

SUMMARY MINUTES

ABAG Executive Board Meeting
No. 370, November 19, 2009
MetroCenter Auditorium
101 8th Street, Oakland, CA

1. CALL TO ORDER

President Rose Jacobs Gibson called the meeting to order at approximately 7:05 p.m.

Representatives and Alternates Present

Supervisor Susan Adams
Mayor Len Augustine
Supervisor John Avalos
Supervisor David Cortese
Councilmember Carole Dillon-Knutson
Mayor Jack Gingles
Mayor Mark Green
Supervisor Carole Groom
Supervisor Scott Haggerty
Supervisor Rose Jacobs Gibson
Mayor Beverly Johnson
Councilmember Ash Kalra
Supervisor Mark Luce
Supervisor Ross Mirkarimi
Mayor Julie Pierce
Vice Mayor Jean Quan
Supervisor Gail Steele
Mayor Pamela Torliatt
Supervisor Gayle B. Uilkema
Councilmember Joanne Ward
Supervisor Ken Yeager
Vice Chair Terry Young
Vice Mayor Ronit Bryant
Mayor Pro Tem David Casas

Representatives Absent

Councilmember Jane Brunner
Councilmember Kansen Chu
Councilmember Richard Garbarino
Supervisor John Gioia
Supervisor Mike Kerns
Director Nancy Kirshner Rodriguez
Supervisor Barbara Kondylis
Councilmember Sam Liccardo
Education Advisor Hydra Mendoza
Councilmember Nancy Nadel
Mayor Gavin Newsom
Mayor A. Sepi Richardson

Jurisdiction

County of Marin
City of Vacaville
County of San Francisco
County of Santa Clara
City of Novato
City of Calistoga
City of Union City
County of San Mateo
County of Alameda
County of San Mateo
City of Alameda
City of San Jose
County of Napa
County of San Francisco
City of Clayton
City of Oakland
County of Alameda
City of Petaluma
County of Contra Costa
City of Hercules
County of Santa Clara
RWQCB
City of Mountain View
City of Los Altos

Jurisdiction

City of Oakland
City of San Jose
City of South San Francisco
County of Contra Costa
County of Sonoma
City of San Francisco
County of Solano
City of San Jose
City of San Francisco
City of Oakland
City of San Francisco
City of Brisbane

2. PUBLIC COMMENT

There was no public comment.

3. ANNOUNCEMENTS

Mark Green, Mayor, City of Union City, announced that it was Big Game Week between University of California, Berkeley and Stanford University.

There were no other announcements.

4. PRESIDENT'S REPORT

President Jacobs Gibson reported on the following:

Governor Schwarzenegger vetoed SB 406 which would have allowed the region to assess a vehicle surcharge of up to \$2 to generate revenue to implement SB 375. President Jacobs Gibson, Mayor Green and others worked to ensure this bill passed both the Assembly and the Senate. The collaborative legislative effort began with our work with the California Association of Council of Governments, which sponsored the bill, and Senator Mark DeSaulnier, the bill's author. She thanked those who wrote letters or called the Governor's Office to express your support, as well as those members on the League of California Cities Board who worked to keep the League neutral when there was talk of their opposing SB 406.

The election of ABAG Officers beginning in 2010 has been certified. Union City Mayor Mark Green was elected President, and Susan Adams, Supervisor, County of Marin, was elected Vice President.

President Jacobs Gibson thanked members for their support during her two years as ABAG President. She reported on her efforts to reach out to ABAG's membership via special e-mail alerts on our activities—especially around legislation and the Youth Gun Violence Initiative. She thanked members for allowing her to appoint members to the Youth Gun Violence Task Force which actively pursued the legislation, ordinances and resolutions brought before the Board in July and September, and acknowledged members of the Task Force—John Gioia, Supervisor, County of Contra Costa; Dan Furtado, Councilmember, City of Campbell; Sam Liccardo, Councilmember, City of San Jose; Gail Steele, Supervisor, County of Alameda; and Nancy Kirshner Rodriguez, Director of Governmental Affairs, Office of the Mayor, City and County of San Francisco.

