



BOARD OF DIRECTORS
OCTOBER 22, 2004

AGENDA ITEM NO. 04-10-1
ACTION REQUESTED - APPROVE

BOARD OF DIRECTORS DISCUSSION AND ACTIONS

Meeting of September 24, 2004

Chairman Mickey Cafagna (Poway) called the meeting of the SANDAG Board of Directors to order at 9:07 a.m. The attendance sheet for the meeting is attached.

1. **APPROVAL OF MINUTES**

Action: Upon a motion by Mayor Dick Murphy (City of San Diego) and a second by Mayor Corky Smith (San Marcos), the SANDAG Board of Directors approved the minutes from the July 23, 2004, meeting.

2. **ADDITIONS AND DELETIONS**

None.

3. **PUBLIC COMMENTS/COMMUNICATIONS/MEMBERS COMMENTS**

Robert Hoffman, a member of the public, repeated the comments that he had provided at the Transportation Committee meeting on September 17 related to a recent trolley ride from La Mesa to downtown San Diego. He complained about the lack of leg room between seats, he said that the public address system announcements are not easily understood, the ride was bumpy in places along the line, a ticket vending machine face was difficult to read, and the line along Commercial Street could use some cleaning up. He asked about quality controls for the trolley system

Councilmember Jim Madaffer (City of San Diego) asked that someone respond to Mr. Hoffman's complaints. He stated that the Metropolitan Transit System (MTS) doesn't have authority to do anything with private properties on Commercial Street. *Gary Gallegos, Executive Director, responded that staff would work with the MTS to provide a response to Mr. Hoffman.*

Mayor Smith asked if the bumpy portion of the line is welded track. Chair Cafagna said that staff will find out and report back.

Leon Williams, MTS Board Chair, commented that Commercial Street is in the redevelopment area of the Southeast Economic Development Corporation. He urged the members of the San Diego City Council to focus efforts to revitalize that area.

Ron Boshun, a member of the public, didn't feel that the SANDAG Board has the right to place the *TransNet* measure on the ballot. He said that this was taxation without

representation because the SANDAG Board members are appointed by their city councils or the County Board of Supervisors. He also didn't think the public would have input into how the *TransNet* money will be spent. He thought that the *TransNet* revenue should be spent on local streets and freeways rather than for public transit.

Jack Limber, General Counsel, clarified that state law clearly allows SANDAG to put a sales tax measure before the voters.

Chuck Lungerhausen, a member of the public, said that the majority of the County Board of Supervisors want to build roads so that developers can have a free hand to build housing wherever possible. Supervisor Bill Horn wanted to build another north-south freeway, which does not fit into SANDAG's smart growth and transit concepts. He didn't feel that this represented the needs of their constituents.

CONSENT ITEMS (4 through 15)

Chair Cafagna noted that the following items were requested to be pulled from the Consent Agenda: Nos. 5, 12, 14, and 15.

15. *TransNet Extension* ENVIRONMENTAL MITIGATION PROGRAM IMPLEMENTATION GUIDELINES (APPROVE)

A series of meetings has been held over the last few months with representatives of the wildlife agencies and environmental organizations to further refine and define the components of the Environmental Mitigation Program (EMP) as contained in the adopted *TransNet Extension* Ordinance and Expenditure Plan and its attachments. Approval of this item would represent the concurrence of the Board in the set of implementation guidelines that have been developed through these meetings. The implementation guidelines would provide the basis for the required agreements with federal and state resource agencies that will need to be developed to implement the EMP consistent with passage of Proposition A in November.

Mr. Craig Scott, *TransNet* Project Manager, indicated that a revised agenda report and a letter from the County of San Diego were distributed to Board members. Staff have been working with environmental groups to further develop the EMP, specifically dealing with the issues of funding acceleration and the designation of the regional entity. The County's letter raised an issue with Guideline No. 5, regarding the regional entity, suggesting that it was in conflict with the ballot language. In response to the County's concerns, staff revised the recommendation to delete Guideline No. 5 as reflected in the revised agenda report.

