

# SUMMARY MINUTES

ABAG Executive Board Meeting  
No. 345, September 15, 2005  
MetroCenter Auditorium  
101 Eighth Street, Oakland, CA

## 1. CALL TO ORDER

The meeting was called to order by President Scott Haggerty at about 7:05 p.m. Santa Clara County Supervisor Peter McHugh led the Board in the Pledge of Allegiance.

### Representatives and Alternates

#### Present

Supervisor Susan Adams  
Amiee Albertson, Office of the Mayor  
Vice Mayor Jane Brunner  
Councilmember Donald Eaton  
Mayor Jose Esteves  
Mayor Mark Green  
Supervisor Scott Haggerty  
Supervisor Rose Jacobs Gibson  
Supervisor Barbara Kondylis  
Councilmember John Marquez  
Supervisor Peter McHugh  
Councilmember Julia Miller  
Councilmember Nancy Nadel  
Councilmember Jean Quan  
Councilmember Gwen Regalia  
Mayor James P. Spring  
Supervisor Gail Steele  
Mary C. Warren

Mayor Shelia Young

#### Representatives Absent

Councilmember Maria Alegria  
Supervisor Blanca Alvarado  
Mayor Todd Carlson  
Councilmember David D. Cortese  
Supervisor Mark DeSaulnier  
Mayor Pro Tem Carole Dillon-Knutson  
Supervisor John Gioia  
Supervisor Mike Kerns  
Mayor Carol L. Klatt  
Councilmember Linda J. LeZotte  
Supervisor Mark Luce  
Supervisor Fiona Ma  
Supervisor Ross Mirkarimi  
Mayor Gavin Newsom  
Julian Potter, Director of Public Policy

### Jurisdiction

County of Marin  
City and County of San Francisco  
City of Oakland  
City of San Carlos  
City of Milpitas  
City of Union City  
County of Alameda  
County of San Mateo  
County of Solano  
City of Richmond  
County of Santa Clara  
City of Sunnyvale  
City of Oakland  
City of Oakland  
City of Walnut Creek  
City of Suisun  
County of Alameda  
Regional Water Quality Control  
Board  
City of San Leandro

### Jurisdiction

City of Pinole  
County of Santa Clara  
City of Yountville  
City of San Jose  
County of Contra Costa  
City of Novato  
County of Santa Clara  
County of Sonoma  
City of Daly City  
City of San Jose  
County of Napa  
City and County of San Francisco  
City and County of San Francisco  
City and County of San Francisco  
City and County of San Francisco

Councilmember Steve Rabinowitsh  
Supervisor Adrienne Tissier  
Councilmember Ken Yeager

City of Santa Rosa  
County of San Mateo  
City of San Jose

Haggerty noted that having no quorum, the meeting will proceed with the informational items with the action items taken up once quorum is achieved.

## **2. PUBLIC COMMENT**

There was no public comment.

## **3. ANNOUNCEMENTS**

Marin County Supervisor Susan Adams announced that she will attend the NATOA Conference in Washington DC. Issues of concern include telecommunications and cable franchising, particularly federal and state legislation that affects public rights of way and local control. She will report to the Board at its next meeting.

## **4. PRESIDENT'S REPORT**

President Haggerty noted that ABAG is playing a leadership role in bringing together local governments, water districts, and key stakeholders around water issues including integrated regional water management planning. As a result of a discussion at the state level about a delay in funding for IRWMP funding, he followed up with a letter to Governor Schwarzenegger urging him to stay on track with funding for these programs. In August, President Haggerty received a response from Lester Snow, Resources Director, informing him that the Department of Water Resources anticipates that Planning Grants will be awarded in November and that proposals will be invited for implementation grants at the end of 2005.

President Haggerty reported that ABAG was commended for its efforts in coordinating and encouraging integrated regional water management planning. He also noted that staff has played a key role in developing the region's proposal.

ABAG has been advised that FEMA will announce a \$3-million grant to MTC for the retrofit of the MetroCenter Building, which is owned by MTC and ABAG. It is likely that BART will also be funded in the next few weeks to deconstruct its headquarters building and retrofit the tunnel connecting this building to their headquarters and the control center. It appears that the Bay Area will receive 10% of the available national funding.

