

BORDERS COMMITTEE

March 23, 2007

AGENDA ITEM NO.: **1**

Action Requested: APPROVE

**BORDERS COMMITTEE DISCUSSION AND ACTIONS
MEETING OF JANUARY 26, 2007**

The meeting of the Borders Committee was called to order by Chair Patricia McCoy (South County) at 12:32 p.m. See the attached attendance sheet for Borders Committee member attendance.

Chair McCoy welcomed the new Committee Members in attendance. She noted Mayor Jim Desmond of the City of San Marcos (North County Inland) was unable to attend as he had just found out he had been elected. She introduced Councilmember Jack Feller, City of Oceanside (North County Coastal), Councilmember Crystal Crawford, City of Del Mar (North County Coastal), and Chairman Mark Romero (Mesa Grande), and Lee Acebedo (Jamul) of the Southern California Tribal Chairmen's Association (SCTCA).

1. APPROVAL OF MEETING MINUTES

Action: Upon a motion by Pam Slater-Price (County of San Diego), and a second by Ed Gallo (North County Inland), the Borders Committee approved the minutes from the November 17, 2006, and December 8, 2006, meetings as amended.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

Chair McCoy clarified some points regarding crossing the border in conjunction with the work of the Borders Committee. She cited the two mobile seminars planned within the framework of the Otay Mesa - Mesa de Otay Binational Corridor Strategic Plan, which will be held February 27 and March 27, 2007. The mobile seminars will provide opportunities for planners and practitioners to share information and visit sites where planning efforts are taking place.

With the implementation of the Western Hemisphere Travel Initiative (WHTI), on January 23, 2007, all travelers arriving by air or sea to the U.S. will need to carry a valid passport, including all U.S. citizens returning to the United States. This requirement will also apply to those arriving to the land ports of entry beginning January 2008.

Luis Cabrera, Consul General of Mexico, commented that the measures pertain to arrival by air only. The requirement for the land ports has been postponed to June, 2009. Consul General Cabrera added that the official date continues to be January 2008, but Congress has agreed to postpone the enforcement of that measure until June 2009, if the Departments of State and Homeland Security are not ready on the official date.

Chair McCoy informed that passports may be obtained from the post office in approximately six weeks, and in two weeks with an additional \$100 fee.

Angelika Villagrana (COBRO) stated there is real concern about how the changes will affect the border waits and casual travel. Travelers may have the possibility of obtaining something similar to a border card. She brought the recent US VISIT announcement on this issue and also some of the articles regarding Mexico's concern for the casual travelers.

Chair McCoy stated as Angelika is with the San Diego Regional Chamber of Commerce, her comments are most valued as family and friends that that travel across the border require information regarding passports.

Angelika added that a group called "San Diego Alliance for Border Efficiency" will be dispersing information regarding the changes also.

Crystal Crawford reminded everyone of the conference to be held on February 8 and 9, entitled "Stewarding Sacred Lands". The conference, sponsored by the Native American Land Conservancy along with the Sycuan Band of Indians, U.S. Fish and Wildlife, and others will take place at the Sycuan Resort. Ms. Crawford and Chair McCoy are planning on attending. Chair McCoy added that Jane Clough-Riquelme (SANDAG) will be attending also.

Angelika Villagrana announced that Executive Director Gary Gallegos (SANDAG) will receive the Regional Unity Award at the annual dinner of the San Diego Chamber of Commerce.

REPORTS (Items 3 – 6)

3. AMENDMENT TO THE BORDERS COMMITTEE MISSION STATEMENT TO INCLUDE GOVERNMENT-TO-GOVERNMENT RELATIONS WITH TRIBAL NATIONS (APPROVE)

The Borders Committee considers tribal government-to-government relations as part of its mission; however, the mission statement does not currently reflect this perspective. Hector Vanegas (SANDAG) asked the Borders Committee to approve a modification to its mission statement to include collaboration with tribal governments as it is stated in the description paragraph of Item No. 3 which reads: "The Borders Committee provides oversight for planning activities that impact the borders of the San Diego region (Orange, Riverside and Imperial Counties, and the Republic of Mexico), as well as the government-to-government relations with tribal nations in San Diego County. The preparation and implementation of SANDAG Binational, Interregional, and Tribal Liaison Planning programs are under this review. It advises the SANDAG Board of Directors on major interregional

planning policy-level matters. Recommendations of the Committee are forwarded to the Board of Directors for action.”

