

STAFF REPORT



MEETING DATE:	12/19/11
SUBJECT:	Minutes of the September 19, 2011, RTPA Special Meeting
AGENDA ITEM:	4-1
STAFF CONTACT:	Janie Coffman

STAFF RECOMMENDATION:

It is recommended that the board approve the minutes of the September 19, 2011, RTPA special meeting.

A handwritten signature in black ink, appearing to read 'Daniel S. Little', written over a horizontal line.

Daniel S. Little, AICP, Executive Director

Attachment: Minutes of the September 19, 2011, RTPA Special Meeting

UNAPPROVED MINUTES

SHASTA COUNTY REGIONAL TRANSPORTATION PLANNING AGENCY

SPECIAL MEETING

Monday, September 19, 2011, 3:00 p.m.

City of Redding Council Chambers

777 Cypress Avenue, Redding, California

(Note: These minutes are not intended to serve as a transcript or verbatim record of the proceedings of the Shasta County Regional Transportation Planning Agency, but rather as a record of the meeting time, place, and attendance; the order and general nature of discussion; board deliberations; and actions taken, if any.)

Board members Dickerson, Jones, Watkins, and Cornick were present. Board members Moty, Baugh and Hawes were absent.

1. **Call to Order**

Vice-chair Watkins called the meeting to order at 3:00 p.m.

2. **Public Comment Period**

There was no one who wished to speak during the public comment period.

3. **Possible Action Relating to the RTPA Bylaws or Amendment to the Bylaws that Clarify RTPA Authority Over RTPA Staffing Levels, the RTPA Budget and Appointment of the Executive Director**

Executive director Little explained that this agenda item is in response to an action by the Shasta County Board of Supervisors (BOS) on August 16 to reduce RTPA staffing below levels approved by the RTPA board in April. The reorganization separated RTPA functions within the County's Department of Public Works and removed all RTPA-related duties from two planners. This action was taken without consulting the RTPA board, RTPA staff or local agencies. No analysis of impacts to RTPA programs and responsibilities was undertaken.

Four members of the RTPA board requested a special meeting to address the issue and the board's authority over its own budget, staffing levels and appointment of the executive director.

Regarding impacts to the RTPA, the county action reduced the number of RTPA planners from four to two. The RTPA has over \$2.2 million in grant obligations through the year 2014. It will be difficult to meet those obligations without adequate staff.

RTPA legal counsel Kenny noted that the board has statutory authority to select its own executive director and select and fund staff. According to the RTPA bylaws, the County director of public works is the executive director, or if approved by the board, his appointee. The bylaws state that sufficient RTPA staff shall be funded by the county. The County of Shasta

provides staff. There is no written protocol or memorandum of understanding (MOU) that establishes procedures. The practice has been that the RTPA has provided funding for the number of staff it determines is needed, the county has provided the staff, and the county is reimbursed.

Discussion:

Board member Cornick: At the June RTPA meeting, figures were provided by the county and the RTPA regarding the estimated cost of an independent RTPA. There was a difference of around \$200,000. What I would like to see is some good hard figures from an independent third party. We are discussing whether or not to have an independent RTPA or to stay with the county, but no one representing the county is on the board today. I would like to postpone any action on this until next Monday, September 26.

Executive director Little: I wouldn't recommend getting into details about staffing and budget levels until the BOS are present. The fundamental question of RTPA board authority over its staff can be answered today if the board chooses.

Board member Jones: Has there been any explanation for why there was a change in staffing levels?

Executive director Little: I have not heard an explanation nor seen an analysis as to the RTPA staff level reduction.

Board member Watkins: We (the RTPA board) did have a vote (in June) on whether the RTPA should become a separate board, not under the county jurisdiction. At that time we voted that the RTPA should remain with the county. I believe that in these economic times we should share services if there's a benefit. I hope we can figure out a way to continue a mutually beneficial arrangement between the RTPA and the county.

Board member Dickerson: I want to re-emphasize what you said, Mr. Chairman, and give Mr. Minturn (Shasta County public works director) a chance to respond to it. At the last RTPA meeting, concerns were raised about potential or perceived conflicts of interest under the current RTPA/county arrangement. I don't recall anyone at that meeting raising issues about conflict among staff. My concerns were the built in conflicts with the management at the county relative to RTPA. The current arrangement puts Mr. Minturn in a terrible position, having to deal with these potential conflicts. My concern was not the staff, but the management.