President Haggerty stated that ABAG worked with local governments in our region earlier in the year to prepare local hazard mitigation plans. Because of this work, both MTC and BART were eligible for pre-disaster mitigation funding. Thanks to the ABAG Earthquake Program Manager, who highlighted the problems with this building and the funding mechanism, the MetroCenter Building will become a much safer building in the event of an earthquake. A second round of proposals will likely be accepted by FEMA in December. Local governments should be ready to submit applications for this funding.

President Haggerty referenced the disaster in New Orleans and the Gulf Coast before stating that planning and preparation are key to readiness in the event of a disaster. Along these lines, President Haggerty announced that the Spring General

Assembly will be held on April 20, 2006, in concert with the Conference Commemorating the 100th Anniversary of the 1906 San Francisco Earthquake.

President Haggerty announced that the conference will be part of a week-long conference April 18-22 that promises to be the premier event for disaster mitigation in 2006. It is the first-ever cross-professional effort of this magnitude with the Earthquake Engineering Research Institute and the Seismological Society of America joining with the California Office of Emergency Services and the Collaborative for Disaster Mitigation to focus on how communities can manage their risk through science, engineering, public policy and business continuity.

President Haggerty called members' attention to the fact that included in the agenda is information on the process for the election of president and vice president and called for individuals to apply for these positions.

## **5. EXECUTIVE DIRECTOR'S REPORT**

Executive Director Henry Gardner reported that a number of bills were introduced in the Legislature over the last few weeks on the subject of eminent domain. Many are aware of *Kelo v. New London* in which the Supreme Court found that cities and counties may condemn private property for public good or benefit, even if the property ultimately is to be used by a private party. The result was a flurry of bills introduced across the country to either impose a moratorium on the application of eminent domain or to eliminate it altogether. Some of these bills were broad, others were limited, and some said residential property could be taken only if the party agreed to the taking.

Executive Director Gardner noted that eminent domain has been a useful tool in California. The League of California Cities has been actively engaged with the Legislature on this subject, urging them not to take hasty action. Executive Director Gardner urged a more studied and measured approach, and that before declaring a moratorium that would have negative impacts in jurisdictions undertaking redevelopment or that would slow down redevelopment efforts, the Legislature should first determine whether there is a problem and then to what extent there is a problem. Executive Director Gardner stated that rarely is property taken where the property owner objects; more difficult is the question of how much to pay for the property. Further, if there are community protests, unless the property is absolutely needed for a project, it is easier to develop around it. Hearings are to take place around the state. Gardner stated the L&GO Committee, the League of California Cities and CSAC will urge action that is more studied and measured.

Executive Director Gardner recalled that the Regional Housing Needs Allocation process and requests for extension of time and funding was reported in past briefings. He reminded members that the State Commission on Mandates determined Councils of Governments are not eligible for reimbursement for this mandated project. He pointed out that the decision would have no practical implication for ABAG since ABAG has no way to do it unless the state pays for it. The State Secretary for Business, Housing and Transportation has been supportive of a time extension for ABAG to undertake the project, has actively engaged in finding a funding source, and understands that from ABAG's perspective this is not a matter of obstinance but one of practicality. ABAG cannot undertake the project if there is no money. Since

the state wants ABAG to undertake the project, both the extension and funding is expected to be forthcoming.

Executive Director Gardner reported that a number of financings have been completed since the last meeting. Of these, he highlighted two: an \$8.3-million tax-exempt financing for the City and County of San Francisco's University High School, and a \$4.4-million multi-family revenue refunding bond for Alameda and San Leandro.

Lastly, Executive Director Gardner reminded members of the upcoming General Assembly scheduled for October 27 at the Oakland Marriott, and stated that members are required to be present. Staff has been working hard to put on a first class general assembly, and he encouraged members and their fellow councilmembers and mayors to attend.

## **6. CONSENT CALENDAR**

[The consent calendar was not taken in order, pending quorum.]

### **A. Approval of Executive Board Summary Minutes\*\***

No. 344, July 21, 2005.