Action: Upon a motion by Ed Gallo (North County Inland) and a second by Jack Feller (North County Coastal), the Borders Committee unanimously approved Item No. 3.

4. PRELIMINARY FINDINGS OF THE STATE ROUTE 11 AND EAST OTAY MESA PORT OF ENTRY FINANCIAL FEASIBILITY STUDY (INFORMATION)

Pedro Orso-Delgado (Caltrans) stressed the importance of a financial feasibility study to investigate the possibilities of attracting private investment or private partnerships for this project. He also discussed the positive feedback and support received from Customs and Border Protection, the State Department, the Mexican Embassy, and the White House Council on Homeland Security when he presented the feasibility study while attending a conference in Washington D.C.

Elisa Arias (SANDAG) explained that the pedestrian and vehicle waits at the border cost the California/Baja California economies losses in terms of jobs and output, and that these losses are projected to more than double in the next 10 years if there are no steps taken to improve transportation infrastructure and management at the border crossing.

SANDAG conducted a financial feasibility study assessment for both State Route (SR) 11 and the East Otay Mesa Port of Entry (POE). The primary objective of the study was to evaluate whether the SR 11 and the East Otay Mesa POE projects can pay for themselves either through tolls or fees. The tolls would provide a revenue stream that could be bonded against to provide the funds to build the border crossing much sooner than if we were to rely on traditional state funding.

Four integrated models were created to prepare the financial analysis. Caltrans and SANDAG set up an expert peer review panel consisting of representatives from 14 agencies that met three times between September and November 2006, to review the four models, verify the assumptions, and suggest revisions.

The preliminary conclusion of the analysis was that the SR 11 toll road and POE is potentially a good investment provided there are sufficient external resources to cover capital and operational and maintenance costs for the POE. And that both, the POE and SR 11 should be considered as an integrated project, as one cannot succeed without the other. Public participation will be necessary to attract sufficient project capital and finance the construction of management of the POE and a grant or other financing mechanism such as a low-interest loan would be needed in the early years also.

Next steps to further the assessment of the project’s financial feasibility include:

- Working with Congressional and State delegations to obtain approval to toll the new border crossing and SR 11.
- Coordinate a similar financial feasibility analysis for the Otay II POE in Tijuana and connecting roads with Mexico.

- Pursue funding from the Trade Corridors Improvement Fund.
- Work with the County of San Diego to explore dedication of right-of-way for SR 11 and the POE.
- Explore the potential of non-toll revenues to make up revenue short falls.
- Explore a shared approach with U.S. Customs and Border Protection to cover POE and operation and maintenance costs.

In order to advance the implementation of SR 11 and the East Otay Mesa POE, there must be a completion of the environmental clearance documents for the project. A feasibility study of the East Otay Mesa POE to confirm the functionality of the POE as required by the U.S. General Service Administration must be conducted. Also, a Presidential Permit from the federal government for the East Otay Mesa POE must be obtained.

Ben Hueso (City of San Diego) stated the County is working with the City on a planning process which would help in understanding the circulation and potential land uses in the area. He asked if legislation that allows for the development of a Border Development Zone, which is mainly a financing district for infrastructure in that area, had been investigated as a potential financing source for the terminal.

Ms. Arias responded that at this point, the study evaluates how much public participation would be needed to attract private capital and hasn't explored where the participation can come from beyond the Proposition 1B bond.

Mr. Hueso encouraged examining legislation allowing the development of a Border Development Zone as the enormous amount of development in the periphery adjacent to the border crossing, along with the investment coming into the area will provide an enormous source of revenue to fund those improvements and help finance the infrastructure. This, combined with state and federal funds and the County's efforts to create the right-of-way for the freeway, which would help make construction more affordable, is a great first step. Mr. Hueso encouraged everyone to move forward with the project and create a plan of action within the respective agencies to help support the project.

