

San Diego Association of Governments
BORDERS COMMITTEE

June 13, 2008

AGENDA ITEM NO.: **1**

Action Requested: APPROVE

**BORDERS COMMITTEE DISCUSSION AND ACTIONS
MEETING OF MAY 23, 2008**

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.

1. APPROVAL OF MEETING MINUTES

Action: Upon a motion by Supervisor Pam Slater-Price (County of San Diego) and a second by Councilmember Ed Gallo (North County Inland), the Borders Committee unanimously approved the minutes from the February 22, 2008, meeting.

2. PUBLIC COMMENTS/COMMUNICATIONS/MEMBER COMMENTS

There were no public comments/communications.

CONSENT ITEM (#3)

3. SANDAG'S ANNUAL BINATIONAL EVENT (INFORMATION)

Chair McCoy informed she would be unable to attend the full event and Deputy Mayor Crystal Crawford (North County Coastal) would act as event facilitator.

Action: This item was presented for information only.

CHAIR'S REPORT ITEM (#4)

4. SAN DIEGO-IMPERIAL COUNTY I-8 CORRIDOR STRATEGIC PLAN JOINT POLICY ADVISORY WORKING GROUP (APPROVE)

Chair McCoy briefed the Committee on the San Diego-Imperial County Joint Policy Advisory Group Charter which was approved by the Imperial Valley Association of Governments (IVAG) in April 2008. Chair McCoy then requested three volunteers and an alternate from the Committee to serve on the Joint Policy Advisory Group. Those volunteering their services were: Councilmember Dave Allan (East County), Councilmember John Minto (East County), and Chair McCoy. Supervisor Slater-Price recommended Supervisor Greg Cox (County of

San Diego) to serve as Alternate. Supervisor Cox's availability would be determined and later reported to the Chair.

Chairman Chris Devers (Pauma), representative of Southern California Tribal Chairmen's Association (SCTCA) inquired about the process in which tribes would be contacted and informed on the project.

Ron Saenz, Associate Planner (SANDAG), said SCTCA Chairman Robert Smith's advice was to attend the next SCTCA meeting to present a briefing on the study and ask for participation from interested tribal nations in the corridor.

Councilmember Gallo relayed his support of the I-8 Strategic Plan, saying it is proactive and not reactive.

Action: Upon a motion by Councilmember Minto, and a second by Councilmember Gallo, the Borders Committee unanimously approved the San Diego-Imperial County Interstate 8 (I-8) Corridor Strategic Plan Joint Policy Advisory Group Charter and appointed three members and one alternate to serve on the Joint Policy Advisory Group.

REPORT ITEMS (#5 through #11)

5. REVIEW OF SANDAG-SCTCA COLLABORATIVE PLANNING AGENDA SINCE 2006 TRIBAL SUMMIT (INFORMATION)

Chair McCoy briefed the Committee on efforts to strengthen the government-to-government framework with tribal governments. She highlighted discussions with the Reservation Transportation Authority (RTA) who received a grant from Caltrans to increase tribal involvement in the planning process. Through that dialogue the SCTCA emerged as the appropriate counterpart, as an intertribal council of tribal chairs. The SCTCA agreed to join the Borders Committee as an advisory member and together, the SCTCA and SANDAG co-hosted the 2006 San Diego Regional Tribal Summit.

SCTCA Chairman Robert Smith (Pala) said as a result of the Summit, tribal leaders and SANDAG leadership met and developed a mutually agreed upon formula for representation and signed an MOU in which the SCTCA joined the SANDAG Board and Policy Advisory Committees and formed a Technical Working Group on Tribal Transportation issues.

Councilmember Gallo asked if another tribal summit would be held in the near future.

Chair McCoy recommended planning another summit in order to assess the gains made and develop new strategic actions for collaboration.

Councilmember Phil Monroe (South County) commented on the progress that has been made.

Executive Director Gary Gallegos (SANDAG) asked Chair McCoy if she would like staff to bring back possible dates for the summit.

Chair McCoy responded affirmatively.

Councilmember Monroe suggested the summit include a tour of a reservation.

Action: This item was presented for information only.

