

STATE ROUTE 4 BYPASS AUTHORITY
Antioch - Brentwood - Oakley and Contra Costa County

A JOINT EXERCISE OF POWERS AGENCY

MINUTES
January 15, 2004

The STATE ROUTE 4 BYPASS AUTHORITY meeting was called to order in the Antioch City Council Chambers at Third and H Streets, Antioch, California by Chair Donald Freitas at 7:46 P.M.

ROLL CALL

PRESENT: Annette Beckstrand (Brentwood), Brad Nix (Oakley), and Vice Chair Donald Freitas (Antioch)

ABSENT: Federal Glover (Contra Costa County)

STAFF: Dale Dennis, Project Manager

Chair/Vice Chair

Consistent with the rotation for Chair and Vice Chair, Annette Beckstrand nominated herself to serve as the Chair and Brad Nix to serve as the Vice Chair of the State Route 4 Bypass Authority for 2004. Donald Freitas seconded the nomination. There were no other nominations. The nominations were closed. **Annette Beckstrand** was unanimously selected as the Chair and **Brad Nix** was unanimously selected to serve as the Vice Chair of the State Route 4 Bypass Authority for 2004.

Chair Beckstrand chaired the meeting at this time.

PUBLIC HEARING to Consider Adoption of a Resolution of Necessity to Acquire by Eminent Domain the Ruckstahl LLC Property Located at the Intersection of the SR4 Bypass and Lone Tree Way in the Brentwood Area for the State Route 4 Bypass Project

Chair Beckstrand OPENED THE PUBLIC HEARING.

Project Manager Dale Dennis reported that the public hearing was for the adoption of a Resolution of Necessity to acquire by eminent domain the Ruckstahl LLC Property located at the intersection of the SR4 Bypass and Lone Tree Way in the Brentwood Area for the SR4 Bypass Project, as previously recommended by the Board.

When asked, Mr. Dennis clarified that the hearing scheduled for January 15, 2004 at 6:30 P.M. had been noticed as such. He stated that he had been apprised by the property owner that he was aware of the hearing date and time. The property owner had indicated to Mr. Dennis that he would not be attending the hearing.

There was no one to speak to the public hearing.

Chair Beckstrand CLOSED THE PUBLIC HEARING

On motion by Donald Freitas, seconded by Brad Nix, members of the Authority unanimously MADE the findings and determinations as listed in Section II of the staff report dated January 15, 2004, ADOPTED a Resolution of Necessity to acquire the required property by eminent domain and DIRECTED the Board Secretary to file a copy of the report.

DETERMINATION ITEMS

- A. APPROVE Minutes of November 13, 2003 Meeting
(December 11 2003 Meeting Canceled)

On motion by Brad Nix, seconded by Donald Freitas, members of the Authority unanimously APPROVED the minutes of the November 13, 2003 meeting, as submitted.

- B. ACCEPT Status Report on the SR4 Bypass Project

Project Manager Dennis advised that each month staff was providing a status report on the SR4 Bypass and was moving forward to establish baseline budgets and schedules. He reported that the budget was based on 35 percent design plans for Segment 1 and Segment 3. He added that in the 65 and 95 percent design the cost would be more clearly identified given that there would be more design detail at that time. Right of way (ROW) acquisition and service numbers would be sought in Segment 1 and would be included when available, which was similar to Segment 3 for ROW services.

From a schedule standpoint, Mr. Dennis advised that staff was on schedule for Segment 1 and the design was moving along. Two construction packages were actually being moved forward, the 95 percent submittal for the Construction Package 1 was made to Caltrans on schedule on December 19, 2003. Staff was currently planning to submit the final PS&E in February. The first package was originally to be advertised in April 2004. Staff was working with Caltrans and the consultant to expedite the work with a goal of advertising by March 31 to maximize the available construction time during the upcoming summer. Construction Package II is scheduled for mid-February and is also on schedule.

Mr. Dennis noted that in updating the environmental for Segment 1, staff was currently moving forward to put together applications for the permits. He reported that Dick Loewke, the environmental consultant was present and would offer his own presentation. He added that the news from the resource agencies was good in that they had indicated preliminarily the Authority would be allowed to move forward with construction of Construction Package 1 without permits for Segment 1. The basis was that there was minor mitigations or impacts within the interchange during the work and those impacts would have to be mitigated as part of the permitting process.