### **B. Grant Applications\*\***

ABAG will transmit the attached list of federal grant applications to the State Clearinghouse. These applications were circulated in ABAG's "Intergovernmental Review Newsletter" since the last Executive Board meeting.

### **C. ABAG Officer Election Calendar\*\***

The Board endorsed the schedule for the election of President and Vice President, as provided by the ABAG bylaws to be held every two years. An election of offices occurs in 2005.

Haggerty asked for volunteers to serve on a canvassing committee for officer selection in the event there are multiple candidates for offices. The following members were designated: San Leandro Mayor Shelia Young, Suisun City Mayor James Spering, and Sunnyvale Councilmember Julia Miller.

### **D. Resolution No. 08-05 Authorizing Pre-Tax Payroll Deduction for CalPERS Service Credit Purchase\*\***

The Board authorized allowing employees to make tax-deferred contributions towards the purchase of additional CalPERS service credit at no additional costs to ABAG.

### **E. Resolution 09-05 Supporting Application for California Regional Blueprint Planning Program Funding\*\***

The Board authorized supporting the Metropolitan Transportation Commission's application in collaboration with ABAG for a California Regional Blueprint Planning grant funded by CalTrans.

## **7. PROTECTING CHILDREN FROM PREDATORY MEDIA**

President Haggerty recognized Supervisor Adams who introduced Peter DeBenedittis, Ph.D., founder of Media Literacy. Dr. DeBenedittis shared with the Board his work on the protection of children from predatory media.

Supervisor Adams began by saying that having been engaged in health and human services the health of the community has always been a prime concern of hers. ABAG has an opportunity to create models of healthy communities and should address issues related to the virtual landscape and telecommunications in particular.

Supervisor Adams introduced Dr. Peter DeBenedittis as a premier expert in communications, and in particular on the effects of broadcast advertising on children. She noted that Dr. DeBenedittis is widely and well published on issues related to advertising and broadcasting and their effects on children and teens.

Dr. DeBenedittis expressed his appreciation for being invited to make a presentation to the Board. He stated that he is on a crusade to change the media landscape in America. A resident of Santa Fe, New Mexico, he flew to California at his own expense because of the importance of this issue.

Dr. DeBenedittis began by showing several commercials broadcast during a recent Super Bowl. He contrasted a commercial sponsored by a liberal organization depicting children working which was denied showing by CBS which deemed political discussion controversial with several for-profit commercials which he suggested promoted theft by children, sexuality, and violence.

Dr. DeBenedittis suggested that certain types of media are detrimental to the brain development of children citing a finding by the American Academy of Pediatrics that children below three years old should not be exposed to passive screens. Further, he noted evidence of differences in brain development in the areas of image versus language responses, where children now have less responsiveness in the area of language, than in the area of image or reflective thinking.

Dr. DeBenedittis said he hopes to start a national movement through state and national efforts to pass resolutions protecting children from predatory media. He encouraged members to introduce resolutions at any government level. He can be contacted for more information, or members can go to his website, [medialiteracy.net](http://medialiteracy.net).

Solano County Supervisor Barbara Kondylis asked whether there are some television programs that are considered good for children. Dr. DeBenedittis responded that a distinction is to be made between judging content and judging time and exposure. He noted that children testing positive for ADD has increased over the last 20 years ago.

Alameda County Supervisor Gail Steele asked about ways to limit television viewing at home. Dr. DeBenedittis responded that media literacy should be mandated as it

is in other developed countries and the state of Montana. He encouraged school boards to adopt media literacy requirements.

During public comment, Joanna Stansby, a local pharmacist, commented on the effect television has on children, particularly those below school age that are now medicated for ADD.

President Haggerty thanked Dr. DeBenedittis for his presentation, stating that it was extremely interesting. He also thanked Supervisor Adams for bringing this issue to the Board's attention.

At this point in the meeting, with a quorum established, President Haggerty called for a motion to approve the consent calendar. A motion was made and seconded, and passed without objection.

## **8. STATE LEGISLATIVE UPDATE**

The Board heard a report from Michael J. Arnold, ABAG's Legislative Advocate in Sacramento regarding recent state legislation, the propositions on the ballot for the upcoming special election, and other state actions of interests to local government.

