we can be successful in these efforts.

7. MAG Committee Chair and Vice Chair Appointments ending June 30, 2010

Mayor Hallman moved to approve the appointments of the technical and policy committee chairs and vice chairs ending June 30, 2010 as noted on the attached chart. Mayor Cavanaugh seconded the motion and the motion carried unanimously.

8. 2010 Desert Peaks Awards Update

Kelly Taft thanked the Executive Committee for the opportunity to provide a brief update regarding the upcoming Desert Peaks Awards. She stated that the awards ceremony will be held on Wednesday, June 30th, immediately following the MAG Regional Council Annual Meeting. The Annual Meeting and the Awards program will both be held at the Downtown Phoenix Sheraton, located at 340 N. 3rd Street, and validation tickets will be provided for parking at the meeting. Ms. Taft noted that the Regional Council meeting will be held at its regular time of 5:00 p.m. on the 2nd floor of the Sheraton in the Valley of the Sun Ballroom, Room D. She stated that the awards program will begin at approximately 6:15 p.m. The awards program will be held in Room A of the Valley of the Sun Ballroom Room, which is adjacent to the Regional Council meeting room. Ms. Taft stated that a reception will be held beginning at 5:30 p.m. when guests can check in and make use of their two free drink tickets and enjoy the hors d'oeuvres that will be provided. There is no cost to attend the event and the cost of the program is being defrayed by sponsorships. She stated that MAG received approximately \$15,000 in sponsor donations. Award recipients were notified in advance, and the RSVPs are currently at approximately 230. Ms. Taft commented that a special photo location will be set up for award recipients or others who want to commemorate the event. She noted that a copy of the program was at the table and outlines the evening flow.

Ms. Taft stated that Chair Neely will serve as the emcee of the event and Dennis Smith will introduce Chair Neely, who will begin the program by recognizing attending Regional Council members, Past MAG officers, special guests or elected officials, and Management Committee members. Chair Neely will also recognize the event sponsors, as well as the judges who elected the award recipients. Ms. Taft noted that following the introduction the awards presentation will begin. She noted that a copy of the portion of the script has been emailed to each presenter's intergovernmental representative, along with a memo that outlines the process. Ms. Taft noted that there have been a couple of minor edits and new hard copies are available for each committee

member at their place. She explained that generally, one person is called to the stage to accept the large project award and make comments on behalf of the group. The Mayor presenter then calls up the partnering agencies, who do not speak but who come to the stage to receive a smaller personalized version of the award. However, she noted that MAG is accommodating several requests this year to allow more than one individual to come to the stage and share the microphone based on the unique circumstances of the partnership, so there are several exceptions to the normal award flow. Ms. Taft stated that this affects only the group awards, so rather than take the time right now, she requested time after the meeting to discuss each presenter's instructions to prevent confusion during the event.

Ms. Taft stated that Chair Neely will come to the microphone to introduce each Executive Committee presenter. Mayor Schoaf is scheduled to present the Public Partnership award. She noted that in that category, the judges selected two recipients. Mayor Cavanaugh will present the Public Private Partnership award, where the judges also selected two recipients; Mayor Lane will present the Professional Service award; Mayor Smith will present the Regional Partnership award; and Mayor Hallman will present the Regional Excellence Award. Ms. Taft stated that we will conclude the program with the passing of the gavel. She also noted that we received a number of donated raffle prizes and we will have several great door prize drawings throughout the event. Ms. Taft stated that concluded her update and she would be happy to take any questions.

Chair Neely thanked Ms. Taft and stated that it sounds like we have a good turn out for the event.

4. Update on Exceptional Events and MAG Five Percent Plan for PM-10

This agenda item was taken out of order. Dennis Smith stated that staff was directed at the last Regional Council meeting to return to the Executive Committee with the motion to explore getting legal assistance on the PM-10 issue. Chair Neely suggested that the Committee go into executive session. Mayor Hallman moved that the Executive Committee enter into Executive Session for the purpose of obtaining legal advice. Mayor Lane seconded the motion and the motion carried unanimously. The Executive Committee went in to executive session at 12:55 p.m.

The Executive Committee reconvened executive session at 1:20 p.m.

Mayor Smith moved to authorize staff to retain legal counsel and other consultants, and take administrative action needed regarding the EPA nonconcurrence on the four exceptional events at the West 43rd Avenue monitor in 2008 and the EPA's intent to disapprove the MAG Five Percent Plan for PM-10 for reducing dust pollution in the Valley. Mayor Lane seconded the motion and the motion carried unanimously.

9. Request for Future Agenda Items

Chair Neely asked if there were any requests for future agenda items. There were none.

10. Comments from the Committee

Chair Neely asked if there were any comments for the committee members. Mr. Smith stated that the Joint Planning Advisory Council (JPAC) meeting is scheduled for June 28, 2010 at the Sheraton

Wild Horse Pass. He noted that there are 45 participants from the MAG region attending, and we are waiting for the attendee list from PAG and CAAG. Mr. Smith noted that the Governor will be in attendance as well. Mr. Smith stated that we are looking forward to that meeting.

Adjournment

Mayor Hallman moved to adjourn the Executive Committee meeting. Mayor Lane seconded the motion and it carried unanimously. There being no further business, the Executive Committee adjourned at 1:26 p.m.

Chair

Secretary