6. PUBLIC LAW 280 AND THE NEW INTERTRIBAL COURT OF SOUTHERN CALIFORNIA (INFORMATION)

Chairman Smith introduced Dorothy Alther, Senior Staff Attorney with California Indian Legal Services. Ms. Alther explained Public Law 280 (P.L. 280) and its affects on tribes in California.

Chairman Smith introduced Chief Judge Brandenburg of the Intertribal Court of Southern California. Judge Brandenburg provided additional insight into the affects of P.L. 280; and a new initiative among tribes in San Diego - the Intertribal Court – and its relation to the State court system. He also described efforts by various tribes to provide peace and security to tribal members through the development of ordinances.

Supervisor Slater-Price asked which court is in charge of auto accidents which take place on tribal lands.

Judge Brandenburg said generally speaking, and depending on case specifics, if the accident took place on a highway going through tribal lands, the Sheriff would handle the case. However, there are cases which are handled only by the Intertribal Court; and, as a dual sovereignty; theoretically, there are cases in which both the tribe and the State could handle. He stated should a non-Indian commit an offense on the reservation, pursuant to the Indian Civil Rights Act, that person is subject to tribal prosecution.

Councilmember Monroe asked if civil jurisdiction, in the case of a divorce, pertained only to individuals on the reservation.

Ms. Alther responded it would depend if the tribe's code allowed them to avail themselves of the Intertribal Court.

Judge Brandenburg stated that many tribes are still developing their codes, so for the time being most still have to go the State.

Councilmember Monroe asked about the tribal government codes regarding fire protection.

Judge Brandenburg said some of the tribes have included fire protection in their environmental codes.

Councilmember Minto asked if there was equal due process and equal punishment or consequence in a tribal court.

Ms. Alther stated that the tribal court cannot exercise criminal jurisdiction over non-Indians. He affirmed that due process is written into every code. The court functions much like the State court, with the added benefit of having the ability to respect tribal customs and traditions.

Judge Brandenburg added that some tribes have de-criminalized certain offenses that would make a non-Indian subject to prosecution in Intertribal Court. The Intertribal Court has a different way of functioning than the State court. For example, as tribal communities are oral societies, statements made by tribal elders could be relevant to a case and would be considered. In State court that would be considered hearsay and inadmissible.

Councilmember Allan commented on the extraordinary efforts toward public safety.

Chair McCoy inquired about court costs.

Ms. Alther responded that it would depend on the particular tribal code.

Judge Brandenburg added that usually minimum fees are charged; it is up to the tribe to set the fees.

Councilmember Gallo asked about incarceration.

Judge Brandenburg said it would be up to the State to prosecute and conveyed the dilemma posed by P.L. 280 and the gap of lawlessness that it has created on the reservation.

Councilmember Gallo commented on the tribes' efforts to develop laws according to their different codes and needs.

Chairman Smith mentioned that the tribes hold quarterly meetings with District Attorney Bonnie Dumanis, other County prosecutors, and Sheriffs. Pala is hosting the next meeting in June. He also said invitations will be sent regarding the inauguration of Pala's state-of-the-art fire department and training facility, which cost the tribal government over \$9 million. It is hoped that this will be a valuable resource for the San Luis Rey Valley community.

Action: This item was presented for information only.

7. UPDATE ON TRIBAL TRANSPORTATION WORKING GROUP (INFORMATION)

Executive Deputy Director Diane Eidam (SANDAG), Co-Chair of the Tribal Transportation Working Group, presented an update on the Working Group's efforts which included: providing valuable technical guidance and feedback for the Tribal Transit Feasibility Study; receiving a grant in the amount of \$425,000 from the FTA Tribal Transit Program (5311c); development of a strategic plan; and, providing input on a business plan for the Tribal Transportation Management Association. The Working Group has also acted as a forum for discussing and resolving issues with public agencies.

Action: This item was presented for information only.

8. UPDATE ON TRIBAL ENERGY ISSUES (INFORMATION)

SCTCA representative Chairman Johnny Hernandez (Iipay Nation of Santa Ysabel) presented background information regarding tribal energy issues. He began by providing some background on tribal energy issues including: access, high cost of service; energy intense operations; electric demand growth; and alignment issues.