Chair Cafagna wondered why this language was different than that included in the ballot language. *Mr. Scott responded that the TransNet Ordinance contains a principle that a regional entity would be designated, and staff had suggested that it be SANDAG. The revised staff recommendation would delete the language in Guideline No. 5, leaving the principle in the adopted Ordinance intact. He added that this issue can be dealt with following the November election.*

Supervisor Dianne Jacob (County of San Diego) asked why SANDAG staff would be moving forward a recommendation that is contrary to the wording in the ballot language. She asked if the County had been included in the discussions with other agencies on this matter since it has 70 percent of the Multiple Species Conservation Program (MSCP) area in the region. *Mr. Scott replied that the discussions have been with the Department of Fish and Game and other environmental groups to build a consensus on the TransNet measure.*

Chair Cafagna stated that the omission of the County from those discussions was inadvertent and as soon as it was brought to our attention, staff responded.

Supervisor Jacob stated that a letter from the Executive Director and the Vice Chair was sent to several people that indicated SANDAG as the regional entity. She felt that this was presumptuous and premature, and needed to be corrected.

Vice Chair Mary Sessom (Lemon Grove) stated that we were talking to environmental groups regarding their concerns about implementation of the EMP principles. These are guidelines seeking to determine what the environmental agencies were interested in with regard to support of the *TransNet* measure. The letter expresses the intent to present these implementation guidelines to the SANDAG Board at its September 24, 2004, meeting for concurrence. It was clear in the letter that these guidelines had not yet been considered by the SANDAG Board. If there are changes, a revised letter will be sent.

Action: Upon a motion by Mayor Murphy and a second by Mayor Pro Tem Ramona Finnila (Carlsbad), the SANDAG Board concurred with the guidelines, as outlined in the revised staff report, for implementing the Environmental Mitigation Program, to be used as the basis for the agreements with state and federal wildlife agencies that will be required to implement the EMP consistent with the passage of Proposition A. Yes – 19 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (%). Absent – None.

5. REGIONAL TRANSIT SERVICE PLANNING POLICY (ADOPT)

Under consolidation, SANDAG is responsible for regional transit service planning. The proposed revision to existing SANDAG Policy No. 018 would refine the process for transit service planning and clarify the roles and responsibilities of the transit agencies and SANDAG related to transit service planning in the region. The proposed policy revision has been recommended by the Transportation Committee for adoption by the SANDAG Board. The Joint Committee on Regional Transit (JCRT) has also endorsed the proposed policy.

Toni Bates, Division Director of Transportation Planning, reported that the Regional Transit Service Planning Policy is rooted in the Short-Range Transit Plan (SRTP) planning process whereby SANDAG identifies goals for transit services in the region consistent with the goals of the Regional Comprehensive Plan (RCP) and the Regional Transportation Plan (RTP). It also identifies deficiencies in the region and promotes services to close those gaps and eliminate the deficiencies. The next step is to collaboratively identify service revisions and changes to address those needs, and then to evaluate, prioritize, and forward them to the transit agencies for inclusion into the budget process. Depending on funding, the proposed service revisions and changes may or may not be implemented. The policy outlines the roles and responsibilities of each agency, which were developed at the management staff levels.

Public Comment:

Robert Hoffman, a member of the public, said that he noticed a newspaper ad for a Request for Qualifications (RFQ) for a study of the MTS bus lines. He attended a meeting on that issue and heard the discussion about what was expected of this study. He said that you can't solve the problems of the system if you continue using the same tools. The approach presented in this item is not well informed, and there is no grasp of the problem and what techniques need to be acquired. He said that we need an honest appraisal of what it is we expect from our transit system.

Mayor Joe Kellejian (Solana Beach) applauded the two transit agencies and the JCRT for the spirit of cooperation in the long process for developing this policy.

Action: Upon a motion by Mayor Kellejian and a second by Councilmember Madaffer, the SANDAG Board adopted the proposed revised SANDAG Policy No. 018, "Regional Transit Service Planning," establishing an improved annual process and agency responsibilities for transit service planning. Yes – 19 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (%). Absent – None.

12. SALES TAX AUDITS (APPROVE)

Approval of this item would authorize the Executive Director to enter into an agreement with MBIA MuniServices Company (MMC) for sales tax auditing services related to recovering misallocated and misreported *TransNet* sales tax revenues. Resolution No. 2005-05 would designate MMC as a consultant to SANDAG and would allow MMC access to the State Board of Equalization's records for the one-half percent *TransNet* sales tax revenues.