Public works director Minturn: I understand that you're talking about appointment of the director, but I would also say that this conversation began with the question of the reorganization, so I want to go back to where we were back in June. Mr. Little had two branches of responsibility – public works and RTPA. County work comes first. We've got CEQA and NEPA for all county projects. At any time there are 25-30 county projects going on and staff needs to be advocates for the county on those projects. Because some of these projects also have an RTPA aspect to them, there is a conflict.

Mr. Little also oversees the Resource Advisory Committee which allocates road funds; the Fish and Game Commission and the Fall River Mills Airport.

The number of full-time equivalent (FTE) that staff charged to non-RTPA tasks averages out to two. I heard at the last RTPA meeting the conflicts of changing hats back and forth; of having to advocate for the county on one hand and on the other hand having to act regionally. There is conflict here, so we looked at how this could be separated out and improve efficiencies.

You've got two separate masters and two separate organizations without an MOU connecting them. There are also fiscal issues.

In the interim, I hear a need for additional staff. I am naturally inclined in these tight budget years not to add staff. If the work is actually that much greater in the long term, maybe other arrangements are going to have to be made. I think an MOU needs to be in place before we can do that.

Board member Jones: Was there any particular reason why the executive director wasn't made aware of these changes and/or the RTPA board? When is the last time we've had such changes like this and did they occur in the same manner?

Public works director Minturn: When Dan Kovacich retired there were some major changes made. I don't remember if there was discussion, but I'm sure the RTPA board was aware of it as it took place, and the board did confirm the new director.

After this board met on June 28, Dan Little went on a vacation. I was in a hurry to make these changes, because time has a way of making problems. I waited until Dan returned then immediately told him what I had thought up. As the director of the public works department it's my obligation to make these arrangements. Dan expressed his concerns at that time about the staffing levels and it was a surprise to him. The staff report went to the BOS eight days later. There were some conversations between Dan and myself. I can't tell you that Dan and I negotiated; I am Dan's supervisor and it's my job to arrange staff within my department. I thought this was pursuant to the discussion that had gone on regarding the conflicts. There has not been another meeting of the RTPA board since, so we are informing the board at this time. These are basically county decisions to administer our staff.

Board member Dickerson: I fully understand that you need to staff your department in the best interest of the county; that's your job. However, the RTPA has a mandated procedure that we go through every year, it's called the overall work program (OWP). Along with the approval of the OWP, which lays out what the staff and the RTPA are going to do in the upcoming year, the RTPA board also has the responsibility of funding those activities, including the application for and the receipt of state and federal grants. When we make those applications for state and federal grants we commit to doing the work that the grant calls for. And the money, the budget that's there, is based on the number of employees that are doing the work. We have the OWP and the financing in place to go forward for the next year. Then with no notice, even

to the director of the RTPA, and certainly not to any non-supervisor members of this board, changes were made that affect our ability to fulfill the OWP.

An argument can be made whether five staff can do it, or six or seven; that to me is not the concern. The concern to me is that this board – that has the overall responsibility for the RTPA on all issues – was not consulted. We weren't asked, we just heard about it after the fact, that the work that we had put in the OWP was countered. Not completely countered, but certainly hindered to a certain degree. My first inclination is independence because every other RTPA in the state of California is independent and it certainly can be done. Your idea to try to craft an MOU has some merit. Something has to be done to resolve these conflicts.

The conflict comes in when management is put in the position of having to defend a county priority and the RTPA may be in conflict. That's the conflict to me and Knighton Road comes to mind. When the RTPA director wrote a letter in response to the environmental impact report, my information was that he was directed to soften the language. That is a conflict at the highest level. That is what we need to resolve. If we do an MOU, it should include language that says that the director of public works shall not influence non-departmental issues or something like that.

Board member Cornick: I was not informed of the changes made and didn't know what was going on until this meeting came up. I think we need some good hard figures of what it's costing now and what it's going to cost as an independent agency. I think we need an independent third party to do the analysis.

Board member Watkins: I think it's unanimous that none of the four board members present here knew what was going on. I have a question for Mr. Minturn. If the RTPA board appointed the RTPA executive director, could he still be a county employee? Would we have the ability to continue sharing the cost savings of administrative overlap and shared office space, equipment and personnel? If such an item is passed, what do you see the ramifications of that being?