Chairman Devers continued with information regarding the Council of Energy Resource Tribes (CERT), and their efforts to develop a National Tribal Energy Vision; and, the Energy Policy Act of 2005, which included a tribal component called the "Indian Tribal Energy Development and Self-Determination Act of 2005". Chairman Devers sits on the CERT Executive Committee. One of the critical components of this Act is that tribes can now develop their own energy plans without getting approval from the Department of the Interior. They can also enter into cooperative agreements with other entities for energy production.

Chairman Hernandez said presently, San Diego tribes have been discussing renewable energy strategies and the possibility of developing a tribal energy cooperative. Tribes are performing their energy audits in order to assess each tribe's energy potential and determine the best strategy for each tribe. Each tribe has the potential to contribute greatly to the production of renewable energy. He strongly recommended incorporating tribal needs into the Regional Energy Strategy and offered to coordinate communication with the tribes. He added that, with respect to the Sunrise Powerlink that the SCTCA has taken a position and signed a resolution opposing the project. Tribal nations in the region would like to participate in finding alternative sustainable energy solutions for the region.

Chair McCoy agreed with Chairman Hernandez, stating they are ahead of everyone due to their in-basin generation of power. She suggested that this issue be discussed further.

Supervisor Slater-Price said she agreed also, along with Supervisor Jacob, and would welcome the opportunity to discuss alternative energy possibilities with them.

Action: This item was presented for information only.

9. IMPACT ANALYSIS OF TRIBAL GOVERNMENT GAMING IN THE CALIFORNIA ECONOMY (INFORMATION)

Chairman Devers briefed the Committee on a report prepared by the Center for California Native Nations at the University of California at Riverside. This study focused on the social and economic impacts of gaming in California. The study found that in communities in close proximity to gaming poverty levels were significantly reduced. As gaming is limited geographically to the reservation it has a strong impact on the surrounding economy in terms of traded goods and services. The Special Distribution Fund provides funding to local governments for various community programs such as public safety, fire protection, and programs for problem gambling. Gaming revenues were also being distributed to non-gaming tribes through the Revenue Sharing Trust Fund, providing funding for government programs including healthcare, education, housing, and social service. .

Councilmember Allan reported on the possible development of a resolution between tribes and the League of California Cities to allow a larger percentage of the revenues to remain locally.

Councilmember Stephanie Spencer (Rincon), SCTCA Alternate to the Public Safety Committee said the Rincon Fire Department has a budget of \$4 million for a community of 1,600. Three hundred are tribal members, and the remaining 1,300 are non-tribal people living on the Reservation who are not taxed for these services.

Chairman Hernandez pointed out employment as one of the most important contributions casinos bring to the region. Although some of the positions are not 'high value', they are stable. Unlike maquiladora plants that move when their bottom line is too low, tribal enterprises will be here forever.

Chairman Devers added it is estimated that gaming facilities provide close to 14,000 positions and there is a significant opportunity for advancement in the gaming facility organizational structure.

Councilmember Gallo commented on the charitable contributions and positive economic impact of tribal enterprises in the North County Transit District and businesses located within the City of Escondido.

Councilmember Allan mentioned a visit the California League of Cities made to the Chumash and reported on the positive economic impacts gaming had on the City of Santa Barbara.

Action: This item was presented for information only.

10. FIRESTORM UPDATE: LONG TERM RECOVERY PLAN FOR TRIBES IN SAN DIEGO (INFORMATION)

Teresa Gregor, Tribal Administrator (Iipay Nation of Santa Ysabel) and facilitator for the Intertribal Long-Term Recovery Foundation, reported on the impacts and long-term recovery efforts from the fires of October 2007 and subsequent flooding. She also informed the Committee that a new intertribal foundation has been created to pool tribal resources for long term recovery efforts. The Intertribal Long-Term Recovery Foundation will be developing plans for preparation and prevention of future disasters, as well as distributing funding to victims from 2007 Firestorm. The Foundation's goal is to function as a volunteer organization active in disasters. Thus far has developed a mission statement, established an executive board, increased communication with the regional community recovery team and non-tribal entities, and collaborated with the Red Cross and others to create protocols for Indian Country.

Action: This item was presented for information only.