Mr. Monroe reminded the group of Kathleen Brown's comments at the last SANDAG Retreat, in which she said that there is a lot of funding for public/private partnerships. Things like this are very doable, as the money is there. He also wanted clarification of the "capital grant."

Ms. Arias said capital grants may include a variety of different traditional funding sources such as federal, state, local transportation funds, statewide infrastructure bond funds, and developer contributions.

Mr. Monroe stated that due to the debt service, there's really no money left over from the anticipated tolls to pay for operations and maintenance.

Ms. Arias responded that that would be for the first 30 years. There are different ways it could be evaluated afterwards in terms of making that more feasible. But assuming that the project pays for all the staffing of the Port of Entry, that could not be accomplished under this mechanism for the first 30 years.

Mr. Monroe asked who set the limit for the first 30 years and if the SR 125 agreement was recently extended to 45 or 50 years.

Ms. Arias replied that for the first 30 years, the tolls could not cover the operation and maintenance.

Mr. Monroe agreed, due to the debt service, however, asked what would happen if it's increased to 65 or 75 years.

Ms. Arias said that the assumption at this time is that tolling would last for a period of 60 years. Tolling will begin at the opening of the Port of Entry around 2015, and last for 60 years. And for the first 30 years, the project can not entirely pay for the staffing, operation, and maintenance of the Port of Entry; however, it could after the first 30 years.

Mr. Monroe asked what happens at 30 years.

Ms. Arias said that after the first 30 years, the tolling could pay for the staffing of the facility due to the accumulation of toll revenue.

Mr. Monroe asked if the principal would be paid down on the basic debt.

Ms. Arias replied yes.

Mr. Monroe asked there would be money for operation and maintenance if the period of time was extended on the basic debt.

Ms. Arias replied yes.

Supervisor Slater-Price (County of San Diego) added that there would be a total 60-year period of time for toll collections. During the first 30 years, the income would go to debt service and debt reduction. At the end of 30 years, the debt would be terminated. During the next 30 years, the revenues could go for operations and maintenance. She restated Mr. Monroe's comment that the amount of the payments for the debt could be lowered so that during the entire 60 years of time some monies could be available for operations and maintenance.

Pedro Orso-Delgado said that after the meeting with Customs and Border Protection in Washington D.C., it was very clear to them that for us to be successful; they would need to contribute to the maintenance and operations of the facility. They know that and are willing to do that. It could be in the form of them fully staffing the facility for two shifts, or we pay for premium service to make sure that all of the booths would be open during peak hours.

Mr. Monroe suggested a project team be established to move the project forward so that the work could be accomplished sooner than 2015.

Mr. Orso-Delgado suggested returning to the Borders Committee to introduce the Project Manager of the Caltrans Border Team that's working on the project. At the same time, the team will be presented along with the schedule, milestones, and an update on what is currently being done on the project in order to secure a Presidential Permit by the end of 2007.

Mr. Feller questioned the median amount of \$27 million for operations and maintenance.

Ms. Arias agreed that it was a high number. She explained that the consultant derived the figure from the staffing needs that would be required to operate the facility at the premium level of service for 24 hours. She explained that the consultant also obtained the information by calculating approximately 10 percent of the capital cost.

Consul General Cabrera added that advancements on the feasibility studies have been made in Mexico also. A Technical Commission has been formed and frequent meetings have been held bringing authorities of both countries together in order to move forward at the authority level also.

Chair McCoy suggested regular updates be presented as the process advances.

Consul General Cabrera concurred.

Supervisor Slater-Price returned to the issue of the financing mechanisms available for a Border Zone. She explained the Border Zone funds would be a good base point to begin with, as it is a mechanism that's been in place for a long time and then use the Proposition 1B funds appropriately with that funding source.

