

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

February 14, 2000
MAG Offices
302 North 1st Avenue, Phoenix, Arizona

MEMBERS ATTENDING

Mayor Neil Giuliano, Tempe, Chairman	Mayor Elaine Scruggs, Glendale
* Mayor Skip Rimsza, Phoenix, Vice Chairman	Mayor John Keegan, Peoria
Mayor Jay Tibshraeny, Chandler	

* Not present

1. Call to Order

The Executive Committee meeting was called to order by Chairman Neil Giuliano at 12:10 p.m.

2. Approval of January 11, 2000 Executive Committee Meeting Minutes

Chairman Giuliano asked if there were any changes to the minutes. Hearing none, he asked for a motion to approve.

Mayor Jay Tibshraeny moved, Mayor Elaine Scruggs seconded and it was unanimously carried to approve the January 11, 2000 Executive Committee meeting minutes, as written.

3. Legislative Update

James M. Bourey stated that the City of Glendale requested that staff review and summarize legislative bills that could be of impact to the region. He handed out two packets of summaries of these bills completed by staff. Mr. Bourey stated that there are four bills of particular interest.

Mr. Bourey stated that Senator Hamilton's item on HOV lanes, SMC1004, passed through the Senate Transportation Committee. He said that the bill requests that repayment of federal highway money for the construction of HOV lanes be waived. Mayor Scruggs noted that it was her understanding that on I-17, it would apply only until capacity is expanded and proven as an air quality improvement from HOVs. Mr. Bourey expressed his concern that once the restriction is taken off, it would be almost impossible to put back on.

Mr. Bourey stated that HB2643 for Clean Burning Fuel; Diesel, is another bill of interest. Lindy Bauer stated that the House Environmental Committee discussed the bill, which is opposed by the trucking industry. Representative Allen indicated that the bill did not have enough votes to pass. Ms. Bauer commented on Representative Allen's position that the bill would have to be

reconsidered because of a lawsuit by Arizona Center for Law in the Public Interest. Mr. Bourey commented on support of the bill from the Phoenix Chamber of Commerce.

Mr. Bourey indicated that information on Smart Growth could be found in the packet dated February 14, 2000. Corey Cox stated that a special session to discuss Smart Growth was scheduled for later in the day. She mentioned that the summary was based on Growing Smarter legislation released by the Governor's Office on February 7, 2000. Ms. Cox stated that the legislation includes establishment of a Stewardship Trust to preserve 3 percent of state trust land as open space. Ms. Cox explained that the takings language in Growing Smarter could limit cities and counties in the zoning process. Ms. Cox noted that the legislation does add to the County's ability to regulate subdivisions, although not to the level of the adopted Regional Council policy. Chairman Giuliano thanked Ms. Cox and asked if there were any questions.

Mr. Bourey inquired about the cities' positions on the legislation. Chairman Giuliano replied that Tempe did not take a firm position on the legislation. Mayor Scruggs noted that Glendale would be paying attention to takings. Ms. Cox explained the three parts of takings. Rezoning regulations would need to meet the rational nexus and rough proportionality tests established by the Supreme Court in the Nollan and Dolan case. Ms. Cox mentioned that it is unclear how these tests could be applied to rezoning. Ms. Cox stated that the legislation would provide an appeal process at no cost to the property owner. If the property owner prevailed, the local government would pay court costs. In addition, written consent of a property owner would be required before rezoning for open space, recreation, conservation or agricultural uses. Norris Nordvold commented that the City of Phoenix was concerned with downzoning bills.

Mr. Bourey handed out results received from the recent telephone poll conducted by Lawrence Research in Maricopa County regarding drivers' opinions on various local transportation issues, including HOV lanes, HOT lanes, and value pricing. He indicated that the poll showed support for HOV lanes.

Mr. Bourey handed out a printed copy of SB1336, sponsored by Senator Ed Cirillo. The bill places the designation for MAG as the MPO in State law, and places the Regional Transportation Authority Board within MAG. The bill would allow counties with a population of 1.2 million or more to levy a ½ cent sales tax for public transportation for no more than 10 years upon approval of the voters. Mr. Bourey said that the bill passed out of the Senate Transportation Committee by a vote of four in favor, two against, and one abstention. Mayor Tibshraeny asked for clarification of the tax levy. Mr. Bourey said that the ½ cent tax levy would start in January of 2006. Mayor Scruggs expressed concern over the time limit of ten years and the ongoing need to fund a transit system.