Other highlights noted during her two-year term included:

The Growing Smarter Together Awards criteria were refined by adding an urban design category. The Growing Smarter Together Awards recognize the accomplishments of our members who are doing outstanding work in a variety of categories such as transit oriented development, public private partnerships, innovative projects and individual leadership.

President Jacobs Gibson noted the appointment of members to the San Francisco Bay Area Restoration Authority, created under AB 2954 (Lieber), which is charged with raising and allocating resources for the restoration, enhancement, protection and enjoyment of wetlands and wildlife habitat in the San Francisco Bay and along

its shoreline. The Authority's Governing Board members represent local government and the Coastal Commission. ABAG was identified as the appropriate body to serve as steward for this important function.

She acknowledged the work to bring the region together over the last two years around the FOCUS Initiative and the priority development and priority conservation areas, which has strengthened ABAG's relationship with its member cities and counties and with partner regional agencies.

President Jacobs Gibson thanked members who attended the General Assemblies, which offer programs that benefit our members, and who participated as panelists, speakers and as members of the audience. The last General Assembly, held on October 22nd, featured Ron Sims, Deputy Secretary, U.S. Housing and Urban Development, Will Fleissig, a well respected transit-oriented, mixed used developer, and a panel of elected officials moderated by Scott Haggerty, Supervisor, County of Alameda.

Supervisor Adams commented that the San Francisco Bay Restoration Authority may want to consider efforts related to San Pablo Bay and to work with federal legislators to create a watershed/bay program designated as an important national water area eligible for federal funds.

Pamela Torliatt, Mayor, City of Petaluma, recognized President Jacobs Gibson for her leadership over her term as president.

Mayor Green commented on the need to shift ABAG's lobbying focus to Washington D.C.

5. EXECUTIVE DIRECTOR'S REPORT

Henry Gardner, ABAG Executive Director, reported on the following:

Governor Schwarzenegger vetoed SB 406 and SB 279, legislation that was a major part of ABAG's strategy for program development and for long-term sustained funding for its core functions. SB 406 would have authorized ABAG and MTC to levy a \$2 vehicle registration fee to support implementation of SB 375. The fee would have raised approximately \$12 million annually, half of which would have been provided to cities and counties and congestion management agencies and half to ABAG and MTC to carry out their mandated functions under SB 375. Staff is currently planning how to amend ABAG's legislative approach following the Governor's veto of SB 406, including interviewing the bill's author and key allies like the largest Metropolitan Planning Organizations before suggesting amendments to the bill for the next legislative session.

Following the veto of SB 279, ABAG is exploring how to proceed with establishment of a regional solar energy efficiency district under current AB 811 authority. SB 279 would have amended the Mello-Roos Act to allow for a district to finance energy efficiency improvements on real property making it easier and simpler to accomplish the program elements we have identified for a Bay Area wide energy efficiency program.

The San Francisco Bay Trail Project continues to be one of ABAG's most popular programs. Recent activities include an agreement with Chevron to donate 1.5 miles of Bay Trail easements on the western side of the Point San Pablo Peninsula to the East Bay Regional Park District, a major step towards completing the Bay Trail in Richmond; and a celebration by the City of South San Francisco on October 21st on the completion of their final Bay Trail gap with the installation of a bridge linking two completed segments over a slough near Genentech funded by the South San Francisco Scavengers and HCP, Inc. as part of a San Francisco Bay Conservation and Development Commission permit.