Supervisor Greg Cox (County of San Diego) said he appreciated the work that's been done on SR 11 by SANDAG, the consultants, and Caltrans. A meeting regarding SR 905 was conducted with Councilman Hueso, Mayor Sanders, Mr. Orso-Delgado, and Mr. Gallegos to assess the situation. One of the lessons learned was the extreme importance of securing right-of-way from the beginning of the process. The County will be working with the property owners in the area to ensure appropriate dedications of right-of-way are obtained for a major arterial. He did not want to repeat the lessons from the first Otay Mesa border crossing with the federal government in which the major arterial was not adequate to meet the needs of the border crossing. He stated that he was not in favor of toll roads; however, if it is the only way the project can be accomplished, then probably it is a very viable alternative considering the need. Supervisor Cox reiterated that this is a very important project of national significance. Mayor Sanders will be contacting individuals from the Administration in Washington D.C., and meetings will be held with the San Diego Regional Chamber of Commerce and others, all of whom have valuable key contacts. This clearly has to be a collaborative effort with Mexico and Mayor Sanders, Supervisor Cox, Councilman Hueso are planning to create a support group to help SANDAG and Caltrans move forward with the project.

Crystal Crawford suggested that it would be very helpful to have the update from Caltrans on the schedule of specific tasks and deliverables in order to meet the goal of having the Presidential Permit for the border crossing by the end of 2007.

Phil Monroe commented on the importance of being good partners in the relationship. He reminded everyone that the land in Tijuana where SR 11 would cross the border had already been dedicated.

Consul General Cabrera responded about how important it was to proceed with having the binational technical commissions working on Otay II and Chaparral San Ysidro.

Mr. Orso-Delgado agreed with Consul Cabrera. He noted that the financial feasibility study was completed and Mexico was about to begin theirs, and that we were about to begin the functionality study.

Phil Monroe added that they've got the land.

Angelika asked if legislation was necessary in order to obtain the necessary approval.

Ms. Arias stated that SANDAG will be working with its legislative team and Caltrans, along with other stakeholders in order to obtain legislation at both state and federal levels.

Crystal Crawford said that it is already on the SANDAG legislative program and one of the items being worked on in legislative sessions.

Chair McCoy said in conclusion, she appreciated everyone's work and collaborative efforts.

Action: This item was presented for information only.

5. UPDATE ON TRIBAL REPRESENTATION ON SANDAG (INFORMATION)

Jane Clough-Riquelme (SANDAG) stated SANDAG and the Southern California Tribal Chairmen's Association (SCTCA) agreed to add the SCTCA to the SANDAG Board, Transportation, Regional Planning, and Public Safety Committees as advisory members in December 2006. A Memorandum of Understanding (MOU) was signed by the two agencies memorializing the agreement on January 26, 2007. Tribal leaders nominated by the SCTCA will represent the SCTCA as an intertribal council. Staff will brief the new members so they may participate in all the policy advisory committees beginning in February.

Action: This item was presented for information only.

6. TRIBES, GAMING REVENUE, AND DISTRIBUTION MECHANISMS (INFORMATION)

Allison Harvey, Executive Director of the California Tribal Business Alliance (CTBA) spoke about various mechanisms in place to distribute gaming revenue to the state. She explained that of the five tribal members who make up the Board of the CTBA, three – included the Chair -- are located in San Diego. Those members are Pala, Pauma, and Viejas.

The CTBA was formed in 2004 by California Indian tribes interested in developing partnerships and coalitions with like-minded governments and with the business community, and civic organizations with the intent to build alliances based on mutual respect and cooperation.

There are several funding mechanisms in place to distribute gaming revenue to the state and local governments for mitigation of the impact of gaming facilities in the communities where the reservations are located. San Diego County has more tribes, reservations, casinos, and slot machines than any county in the country, yet San Diego receives the least amount of money from the State.

There are essentially two funds which are associated with compacts ratified at different time periods. One fund was set up to assist non-gaming tribes with revenue for running their government operations, while the other was set up to provide mitigation funds to local governments. One fund is called the "Special Distribution Fund," which most tribes operate under. The "Special Distribution Fund" was intended to mitigate tribal casino impacts both with local governments and state agencies for proper gambling services. The "Special Distribution Fund" is a net win percentage fee on those slot machines that were already in operation prior to the signing of the 1999 compacts. Legislation for the fund was hurried and many issues were not addressed. Any new compacts that have been negotiated have no payments of "Special Distribution Funds." And the major five compacts that are pending in the legislature for ratification do not pay with "Special Distribution Funds."

