

Western Riverside Council of Governments Executive Committee

Minutes

1. CALL TO ORDER

The meeting of the Executive Committee was called to order by Chair Karen Spiegel at 2:00 p.m. on July 12, 2021.

2. PLEDGE OF ALLEGIANCE

Chris Gray, WRCOG Deputy Executive Director, led the Committee members and guests in the Pledge of Allegiance.

3. ROLL CALL

- City of Banning - David Happe
- City of Calimesa - Wendy Hewitt
- City of Canyon Lake - Kasey Castillo
- City of Corona - Jacque Casillas
- City of Eastvale - Christian Dinco
- City of Hemet - Russ Brown
- City of Jurupa Valley - Chris Barajas
- City of Lake Elsinore - Brian Tisdale
- City of Menifee - Matt Liesemeyer
- City of Moreno Valley - Victoria Baca
- City of Murrieta - Lori Stone
- City of Norco - Kevin Bash
- City of Perris - Rita Rogers
- City of Riverside - Ronaldo Fierro
- San Jacinto - Crystal Ruiz
- City of Temecula - Maryann Edwards*
- City of Wildomar - Ben Benoit
- County, District 2 - Karen Spiegel
- County, District 5 - Jeff Hewitt
- Eastern Municipal Water District (EMWD) - Phil Paule
- Western Municipal Water District (WMWD) - Brenda Dennstedt
- WRCOG Executive Director - Kurt Wilson

*Arrived after roll call

Chair Spiegel introduced WRCOG's new Executive Director, Kurt Wilson.

4. PUBLIC COMMENTS

There were no public comments.

5. CONSENT CALENDAR

RESULT: APPROVED AS RECOMMENDED

MOVER: San Jacinto

SECONDER: Jurupa Valley

AYES: Banning, Calimesa, Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 2, District 5, EMWD, WMWD

ABSENT: Beaumont, District 1, District 3

A. Summary Minutes from the May 27, 2021, Executive Committee Special Meeting

Action:

1. Approved the Summary Minutes from the May 27, 2021, Executive Committee Special meeting.

B. Summary Minutes from the June 7, 2021, Executive Committee Meeting

Action:

1. Approved the Summary Minutes from the June 7, 2021, Executive Committee meeting.

C. Report out of WRCOG Representatives on Various Committees

Action:

1. Received and filed.

D. WRCOG Committees and Agency Activities Update

This item was pulled for discussion by Committee member Wendy Hewitt who expressed a concern with a TUMF Nexus Study and adding fees in addition to a 3% fee increase.

After discussion by Committee members it was noted that this item is a monthly recap of items discussed at other WRCOG Committees. Any action regarding any increase in TUMF will be presented to this Committee for discussion and action.

Action:

1. Received and filed.

RESULT: APPROVED AS RECOMMENDED

MOVER: Lake Elsinore

SECONDER: Temecula

AYES: Banning, Calimesa, Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 2, District 5, EMWD, WMWD

ABSENT: Beaumont, District 1, District 3

E. Finance Department Activities Update

Action:

1. Received and filed.

F. SCAG Activities Update

Action:

1. Received and filed.

6. REPORTS / DISCUSSION

A. Cal Cities Activities Update

Erin Sasse, Cal Cities Representative, reported that the State Budget recently passed; however, there are several details to still be worked out.

Cal Cities has been advocating for funding for homelessness and housing, broadband, SB 1383 implementation, and also advocating for cities that still have a deficit even after receiving federal ARPA funds - this piece was left out of the Budget.

AB 215 would require cities to have a mid-cycle housing element consultation if housing production is low. Cal Cities has released an action alert for opposition to this item.

SB 555 would create an authority to collect Transit Occupancy Tax (TOT) on short-term rentals. Cal Cities is concerned that this could result in less effective and transparent TOT collections, and could result in the termination of current contracts with collection agreements.

Cal Cities is supporting SB 15, which would allow incentives for rezoning idle retail sites.

Cal Cities is supporting SB 341, which would require the California Public Utilities Commission to establish a backup power requirement for certain wire line telecommunications providers to ensure services can be maintained for at least 72 hours during an electrical outage.

The City of Desert Hot Springs is hosting the Cal Cities virtual Division meeting tonight.

Action:

1. Received and filed.

B. TUMF Appeal for Vesting Tentative Tract Map 31620 and 31620-1 in the City of Hemet

Chris Gray, WRCOG Deputy Executive Director, reported that the TUMF Program has an established process to ensure uniformity in TUMF fee assessments, and includes an Administrative Plan, Fee Calculation Handbook, and an online TUMF Calculation and Payment Portal.