The San Francisco Estuary Partnership's recent activities include a green streets/resilient watersheds tour in El Cerrito on October 9th attended by city planners and public works staff from cities surrounding the Bay, as well as a board member from the San Francisco Regional Water Quality Control Board, staff from the State Water Resources Control Board, Department of Water Resources, and guests from the Malaysian government's erosion control department; a meeting with representatives from the Dutch Ministry of Housing, Spatial Planning and the Environment, San Francisco Bay Conservation and Development Commission, and the State Coastal Conservancy, on October 21st to discuss San Francisco Bay Delta issues, including climate change; the launch of an updated website at www.sfestuary.org that includes pages for all new Estuary 2100 projects as well as other new projects, and videos and slideshows about the Estuary; receipt of finance agreements for forgivable loan funding for two expanded use projects: the El Cerrito Green Streets pilot project to retrofit a dense urban corridor with green stormwater infrastructure (\$392,000) and the Bay-wide Trash Capture Device Project (\$5 million); and a new contract from the California Natural Resources Agency for assistance to the CalFed Science Program for contracting with science experts to provide ongoing detailed technical advice to the program and to assist in the integration of scientific practices in CalFed programs (\$300,000).

The ABAG PLAN Board (ABAG's Risk Management and Insurance Program) met on November 4th and 5th in Palo Alto to address two important issues: a new policy regarding PLAN liabilities for regulatory inverse condemnation claims arising before July 1, 2008; and concerns of some members over the role of the Board in management decisions regarding operation of PLAN. The Board has decided to enter into discussions with ABAG to clarify these issues and determine if mutually acceptable solutions are possible.

At its meeting on October 28th, the Governing Board of the San Francisco Bay Restoration Authority heard a report from Will Travis, BCDC Executive Director, on building a regional focus; appointed members to the Advisory Committee; and formed a committee to implement public opinion polling and research work plan.

ABAG continues to work to identify ways to protect revenues needed by its member cities and counties and to find new sources of revenue to sustain their programs.

President Jacobs Gibson thanked Executive Director Gardner for his report.

6. CONSENT CALENDAR

President Jacobs Gibson recognized a motion by Supervisor Adams, and seconded

by Ross Mirkarimi, Supervisor, City and County of San Francisco, to approve the consent calendar with changes regarding Item 11 in the Executive Board Summary Minutes of September 17th, i.e., to strike "Members discussed PG&E's support of an initiative related to implementation of Community Choice Aggregation by jurisdictions" and replace with "Members discussed PG&E's support of an initiative which would create a 2/3 voting obstacle for implementation of Community Choice Aggregation". The motion passed unanimously.

A. Approval of Executive Board Summary Minutes**

Summary Minutes of Meeting No. 369 held on September 17, 2009.

B. Grant Applications

A list of grant applications was approved for submission to the State Clearinghouse, having been circulated in ABAG's "Intergovernmental Review Newsletter" since the last Executive Board meeting.

C. Appointment to Committee

Approved the following appointment to committee:

Regional Seaport Planning Advisory Committee

Elizabeth Patterson, Mayor, City of Benicia

D. Request for Authorization to Enter into Interagency Agreement with U.S. Army Corps of Engineers

Authorized the Executive Director or designee to enter into an interagency agreement with U.S. Army Corps of Engineers to provide contract management and outreach to ABAG cities on a Regional Sediment Management Plan for the San Francisco Bay.

E. Authorization to Enter into Contract with the Bay Institute for a Restoration Coordinator

Authorized the Executive Director or designee to enter into a new contract on behalf of ABAG's San Francisco Estuary Partnership with the Bay Institute to continue the services of Marc Holmes, Restoration Consultant. The contract amount will not exceed \$65,000 for a term from December 1, 2009, through December 31, 2010.

F. Authorization to Enter into New Contract with Watershed Project

Authorized the Executive Director or designee to enter into a new contract on behalf of ABAG's San Francisco Estuary Partnership with the Watershed Project for implementation of the Richmond Recommended Green Stormwater Reduction Options.