The second fund, the "Revenue Sharing Trust Fund" was a unique feature in California compacts under which those tribes that were geographically situated and able to conduct a successful tribal casino would share revenue with those tribes that were not. The "Revenue Sharing Trust Fund" was paid as a per machine fee on any machine that was added subsequently. Any new casinos after those new compacts pay solely into the "Revenue Sharing Trust Fund."

San Diego County has more casinos and slot machines than Riverside County, yet it received only \$3 million last year compared to Riverside's \$14 million last year. It is hoped the new legislation will bring more money to the County of San Diego. Monies have been spent for public safety and roads, yet not much has been set aside for problem gambling services.

A bill will be introduced by Assemblyman Torrico. It seeks to equalize the payments so that they are not based on whether there are slot machines that were in operation prior to 1999. It will be based on how many slot machines are located within the county. Should this bill pass, San Diego County would receive approximately \$500 per machine per year. Ultimately, San Diego County would receive approximately \$7 million per year instead of the \$3 million per year presently. The legislation may also have some reform provisions requiring the funds

be used to mitigate the impacts of tribal casinos. It also has the potential to allow counties that do not have casinos, but are patron-donor counties, to receive some funding for problem gambling services.

Mr. Monroe asked for clarification regarding the CTBA, as he was not familiar with them.

Ms. Harvey responded that the group was formed a little over two years ago. The tribes that are members of the CTBA are those that signed amended compacts with the state along with a tribe in northern California which is philosophically sympathetic.

Mr. Monroe asked which of the San Diego tribes are members of the CTBA.

Ms. Harvey answered Viejas, Pala, and Pauma. She explained that a part of the CTBA's focus is on moving forward and working with California business groups. Their goal is to form relationships and alliances that move everyone forward together. Successful tribes are diversifying and have a broad array of businesses outside of casinos.

Supervisor Cox commented he was familiar with the original implementation of the "Special Distribution Fund." He asked if the 13,745 machines belonged to all the casinos in San Diego County or just the ones that are still contributing to the "Special Distribution Fund."

Ms. Harvey said that they accounted for all the casinos in San Diego County.

Supervisor Cox inquired about the group's next steps and if it was correct that the group would like to forget about previous legislation and focus on the number of machines in each county and the equitable distribution predicated on that.

Ms. Harvey explained that when the "Special Distribution Fund" was created, it was never intended that the money would go back to just those tribes to mitigate just the impacts of those tribes that paid it. And in the 1999 compact, everyone paid, they just paid different funds. No particular tribe had a burden that was higher than other tribes'.

Supervisor Cox asked if past history had to be erased and a new way developed to collect funds and tighten down where and how those funds could be used.

Ms. Harvey said there won't be a new way to collect them as the compacts are in place until 2020.

Supervisor Cox asked if there were any newer compacts going out

Ms. Harvey replied the present compacts do not provide for payment to the "Special Distribution Fund." They provide for several different types of payments. They also require local government mitigation agreements in which the County would negotiate a comprehensive mitigation agreement with the tribe regarding issues viewed as impacts from the tribal casino and how the tribe can directly, in an enforceable agreement with the County, mitigate those impacts.

Supervisor Cox stated that only two Supervisors, Bill Horn and Diane Jacob have reservations and/or casinos in their districts. Some of the newer compacts negotiated in the County focus on the impacts specific to the area such as the roads providing access to the facilities and negotiating a fair contribution toward the reservation paying their share of what traffic improvement costs should be. He asked if that had an impact on what Ms. Harvey was suggesting in regard to these funds.

Ms. Harvey did not think it should. She thought the formula should remain a flat rate formula per slot machine whether, or not there were local agreements, and to try and figure out how to bifurcate it again would make it just too complicated.

Supervisor Slater-Price asked how the County of Riverside received so much money.

Ms. Harvey said she could not explain it. It shouldn't have happened. She was Chief of Staff to Senator John Burton, who authored Proposition 1A. Senator Burton's main concern was problem gambling services and they argued against it, but were unable get anyone's attention.

Supervisor Slater-Price replied that it is water under the bridge. She then addressed the need to recognize the willingness of the tribes to participate in contributing money to the County of San Diego for the funding of such things as law enforcement, fire helicopters and equipment, road maintenance and special events. She said the tribes have been very generous and they have contributed over and above what they might be required to sign for in compacts.