Public works director Minturn: Given the current operation, we've got the county on one hand subject to the BOS. The BOS has policies and procedures to appoint individuals. That person reports to me and I'm responsible for any manager under my oversight. The person would be a management employee and they would have authority to move money on behalf of the RTPA. As currently structured this person would be supervising subordinates. For you to appoint a person, you may have to figure out how to employ them. They may or may not be suitable for employment by the county, and the county may or may not see fit to employ that person in the capacity of a chief public works planner.

I have no desire to be the executive director of the RTPA. Dan Kovacich and Dan Little have served that role in the ten years I've been the public works director. The county is going to appoint somebody, or designate somebody that is acceptable to us. Hopefully, you would also see fit to designate them as the executive director. In the past it's never been a problem. I think we need an MOU that creates a formal structure. My answer to you is maybe. Maybe

that person could be a county employee, maybe they could fill that role, but it depends on the person.

Board member Watkins: So you think if this wording were adopted by the board and there was a backup MOU to go with it that it could be a workable solution?

County administrative officer Lees: Mr. Minturn is not in a position to answer that question directly. The reality is that it would take the majority of the board to answer that, and we don't have that knowledge today.

Executive director Little: We could continue to discuss the budget and impacts to the RTPA, but I believe the root issue should be the focus of today. You heard that the county may not accept your appointment as executive director. We're faced with a very simple question: does the RTPA board want to have the appointment authority over its director?

(Floor opened for public comments)

Gary Cadd, citizen: The board is not inconsequential. The people in the community look to you for the direction of this agency. I see a great problem with allowing county bureaucrats to be making or recommending the RTPA's executive director. This is the RTPA board's job. By taking possession of appointing the executive director you would be pushing forward to put an MOU together and getting this problem settled.

Sally Riley, The Construction Industry Force Account Council: If I understand the analysis correctly, you still have five people and you still have the same amount of hours. You may have fewer bodies, but the same amount of hours. I understand Dan Little might be leaving; I would not like a decision made based on that. I ask that you postpone any action a minimum of a week to discuss, look at the MOU idea, look at your budget ideas, and allow more people to weigh in on this.

Board member Jones: Mr. Little, if the RTPA board controls the appointment of the executive director, would that change anything financially?

Executive director Little: This change in the bylaws would simply state that you have the appointing authority over the executive director. If that were to occur, it would be up to the county to decide if your appointment was suitable and worked within their structure. Nothing would change financially.

The standard arrangement of staffing across the state of California for agencies our size is an independent agency. The standard arrangement is that the RTPA board appoints their executive director. The RTPA board has all authority over budget and staffing levels. Our arrangement is an anomaly in the state for an agency our size. The host agency arrangement eventually comes up to bite every other agency; there's a reason why all agencies eventually go independent. I would say right now the county staffing arrangement more or less works; it's

the management conflict that we discussed and the control of the RTPA board itself that needs changed.

Board member Jones: The option of an independent RTPA was discussed at the June meeting. Some felt that if it wasn't broken, that if we hadn't experienced any troubles, that nothing should be done. However, I think just by who is present here today, and by those that I think chose not to be here today, it clearly highlights the deficiency that we have and shows that there is in fact a conflict that does need to be dealt with. Based off that, I'm going to make a motion that Article 9, Section 1 of the bylaws be amended to say that the board shall appoint an executive director; the board shall approve sufficient funds for the executive director and staff to carry out the planning and administrative responsibilities of the RTPA.

Board member Dickerson: Second the motion.

The staff recommendation failed with board members Jones, Watkins and Dickerson voting yes and board member Comnick voting no.

Board member Dickerson: We still have a very serious problem that needs to be resolved in some way. Perhaps an MOU needs to be designed that will allow the RTPA to independently do its work. One possible solution to eliminate the conflict could be to make the executive director of the RTPA a department head; this could only be done by the county.

A motion was made, seconded (Comnick/Jones) and passed unanimously to call a special meeting on Monday, September 26, at 3 p.m., in the City of Redding council chambers.

A motion was made, seconded (Jones/Dickerson) and passed unanimously that the agenda would include whether the board wishes to exercise control over the appointment of the executive director which would take an amending of Article 9, Section 1 of the RTPA bylaws.

A motion was made, seconded (Dickerson/Jones) and passed unanimously to add discussion of an MOU and an independent RTPA.

There being no other business to discuss, vice-chair Watkins adjourned the meeting at 4:13 p.m.

Respectfully submitted,

Daniel S. Little, AICP, Executive Director

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