G. Approval of Resolution No. 18-09 Authorizing Executive Director or Designee to Sign and file, on behalf of ABAG, a Financial Assistance Application with State Water Resources Control Board for El Cerrito Green Streets Rain Gardens

At the May Executive Board meeting, the Board authorized submission of this application. The resolution approved at that meeting did not meet Regional Water Board's requirements. A new resolution was approved by the Executive Board. Financial assistance shall not exceed \$392,000.

7. CALIFORNIA CONSTITUTIONAL CONVENTION**

Fred Silva, Senior Fiscal Policy Advisor, California Forward, and Jim Wunderman, President and CEO, Bay Area Council, briefed the Board on their respective proposed ballot measures concerning a California Constitutional Convention and other fiscal reform proposals.

Mr. Silva spoke about the interrelated fiscal issues of the budget, revenue, and state/local relationship; state general fund spending; state and local tax revenues; confusion in roles and lack of accountability; revenue trends over time; general fund expenditure growth; state program growth; workload requirements, budget agreements, program reductions, and using tomorrow's money today; budget reforms; and the local side of the state/local relationship.

Mr. Wunderman spoke about a state constitutional convention in the context of the California State government; a dysfunctional state; state problems, including the budget, elections and initiatives, government effectiveness, and governance; results of these problems; and a constitutional convention as the best option to fix the problems. He reported on polling results related to a constitutional convention. He described the proposal for a convention, including two propositions, four areas of reform, county and Assembly District delegates, and a timeline.

Members discussed appointment of county delegates to the convention, limitation and scope of the convention, convention requirements regarding elected officials, the operations of the convention, the expected outcome from the convention, recommendations from the convention to the electorate, funding for the convention and its delegates, other constitutional convention efforts, addressing ideology in the convention, representation of state's diversity, electoral reform, selection criteria of Assembly delegates and preclusion of elected officials, lobbyist, and others, addressing cynicism by voters, and others, and alternative proposal by the League of California Cities.

President Jacob Gibson announced that the League of California Cities requested to present its proposal at the Board meeting in January. She indicated that ABAG will develop a set of principles regarding state government reforms for consideration by its members.

President Jacobs Gibson thanked Mssrs. Silva and Wunderman for their report.

8. SB 375 IMPLEMENTATION POLICIES**

Paul Fassinger, ABAG Research Director, briefed the Board on policies for the implementation of SB 375. Mr. Fassinger reported on Integrated Land Use and Transportation Planning to Reduce Greenhouse Gases which included a review of seven implementation policies developed by the Joint Policy Committee, changes to these policies since March, and a work plan for building a foundation of tools and information leading to a final draft Sustainable Communities Strategy and then to an Adopted SCS, Regional Transportation Plan, and Regional Housing Needs Allocation. He requested Board approval of the revised implementation policies.

President Jacobs Gibson recognized a motion by Mayor Green, which was seconded, to approve the revised implementation policies by the Joint Policy Committee. The motion passed unanimously.

Members thanked staff for their efforts to meet concerns of member jurisdictions. Staff will continue to schedule meetings with regional agency partners, and cities and counties.

Members discussed the work of the California Air Resources Board, best management practices and modeling, the need to share information about the implementation process, and developing an educational campaign to highlight jurisdictions' implementation efforts.

President Jacobs Gibson thanked Mr. Fassinger for his report.

9. REGIONAL STATE ENERGY PROGRAM APPLICATION**

Ezra Rapport, ABAG Deputy Executive Director, and Jerry Lahr, ABAG POWER Program Manager, briefed the Board on a proposal to submit a grant application to the California Energy Commission (CEC) for funds for a regional comprehensive Residential Building Retrofit Program and provide an update on the Solar Energy Efficiency District.

Mr. Rapport also provided a status update on ABAG's Solar and Energy Efficiency District program and American Recovery and Reinvestment Act (ARRA) funding opportunities, including a report on legislation and AB 811 program, the State Energy Program and Department of Energy Retrofit Ramp-up. He requested Board approval of a resolution authorizing ABAG to apply for and receive funding under the CEC SEP 2 Residential Retrofit Program.