Arnold said that the Legislature created 3,000 pieces of legislation, with 1,109 bills sent to the Governor. In turn, 728 are still under consideration and the Governor has until October 9 to act on these measures.

Arnold described activities undertaken in representing ABAG. He noted that all bills distributed to mailboxes in the bill room are read by his staff to determine whether there is any impact on ABAG. Those that do are forwarded to ABAG staff for review and are reported to the Legislation & Governmental Organization Committee. The committee makes recommendations to the Board, which, if adopted, are taken as directions to be used in Sacramento. These bills are tracked and staff communicates with legislators about these bills to acquire desired outcomes.

Arnold reported that his staff is involved in representing ABAG before state boards, commissions, and agencies, and noted, as an example, efforts before the Commission on State Mandates concerning reimbursement for the RHNA process and state mandated local programs.

Arnold will provide a written summary of the 2005 Legislative session.

Arnold commented on three propositions submitted by the Governor: Proposition 74, on revising teacher tenure; Proposition 76, the living within our means act; Proposition 77, reapportionment of state legislative, congressional and state board of control districts. Others include: Proposition 75, paycheck protection initiative; the dueling drug benefits plans, industry supported Proposition 78 and the consumer groups supported Proposition 79; the parental notification 48 hours prior to performing an abortion on a minor, Proposition 73; and the proposition to re-regulate the electrical industry by giving additional power and authority to the Public Utilities Commission.

Arnold closed by expressing his sincere pleasure in representing ABAG and noted that, as the oldest COG, ABAG enjoys a great reputation and has a wonderful staff. President Haggerty asked for questions from members.

Supervisor Adams commented that CSAC had met about the issues in the upcoming special election, and stated that Proposition 76 is receiving attention because of its impact on planning local government budgets. She stated that Marin County has taken a position against Proposition 76 because of its impact on local governments.

Arnold first responded by noting that Prop 1A on pension reform showed that there was interests and hope for dialogue about reasonable reforms. He then responded to the issues of Proposition 76 by noting that it is a technical proposition that revises the budget process. It will base yearly expenditures on a three year rolling average of prior expenditures. He concurred that the proposition will give the Governor significant additional authority. He pointed to a provision where if the Legislature does not adopt a new budget, then the existing budget continues to stay in place. Moreover, it gives the Governor the ability to find the state in economic distress, and can thereby reduce apportionment. Supporters claim the need to level peaks and valleys, and to gain control over profligate spenders in Sacramento. Opponents cite specific mechanical problems with formulaistic applications to situations wherein a formula is not appropriate.

Regarding retirement reform, Arnold replied that the Governor challenged the Legislature in the areas of retirement reform, budget reform, teacher tenure, and reapportionment with four ballot propositions. The first was withdrawn because of a glitch that would have taken away benefits of survivors of safety members killed on the job. Arnold stated that it is arguable that reform is needed in the retirement structure, and that there was a missed opportunity to gain reform in system.

President Haggerty thanked Arnold for his report.

## **9. KEEP CALIFORNIA BEAUTIFUL CAMPAIGN\*\***

The Board heard a report from Paul Dickinson, President of Keep California Beautiful, about the Proud Community Program. Dickinson announced an offer from a local individual who pledged to cover first and third year membership costs for local governments who joins the Proud Community Program; local governments who do so must cover costs for the second year in the program.

Dickinson stated that Keep California Beautiful is a 501(c) (3) organization that has existed for 15 years. The organization focuses on environmental education and volunteer action, and is made up of thousands of volunteers across the state. Its goal is to empower California citizens to take responsibility for the environment through education and community based action projects designed to change behavior and foster community pride.

Dickinson described the Proud Communities Program as a special project that currently involves 100 cities and counties. The project's intent is to create a mechanism for communities, cities and counties to coordinate statewide activities, share information, and develop projects by taking advantage of Keep California Beautiful's organization and volunteers.

Mayor Shelia Young suggested that the body send a letter to the Assembly over the President's signature. President Haggerty asked Dickinson to whom letters were sent. Dickinson responded that letters were sent to city mayors and managers, county board chairs, and public works directors.

