C/CAG

CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY

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AGENDA

The next meeting of the Legislative Committee
will be as follows.

PLEASE NOTE THAT WE WILL BE MEETING AT 5:00 P.M.

in the 2nd Floor Auditorium !!

Date: Thursday, May 11, 2006 – 5:00 p.m. to 7:00 p.m. Dinner will be served.

Place: San Mateo County Transit District Office[1]
1250 San Carlos Avenue
2nd Floor Auditorium
San Carlos, California

PLEASE CALL WALTER MARTONE (599-1465) IF YOU ARE UNABLE TO ATTEND.

1.	Public comment on items not on the agenda.	Presentations are limited to 3 minutes.		5:00 p.m. 5 minutes.
2.	Approval of minutes from April 13, 2006.	Action (Martone)	Pages 1-4	5:05 p.m. 5 minutes
3.	Briefing from C/CAG's Lobbyist in Sacramento (via conference call). A position may be taken on any legislation, including legislation not previously identified.	Potential Action (Wes Lujan)		5:10 p.m. 30 minutes
4.	Review and approval of Legislative Update.	Action (Martone)	Pages 5-26	5:40 p.m. 10 minutes

[1]From Route 101 take the Holly Street (west) exit. Two blocks past El Camino Real go left on Walnut. The entrance to the parking lot is at the end of the block on the left, immediately before the ramp that goes under the building. Enter the parking lot by driving between the buildings and making a left into the elevated lot. Follow the signs up to the levels for public parking.

For public transit access use SamTrans Bus lines 390, 391, 292, KX, PX, RX, or take CalTrain to the San Carlos Station and walk two blocks up San Carlos Avenue.

5.	Consideration of positions on various bills: a) Eminent Domain Bills: i) SB 1206 ii) SB 1210 iii) AB 1162 b) Transportation Planning Funds – AB 2538 c) Affordable Housing – AB 2503 d) Caltrans assuming NEPA responsibilities – SB 1812	Potential Action (Martone)	Pages 27-116	5:50 p.m. 50 minutes
6.	Establish date and time for next meeting (June 8, 2006).	Action (Gordon)		6:40 p.m. 5 minutes
7.	Other Items/Comments from Guests.	Potential Action (Gordon)		6:45 p.m. 5 minutes
8.	Adjournment.	Action (Gordon)		6:50 p.m.

NOTE: All items appearing on the agenda are subject to action by the Committee. Actions recommended by staff are subject to change by the Committee.

Other enclosures/Correspondence

- None

CITY/COUNTY ASSOCIATION OF GOVERNMENTS
LEGISLATIVE COMMITTEE

MINUTES
MEETING OF APRIL 13, 2006

At 5:05 p.m. Chairwoman Deborah Gordon called the meeting to order in the Second Floor Auditorium at the San Mateo Transit District Office.

Members Attending: Judith Christensen, Deborah Gordon, Linda Koelling, Irene O'Connell, Rosalie O'Mahony, and Joe Silva.

Staff/ Guests Attending: Brian Moura (Assistant City Manager – San Carlos), Walter Martone (C/CAG Staff), Sara Rosendahl (Senator Simitian's Office), Brian Lee (County Public Works), Mark Duino (C/CAG Staff), Ross Nakasone (County Manager's Office), and Wes Lujan – by conference call (Advocation).

1. **Public comment on items not on the agenda.**

- None.

2. **Approval of minutes from March 9, 2006.**

Motion: To approve the minutes as presented. O'Mahony/Koelling, unanimous.

3. **Update from C/CAG's Lobbyist in Sacramento (via conference call).**

Wes Lujan reported:

a) Negotiations on an infrastructure bond.
   - Now focused on the November 2006 election.
   - The bond package has been scaled back to $20 or $30 billion.
   - Negotiations had previously fallen apart over the issues of funding for dams and water storage.
   - Senator Perata is leading the current negotiations, together with the leadership from both parties in the Senate and the Assembly. The Governor's Office appears to be taking a wait-and-see approach.
   - The negotiations will likely become intensified starting next week.
   - There are also a number of other Legislative deadlines coming up over the next three weeks. Therefore it is expected to be a very hectic time in the Capitol.
   - Republicans have stated that any proposal that does not address water storage will be considered dead on arrival.

b) Budget for 2006-07.
   - There is no huge deficit projected for next fiscal year.
   - Revenues continue to show increases.
   - Most legislators are anticipating a fairly smooth budget negotiation process.
   - It is very possible that agreement on the budget could happen as early as July 2006.

c) Policy issues.