When TUMF disputes arise they are usually resolved at the staff level. In the event that is not possible, the matter is presented to the Administration & Finance Committee, which then makes a

recommendation to the Executive Committee.

Today's appeal involves a Development Agreement and Vesting Tentative Tract Map (VTTM) for a project within the City of Hemet, and whether a VTTM provides an exemption from paying TUMF. The way the Administrative Plan is written indicates that if there is a VTTM or development agreement that was approved while TUMF was being paid, and had an exemption, that exemption was still valid providing certain conditions are met - the most important being whether that agreement has expired or not.

In 2017, WRCOG conducted a review of all Development Agreements and VTTMs and the results were sent to all member agency City Managers. A letter for VTTM 31620 was sent to the City of Hemet in November 2018 and stated that WRCOG had determined a TUMF exemption existed, but had expired based on state law and city code. This was communicated again to the City and the developer, DR Horton, in September 2020. The developer has appealed the denial of exemption on VTTMs 31620 and 31620-1 and has paid its fee in protest. This item is now being presented to this Committee for discussion and recommendation.

WRCOG staff and legal counsel are of the opinion that these projects are not exempt from TUMF based upon language in state law which indicates that vesting maps have a limited duration. These projects being discussed was first proposed in 2003, and staff argue that 18 years later that TUMF exemption is no longer valid.

Colin Pearce, representative for DR Horton, indicated that DR Horton paid the TUMF fees on these two VTTMs in protest. Government Code Section 66498.1 provides that if a final map is approved and recorded than the terms and conditions, including exemptions for development fees, becomes fixed and final, no different than the recorded document.

The property DR Horton has and continues to develop on was originally exempt from TUMF. Prior development in 2006 took place without payment of fees. The maps were approved and recorded by the City of Hemet in December 2005. DR Horton's position is that once the VTTMs were recorded, they became legal binding documents, therefore, any TUMF fees applied would remain in affect and cannot be changed by any later action.

Steve DeBaun, WRCOG Legal Counsel, indicated that Government Code Section 66498.1 states that if there was a final map approved, the rights conferred by this Section shall be subject to the time periods set forth in subdivisions B, C, and D of Section 66498.5. Subdivision B indicates that the rights conferred by a VTTM shall last for a period of time as provided by ordinance, but shall not be less than one year, or more than two years beyond the recording of the final map.

The City of Hemet Municipal Code provides that if a final map is approved prior to the expiration of the VTTM, the tentative map vesting rights for the final map shall last for an initial time period of one year following the recordation of the final map.

It is our conclusion that under state law and local municipal code that the protections provided by the vesting map, particularly those conditions, expired after one year of recordation and does not allow for the fee exemption the developer is arguing for.

Action:

1. Denied the appeal from DR Horton for the payment of TUMF fees for Vesting Tentative Tract Maps 31620 and 31620-1.

RESULT: APPROVED AS RECOMMENDED

MOVER: Norco

SECONDER: Jurupa Valley

AYES: Banning, Calimesa, Canyon Lake, Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Menifee, Moreno Valley, Murrieta, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 2, District 5

ABSENT: Beaumont, District 1, District 3

The Water Districts do not vote on TUMF matters.

C. 2021 TUMF CCI Adjustment Update

Chris Gray, WRCOG Deputy Executive Director, reported that TUMF is a fee assessed only on new development and is intended to build facilities to offset the traffic associated with new development. TUMF funding for projects can only be used to build new infrastructure, not maintain existing infrastructure.

Staff are required to present a TUMF Construction Cost Index (CCI) adjustment annually. No CCI was presented in 2020 due to uncertainties surrounding COVID-19. Approving a CCI provides for a smaller fee increase when a Nexus Study is completed. The next Nexus Study is scheduled to begin in the fall of 2020 and will take between 12 and 18 months to complete. No changes in TUMF are anticipated until 2023.

The Executive Committee adopted two indices in the last Nexus Study as the basis for completing CCI adjustments to the TUMF schedule of fees; the Engineering News Record (ENR) CCI and the National Association of Realtors (NAR) median sales price of existing single-family homes.

Since the CCE was not implemented in 2020, the ENR CCI and NAR adjustment encompasses two years since the last CCI adoption. Since then, the ENR CCI increased 3.7% and the NAR increased 17.4%.

The WRCOG Public Works Committee has recommended implementing the 2021 CCI adjustment, including eliminating the current freeze on the Retail land use and adjusting it to the level it would be at without the freeze policy. It was determined that a reduction in Retail land use was not incentivizing development and was actually creating a revenue shortfall in the Program.