For the environmental for Segment 3, Mr. Dennis stated that one of the major issues was the connection of Orchard Lane to Marsh Creek Road. He stated that it had been clearly identified that connection point could not be made and an alternate alignment had been considered. A public meeting with the property owners in the area had been scheduled, to be included in the Addendum for the supplemental document for the environmental documentation.

Mr. Dennis displayed an exhibit to show where there was a problem with the alignment and he pointed out the particulars involved. He noted that the current alignment would be run to Orchard Lane easterly to connect back to Marsh Creek Road far enough from the intersection to ensure appropriate traffic operations. A public meeting was scheduled for January 26, 2004 at the Brentwood City Hall. Letters would be distributed this week to discuss the change in the project for the affected property owners.

Donald Freitas asked that the Board be provided with that information. He also questioned whether or not there was any inverse condemnation issues relating to the movement of the road system and the connection point.

Mr. Dennis stated that in discussing the situation with the environmental consultant and the California Environmental Quality Act (CEQA) legal counsel, that did not appear to be a legal issue. He noted, however, that if the noise studies and the property owners accepted the realignment, an Addendum to the EIR might be possible. A Supplemental EIR might otherwise be required which would require a more formal public noticing and a more formal public process. He added, when asked, that the Authority would have to buy ROW.

Mr. Dennis explained that there was a Caltrans requirement that a connection point be 125 meters from the intersection and the reconfiguration would be consistent with that requirement. He also noted four five-acre home sites nearby and stated that the alignment would allow those sites to be skirted minimizing any direct impacts to those property owners and still allowing a connection. He added that the property owners would still have right-in/right-out access.

One property owner would have access off of Orchard Lane.

Brad Nix noted with respect to the agricultural area that there should be a curve rather than a sharp turn in that area, although Mr. Dennis explained that if putting in a curve rather than a sharp turn the road would bisect a field. He stated that efforts were being taken to minimize the impacts to the property owners.

With respect to Segments 1 and 3, Donald Freitas questioned the percentage used as a measuring tool for Construction Management (CM), to which Mr. Dennis stated that Parsons Brinckerhoff Construction Services had been selected to do the CM and had been brought on board to do Construction Packages I and II, at a cost of 10.5 percent of the estimated construction costs.

Mr. Dennis stated with respect to status that Segment 3 was currently scheduled to move forward with 65 percent design in a mid-April submittal date. He noted that the McBale ROW acquisition had closed on December 31, 2003 and had been recorded. Further, one of the key issues in moving forward with the Segment 1 project was to get the utilities relocated next summer, one of which was the Contra Costa Water District (CCWD) box culvert.

To that end, Mr. Dennis reported that an environmental document had been prepared, a National Environmental Policy Act (NEPA) by the CCWD with the Authority's support and had been submitted to the Bureau of Reclamation for processing, which could require six months and which would place the situation close to the critical path in June and July for an August/September or October construction next year. Because NEPA was a federal document, he stated that would require a new biological opinion by that point in time. While it appeared to be okay, he stated that would have to be watched carefully.

Chair Beckstrand emphasized that PG&E would have to be given significant lead time to do its work given PG&E's historic lag time.

Michael Lohman, Vice President of Mark Thomas & Company, Inc. noted that they had met with PG&E this week. He expected PG&E to be on track. Chair Beckstrand urged PG&E to identify its timeline in writing.

Richard Loewke, the environmental consultant, reported that he had been working with a group of biologists as a subteam going through the biological resources component of the environmental documentation supplement and moving on after the preparation of the resources biological analysis identifying the applications required with each resource agency, and initiating those applications.

At this point, Mr. Loewke stated that Construction Package I, the tie-in to State Route 4

itself with Segment I, would require a new biological opinion which would take longer than March to complete.

Currently there was a 1988 biological opinion that while programmatically covering all three segments of the Bypass, it had focused specifically on Segment 2 and had provided detailed mitigation requirements for Segment 2. It had also established a benchmark for assessing impacts in Segments 1 and 3. He stated that the US Army Corps of Engineers, the Department of Fish and Game and the Regional Water Quality Control Board (RWQCB) had been approached to discuss implications of an allowance for Construction Package 1 to proceed ahead of permits for Segment 1 with a deferral of the mitigation requirements.