- The Governor has been focusing his policy agenda on addressing emissions reductions and making California a model for the rest of the Country.

d) Hetch-Hetchy.
   - Assemblyman Ruskin is taking amendments to his bill that would stop further consideration of reclaiming the Hetch-Hetchy valley.
   - The Bay Area Water Supply and Conservation Agency (BAWSCA) has decided not to take a position on this bill until the amendments have been introduced.

e) Eminent Domain.
   - There are 5 or 6 major efforts (bills) that have been introduced to address eminent domain.
   - There are also a few efforts to address this issue through the Initiative process. One of these Initiatives is sponsored by Anita Anderson. Senator McClintock is supporting this proposal. The Senator appears to be backing off of his bill to amend the State Constitution, in favor of this Initiative. It is currently in circulation with a due date of July 17, 2006 to secure the required 595,105 signatures to be placed on the November 2006 ballot.
   - Three other similar ballot Initiatives dealing with eminent domain are also in circulation.
   - Another major piece of legislation that includes elements dealing with eminent domain is SB 1800. This bill is currently under negotiation and should be watched.

4. Consideration of positions on various bills:

C/CAG Staff reported that because the C/CAG Board would be having its annual Retreat following the Legislative Committee meeting, it would not be able to consider positions on various bills. However the C/CAG action that established the Legislative Committee and sets forth the process for taking positions on bills, specifically allows the Committee to take positions on bills/issues on behalf of C/CAG, that are consistent with prior guidelines established by C/CAG. All of the following bills fit in with these guidelines.

a) SB 1627 - Preemption of local land use authority for wireless telecommunications facilities. This bill is being sponsored by T-Mobile and allows the addition of a second antenna to existing structures without securing a permit from the local jurisdiction.

   Motion: To send a letter in opposition to this bill and to encourage the cities/County to also express their concern with the bill. O'Connell/Koelling, unanimous.

b) League of California Cities principles for telecommunications reform. The League has developed a position paper that outlines the items that are of concern to its constituents and provides guidance for any future telecommunications reform.

   Motion: To support the principles adopted by the League and to encourage the cities/County to also consider adopting these principles. O'Connell/O'Mahony, unanimous.

c) AB 2987 – Telecommunications reform. This bill was written by AT & T and includes the following provisions:
   - It preempts local franchising.

- It places implementation, management and enforcement under the California Department of Corporations.
- It is silent on the issue of build-out.
- It eliminates a local jurisdictions ability to deal with customer complaints.
- It eliminates requirements for cable drops to schools, police, and fire stations.
- It provides for the carrying of existing public channels, but does not provide for any new or reserved public channels.
- It requires the local jurisdictions to pay for connections to city/county halls.
- There are serious issues in the bill with how revenue is calculated. Local jurisdictions are not kept whole in these formulas.

This bill will be very difficult to kill because the Speaker of the Assembly is sponsoring it. However it is important that opposition to the bill be noted so that amendments will be considered. Cable companies are also opposing the bill.

Motion: To strongly oppose this bill. O'Connell/Koelling, unanimous.

d) Federal Communications, Promotion, and Enhancement Act of 2006. The proposal being considered at the Federal level will:
   - Preempt local franchises and place the authority with the Federal Government.
   - Require that the Federal Communications Commission handle complaints.

   Congresswoman Eshoo is on the Subcommittee that is marking up the bill. She has promised to introduce amendments that would address the issues of local jurisdictions. The League of California Cities is arranging for meetings with other Congresspersons on this issue. San Mateo County Elected Officials are encouraged to attend as many of these meetings as possible.

   Motion: To oppose this Federal bill as it is currently introduced. O'Mahony/Christensen, unanimous.

e) AB 2681 and SB 1225 – Abandoned Vehicle Abatement (AVA) Program. C/CAG's AVA Manager, James Granucci, is analyzing these bills and also the responses that C/CAG received from the cities on the use of AVA funds. He will provide a recommendation at a future meeting.

f) SB 369 – Rubberized asphalt concrete grants. This bill continues the availability of State grants to support the use of rubberized asphalt. Although this material is often more expensive than regular asphalt it is more environmentally friendly (used recycled tires) and reduces road noise.