The WRCOG Technical Advisory Committee (TAC) recommended that each land use type not be adopted at the full 2021 CCI adjustment rate of approximately 9%, and instead increase by only 3%.

Adjustments to how TUMF is applied to Retail projects have been made - small Retail uses have been exempted. Any project of 3,000 square feet or smaller does not have to pay TUMF. Secondly, the Retail fee has been frozen at \$7.50 since the last Nexus Study was adopted in 2017. While there has been a cost to the Program of approximately \$6M, the intent was to spur retail development.

Of the past 10 years, this year so far is the second best year for TUMF collections. If the Executive Committee approves a CCI adjustment, an increase in fees would not go into effect until January 1,

2022.

Staff is recommending approval of the TAC's increased fee structure at 3%.

If a CCI is not approved, there will be less funding available for projects.

Committee member David Happe asked why a flat rate is proposed across all residential regardless whether the community is advantaged or disadvantaged.

Mr. Gray responded that per the TUMF Administrative Plan, the fee is to be consistent across the region.

Committee member Crystal Ruiz asked who pays the TUMF.

Mr. Gray responded that the fee is paid by the developer, who passes that along as much as they can to the home purchaser.

Action:

1. Approved a 3% 2021 Construction Cost Index adjustment for all TUMF land use types.

RESULT: APPROVED AS RECOMMENDED

MOVER: Corona

SECONDER: Temecula

AYES: Corona, Eastvale, Hemet, Jurupa Valley, Lake Elsinore, Moreno Valley, Norco, Perris, Riverside, San Jacinto, Temecula, Wildomar, District 2

NAYS: Banning, Calimesa, Canyon Lake, Murrieta, District 5

NO ANSWER: Menifee

ABSENT: Beaumont, District 1, District 3

The Water Districts do not vote on TUMF matters.

D. Recognition of the Executive Committee Outgoing Chair

Rachel Singer, WRCOG Program Manager, reported that the outgoing Chair is usually acknowledged at the annual General Assembly.

Staff and Committee members recognized Committee member Kevin Bash for his leadership over the past year.

Action:

1. Received and filed.

E. Recognition of WRCOG Staff Service Milestones

Princess Hester, WRCOG Administrative Services Director, recognized staff who are celebrating service milestones:

- Andrew Ruiz, Chief Financial Officer
- Chris Gray, WRCOG Deputy Executive Director

- Chris Tzeng, Program Manager

Action:

1. Received and filed.

7. REPORT FROM THE TECHNICAL ADVISORY COMMITTEE CHAIR

The Technical Advisory Committee Chair was not present.

8. REPORT FROM COMMITTEE REPRESENTATIVES

Committee member Brian Tisdale, CALCOG representative, reported that CALCOG registration is open for the California Academy for Regional Leaders. CALCOG continues tracking and monitoring legislation; a listing of what CALCOG supports and opposes can be found on its website. CALCOG will hold its annual event in March 2022 at the Riverside Convention Center. Committee member Tisdale was elected as CALCOG's Board of Director's Vice President.

Committee member Ted Hoffman, SAWPA OWOW Steering Committee representative, reported that Proposition 1 - Round 2 grant funding will be available likely in August 2021.

9. REPORT FROM THE EXECUTIVE COMMITTEE CHAIR

Chair Spiegel asked for members interested in serving on the Administration & Finance Committee to email her at ksspiegel@rivco.org and cc Janis Leonard at jleonard@wrcog.us.

10. REPORT FROM THE INTERIM EXECUTIVE DIRECTOR

Kurt Wilson thanked WRCOG and County staff for managing the hybrid meeting. Mr. Wilson introduced Carlos Castellanos, WRCOG's newest Staff Analyst working in the Transportation & Planning Department. Projects Mr. Wilson will be working on include a fiscal long-range forecasting plan, internal processes and procedures, and Agency sustainability. Mr. Wilson will be onsite with RCHCA staff for trapping and surveying Stephens' Kangaroo Rat. Mr. Wilson would like to know the Executive Committee's vision of / for WRCOG.

11. ITEMS FOR FUTURE AGENDAS

There were no item requests for future agendas.

12. GENERAL ANNOUNCEMENTS

Committee member Jeff Hewitt commended Chris Gray for leading WRCOG through its recent transition.

13. NEXT MEETING

The next Executive Committee meeting is scheduled for Monday, August 2, 2021, at 2:00 p.m., both in person and on the Zoom platform.

16. ADJOURNMENT

The meeting was adjourned at 4:01 p.m.