Supervisor Steele asked about any plans to stop littering on freeways and highways. Dickinson responded that this has been a constant issue for years and a number of approaches have been used, including outreach with heavy emphasis on children, especially younger kids and 13-20 year old males. He noted that trucks and unsecured dumpsters are another source of litter on highways, and that CalTrans is spending \$50-million per year on litter abatement. He reported that a recent emphasis is using recognizable icons in advertisement targeted to kids. Keep California Beautiful uses multifaceted, diverse, systemic approaches focusing on education and clean up and beautification activities, but is open to suggestions and creates forums to share ideas about programs that work.

Oakland Councilmember Jane Brunner asked about efforts, besides posters, focusing on the young adult. Dickinson answered that Keep California Beautiful works with schools, places anti-litter messages in theaters (funded by CalTrans). He stated that the organization uses limited resources and subsists on state grants and private sector donations.

President Haggerty stated that a letter will be sent to members encouraging participation in the program.

#### **10. LEGISLATION AND GOVERNMENTAL ORGANIZATION COMMITTEE (L&GO) REPORT\*\***

President Haggerty recognized San Mateo County Supervisor Rose Jacobs Gibson, Chair, L&GO Committee, who reported on committee activities. She reported on discussions regarding CEQA reform and input for bill language in preparing a comprehensive approach; the status of the legislative session; pending committee bills; the RHNA process and actions taken subsequent to the decision of the Commission on State Mandates. She informed members that the committee will discuss legislative priorities for 2006 at its November 17 meeting.

Supervisor Jacobs Gibson updated members on the RHNA process, the decision of the Commission on State Mandates, and proposed legislative strategies. She stated that Ken Moy, ABAG Legal Counsel, reported on the lawsuit involving ABAG and SCAG against the Commission on State Mandates on de-funding housing needs allocation process. A hearing is set for November 18 in Sacramento. Legal briefs are due September 28.

Supervisor Jacobs Gibson reported the committee will continue discussing potential legislative strategies to change the Commission process and impact on COGs and local jurisdictions with suggestions including legislation to enforce the supermajority rule and to moderate language as applied to local governments' ability to impose fees and levy taxes.

Supervisor Adams urged members to follow telecommunications and cable franchising legislation. She noted bills where the state imposes mandates without funding and asked whether a formal position has been taken on unfunded mandates. President Haggerty responded affirmatively.

Oakland Councilmember Nancy Nadel inquired about the bill on soft-story structures.

President Haggerty recognized a motion by Chairwoman Jacobs Gibson to accept the committee's report which was seconded by Mayor James Spring. The motion passed without objection.

#### **11. FINANCE AND PERSONNEL COMMITTEE (F&P) REPORT\*\***

President Haggerty recognized Santa Clara County Supervisor McHugh, Chair, F&P Committee, who reported on committee activities. Supervisor McHugh reported that the committee reviewed and approved the preliminary year end financial reports, and reviewed and accepted the Executive Director's presentation of the annual diversity and business report. He noted the administrations excellent job, but pointed to the concern about the need for employment of Hispanics. Supervisor McHugh also reported on the formation of an ad hoc group to establish a five-year strategy for the organization to precede the development of a five-year operating budget.

Supervisor McHugh concluded by noting two items to be discussed in closed session: labor negotiations and an employee evaluation.

President Haggerty recognized a motion by Chairman McHugh to accept the committee's report which was seconded by Sunnyvale Councilmember Julia Miller. The motion passed without objection.

#### **12. CLOSED SESSION**

President Haggerty asked non-essential personnel to leave room, and the Board entered closed session at approximately 8:25 p.m.

The Board exited closed session at approximately 8:40 p.m.

President Haggerty reported that the Board met with the Executive Director to discuss the upcoming labor negotiations and that general direction had been given.

President Haggerty reported that the Board discussed the evaluation and performance of the Legal Counsel.

#### **13. ADJOURNMENT**

Meeting adjourned at 8:45 p.m.



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Henry L. Gardner, Secretary-Treasurer

\*\* Indicates attachments.

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](mailto:FredC@abag.ca.gov).