

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

A JOINT EXERCISE OF POWERS AGENCY

MINUTES
March 10, 2005

The STATE ROUTE 4 BYPASS AUTHORITY meeting was called to order in the Tri-Delta Transit Meeting Room, 801 Wilbur Avenue, Antioch, California by Chair Brad Nix at 7:32 P.M.

ROLL CALL

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

ABSENT: Mary N. Piepho (Contra Costa County)

STAFF: Dale Dennis, Project Manager

CONSIDER ADOPTION of Resolution 2005/01 Rescinding a Portion of Resolution of Necessity No. 2004//01, Concerning Condemnation of Property for Public Road Purposes for the State Route 4 Bypass, Antioch and Brentwood Areas

Debra Baker, Contra Costa County Real Property Division presented Resolution 2005/01, rescinding a portion of Resolution of Necessity No. 2004/01 concerning condemnation of property for public road purposes for the State Route 4 Bypass, Antioch and Brentwood areas. She noted some changes to the properties in question. As an example she reported that Tristar Land Investments Corporation had actually purchased portions of the Jacuzzi property and a Resolution of Necessity would need to cover those items, and an issue of access control in another case might be solvable with staff time as opposed to having to serve notice.

On motion by Annette Beckstrand, seconded by Donald Freitas, members of the Authority unanimously ADOPTED Resolution 2005/01 rescinding a portion of Resolution of Necessity No. 2004/01, concerning condemnation of property for public road purposes for the State Route 4 Bypass, Antioch and Brentwood Areas.

PUBLIC HEARING

CONDUCT a Public Hearing to Consider the Adoption of Resolution No. 2005/02, a Resolution of Necessity for Acquisition by Eminent Domain of Certain Interests in Real Property (*Morimoto et al, Jacuzzi et al and Tristar Land Investments Corporation*) Necessary for the Construction of Segment 1 of the State Route 4 Bypass Project.

Segment 1 is the Portion of the State Route 4 Bypass Project Between the SR4/ SR160 Interchange on the North and Lone Tree Way on the South

Debra Baker of the Contra Costa County Real Property Division, advised the Authority of the need to conduct a public hearing on the Resolution of Necessity for property owned by Morimoto et al, Jacuzzi et al and Tristar Land Investments Corporation. When all testimony had been taken, she recommended that the Authority make the findings required by Code of Civil Procedure (C.C.P.) Section 1245.235.

As part of the report, Sharon Anderson, Chief Assistant County Counsel, indicated later in the meeting that an offer had been made to Union Land Development.

Chair Nix OPENED THE PUBLIC HEARING

There was no one to speak to the item.

Chair Nix CLOSED THE PUBLIC HEARING

On motion by Donald Freitas, seconded by Annette Beckstrand, members of the Authority unanimously made the following findings pursuant to C.C.P. Section 1245.235, that the public interest and necessity required the proposed project, the project was planned and located in the manner that would be most compatible with the greatest public good and the least private injury; the properties sought to be acquired were necessary for the project; the offer of compensation required by Section 7267.2 of the Government Code had been made to the owner of record for parcel 16 (Tristar), and the offer of compensation required by Section 7267.2 of the Government Code had been made to some, but not all of the owners of record as to parcels 1, 2, 3, 4, 5, 6, 7 (Morimoto/Union Land Development) and 12, 13, 14, 15 and 17 (Jacuzzi et al).

PUBLIC COMMENT

There were no comments from the public.

DETERMINATION ITEMS

A. APPROVE Minutes of February 10, 2005 Meeting.

On motion by Annette Beckstrand, seconded by Donald Freitas, members of the Authority unanimously APPROVED the minutes of the February 10, 2005 meeting, as submitted.

B. BOARD RECOMMENDED TO TAKE THE FOLLOWING ACTIONS:

1. APPROVE Right of Way Contracts and ACCEPT Grant Deeds Listed Below:

<u>Grantor</u>	<u>Document</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>
Ruth Barrett	59647	02-14-05	Placer Title Co. Escrow #615-7691 9181 N. Broadway #100 Walnut Creek, CA 94596	\$50,000
Steven D. Pease Brenda G. Pease Arthur L. Please and Ofelia Pease	59638-1 59639-1	02-17-05	Placer Title Co. Escrow #615-7531 and #615-7532 1981 N. Broadway #100 Walnut Creek, CA 94596	\$13,600

2. AUTHORIZE the Secretary to the Authority, or Designee, to Execute Said Right of Way Contracts on Behalf of the State Route 4 Bypass Authority
3. APPROVE Payments as Listed Above for Said Property Rights and AUTHORIZE the Auditor-Controller to Issue Checks in Said Amounts Payable to the Listed Payees, to be Forwarded to the Real Property Division for Delivery
4. AUTHORIZE the Secretary or Designee to DIRECT the Real Property Division to Have the Above Referenced Grant Deeds Delivered to the Placer Title Company for Recording in the Office of the Contra Costa County Recorder

On motion by Donald Freitas, seconded by Annette Beckstrand, members of the Authority unanimously:

1. APPROVED Right of Way Contracts and ACCEPTED Grant Deeds Listed Above.
2. AUTHORIZED the Secretary to the Authority, or designee to execute said Right of Way Contracts on behalf of the State Route 4 Bypass Authority.