Supervisor Jacob thought this was a good idea, but she wanted to know how MMC will be paid, and why this service was not competitively bid. *Mr. Scott answered that the representatives from MMC came to us with this concept. They have worked on this specialized audit process for the past three to four years and have developed proprietary software dealing with tracking sales taxes for self-help counties such as us. Other firms do similar work for cities and counties. This is the only firm that does this type of service for special districts like SANDAG. We did ask other self-help counties that have contracted with MMC about their experiences. Those that have gone out to bid have only received one response bid. MMC works on a finder fee basis, receiving 30 percent of the additional revenues they find, and they only get paid if the agency receives additional revenues. The finder fee is on a sliding scale with a decreasing percentage as the revenue increases.*

Supervisor Jacob said that she was interested in the sliding scale percentage. *Mr. Scott responded that it is 30 percent for the first \$3 million, 25 percent for \$3-10 million, and 20 percent for over \$10 million. This is the same fee structure used in the other self-help counties for this type of audit work. Mr. Scott explained that TransNet, which is a transactions and use tax, requires special software and techniques to find any misallocation of funds. This is a more complex process than for general sales taxes going to cities and counties. MMC has developed the software to deal with the complications involved with special district taxes like the TransNet program.*

Chair Cafagna asked that staff report back to the Board with the names of companies that perform similar services for cities and counties.

Mayor Smith asked for an example of misallocated revenues. *Mr. Scott provided an example that illustrated the complexities that could result in the misallocation of revenues. The special software goes through the tax records to identify any misallocated funds.*

Councilmember Hal Ryan (Santee) said that he realized the proprietary nature of the software, but he would like to know if there are any other companies that have an interest in this project.

Motion Made

Councilmember Jerry Rindone (Chula Vista) moved that this item be trailed and that staff be directed to bring back the information requested at the next meeting. Councilmember Madaffer seconded the motion.

Substitute Motion

Councilmember Christy Guerin (Encinitas) said that she was satisfied with the explanation from staff, and offered a substitute motion to approve the staff recommendation, with the proviso that staff send a memo to Supervisor Jacob and other interested Board members providing the information requested. Mayor Kellejian seconded the substitute motion.

Action: Upon a motion by Councilmember Guerin and a second by Mayor Kellejian, the SANDAG Board authorized the Executive Director to execute a contract with MMC for sales tax auditing services, and approve Resolution No. 2005-05 authorizing the contractor to access the State Board of Equalization's tax records related to collection of the *TransNet* one-half percent transportation sales tax. Yes – 19 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (%). Absent – San Diego B.

14. FY 2003 MANAGEMENT LETTER AND FY 2005 BUDGET STAFFING AMENDMENT (APPROVE)

SANDAG's external auditors, Caporicci and Larson, Certified Public Accountants, have issued a Management Letter dated April 30, 2004, as a result of their audit of the basic financial statements for the year ended June 30, 2003. The audited basic financial statements were presented to the Board at its June 25, 2004 meeting. The Executive Committee recommends that the Board approve an amendment to the FY 2005 budget that adds a regular SANDAG staff position to the Finance Department. Salary savings of approximately \$70,000 from various staff vacancies will pay for this accounting position.

Supervisor Jacob noted that the management letter was critical of the accounting practices that have been used at SANDAG.

Marlene Kelleher, Finance Manager, indicated that the auditing firm provides the letter to SANDAG and staff provides our responses to it.

Supervisor Jacob expressed concern about a number of observations contained in the management letter. *Gary Gallegos, Executive Director, stated that the management letter recognizes that the old accounting system was outdated. We are in the process of implementing a new accounting system and responding to the management letter recommendations. Ms. Kelleher pointed out that the management letter was for the prior year audit.*

Supervisor Jacob suggested that the SANDAG Board adopt the management letter recommendations and direct staff to implement them.

Vice Chair Sessom reminded the Board that these matters go through the Executive Committee. It is the opportunity for the Executive Committee to look in greater detail at any items being presented to the Board. The Executive Committee felt there was sufficient information to make a recommendation to the Board to put this on the Consent Agenda. She invited all Board members to attend Executive Committee meetings.