Chairman Giuliano requested that an update on these bills be transmitted by fax or e-mail to the Executive Committee and Intergovernmental Coordinators.

4. Revised MAG 1999 Serious Area Particulate Plan for PM-10

Lindy Bauer stated that the Draft Revised MAG 1999 Serious Area Particulate Plan for PM-10 has been prepared to address the approvability problem identified on November 9, 1999 by the Environmental Protection Agency (EPA).

Ms. Bauer stated that to address the approvability problem, the Regional Council amended the FY 2000-2004 MAG Transportation Improvement Program to include \$7.85 million to Maricopa County for paving dirt road projects and \$3.8 million to purchase PM-10 certified street sweepers. The Maricopa County Board of Supervisors submitted a new commitment to address the approvability issues with the County dust control rules and to strengthen the enforcement to support an 80 percent compliance rate. The modeling for the plan was then revised accordingly for the attainment demonstration.

Ms. Bauer stated that Governor Hull requested that EPA shorten the four month approval process for the revised plan to avoid the sanctions. On December 17, 1999, EPA indicated that their review process would be shortened to three months. Under this schedule, the two to one offset sanctions, which impact utilities, would be in place for one month.

Ms. Bauer said that the draft revised plan was sent to EPA December 23, 1999 to begin the approval process. A public hearing on the draft plan was conducted on January 31, 2000. Ms. Bauer summarized the public comments from two individuals received at the hearing. A citizen expressed concern regarding the air quality impacts of the Squaw Peak on nearby homes. The Arizona Center for Law in the Public Interest commented that the plan should also include CARB diesel fuel, additional agricultural measures, a requirement to change-out uncertified wood stoves and fireplaces upon the sale of the home, and a 66 percent compliance rate for the Maricopa County Fugitive Dust Control Rules. Ms. Bauer stated that Arizona Center for Law In the Public Interest has indicated at various meetings and in the newspapers that they intend to file a lawsuit because CARB diesel was not included in the plan. The Legislature has the authority over fuels and decided not to require CARB diesel.

Ms. Bauer said that the Management Committee recommended adoption of the plan. In order to expedite the process of forwarding the adopted plan to EPA, the Executive Committee was asked to take action. Ms. Bauer said that if adopted by the Executive Committee, the revised plan would be forwarded to EPA. On February 23, 2000, the Regional Council would be requested to ratify the Executive Committee action.

Mr. Bourey asked Ms. Bauer to clarify the lawsuit with Arizona Center for Law in the Public Interest. Ms. Bauer stated that once a plan has been approved by the EPA, there is a 60-day window in order for the public to file a lawsuit. She mentioned that it is important to note that once the plan is approved, the sanctions clock stops. If the lawsuit is lost by EPA and the approval of the plan vacated, the clock starts again and we would be approximately 5 months away from the loss of federal highway funds and sanction in the midst of off-set sanctions. Mr. Bourey stated that CARB diesel was one of the most stringent measures identified in a nation-wide survey of the most stringent measures in any State's plan.

Mayor Tibshraeny moved, Mayor Keegan seconded, and it was unanimously carried to adopt the Revised MAG 1999 Serious Area Particulate Plan for PM-10.

5. Annual Evaluation of the MAG Executive Director

Chairman Giuliano stated that at the January Executive Committee meeting, the performance evaluation process for the MAG Executive Director was discussed. To gather additional information to guide the evaluation process, it was determined that the Chairman, working with the MAG Executive Director, would develop an evaluation form that was distributed to the MAG member agencies. The results were compiled by the Chairman and reviewed by the Executive Committee. It is anticipated that a recommendation would be forwarded to the Regional Council for consideration at their February meeting.

Mayor Scruggs moved, Mayor Tibshraeny seconded, and it was unanimously carried to recess the regular Executive Committee meeting to conduct an Executive Session and to reconvene the regular meeting for possible action to make recommendations relating to the annual evaluation and salary review of the MAG Executive Director. The authority for such an Executive Session is A.R.S. §38-431.03(A)(1).

The meeting was adjourned for the Executive Session at 12:35 p.m.

The regular meeting reconvened at 1:45 p.m.

Mayor Keegan moved to adjourn, Mayor Scruggs seconded and it was unanimously carried. The meeting was adjourned at 1:45 p.m.

Chairman

Secretary