

# FRESNO COUNTY REGIONAL TRANSPORTATION MITIGATION FEE AGENCY AGENDA

Date: June 24, 2010

Time: Immediately Following Council of Fresno County  
Governments Policy Board Meeting

Place: COG Sequoia Room  
2035 Tulare Street, Suite 201, Fresno, CA

| Item | Description                                                                                                                                                                                                                                                                                                                              | Enclosure | Action* |
|------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|---------|
| I.   | <b>PRESENTATIONS</b>                                                                                                                                                                                                                                                                                                                     |           |         |
|      | <b>A. Public Presentations</b><br>This portion of the meeting is reserved for persons wishing to address the Board on items within its jurisdiction but not on this agenda. <b>Note: Prior to action by the Board on any item on this agenda, the public may comment on that item. Unscheduled comments may be limited to 3 minutes.</b> |           |         |
| II.  | <b>Minutes of October 29, 2009</b>                                                                                                                                                                                                                                                                                                       | Yes       | Approve |
| III. | <b>Regional Transportation Mitigation Fee Vesting Issues –<br/>RTMF RESOLUTION 2010-01 – PUBLIC HEARING</b>                                                                                                                                                                                                                              | Yes       | Approve |

**Summary:** During the formation of the JPA and the framing of the language for implementing the fee the RTMF sub-committee went through a long reiterative process to "level the playing field" to equate tentative maps that were filed and deemed complete with tentative maps that were filed, deemed complete, and vested per the map act. It was clear the sub committee wished to equate all tentative subdivision maps as well as all tentative parcel maps. It has been pointed out the sections referencing the map in our resolution, Sections 66498.1 - 66498.9 refer only to a very small part of the map act. For instance the Sections governing parcel maps, multiple parcel maps, and their statutory extensions are found in 66463. There are many other sections of the map act that may be applicable to our process. Resolution 2010-01 clarifies the intent of the sub committee.

**Action:** Approve Resolution 2010-01 clarifying vesting language in fee adoption Resolution 2009-01.

## IV. **Appeal Process – Information**

The 2007 ballot that extended the Measure and provided for the creation of the RTMF fee contained language indicating the Fresno County Transportation Authority would have authority for the RTMF fee. This intent is reflected in the October 29, 2009 RTMF Board adopted Resolution 2009-01 implementing the fee. Section D. of that resolution provides "Appeals shall be filed with FCTA in accordance with the administrative procedures established by FCTA". However, the point can be made that the appeal process should logically be handled by the RTMF JPA, as this body is the legal entity created to assess and collect the RTMF. A subcommittee discussion occurred regarding this issue on June 9<sup>th</sup> and it was the consensus of the group that the appeal process belonged with the RTMF JPA. In order to transfer the appeal process back to the RTMF JPA a formal action is required by both the Transportation Authority and the RTMF Board. Staff will work with county counsel to prepare the appropriate resolutions. The item will go before the Authority Board in August and come to this body for action in September.

The Committee also reviewed a proposed procedure for Special Studies and Appeals. The Special Study procedure establishes criteria for a traffic impact study analysis of unique development circumstances that were totally unanticipated when the RTMF Nexus was developed. However, it emphasizes that the process should be used sparingly and only on truly unique projects because if we allow similar projects to

start developing their own specific fee structure it will wreck the legal nexus for the fee and invite court challenges.

The Appeal process is fairly broad and requires payment of the fee before filing for appeal. The onus is on the appellant to develop their case. There was discussion at the subcommittee about how broad the appeal process should be as the ballot measure names specific use's that are exempt from the fee intending the fee to be applicable to everything else. Legal counsel will be requested to comment.