Mayor Pro Tem Phil Monroe (Coronado) pointed out that the bottom of page 2 of the management letter indicates that the old accounting system was not adequate and that it was in the best interest to extend MTDB's financial system to SANDAG. During FY 2003, the audit was still relying on the old accounting system. The new system does provide a number of the financial reports being requested in the management letter. It appears that most all of the things being recommended are already being dealt with. He did not agree with the general statement that we should implement all of the recommendations of the auditors. All auditors' recommendations are not unilaterally worth implementing in our agency. The new accounting system will implement much of what we need.

Councilmember Crystal Crawford (Del Mar) wondered if the County was able to participate in the discussion of this item at the Executive Committee meeting. Supervisor Jacob replied that there was no County representation at that Executive Committee meeting.

Councilmember Crawford acknowledged that there was an extensive discussion of these matters at the Executive Committee meeting, and she remembered that the SANDAG Board had approved the purchase of a new accounting system as part of consolidation.

Chair Cafagna added that we had to continue with the old accounting system for that audit, even though we knew there were problems with it.

Councilmember Guerin said that the information on page 4 of the management letter indicates that staff has already completed some of the recommendations.

Supervisor Jacob stated that she wanted to ensure that all of the Board members read the whole report and to be aware of the auditors' observations. She asked how long it will take staff to completely implement the recommendations of the management letter. Renée Wasmund, Director of Finance, said that staff has implemented the new system and now have a number of tools available to resolve the other observations. She reviewed the various sections of the management letter and provided a status of their implementation. She noted that changes to the Government Accounting Standards have drastically changed the reporting model at all entities, and they were very complicated standards to implement. All of the changes will be completed in time for the next audit.

Councilmember Barry Jantz (La Mesa) said that it is assumed that the reason for the additional staff person is to assist in addressing the issues raised. Staff responded in the affirmative.

Councilmember Judy Ritter (Vista) added that the SANDAG Finance Department also took on the budgeting of MTS, which is an operations function. That was an additional challenge.

Mayor Kellejian clarified that the additional Finance Department position would be paid for by other staff vacancies and the reduction of overtime. That was part of his second to the motion.

Action: Upon a motion by Councilmember Guerin and a second by Mayor Kellejian, the SANDAG Board approved an amendment to the FY 2005 Overall Work Program (OWP) and Program Budget that adds a new regular SANDAG staff position to work in the Finance Department. Funds for this position will come from salary savings from various staff vacancies and reductions in overtime. Yes – 19 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (%). Absent – San Diego B.

CONSENT ITEMS (4 through 15)--CONTINUED

4. ACTIONS FROM POLICY ADVISORY COMMITTEES (APPROVE)

6. PROPOSED AMENDMENT TO CONFLICT OF INTEREST CODE (APPROVE FOR DISTRIBUTION)

Staff seeks approval from the Board for distribution of proposed amendments to SANDAG's Conflict of Interest Code. Approval will commence the public comment period required by the Political Reform Act (Government Code Sections 81000 et seq.). The proposed Amendment reflects necessary updates to the list of designated positions subject to filing annual economic disclosure statements and the financial disclosure categories applicable to such designated positions. After the public comment period has ended, this item will be brought back to the Board for final approval, and if requested, a public hearing.

7. PROPOSED SANDAG DISTRIBUTION OF AGENDA AND SUPPLEMENTAL MATERIALS (APPROVE)

The Board is requested to approve the recommendation by the Executive Committee to distribute Board and Policy Advisory Committee (PAC) agendas and supporting materials by e-mail. Hard copies will still be sent to members and alternates and will also be made available to interested attendees at the meetings.

8. FY 2005 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM GOALS (APPROVE)

Federal regulations require all recipients of funds from the U.S. Department of Transportation (DOT) to develop DBE programs with specific project goals. The draft program is pending approval by the Federal Transit Administration (FTA) and Caltrans (on behalf of the Federal Highway Administration) and, with SANDAG Board approval, will be distributed for public comment. The SANDAG FY 2005 DBE goals are representative of the consolidated agency, inclusive of certain functions from SANDAG, the Metropolitan Transit Development Board (MTDB), and the North San Diego County Transit Development Board (NCTD).