   Motion: To support this bill. O'Connell/Christensen, unanimous.

g) AB 2503 – Affordable housing. This bill by Assemblyman Mullin, is still being reviewed by the Housing Leadership Council and the HOPE Board of Directors. It was decided to not take action until these bodies have completed their review.

h) SB 1611 – Congestion management fees. This bill Senator Simitian, is very similar to the one the Senator sponsored for C/CAG that allowed us to levy a Vehicle Registration Fee

to support congestion management and stormwater pollution prevention. This new bill will extend that authority to all Congestion Management Agencies and will increase the maximum fee from four dollars to twenty dollars. The bill does not however, provide for the use of these funds for purposes other than congestion management. Approval of this bill would mean that C/CAG would not have to seek authorization to have its current program extended. The increased fee authorization will more than compensate for the inability to use the funds for stormwater programs.

Motion: To support this bill. O'Connell/Silva, unanimous.

i) AB 2444 - Congestion management and environmental mitigation fees. This bill is similar to SB 1611; however the limit on the fee is five dollars, and it also authorizes the Bay Area Regional Air and Water Quality Boards to also levy a five dollar fee to use for regional programs. This provision of the bill is similar to another bill a few years ago that C/CAG remained neutral on. The reason was because the funding going to the Regional agencies could be viewed in competition with the locally assessed fees, and the Regional agencies would be under no obligation to fund local programs that are determined as needed by the local jurisdictions.

Motion: To remain neutral on this bill. O'Mahony/O'Connell, unanimous.

5. Establish date and time for next meeting (April 13, 2006).

6. Other items/Comments from Guests.

Committee Member Judith Christensen reported that one of the Initiatives in circulation that deals with eminent domain also contains a provision that would end rent control programs of local governments. She requested that the Committee look at this Initiative and consider taking a position.

7. Adjournment.

The meeting was adjourned at 6:05 p.m.

C/CAG AGENDA REPORT

Date: May 11, 2006

To: Legislative Committee

From: Walter Martone

Subject: REVIEW AND APPROVAL OF LEGISLATIVE UPDATE

A position may be taken on any legislation, including legislation not previously identified.

(For further information contact Walter Martone at 599-1465 or Richard Napier at 599-1420)

RECOMMENDATION

That the Legislative Committee accept the attached report on State legislation.

FISCAL IMPACT

Not applicable.

SOURCE OF FUNDS

Not applicable.

BACKGROUND/DISCUSSION

Attached is a list of the bills that appear to be most related to the legislative priorities established by the C/CAG Board. C/CAG staff is also be tracking approximately 135 other bills that have subject matter consistent with C/CAG's legislative priorities.

ATTACHMENTS

Included with paper copy mailing but not with e-mail version.

- Action Report With Summary By Subject.

C/CAG AGENDA REPORT

Date: May 11, 2006

To: C/CAG Legislative Committee

From: Walter Martone

Subject: REVIEW AND APPROVAL OF C/CAG LEGISLATIVE POSITIONS

A position may be taken on any legislation, including legislation not previously identified.

(For further information contact Walter Martone at 599-1465 or Richard Napier at 599-1420)

RECOMMENDATION

That the Legislative Committee consider developing recommendations for positions on specific bills/issues.

a) Eminent Domain Bills:
   i) SB 1206
   ii) SB 1210
   iii) AB 1162
b) Transportation Planning Funds – AB 2538
c) Affordable Housing – AB 2503
d) Caltrans assuming NEPA responsibilities – SB 1812

FISCAL IMPACT

Not applicable.

SOURCE OF FUNDS

Not applicable.

BACKGROUND/DISCUSSION

The Legislative Committee will be considering the following items at its meeting on May 11, 2006, immediately preceding the Full C/CAG Board meeting.

a) **Eminent Domain Bills:** This topic has been discussed at the Legislative Committee since last year when the US Supreme Court ruled in favor of the City of New London in its attempt to take private property through eminent domain and turn it over to a private entity for economic development purposes. This decision sparked a flurry of bills in California that attempt in various ways to limit the authority of local governments to use eminent domain. This topic is very complex, particularly in California where the laws

governing land use are plentiful and often more prescriptive than elsewhere. This is not a field where C/CAG staff is competent to provide advice and recommendations. However because of the interest of the Committee in this topic, staff has assembled those bills that the League of California Cities, and our lobbyist have noted as being particularly significant.

The analysis developed by the Legislature on many of these bills provides a real education about how the eminent domain process works in California and how each of the authors of the bills is attempting to address what they feel are problems with the current law. Many of you have requested to receive complete copies of the bills that are being brought before the Committee, along with any analysis that has been done. For these particular bills, both documents are generally quite long. Therefore they are not being provided in the e-mail version, but have been included with the paper copy that has been mailed to you.