When carefully analyzed to indicate no wetland or habitat resources at stake or impacted within the existing Caltrans ROW, Mr. Loewke reported that there was unanimous verbal acceptance from those resources agencies. He was drafting a letter of summary of the calls he had with each agency, which would be submitted to each and which would be approved in writing by each, which should occur within the next two weeks or so. With that in place, he stated that they could proceed with a finding that the construction of Construction Package 1 was not affecting any federal resource.

Mr. Loewke stated that they were also pursuing a Section 404 Permit from the Army Corps of Engineers and had demonstrated through recent wetlands delineation that the amount of wetlands was less than in 1988. Even with that, over a half-acre would still be affected. As such, they were presented with the option of applying for a Nationwide Permit for Segment 3 along with an individual permit for Segment 1, and would now be allowed to apply for an individual permit together.

Once submitted to the Corps of Engineers, there would be a referral to the US Fish and Wildlife Service. There had also been an endorsement for the use of the East County Habitat Conservation Program (HCP) as a source of habitat conservation. With that biological opinion there was a cautionary note that if the HCP was not operational they would have to provide separate sites in which to provide mitigation, which could be costly and time consuming.

As such, Mr. Loewke stated that all of the agencies had strongly endorsed the concept of the further HCP for this program.

Mr. Loewke explained that he also had meetings with the Department of Fish and Game and had considered construction plans. Aside from the endorsement of the HCP and the mitigation program was the conceptual design for Marsh Creek Road.

Mr. Loewke stated that a spanned bridge had been agreed upon going over a portion of the

pre-channel, and with specific footing configurations and grading details some of the major impacts had been avoided.

With respect to the RWQCB, Mr. Loewke noted the requirement for a Clean Water certification concurrently with National Pollutants Discharge Elimination System (NPDES) standard requirements. All in all, he had been asked to provide an approximate statement of habitat impacts for Segments 1 and 3 and how that would affect mitigation fees.

For Segment 2, there was almost 45 acres of footprint impact or area of disturbance due to grading and physical disturbance, and the mitigation provided to the HCP was roughly \$400,000. In contrast with Segment 1, there appeared to be 120 acres of footprint impact. Using the methodology developed and applied to Segment 2 there could be \$900,000 in mitigation fees. In Segment 3 with 100 acres of footprint impact there could be \$800,000 in mitigation fees.

Mr. Loewke reported that together with application fees to the resource agencies, there could preliminarily be \$2 million in combined application fees and mitigation requirements.

Mr. Loewke noted additional meetings scheduled within the next two weeks and reported that applications were expected to be submitted within the next two to three weeks.

Donald Freitas advised that he would not likely embrace a contribution to the HCP. He wanted Mr. Loewke and the resource agencies to know that. He had a philosophical difference embracing that and he stated that he would vote against it.

Mr. Loewke stated that there was an alternative of identifying sites and should that be the direction of the Board he would have to be directed quickly to identify property, primarily given the Kit Fox range.

Chair Beckstrand suggested that Mr. Loewke contact the Brentwood Union School District and the Liberty Unified High School District, both of which had just worked on a joint effort on the south side of Segment 2 and had been successful in working a joint venture to address that issue. She stated that she also would not be quick to embrace the HCP.

If pursuing a different avenue than the HCP, Mr. Dennis noted that at this point staff would direct Mr. Loewke to look into those avenues and come up with options and alternatives to identify those costs and impacts and to schedule those for consideration next month.

The Authority agreed and sought such a report to identify the options available.

Mr. Dennis stated that one of the issues involved with Caltrans was that Caltrans had a standard policy, such as with the SR160/SR4 interchange, of requiring ramp metering on direct connectors from SR160 south to SR4 west. He noted that issue had been considered. The cost to do that with Caltrans' standard would require metering lights and a high occupancy vehicle (HOV) bypass lane. Because of the hillside and the amount of excavation involved, he stated that could add \$4.2 million to the project.

Chair Beckstrand commented that a study had already been completed.

Susan Miller agreed but noted that it had been done in a few select locations.

Chair Beckstrand urged that to be considered closer.

Mr. Dennis stated that they had met with Caltrans and ramp metering section, had explained the situation and had received Caltrans' verbal concurrence that an HOV bypass lane would not be required, although they would have to install the equipment, which would cost approximately \$200,000. He had received verbal agreement on that and was now pursuing a design exception to get Caltrans' signoff.