11. UPDATE ON TRIBAL ISSUES IN HOMELAND SECURITY (INFORMATION)

Louis Guassac, Coordinator of the Kumeyaay Border Task Force (KBTF) explained the task force was originally formed to assist the Kumeyaay in Baja California. One of its activities has been the creation of a map to clarify the traditional boundaries of the Kumeyaay people. This map of the Aboriginal Territory of the Kumeyaay/Diegueno Nation was recognized by the SCTCA, BIA, Kumeyaay/Diegueno, National Congress of American Indians, and the State of California. Currently, the KBTF has been dealing with a new challenge to tribal sovereignty. As a result of 9/11, the Real Identification Act was passed in Congress. The Act will require States to have identification cards for all its citizens. This Act was passed without tribal consultation, violating Executive Order 13175 Tribes are now arguing that they should be allowed to have tribal identification cards rather than state-issued identification cards. In an effort to remedy the situation, an MOU is being developed which will ensure recognition of tribal government identifications by the Department of Homeland Security. Related to the recognition of the aboriginal territory of the Kumeyaay/Diegueno people, Mr. Guassac asked SANDAG to provide a letter of support recognizing the map that the KBTF has produced which indicates their aboriginal territory.

Chair McCoy asked if the item could be referred to the next Executive Committee meeting.

Mr. Gallegos said the next Executive Committee meeting is scheduled for June 13.

Mr. Guassac replied June 13 would be fine.

Chair McCoy commented she was sure there were no objections.

Regarding the issue of the Real Identification Act, Councilmember Monroe asked if it could be found within the legislative guidelines to just go do it.

Councilmember Crawford commented this is a serious issue as this Act has serious implication for our right to privacy. She reported Montana has indicated that they will not comply with the Real ID Act due to its impacts and the fact that the Montana IDs are more secure than the ones that DHS is requesting under the Act. She suggested learning more about the privacy impacts of the Real ID Act and investigating what our State's position is.

Chair McCoy stated the letter of support relates to the map and was not related to Councilmember Crawford's comments.

Regarding anything related to the Real Identification Act, Mr. Gallegos said it would be wise to get the Board's approval on the matter.

Councilmember Crawford said there should be a way to support the tribes' travel within their traditional territories without necessarily taking a position that conflicts with the State of California and urged care when writing the letter of support.

Mr. Gallegos added it would be necessary to educate the Board on exactly what it is that they're supporting and supply them with all the facts.

Mr. Guassac said the Kumeyaay Bands, along with the support of the SCTCA, are working to make sure that they are not left behind with regard to having their citizens' tribal identification cards recognized.

For clarification, Councilmember Crawford asked Mr. Guassac if he was asking for SANDAG's support in working with DHS to recognize the tribal ID program that's already in place with the understanding that the Kumeyaay tribal members are willing to comply with whatever requirements DHS might impose for the particular identification cards.

Mr. Guassac replied that he was only asking for the map of the Aboriginal Territory of the Kumeyaay/Diegueno Nation to be recognized by SANDAG.

Action: This item was presented for information only.

12. UPCOMING MEETINGS

The next meeting of the Borders Committee is the Joint Meeting with the Committee on Binational Regional Opportunities (COBRO), and the City of Tijuana, scheduled for Friday, June 13, 2008, at 1:00 p.m.

13. ADJOURNMENT

Chair McCoy adjourned the meeting at 2:32 p.m.

Attachment: Attendance Sheet

**CONFIRMED ATTENDANCE
BORDERS COMMITTEE MEETING
MAY 23, 2008
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	Member		✓
	City of Calexico	David Ouzan	Alternate		✓
North County Coastal	City of Del Mar	Crystal Crawford	Member	✓	
	City of Oceanside	Jack Feller	Alternate		✓
North County Inland	City of San Marcos	Jim Desmond	Member	✓	
	City of Escondido	Ed Gallo	Alternate	✓	
East County	City of Santee	John Minto	Member	✓	
	City of La Mesa	David Allan	Alternate	✓	
City of San Diego	----	Ben Hueso	Member	✓	
	----	Toni Atkins	Alternate		✓
	----	Tony Young	2 nd Alternate		✓
County of San Diego	----	Greg Cox (Vice Chair)	Member		✓
	----	Pam Slater-Price	Alternate	✓	

ADVISORY/ LIAISON MEMBERS

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