3. APPROVED Payments as listed above for said property rights and AUTHORIZED the Auditor-Controller to issue checks in said amounts payable to the listed payees, to be forwarded to the Real Property Division for delivery.
 4. AUTHORIZED the Secretary or designee to DIRECT the Real Property Division to have the above referenced Grant Deeds delivered to the Placer Title Company for recording in the office of the Contra Costa County Recorder.
- C. APPROVE an Updated Right of Entry Agreement Between CCWD and the Authority to Enter onto CCWD Lands in the Future Lone Tree Way Interchange Area at Jeffery Way, and AUTHORIZE the Secretary or Designee to Sign it on Behalf of the Authority

Mr. Dennis presented an update to the right of entry with the CCWD and advised that there were two areas along Jeffery Way where curb returns, sidewalk, a traffic signal and a joint utility trench would be constructed. The right of entry would include those work items. He recommended approval of the updated Right of Entry Agreement.

When asked, Mr. Dennis explained that the appraiser should be finalizing the appraisal within the next two weeks and either making an offer or pursuing a Resolution of Necessity process. He added that the CCWD had worked very cooperatively with the Authority on the project.

On motion by Annette Beckstrand, seconded by Donald Freitas, members of the Authority unanimously APPROVED an updated Right of Entry Agreement between CCWD and the Authority to enter onto CCWD lands in the future Lone Tree Way Interchange area at Jeffery Way, and AUTHORIZED the Secretary or designee to sign it on behalf of the Authority.

- D. APPROVE Letter with Caltrans and the Contra Costa County Transportation Authority (CCTA) which Commits SR4BPA to Work with TRANSPLAN to Secure Funds Locally Available to East County Agencies, Such as Measure J and/or Regional East County Fees, to be Earmarked for Award of a Construction Contract for the Balfour Road Interchange (including utility relocation) Prior to October 1, 2014, and AUTHORIZE the Secretary or Designee to Sign it on Behalf of the Authority

Mr. Dennis referred to the joint letter from Caltrans, a request to be signed by the SR4 Bypass Authority and the CCTA. He noted that staff had gone through a process and a number of meetings with both CCTA staff and Caltrans to finalize the draft language. Caltrans had expressed concern in the past as to the location of those facilities and had requested a relocation plan for their relocation in the future. The three major utility encroachments included the Kinder Morgan Pump Station, a PG&E electrical transmission tower and the Los Vaqueros Pipeline (LVP).

With respect to the CCWD's (LVP) currently going through the Balfour Road project, an agreement with the CCWD had indicated that if the interchange was constructed by 2015, the CCWD would be responsible for relocating the LVP at its own cost, estimated at \$7 million in today's dollars. As part of that and in discussions with Caltrans and the CCTA, the CCTA had indicated that it would be important that the Authority agree to work with the TRANSPLAN Committee to secure locally available funding (Measure J and/or regional East County fees) to be earmarked to award a construction contract prior to October 1, 2014 to ensure that CCWD retain the responsibility for the relocation of the LVP.

Mr. Dennis stated that CCTA staff and Caltrans would like to see the Bypass Authority commit to that agreement.

Donald Freitas referred to the last paragraph on Page 2 of the letter under discussion with regards to the interchange in Segment 1 and questioned whether or not cash flow considerations had been pursued to ensure sufficient funds in the 2010 to 2012 timeframe.

Mr. Dennis advised that the cash flow issue without the construction of Segment 3 would be approximately \$18 million so that the bulk of funds necessary to complete Segment 3 would be available. The commitment would be to work with Caltrans to secure the local funds through Measure J or the regional fees. No projection of the regional fees to that timeframe had yet been prepared.

Mr. Freitas commented that there was no guarantee there would be funds in the initial years of Measure J for the project in question. He therefore remained concerned. He also commented that "pursue" had been replaced by *secure* in the last sentence of that paragraph. He was more comfortable with the inclusion of the term "pursue" in this case. He was advised by Mr. Dennis that CCTA staff had sought more assuredness that the funding would be brought to bear for the interchange.

Mr. Freitas referred to the award of construction contract for the Balfour Road Interchange for 2014 and the payment for all of the construction costs for said interchange. Absent some cash flow, he suggested that commitment might not be possible.

Sharon Anderson of the County Counsel's Office commented that "secured" was a stronger statement than "pursued" and implied that the Authority would do whatever required to get the funding as opposed to going after the funding.