Mr. Dennis otherwise reported that a field trip had been scheduled for January 24, 2004. He would meet Authority members in the parking lot in the shopping center at Lone Tree Way and Hillcrest Avenue at 9:00 A.M. The meeting would be noticed. He also offered a workshop to the Board in late February to actually go through Segment 3 in particular and potentially Segment 1, to give a more detailed presentation of the projects and some of the issues with the projects. He noted that part of the challenge with the project overall was that there were a lot of developers projects involved which required significant assumptions and coordination. In Segment 3 there would be issues coordinating with those developers and with cost sharing issues. He would be seeking direction from the Board.

On motion by Donald Freitas, seconded by Brad Nix, members of the Authority unanimously ACCEPTED the Status Report on the SR4 Bypass Project.

C. ACCEPT Status Report on the Camino Diablo/Vasco Road Project

Mr. Dennis stated that in mid December Vasco Road at Camino Diablo had been opened in two directions. The remaining work included the installation of the new signal poles. He had been notified that the poles had been delivered to the site.

The work would move forward with the installation of those poles, with the project to be completed by mid to late February.

Mr. Dennis also noted that the East County Transportation Improvement Authority (ECTIA) had authorized up to \$1.7 million for construction, including construction administration and inspection. The County had been overseeing that situation, which had been a successful project to date with Contract Change Orders of \$36,000. The total cost for the whole project was identified as \$1,086,150, \$400,000 of which would be covered by funds from Contra Costa County and the City of Brentwood, leaving the remainder to ECTIA. The project will therefore come in roughly as previously estimated. The final accounting would be provided to the Authority.

Chair Beckstrand added that there had already been issues brought forward regarding the two through lanes on Vasco Road, particularly from Livermore to Vasco Road, where the right lane split out through the intersection and which she noted had become a raceway. She noted her understanding that the right hand lane was to have been a safe haven for the huge number of vehicles that needed to approach that intersection to take a right turn onto Camino Diablo without the fear of being rear ended, which she suggested the situation had encouraged. She suggested that the striping needed to be modified to ensure that would not be the case. She emphasized the threat in that case and stated that the design was not appropriate and could result in accidents.

Mitch Avalon from the County Public Works Department stated that the County was aware of that situation and was considering some interim fixes. He reiterated that the issues were well known and were currently being studied. He stated that the Department had also been working with the California Highway Patrol (CHP). He would report on the situation at the next meeting.

Brad Nix concurred with the need for the CHP to be involved to address the concerns. He suggested that signage and lane striping should be considered along with enforcement to address the safety concerns.

Donald Freitas sought pictures of the current configuration of the design for the Board's information and ease of understanding the situation.

Chair Beckstrand asked that a draft of the discussion be forwarded to the County to identify the seriousness of the situation with the potential of a right lane turning and providing a haven for those turning right.

Mr. Dennis suggested that the County provide a report to the Authority next month to address the safety concerns and to provide exhibits which would show the current configuration.

On motion by Annette Beckstrand, seconded by Donald Freitas, members of the Authority unanimously ACCEPTED Status Report on the Camino Diablo/Vasco Road Intersection Improvement Project and directed staff to follow through with the Authority's comments.

- D. APPROVE a Consulting Services Agreement with Parsons Brinckerhoff Construction Services, Inc. to Provide Construction Management Services for Segment 1 in the Not to Exceed Amount of \$5,689,426, and AUTHORIZE the Secretary or his Designee to Sign on Behalf of the Authority

Mr. Dennis stated that the item related to the previous consideration of an agreement. He explained that the not to exceed amount was a base cost to Segment 1. The plan provided for Parsons Brinckerhoff Construction Services, Inc. (PBCS) included the possibility of moving forward with the Laurel Road Extension as an alternate bid item. With the staffing plan provided by PBCS and the proximity of the Laurel Road Extension project, as long as it was done concurrently with the Segment 1 construction, the staff included in the plan could inspect those operations and that project at the same time. The only increased cost would be the surveying and the testing since these were additional costs based on the additional work being constructed.

Donald Freitas inquired whether or not the cost would be subsidized, to which Mr. Dennis noted that the discussion was such that the proximity was close enough and there was an inspector that could do the inspection, he could make those inspections at the same time. If the Laurel Road Extension project were to extend beyond the time frame of Segment 1 and were to be constructed as a separate project or at the end of Segment 1, the Construction Management team would be involved for longer and the costs would be in addition to those budgeted for Segment 1.