9. QUARTERLY PROGRESS REPORT ON TRANSPORTATION PROJECTS - APRIL-JUNE 2004 (INFORMATION)

This report summarizes the current status of major highway, transit, arterial, traffic management, and Transportation Demand Management (TDM) projects in SANDAG's five-year Regional Transportation Improvement Program (RTIP). The *TransNet* one-half percent local sales tax and other local, state, and federal sources fund these projects.

10. QUARTERLY INVESTMENT REPORT – PERIOD ENDED JUNE 30, 2004 (INFORMATION/POSSIBLE ACTION)

State law requires that the Board be provided a quarterly report of investments held by SANDAG, including funds of the San Diego County Regional Transportation Commission and SourcePoint.

11. UPDATED PUBLIC PARTICIPATION POLICY (APPROVE)

At its September 10, 2004, meeting, the Executive Committee recommended that the revised Public Participation Policy be approved for distribution for a 45-day public review and comment period. The revised policy will serve as an umbrella policy for all public participation activities related to comprehensive planning; development planning; design/build construction; transit service and fare changes; and Native American consultation. The final Public Participation Policy, including comments received and responses to the comments, will be available for the Board's consideration at its November 19, 2004, meeting.

13. LOCAL TECHNICAL ASSISTANCE (LTA) PROJECTS REQUIRING MORE THAN \$1,000 OR THREE DAYS' STAFF TIME (INFORMATION)

Local Technical Assistance (LTA) policy guidelines require that projects involving more than three days' staff time be reported to the Board of Directors. The projects covered in this month's report are transportation modeling and analysis for the City of Coronado and the County Departments of Planning and Land Use, and Public Works.

Action: Upon a motion by Mayor Kellejian and second by Mayor Smith, the SANDAG Board voted to approve Consent Item Nos. 4, 6, 7, 8, 9, 10, 11, and 13. Yes – 19 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (%). Absent – San Diego B.

CHAIR'S REPORTS

16. RECOGNITION OF PARTICIPANTS THAT CONTRIBUTED TO THE PREPARATION OF THE REGIONAL COMPREHENSIVE PLAN (RCP)

Chair Cafagna stated that the RCP was adopted by the SANDAG Board on July 23 2004, following two years of intense work by members of the Board, staff, and stakeholders. The stakeholders worked tirelessly to help us get the job done on schedule, including meeting at least once a month for an 18-month period, setting up special committees to work on specific topics or issues, providing insightful input, helping staff organize and attending the three rounds of public workshops, and helping staff present the information and answer the public's questions. Their volunteer commitment helped us be successful with our work.

Mayor Lori Pfeiler (Escondido) and Chair Cafagna presented Certificates of Appreciation to the Chair of the Technical Working Group, the Chair of the Stakeholders Working Group, all of the stakeholders, and representatives of the community-based organizations present: Hon. Patty Davis, Susan Carter Robert, Marla Hollander, Lynne Baker, Ramona Salisbury, Dutch Van Dierendonck, Mike Stepner, Janet Anderson, Mac McGee, and Niall Fritz for Gail Goldberg.

Mayor Pfeiler had placed puzzles at each Board member's place and noted that the RCP is like the puzzles; all of the pieces have to fit together for the whole thing to work.

REPORTS

17. HEARING OF NECESSITY: (A) PARTIAL ACQUISITION OF ASSESSOR PARCEL NUMBERS (APN) 316-180-14, 15, AND 16, OWNED BY LEGACY SABRE SPRINGS LLC, LOCATED IN THE CITY OF SAN DIEGO, AND FULL ACQUISITION OF APN 313-031-16, OWNED BY CARMEL MOUNTAIN RANCH, A CALIFORNIA GENERAL PARTNERSHIP, LOCATED IN THE CITY OF SAN DIEGO (APPROVE)

Mr. Limber reported that as SANDAG assumes its responsibilities under Senate Bill (SB) 1703, it now has the ability to acquire property through eminent domain. Sometimes condemnation is necessary to acquire property for a project. He explained the eminent domain process. He noted that almost all acquisition cases are settled before trial.