The Committee may want to consider taking positions on some of these bills, may want to request that staff arrange for someone with expertise in this area to make a presentation at a future meeting, or may simply want to watch these bills and be kept informed as this issue continues to play out in the Legislature.

The League is opposing all of these bills except for Assemblyman Mullin's bill – AB 1162. The League is taking a "watch" position on this bill. The California State Association of Counties (CSAC) has taken a "support" position on the Mullin bill. The League analysis, where available, is included after the summary of each bill.

i) **SB 1206 (Kehoe):** This bill would revise the definition of "predominantly urbanized" and revise the conditions that characterize a blighted area. The bill would prohibit the inclusion of nonblighted parcels in a redevelopment project area for the purpose of obtaining property tax revenue from the area without substantial justification for their inclusion.

   Analysis by the League: While SB 1206 contains other provisions that are duplicative or unnecessary, below are the major concerns:

   Greatly limits communities' ability to identify and clean-up blight: SB 1206 would abolish many of the current factors used by redevelopment agencies to show the existence of blight, such as "defective design or physical construction," "impaired investments," "high turn-over rates, abandoned buildings and excessive vacant lots." Remaining blight factors would have to meet specific numerical or percentage tests severely limiting a community's ability to eradicate blight by:

   - Creating arbitrary distinctions.
   - Eliminating any flexibility in methodology for demonstrating the existence of blight.

   Opens the door to frivolous lawsuits and legal challenges: SB 1206 contains several provisions which are legally problematic for local governments including:

   - Creates a new cause of action against redevelopment agencies that could be used to prevent or delay the issuance of bonds.

- Prohibits agencies from requiring developers to indemnify the agency and local government from the costs of defending lawsuits. This could expose the general fund of cities or counties with limited financial resources to exorbitant costs associated with defending lawsuits without merit from project opponents.

Makes it considerably more difficult to keep commitments made to communities at the time of plan adoption: SB 1206 requires new blight findings after 10 years from the adoption of the redevelopment plan as a condition of issuing new bonds. The typical redevelopment plan has a 30-year life span and is developed and approved with community involvement. Many times residents want quality of life components such as parks or libraries included in the plan. However, these components are typically put in towards the end of the plan when the majority of blight has been eradicated. If agencies have to make new findings of blight every time they issue bonds after 10 years, it is unlikely they will be able to fulfill their commitment to these communities.

ii) **SB 1210** (Torlakson): Existing law governing settlement offers in eminent domain proceedings, authorizes the recovery of litigation expenses under certain circumstances. Existing law provides that if a court finds that the offer of the plaintiff was unreasonable and the offer of the defendant was reasonable in light of the evidence admitted and the compensation awarded in the proceeding, then the costs allowed shall include the defendant's litigation expenses. This bill would provide that an offer of the plaintiff shall be deemed unreasonable if the offer is lower than the amount ordered as compensation by 10% or more. The bill would also define litigation expenses to mean the party's reasonable attorney's fees and costs, including reasonable expert witness and appraiser fees.

Analysis by the League: It's important to note that the provisions of this bill amend sections of Eminent Domain Law which are applicable to all public agencies and utilities which use the power of eminent domain. While SB 1210 contains provisions that are duplicative or unnecessary, below are the major concerns:

Greatly increases costs associated with acquiring properties for public projects and penalizes public agencies for attempting to be prudent with taxpayer dollars:

- If a jury determines fair market value is 10% greater than the public agency's last offer, the public agency would be required to pay attorney fees and expenses. This would encourage public agencies to make offers well in excess of fair market value in order to avoid the risk of this penalty, resulting in a windfall to a few property owners at taxpayer expense.
- Would limit ability to quickly acquire property by making it easier for a property owner to obtain a stay of an order of prejudgment possession. This could delay major public works and utilities projects and drive up costs significantly. This section may restrict local governments' ability to timely engage in emergency fixes to critical infrastructure.

iii) **AB 1162 (Mullin):** This bill would prohibit, until January 1, 2008, a community redevelopment agency, or community development commission or joint powers agency, from exercising the power of eminent domain to acquire owner-occupied

residential real property if ownership of the property will be transferred to a private party or private entity. Basically this bill places a two-year moratorium on the exercise of eminent domain that led to the recent Supreme Court Decision (Kelo Decision) that started the intense public pressure to address this issue. This bill would allow legislators to study the use, and possible abuse, of eminent domain under existing state law. The study proposed by the bill will then be used during that period as one measure to help identify what abuses may need to be addressed through changes in the law. This will hopefully help to ensure that any changes ultimately made to state law are carefully designed to address real and specific problems.

