

**LEGISLATION AND GOVERNMENTAL ORGANIZATION COMMITTEE
ASSOCIATION OF BAY AREA GOVERNMENTS**

Thursday, May 18, 2006

Summary Minutes

Members Present:

Mayor Irma Anderson, City of Richmond
Councilmember Desley Brooks, City of Oakland
Supervisor Scott Haggerty, County of Alameda
Supervisor Rose Jacobs Gibson, County of San Mateo,
Supervisor Barbara Kondylis, County of Solano
Councilmember Gwen Regalia, City of Walnut Creek
Councilmember Steve Rabinowitsh, City of Santa Rosa
Mayor Shelia Young, City of San Leandro, *Chair*

Also Present:

Patricia Jones – ABAG
Kathleen Cha – ABAG
Greg Stepanicich, Fairfield City Attorney
Paul Valle-Riestra, Walnut Creek Deputy City Attorney
Juliet Cox, Attorney at Law, Goldfarb & Lipman LLP

1. Introductions: Chair Mayor Shelia Young opened the meeting at 3:45 and proceeded with open agenda. Under open agenda the request was made for the committee to send letters to ASM Appropriations Committee for support of SB 2307, in support of supplemental appropriation in the amount of at least \$1 million dollars to fund the RHNA Process.

2. March 16, 2006, minutes were approved.

3. Briefing on Telecommunications

Greg Stepanicich, City Attorney, Fairfield, and Paul Valle-Riestra, Deputy City Attorney, Walnut Creek, provided a briefing on federal and state proposed legislation.

At the Federal level, both bills being proposed do not serve the needs of local government regarding cable franchising, regulations, and local authority oversight. Congressman Joe BARTON, who is the House Committee Chairman of the Energy and Commerce Committee, has a bill called COPE (Concerns with the Communications, Promotion, and Enhancement Act of 2006). This bill promotes a national franchise agreement system. A National Franchise process would preempt local franchise agreements. That means that local franchise agreements would be eliminated. Local governments would no longer be able to manage its public rights-of-way and ensure competition for everyone. Franchise fees collected would be limited and would not be sufficient to support PEG (public, educational and governmental) channels and institutional networks. Senator Ted Stevens, Senate Commerce Committee Chair, has his own version of this bill with similar language. Active efforts are being proposed to oppose these bills or significantly amend them.

On the State level, the recommendation is to oppose **AB 2987 (Nunez & Levine) Cable and Video Services.** This bill would provide a new statewide franchise for cable and video service providers. The bill would allow telecom providers to pick and choose among neighborhoods, with potential results of

limited access and inequity of service. Communities could lose public access stations and local jurisdictions would lose control over local rights of way. The proposed franchise fee percentage for local government could be a significant reduction over current levels, causing a loss of local revenue. AB2987 is expected to reach the Appropriations Suspense File where more negotiations are expected.

SB 1627 (Kehoe) Permits for Wireless Telecommunications Facilities.

The Committee recommended **opposing** this bill because of similar issues over the right of local government to control the placement of cell antennas. This bill contains issues regarding preemption of local discretionary process and the preemption of local authority to regulate collocation based on aesthetics. The bill should also include that continued public input through a local hearing process was needed and should be allowed on placement. A call to action by the League of California Cities with information on telecommunication bills and sample letters opposing proposed legislation was distributed

4. Briefing on Eminent Domain Bills

Juliet Cox, an attorney representing Goldfarb & Lipman LLP, briefed the Committee on key federal and state eminent domain legislation and distributed a Legislative Bill report summary. She reported that the number of eminent domain bills being considered had increased because of last year's Supreme Court Decision (*Kelo v. City of New London, Connecticut*). This decision resulted in a misperception that there was rampant abuse in the use of eminent domain and that the use of it had increased.

It was noted during the briefing that the most important bills to watch and, at this time, to **oppose unless amended** included the following:

SB 1210 (Torlakson) Eminent Domain (May 22nd hearing scheduled)—Ms Cox indicated that Senator Torlakson would be open to amending the issue of property funding deposit and the timing of when local government could have property access. It was also noted that SB 1650 Kehoe: Eminent Domain would be the subject of a hearing in the Senate Appropriations Committee on May 22 as well.

Other bills being monitored are either stalled or are showing at this time no immediate movement:

AB 1162 (Mullin & Salinas)	Eminent Domain
AB 1990 (Walters)	Eminent Domain
ACA 15 (Mullin & Nation)	Eminent Domain: Redevelopment
ACA 22 (La Malfa)	Eminent domain: Condemnation proceedings
SCA 20 (McClintock)	Eminent Domain (Died in Committee)

Ms Cox's report included a brief look at Federal Legislation that also should be watched closely and opposed or amended. In the House, the bills, **HR 3058 and HR 4128 on eminent domain**, propose penalizing state and local governments' use of eminent domain. In the Senate there is **S 1313**, called *Protection of Homes, Small Businesses and Private Property Act of 2005*, which proposes to restrict use of eminent domain to public use, excluding economic development.

5. Legislative Review

The Committee recommended to the Executive Board the following bill positions:

- **The Committee recommended Support for AB 3042 (Evans) Regional Housing:**
The Bill provides a procedure by which a city or county may enter into an agreement to transfer a percentage of its share of the regional housing need to another city or county. Would authorize a city or county following the adoption of a final regional housing needs allocation to enter into the transfer agreement, if the transfer is consistent with any adopted regional growth plan/regional blueprint and between jurisdictions in the same COG region.)
ABAG worked with Assemblymember Evans on this bill to include amendments for making the transfer happen earlier in the process and for an extended period to support Blueprint/regional

Focus Planning, allowing transfers both within and between counties (within a COG). ABAG also asked that the transfers take into account equity issues associated with very low and low income needs.

➤ **The Committee also recommended SUPPORT for the following bills:**

AB 2158 Evans	Regional Housing Needs
AB 2259 Salinas	Local Agency Formation: Extension of Serv.
AB 2286 Torrico	Infrastructure Financing Districts in Housing Opportunity Zones
AB 2378 Evans	Housing Density Bonus
AB 2468 Salinas	Planning: Housing Element (Self Certification)
AB 2503 Mullin	Affordable Housing
AB 2572 Emmerson	Housing Element: Colleges
SB 1289 Cedillo	Foster Children Cont. Aid Transitional Services
SB 1576 Murray	Foster Care—Transitional Housing
SB 1754 Lowenthal	Housing and Infrastructure Zones

➤ **The Committee recommended OPPOSE for:**

SB 1206 Kehoe **Redevelopment**

➤ **The Committee recommended WATCH WITH CONCERNS for:**

AB 2922 Jones	Redevelopment: Low and Moderate Income Housing Fund
SB 1800 Ducheny	General Plans: Housing
SB 1798 Perata	CEQA: Infill Development

Staff reported that density bonus bills like **AB 2484 (Hancock) Housing Development: Density Bonuses**, will be held in the ASM Housing and Community Development Committee where additional hearings and briefings will be conducted to hear and address jurisdiction/agency concerns.

6. Adjourn: The meeting adjourned at 5 p.m. *The next meeting is scheduled for July 20, 2006.*