He said that we are beginning this process for two parcels. In one case, the property is in escrow and we are in negotiations for the other parcel. Caltrans is about to bid the unit of work for the access ramps for a Bus Rapid Transit (BRT) station on the Interstate 15 (I-15) Managed Lanes Project. These parcels are necessary for the development of that project. Caltrans needs to certify that all of the right-of-way necessary for the project has been acquired. We need a court order for property acquisition. This requires the adoption of a Resolution of Necessary by a two-thirds vote of the SANDAG Board under four criteria: the public interest and necessary require the project, the project is planned or located in a manner that will be the most compatible with the greatest public good and the least private injury, the interest in the property is necessary for the project, and that an offer of

just compensation has been made to the property owner. Mr. Limber noted that the value of the property is not an issue in this hearing. Negotiations on the property acquisition will continue until the time of trial.

Tim Allison, Project Manager for Right-of-Way, provided information about the project that would satisfy the four conditions for the Resolution of Necessity. He stated that Stage 1 of the BRT project is to construct three BRT stations and their access ramps. The property in question would provide property for direct access ramps for the Sabre Springs/Penasquitos Transit Station. He noted that all final environmental reports are complete for the site, it has been approved by MTDB, and the design was developed to minimize impacts to adjacent property owners. The fee acquisitions total 21,605 square feet, the temporary access easements total 26,393 square feet, and the temporary construction easements total 47,234 square feet. The second parcel is 1.5 acres of embankment along Ted Williams Parkway.

Mr. Allison stated that offers were made to the property owners and negotiations have begun. He reviewed the project schedule that requires the acquisition of the property. For the Carmel Mountain Ranch parcel, a settlement has been reached and the property is in escrow.

Mayor Pro Tem Monroe said that page 2 of a letter dated September 21, 2004, from George Sonnett, representing Legacy Sabre Springs LLC, indicates that SANDAG has not negotiated at all with them. *Mr. Limber stated his belief that the statement of the letter is that they have not received a specific written response to the points in the letter. Staff has been meeting and will provide a response to their concerns.*

Chair Cafagna opened the public hearing.

George Sonett, representing Legacy Sabre Springs LLC, stated that the visuals presented to the Board do not reflect the reality of what is on the ground today. The Legacy Sabre Springs project consists of two new office towers of nearly 300,000 square feet, of which 90 percent are occupied, and a parking structure with 500 spaces. We have graded ground for Phase 3 of that project. The primary objection to this resolution is that the impacts of this roadway have not been dealt with nor fully considered, and there have not been negotiations with his client. This roadway would take a construction easement along the entire back portion of the project from now until 2007, which is exactly the same time frame that Phase 3 of their project is planned to be built. There is no way, given the schedule, that we could build another office building and an 800-space parking structure at the same time as MTDB is occupying the space for what will be a very large construction easement. Significant coordination will be necessary among these two projects. He disagreed with the statement that access easements won't interfere with the operation of this office project. The north access easement is in the driveway that hundreds of people use every day. We have not received responses to the letters written months ago that were sent raising these issues. The precondemnation offer is deficient pursuant to state statutes as the appraisals are outdated, insufficient, and the offer fails to take into account the impacts for property take, easements, and severance damages. According to the Government Code, the compensating agency must make every reasonable effort to acquire the property before the Resolution of Necessity is

approved. A further objection is that the project plan does not meet the best project good.

Rich Simons, representing Legacy Partners, indicated that this process started a long time ago with MTDB. He said that they have talked with staff and it has been a reasonable session, but there has been no written response to their letters dated May 27 and July 6. The biggest issues are that the timing and cost will start escalating, there are costs to retain legal counsel, and damages to fight the construction easement. There are a lot of ways this can be solved. He said that they have no problem with the eventual property take, and they have redesigned the parking structure and the buildings to accommodate the take.

Mayor Pro Tem Finnila asked Mr. Sonnett when he had first been hired to intercede on behalf of his client. Mr. Sonnett replied that it was several weeks ago, though other people in his firm have been consulting with the client.

Mayor Pro Tem Finnila asked what the meetings with staff entailed. Mr. Simons said that they did not get a clear response on any of the issues. There have been meetings but no discussion of the issues involved.