b) **AB 2538 (Wolk):** Existing law authorizes a transportation planning agency or county transportation commission to request and receive up to 1% of regional improvement fund expenditures for the purposes of project planning, programming, and monitoring, but authorizes an amount up to 5% of those expenditures for a transportation planning agency or county transportation commission not receiving federal metropolitan planning funds. This bill would instead authorize each transportation planning agency or county transportation commission to request and receive up to 5% of those funds for the purposes of project planning, programming, and monitoring.

C/CAG is the sponsor of more transportation planning and monitoring programs than ever before in its history. Some of these include:

- 2020 Peninsula Corridor Gateway Study
- Ramp metering implementation plan and monitoring program
- Intelligent transportation system implementation plan
- El Camino Real Corridor Study
- Update to the Countywide Transportation Plan
- Update and monitoring of the Congestion Management Program
- Update of the Countywide Bicycle and Pedestrian Plan

This bill would provide the flexibility to use existing funding to support these efforts. This would allow us to qualify for new outside funding for capital improvements that are justified through the studies and monitoring efforts.

C/CAG staff recommends a "**SUPPORT**" position.

c) **AB 2503 (Mullin):** This bill would authorize cities and counties to enter into a joint powers agreement to form an affordable housing pooling arrangement for the acquisition, construction, or development of housing that is affordable to lower income families within the jurisdiction of the joint powers agency. The bill would specify how the public agencies may contribute funds to a housing trust fund of the joint powers agency and how the funds may be used. The bill would similarly authorize a local government to include in its housing element a program that establishes a housing trust fund for the same purposes and subject to similar conditions.

The Housing Endowment and Trust--San Mateo County (HEART) Legislative Committee, and the Board of Supervisors have recommended a "support if amended" position on this bill. The bill as currently written allows local governments to reduce their Educational Revenue Augmentation Funds (ERAF) loss by an amount of funding equal to what they elect to contribute to a Housing Trust Fund. This has the effect of directing

funding to affordable housing what would otherwise go toward relieving the State from its obligation to fund education. The concern is that in basic aid schools, where existing revenues adequately meet the minimum funding requirements, "excess ERAF" funding, not used for the minimum requirements, would be used as backfill for the Housing Trust Fund related reductions in ERAF. Therefore the amendment that will be proposed is to ensure that the dollar-for-dollar Educational Revenue Augmentation Funds (ERAF) match for contributions to a housing trust fund would come out of "baseline" ERAF and not the excess ERAF. The League is supporting this bill.

C/CAG staff recommends a "**SUPPORT WITH AMENDMENTS**" position.

d) **SB 1812 (Runner):** Existing federal law requires the United States Secretary of Transportation to carry out a surface transportation project delivery pilot program. The secretary is authorized to permit up to 5 states, including California, to participate in the program and California has agreed to that participation. This bill would, until January 1, 2009, authorize the Director of Transportation to consent to the jurisdiction of the federal courts with regard to the compliance, discharge, or enforcement of the responsibilities assumed pursuant to the surface transportation project delivery pilot program, and would make related provisions. The bill would require the department to submit a specified report to the Legislature by January 1, 2008, relating to the surface transportation project delivery pilot program.

The intent of SB 1812 is to expedite the National Environmental Policy Act (NEPA) review and approval of roadway projects by delegating these responsibilities from the Federal Highway Administration to Caltrans. This hopefully would result in the expediting of projects do to the elimination of one level in the review and approval processes. Projects on the State highway system (frequently sponsored and funded by the Transportation Authority) would likely be the primary beneficiaries of this new role for Caltrans; however they may also extend to some local streets programs.

C/CAG staff recommends a "**SUPPORT**" position.

ATTACHMENTS

Included with paper copy mailing but not with e-mail version.

- SB 1206 Complete Bill and Analysis (Analysis was done before the April 18, 2006 Amendments)
- SB 1210 Complete Bill and Analysis (Analysis was done before the May 2, 2006 Amendments)
- AB 1162 Complete Bill and Analysis
- AB 2538 Complete Bill and Analysis
- AB 2503 Complete Bill and Analysis
- SB 1812 Complete Bill and Analysis (Analysis was done before the May 2, 2006 Amendments)