**Action**: Information item only. Direction may be provided at the discretion of the Committee.

**V. OTHER BUSINESS**

- A. Items from Staff
- B. Items from Members

**\*Items listed as information still leave the option for guidance/direction actions by the Committee.**

**\*\*All enclosures are available on our website at [www.fresnocog.org](http://www.fresnocog.org) – Committees and Agendas**

**FRESNO COUNTY REGIONAL TRANSPORTATION  
MITIGATION FEE AGENCY  
EXECUTIVE MINUTES**

Date: October 29, 2009

Time: Immediately Following Council of Fresno County  
Governments Policy Board Meeting

Place: COG Sequoia Room  
2035 Tulare Street, Suite 201, Fresno, CA

Members Present: Mayor Trinidad M. Rodriguez, City of Kerman, Chair  
Mayor Dennis Lujan, City of Selma, Vice Chair  
Councilmember Nathan Magsig, City of Clovis  
Mayor Ron Lander, City of Coalinga  
Councilmember Rico Aguayo, City of Fowler  
Mayor Ramon Dominguez, City of Huron  
Mayor Bruce Blayney, City of Kingsburg  
Mayor Robert Silva, City of Mendota  
Mayor Victor Lopez, City of Orange Cove  
Mayor Armando Lopez, City of Parlier  
Mayor Mary Fast, City of Reedley  
Mayor Amarpreet Dhaliwal, City of San Joaquin  
Mayor José R. Villarreal, City of Sanger  
Supervisor Susan Anderson, County of Fresno  
  
Janelle Kelley, Legal Counsel  
Tony Boren, Executive Director  
Les Beshears, Finance Director

**QUORUM:** At the start of the meeting there were 14 members present representing 46.65% of the population and there was a quorum. (Clovis, Coalinga, Fowler, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, Selma and Fresno County)

**I. PRESENTATIONS**

**A. Public Presentations**

This portion of the meeting is reserved for persons wishing to address the Board on items within its jurisdiction but not on this agenda. **Note: Prior to action by the Board on any item on this agenda, the public may comment on that item. Unscheduled comments may be limited to 3 minutes.**

There were no Public Presentations.

**II. Minutes of September 24, 2009**

A motion was made by Councilmember Aguayo (Fowler) and seconded by Mayor Dhaliwal (San Joaquin) to approve the minutes as written. A vote was called for and the motion carried.

**III. Indemnity Agreement with Fresno County Transportation Authority**

Les Beshears (Fresno COG) explained that the RTMF fee will be applied to projects implemented by the Fresno County Transportation Authority in conjunction with Measure "C". An Indemnity Agreement has been worked out with the Fresno County Transportation Authority to transfer liability of administrating the program to the Transportation Authority. The document was handed out at the Board Meeting and Janelle Kelley, County Counsel provided a verbal brief on the nature and extent of

indemnity covered by the agreement. The item will go to the Transportation Authority Board for execution at their December 16, 2009 meeting.

A motion was made by Supervisor Anderson (County) and seconded by Mayor Fast (Reedley) to adopt the Indemnification Agreement with Fresno County Transportation Authority. A vote was called for and the motion carried.

#### **IV. Public Hearing - Adopt Resolution 2009-01 to implement the RTMF Fee Schedule**

A public hearing adopting the RTFM Fee Schedule is open for written or oral comments. On September 10, 2009 public notices were posted in member agencies public notice foyers and in the Fresno Bee announcing the formation of the JPA and inviting oral or written comments on the nexus study and fee schedule. The public noticing was repeated on October 15, 2009. The fee schedule is scheduled for adoption October 29, 2009. Once the Fee Schedule is adopted there will be a 60-day waiting period before the fee takes effect January 1, 2010.

Mayor Rodriguez (Kerman), Chairman, opened the public hearing.

Mike Prandini, Building Industry Association (BIA) stated that the BIA is in support of the proposed fee schedule.

There being no further comments, Mayor Rodriguez closed the public hearing.

A motion was made by Mayor Fast (Reedley) and seconded by Supervisor Anderson (County) to approve Resolution 2009-01 implementing the Regional Transportation Mitigation Fee Schedule.

#### **V. OTHER BUSINESS**

##### **A. Items from Staff**

The next meeting will be held on January 28, 2010.

##### **B. Items from Members**

There were no items from Members.

There being no further business the meeting was adjourned.

Respectfully submitted,

  
Tony Boren, Executive Director  
Council of Fresno County Governments

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Attachment A  
Observers and Non-Members  
October 29, 2009

Jeffrey D. Webster, Fresno County Rural Transit Agency  
Don Hubbard, Parsons Brinckerhoff  
Lynn Gorman, Fresno County  
Mike Harrison, City of Clovis  
Mike Prandini, Building Industry Association  
Tom Webster, Fresno COG  
Les Beshears, Fresno COG  
Marla Day, Fresno COG



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**Notice of Public Meeting:**

**Fresno County Regional Transportation Mitigation Fee Agency**

On October 29, 2009 the Fresno County Regional Transportation Mitigation Fee Agency passed resolution 2009-01 adopting the Regional Transportation Mitigation Fee.