On motion by Donald Freitas, seconded by Brad Nix, members of the Authority unanimously APPROVED a Consulting Services Agreement with Parsons Brinckerhoff Construction Services, Inc. to provide construction management services for Segment 1 in the not to exceed amount of \$5,689,426, and AUTHORIZED the Secretary or his designee to sign on behalf of the Authority.

- E. APPROVE an Amendment to the Consultant Services Agreement with Mark Thomas & Company in the Amount of \$219,760 and AUTHORIZE the Secretary or his Designee to Execute it on Behalf of the Authority

On motion by Brad Nix, seconded by Donald Freitas, members of the Authority unanimously APPROVED an Amendment to the Consultant Services Agreement with Mark Thomas & Company in the amount of \$219,760 for a not to exceed amount of \$8,344,430 to provide the following items and AUTHORIZED the Secretary or his designee to execute

it on behalf of the Authority:

- Design services for noise mitigation elements for Segment 1 (soundwalls and reconstructed fencing) and;
- Complete environmental technical studies and an Addendum for Segment 3.

F. APPROVE a Consulting Services Agreement Amendment with Harris and Associates to Increase the Payment Limit by \$75,000 to Continue to Act as the Authority's Inspector on Authority's Issued Encroachment Permits in Segments 2 and 3 and AUTHORIZE the Secretary or his Designee to Execute it on Behalf of the Authority. These Costs Have Been and Will Continue to be Covered by Inspection Fees

On motion by Donald Freitas, seconded by Brad Nix, members of the Authority unanimously APPROVED a Consulting Services Agreement Amendment with Harris and Associates to increase the payment limit by \$75,000 for a not to exceed amount of \$2,506,309 to continue to act as the Authority's inspector on Authority's issued encroachment permits in Segments 2 and 3 and AUTHORIZED the Secretary or his designee to sign it on behalf of the Authority. These costs have been and will continue to be covered by inspection fees.

G. APPROVE an Amendment to the Agreement for Real Property Services with Burchard and Reinhart for an Additional \$50,000 and AUTHORIZE the Secretary or his Designee to Execute it on Behalf of the Authority

Mr. Freitas sought a clarification of the situation in light of the recent eminent domain proceeding.

Mr. Dennis reported that the contract had expired and there was an expectation that as an expert witness and going through the condemnation process there would be a need for additional services from Burchard and Reinhart. He stated that Burchard and Reinhart had been providing appraisal services for the project since 2000 and there had been several amendments to their contract as a base contract. He added that the County's Real Property Division planned to use the firm for appraisals for Segment 1. Authority staff was working with the County Real Property Division to prepare a scope and budget for all ROW acquisition services, including appraisals for Segment 1 and Segment 3.

Donald Freitas noted his concern since the firm was acting as a subconsultant to the Real Property Division. He questioned why that would occur.

Mr. Dennis clarified that the Real Property Division had requested the continuation of the

retention of the firm, but the contract was between the Authority and the appraiser. As a practical matter, he stated that the appraiser took direction and guidance from the Real Property Division and Authority staff was and would be involved in coordination.

Donald Freitas sought an overall view of Real Property charges and an identification of the other remaining issues. He did not support a piecemeal approach. He wanted to see the overall picture to allow the Authority to determine whether or not it would want to continue on the same course.

Mr. Dennis advised that he would present that information to the Board next month along with the prior cost to date and the projected services. When asked if there was a need to adopt the item at this time, he stated that there was some need to increase the contract in case there was some need for the services of Burchard and Reinhart as part of the eminent domain proceedings. He suggested that a \$20,000 amount would suffice between now and February 2004.

On motion by Brad Nix, seconded by Donald Freitas, members of the Authority unanimously APPROVED the Third Amendment to the Agreement for Real Property Services with Burchard and Reinhart to increase the payment limit by \$20,000 only for a not to exceed amount of \$145,000 and AUTHORIZED the Secretary or his designee to sign it on behalf of the Authority.

MEMBER REPORTS

There were no Member reports.

CORRESPONDENCE

There was no correspondence other than that which had been included in the Authority packets.

PUBLIC COMMENTS

There was no public comment.

ADJOURNMENT

With no further business to come before the State Route 4 Bypass Authority, Chair Beckstrand adjourned the meeting at 8:45 P.M. to the next meeting on February 12, 2004

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at the Brentwood City Council Chambers, 734 Third Street, Brentwood.

Respectfully submitted,

Anita L. Tucci-Smith
Minutes Clerk