Susan Miller explained the CCTA had numerous discussions on the interchange. Caltrans would not allow the project to move forward without the interchange. She noted that \$16 million would be required for just the utility relocations. The CCTA would like to have some assurance that there would be some trigger to ensure that the CCWD would fulfill its part of the relocation. She did not want that to fall back on either Caltrans or the CCTA in trying to come up with additional funds for that interchange to be able to move forward. A strong commitment to work together had been proposed.

Mr. Freitas stated that the Authority would make every good faith effort through local traffic mitigation fees, Measure J or federal, state or local funding, although the approval of the agreement would commit the Authority to do something that it might not be able to do.

Chair Nix suggested that there were other issues. The commitment was tying the Authority and others for future use of monies not yet raised. He had no problem with the "pursue" language and emphasized that the Authority shared a strong concern about doing something to Balfour Road prior to the trigger with the CCWD. He wanted to make certain that the Balfour Road Interchange would be done.

Donald Freitas commented that by using "secure" it would basically commit that all traffic mitigation fees be utilized for the project, which could create a financial constraint that could jeopardize the expansion of Highway 4 and any of the other regional routes of significance. He raised other applicable issues such as the Urban Limit Line (ULL), traffic issues and the like. He suggested that the letter would render those other issues moot.

Chair Nix suggested that was beyond what could be agreed to at this stage, although the Authority could indicate that was its intent. He noted that a higher fee was expected in the future. At this time the Authority could express its intent and willingness to go forward.

In response to Donald Freitas, Mr. Dennis explained that the term "pursue" had been eliminated by the CCTA. Caltrans had accepted that term.

Mr. Freitas had no problem with some of the other changes, although he remained concerned with the sentence under discussion: "Therefore, SR4BPA agrees to work with TRANSPLAN to *secure* funds locally available to East County agencies such as Measure J and/or Regional East County fees, to be earmarked for (1) award a construction contract for the Balfour Road interchange prior to October 1, 2014 and (2) payment of all other utility relocation costs associated with the construction of said interchange."

Mr. Freitas continued to support the use of the term "pursue" as opposed to *secure*.

Annette Beckstrand suggested that the rest of the letter was acceptable.

Mr. Dennis clarified the direction to take back to the CCTA; the concept of "pursue" versus *secure*, the need to evaluate the cash flow from the existing or an amended fee structure and the issue of Measure J with respect to possible funding when it became effective.

Mr. Freitas noted the concept that there was only a capacity of \$300 million from Measure J for some of the projects. The Balfour Road interchange was not one of those projects on his list. He suggested that the issue needed to be worked out. He urged a conservative approach that would be achievable, although knowing some of the other issues, he found it difficult to embrace that item at this time.

Susan Miller stated that she would take the discussion back to the CCTA.

- E. ACCEPT Status Report on the SR4 Bypass Project and the Laurel Road Extension Projects, Including Cooperative Agreement with Caltrans, and Provide Direction as Appropriate

Mr. Dennis reported that Segment 1 Construction Package 2 and the Laurel Road Extension were being advertised. He suggested that the project was the only one of its size and magnitude currently being advertised. As such, there was a lot of interest and significant optimism that there would be successful bids. Bids would be opened in April with a target for the award of a contract at the April or May meeting of the Board.

- F ACCEPT Status Report and APPROVE Contract Change Order Nos. 4S1, 19, 20, 21, 22 and 23 in the Total Amount of \$18,790.05, and AUTHORIZE the Secretary or Designee to Sign them on Behalf of the Authority

Mr. Dennis noted that the total amount of Change Order Nos. 4S1, 19, 20, 21, 22 and 23 was \$18,790.05, not the \$168,790.05 shown on the agenda.

Construction Manager Bart Littell offered an update on the construction to date. He presented photos of the latest construction and stated that things were moving well. The Lone Tree embankment had been done, as had the settlement work, which had been confirmed by the geotechnical engineer. Work continued with the bridge excavation, the storm drain on the existing alignment, and the squirrel control program. A couple of trees had been cut down to protect endangered birds. Work with the CCWD on Lateral 7.3 would save approximately \$200,000.

Mr. Littell reported that the project was forty five percent complete. He suggested that the bids for Construction Package 2 would be competitive.

On motion by Donald Freitas, seconded by Annette Beckstrand, members of the Authority unanimously ACCEPTED status report and APPROVED Contract Change Order Nos. 4S1, 19, 20, 21, 22 and 23 in the total amount of \$18,790.05, and AUTHORIZED the Secretary or his designee to sign them on behalf of the Authority.

CORRESPONDENCE

There was no correspondence beyond what had been included in the Board packets.

PUBLIC COMMENTS

There were no comments from the public.

ADJOURNMENT

With no further business to come before the State Route 4 Bypass Authority, Chair Nix adjourned the meeting at 8:02 P.M. to the next meeting scheduled for April 14, 2005.

Respectfully submitted,

Anita L. Tucci-Smith
Minutes Clerk