A public meeting has been scheduled for Thursday, June 24, 2010 to adopt Resolution 2010-01 implementing technical clarifications to the language of resolution 2009-01 concerning vesting of Parcel and Sub Division Maps. The proposed language does not effect the collection of the fee. The proposed language is available for review at the Fresno COG office and on the Fresno COG website at [www.fresnocog.org](http://www.fresnocog.org).

**Date:** Thursday, June 24, 2010  
**Time:** 5:30 pm to 7:30 p.m.  
**Location:** Council of Fresno County Governments, 2035 Tulare Street, Suite 201  
Fresno, California

Oral and written comments may be presented at the meeting. Written comments can also be sent via e-mail to [beshears@fresnocog.org](mailto:beshears@fresnocog.org) or by regular mail to: Les Beshears, Council of Fresno County Governments, 2035 Tulare Street, Suite 201, Fresno, California. Individuals with disabilities may call Fresno COG (with 3 working days advance notice) to request auxiliary aids necessary to participate in the public meeting. Translation services are available (with 3 working days advance notice) to participants speaking any language with available professional translation services.

Public written comments will be accepted through June 18, 2010.

Any questions regarding these hearings should be directed to Tony Boren, Executive Director at (559) 233-4148 Ext. 204.

/s/ TONY BOREN, Executive Director  
Council of Fresno County Governments  
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Resolution No. 2010-01

A RESOLUTION OF THE FRESNO COUNTY REGIONAL TRANSPORTATION  
MITIGATION FEE AGENCY

AMENDING THE FRESNO COUNTY REGIONAL TRANSPORTATION  
MITIGATION FEE RESOLUTION OF 2009

WHEREAS on October 29, 2009, the Regional Transportation Mitigation Fee Agency adopted Resolution 2009-01 establishing and authorizing the collection of the Regional Transportation Mitigation Fee.

WHEREAS it was the intention of the Regional Transportation Mitigation Fee Agency to grant limited vesting rights to all tentative subdivision and tentative parcel maps filed and deemed complete by local agencies prior to January 1, 2010, in accordance with statutory vesting rights conferred on vested tentative subdivision and tentative parcel maps.

WHEREAS the language in section **H.a Vesting - Tentative Maps - Vesting Rights**, is not clear in that it references only a small portion of the Map Act (California Government Code Sections 66410 et seq.).

NOW, THEREFORE, The Board of Directors of the Fresno County Regional Transportation Mitigation Fee Agency ordain as follows:

I. **Section H.a Vesting - Tentative Maps - Vesting Rights** of Resolution 2009-01 shall be deleted in its entirety and replaced with the following:

“H. **Vesting**

a **Tentative Maps - Vesting Rights**

For the purposes of the RTMF program, all tentative subdivision maps, tentative parcel maps, vesting tentative subdivision maps, and vesting tentative parcel maps that have been filed and deemed complete by the local agency prior to January 1, 2010 will be considered to have limited vesting rights and the provisions of the California Government Code Sections 66410 et seq. will apply with respect only to the RTMF in determining when vesting rights have expired.

If the vesting tentative subdivision map, tentative subdivision map, tentative parcel map or vesting tentative parcel map expires or the developer requests a specific action of the local agency to renew the map beyond the statutorily defined approval and extension periods (as defined in the California Government Code Sections 66410 et seq. or any subsequent local adopted vesting tentative

map ordinance), the previously vested rights would no longer apply as the ordinances in effect at the time of the renewed approval would become those in effect and therefore the RTMF could be charged.”

II. Except as hereinabove amended, Resolution No. 2009-01 shall remain in full force and effect.

III. This Resolution No. 2010-01 shall become effective September 1, 2010.

By: \_\_\_\_\_  
TRINIDAD RODRIGUEZ  
CHAIRMAN, BOARD OF DIRECTORS

ATTEST:

By: \_\_\_\_\_  
TONY BOREN  
EXECUTIVE DIRECTOR