Members discussed when resolutions from collaborative agencies are due, and expected date of awards and program implementation.

President Jacobs Gibson recognized a motion by Jean Quan, Councilmember, City of Oakland, which was seconded by Carole Dillon Knutson, Councilmember, City of Novato, to approve the resolution authorizing ABAG to apply for and receive funding under the CEC SEP 2 Residential Retrofit Program. The motion passed unanimously.

President Jacobs Gibson thanked Mr. Rapport his report.

10. LEGISLATION & GOVERNMENTAL ORGANIZATION COMMITTEE REPORT**

President Jacobs Gibson recognized Committee Chair Carole Dillon-Knutson, Councilmember, City of Novato, who reported on committee activities, including: legislative priorities for the 2010 Legislative cycle; a report on the New Two-thirds Vote Requirement for Local Public Electricity Providers, a PG&E sponsored initiative constitutional amendment; the status of bills reviewed by the committee in 2009; Senate Bill 1619 (Dodd), The Livable Communities Act of 2009; H.R. 3525 (Thompson), Tax Exempt Private Activity Bond Use for Renewable Energy Generation and Energy and Water Efficiency Projects; SB 406 (DeSaulnier), Land Use: Environmental Quality; and AB 155 (Mendoza), Local Government—Bankruptcy, oppose; review of state

reform proposals; review of a model ordinance regarding pre-tax commuter benefits; and the 2010 Legislative Reception.

Members discussed the PG&E sponsored initiative regarding a 2/3 requirement for approval of Community Choice Aggregation and requested a presentation at the next Board meeting.

Kenneth Moy, ABAG Legal Counsel, noted that ABAG is prohibited from using public resources to oppose or support a matter on the ballot unless the public agency itself has placed the matter on the ballot.

President Jacobs Gibson recognized a motion by Chair Dillon-Knutsen, which was seconded by Supervisor Mirkarimi to approve the committee report. The motion passed unanimously.

Members requested that the committee's PowerPoint presentation and report be distributed to members.

Tom Guarino, Public Affairs Manger, East Bay, PG&E, commented on PG&E's sponsored initiative, its Smart Meter program, and its long relationship with ABAG, and offered to meet with members on these matters.

President Jacobs Gibson thanked Chair Dillon-Knutsen for her report.

11. FINANCE & PERSONNEL COMMITTEE REPORT**

President Jacobs Gibson recognized Committee Chair Scott Haggerty, Supervisor, County of Alameda, who reported on committee activities, including: approval of the August and September 2009 financial reports; review of membership dues received; recommendation to the board to accept the June 30, 2009, Audited Financial Reports, with the Single Audit and Memorandum of Internal Controls; a report on capital improvements to ABAG facilities and recommendation to approve Resolution 19-09; and a closed session regarding a legal matter.

President Jacobs Gibson recognized a motion by Chair Haggerty, which was seconded, to approve the committee report. The motion passed unanimously.

President Jacobs Gibson thanked Chair Haggerty for his report.

12. CLOSED SESSION

The Board entered closed session at approximately 9:41 PM for a conference with Legal Counsel regarding existing litigation, Home Builders Association of Northern California v. ABAG.

The Board entered open session at approximately 9:45 PM.

Supervisor Haggerty reported on the status of existing litigation, Home Builders Association of Northern California v. ABAG.

13. ADJOURNMENT

The meeting was adjourned at approximately 9:46 p.m.



Henry L. Gardner, Secretary-Treasurer

*** Indicates attachments.*

**** For information on the L&GO Committee, contact Patricia Jones at (510) 464 7933 or PatJ@abag.ca.gov, or Kathleen Cha at (510) 464 7922 or KathleenC@abag.ca.gov.*

All ABAG Executive Board meetings are recorded. To arrange for review of these tapes, please contact Fred Castro, Clerk of the Board, at (510) 464-7913 or FredC@abag.ca.gov.