Ms. Harvey said she appreciated those remarks, as that level of understanding does not exist in other counties. She remarked that San Diego is ahead of most counties with regard to their relationships with tribes as evidenced by SANDAG's recent efforts to bring them into the planning process. The CTBA tribes are going to work with the communities to handle all the issues.

Supervisor Slater-Price concluded by saying that San Diego County began the first partnership with the tribes and formed a committee to meet with tribal leaders. A land use employee was then assigned as Tribal Liaison to work strictly on tribal issues. Data gathered through County, such as the Economic Impact of Tribal Development Study, was relied upon by SANDAG. As a result, a foundation was created for them then to join SANDAG. We chose to make it successful for everyone concerned.

Ms. Harvey commented that many people around the state are looking at SANDAG as an example. There has been legislation to do statewide what SANDAG is doing.

Chair McCoy suggested that more research be done by legislative staff at SANDAG regarding this issue and that it be forwarded to the Executive Committee at the appropriate time, as it is a very complicated issue.

Supervisor Cox inquired if there was a specific Bill at this point.

Ms. Harvey stated that the Bill introduction deadline is at the end of February. As the Bill being drafted at Legislative Council, it does not have a number yet. She informed the Committee that Assembly Member Alberto Torrico from San Jose is Chairman of the Committee that would hear the subject matter and introduce it. They have been working with the Speaker's Office on it as well.

Action: Upon a motion by Greg Cox (County of San Diego) and a second by Ben Hueso (City of San Diego), the Borders Committee voted unanimously to refer this item to the Executive Committee after more research is done by legislative staff at SANDAG.

7. UPCOMING MEETINGS

The next meeting of the Borders Committee is scheduled for Friday, February 23, 2007 at 12:30 p.m.

8. ADJOURNMENT

Chair McCoy adjourned the meeting at 1:57 p.m.

Attachment: Attendance Sheet

**CONFIRMED ATTENDANCE
BORDERS COMMITTEE MEETING
January 26, 2007
12:30 p.m. to 2:30 p.m.**

GEOGRAPHICAL AREA	JURISDICTION	NAME	MEMBER/ ALTERNATE	ATTENDING	
				Yes	No
South County	City of Imperial Beach	Patricia McCoy (Chair)	Member	✓	
	City of Coronado	Phil Monroe	Alternate	✓	
Imperial County	County of Imperial	Victor Carrillo (Vice Chair)	Member		
	City of Calexico	David Ouzan	Alternate		
North County Coastal	City of Oceanside	Jack Feller	Member	✓	
	City of Del Mar	Crystal Crawford	Alternate	✓	
North County Inland	City of San Marcos	Jim Desmond	Member		
	City of Escondido	Ed Gallo	Alternate	✓	
East County	City of La Mesa	David Allan	Member		
	City of El Cajon	Jillian Hanson-Cox	Alternate		
City of San Diego	----	Ben Hueso	Member	✓	
	----	Brian Maienschein	Alternate		
County of San Diego	----	Greg Cox	Member	✓	
	----	Pam Slater-Price	Alternate	✓	

**ADVISORY/LIAISON
MEMBERS**

COBRO	----	Dr. Paul Ganster	Member		
	----	Cindy Gompers-Graves	Alternate		
	—	Angelika Villagrana		✓	
County of Riverside	City of Lake Elsinore	Thomas Buckley	Member		
Republic of Mexico	Consul General of Mexico	Luis Cabrera C.	Member	✓	
	Deputy Consul	Ricardo Pineda		✓	
	Deputy Consul	Lydia Antonio			
Southern California Tribal Chairmen's Association	Mesa Grande	Mark Romero	Member	✓	
	Pauma	Christopher Devers	Alternate		
	Jamul	Lee Acebedo	Alternate	✓	
Caltrans	----	Pedro Orso-Delgado	Member	✓	
	----	Bill Figge	Alternate	✓	
San Diego County Water Authority	----	Howard Williams	Member	✓	
County of Orange	----	Debbie Cook	Member	✓	