Mayor Pro Tem Finnila asked for a response from staff to these statements. *Mr. Allison replied that staff met with Mr. Simons and others from his firm in April after the first offer letter was sent. There was a meeting on June 3 to discuss the May 27 letter, and there was a meeting on July 7 to discuss the July 6 letter. There was a further meeting on August 1 to substantiate the negotiating positions. Staff felt that we have been negotiating with the property owners.*

Mayor Smith wondered if a court makes the decision when a property owner's appraisal differs from the entity's appraisal. *Mr. Limber answered that it could be decided by the court; however, the vast majority of these types of cases is decided between the parties before trial. Staff will continue to negotiate with the parties until a trial date to try to bridge the gap. He introduced Karen Landers of Best Best & Krieger who acts as special counsel for us in condemnation actions.*

Karen Landers, Best Best and Krieger, clarified that the specific issues about value do not have anything to do with the right to take the property. Negotiations on those matters will continue throughout the process.

There being no other requests to speak, Chair Cafagna closed the public hearing.

Councilmember Crawford commented that it is obvious that people are going to be inconvenienced by this construction, and we are obligated to do this project in a manner that creates the least private injury. She encouraged all parties to work together on this to minimize the inconvenience to the people affected.

Action: Upon a motion by Mayor Smith and a second by Councilmember Ron Morrison (National City), the SANDAG Board: (1) closed the public Hearing of Necessity; (2) approved Resolution of Necessity No. 2005-06, by a two-thirds vote, pertaining to partial acquisition of APN 316-180-14, 15, and 16, and full acquisition of APN 313-031-16, owned by Carmel

Mountain Ranch, a California General Partnership, located in the City of San Diego; and (3) authorized staff to proceed with the condemnation proceedings necessary to acquire the full interest in the subject parcels. Yes – 19 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (%). Absent – City of San Diego B.

Chair Cafagna announced that this action has made history as it is the first Resolution of Necessity acted on since SANDAG acquired eminent domain powers as part of consolidation.

18. REGIONAL HOUSING NEEDS ALLOCATION (ACCEPT)

Mayor Pfeiler stated that this item specifically addresses our housing needs, which becomes more critical as housing prices skyrocket. Different types of housing are needed to meet our needs. The draft Regional Housing Needs Assessment (RHNA) numbers are the result of a year of discussion with local jurisdictions, housing advocates, and other stakeholders. Adopting these numbers is the first step in implementing the Regional Comprehensive Plan (RCP). The Regional Planning Committee (RPC) has forwarded these numbers to the Board. These numbers may not make everyone happy, but we need to move them forward for the 90-day review.

Chair Cafagna indicated that letters had been received from Catherine Rodman, with the Affordable Housing Advocates, and the Building Industry Association (BIA).

Susan Baldwin, Senior Planner, reported that the purpose of item is to ask the Board to adopt the RHNA for 2005-2010 for distribution for the next 90 days. State law requires local jurisdictions to update their housing elements every five years. SANDAG is responsible for the RHNA process, which determines the number of units for which regional and local jurisdictions need to plan. This process requires three steps: to determine the region's share of the state's housing need, allocate the regional share by jurisdiction, and allocate the regional share by income category. The RHNA review process resulted in recommendations made by the following four groups: the Regional Planning Committee, the Regional Planning Technical Working Group (TWG) (consisting of planning directors), the Regional Housing Task Force (RHTF) (including elected officials, housing advocates, and housing industry representatives), and the Regional Housing Needs Working Group (RHNWG) (consisting of members from the TWG, RHTF, and others).

Ms. Baldwin stated that the California Department of Housing and Community Development (HCD) developed an overall regional housing need number for 2003-2010 of between 107,000 and 111,000 units. The SANDAG growth forecast for the same time frame indicated that 89,000 units would be built. The difference is that our forecast is based on what we think will happen if current policies remain the same. The HCD numbers call for the region to plan for more housing of all types to obtain a healthier housing market and more housing choice. The recommendation for the allocation by jurisdiction is to use SANDAG's forecast to allocate 89,000 units of the 107,000, and then to allocate the 18,000-unit remainder based on each jurisdiction's share of the employment growth between 2000-2010.

Ms. Baldwin said that each jurisdiction's regional share number also must be allocated by four income categories: very low, low, moderate, and above moderate. For housing element purposes, density is typically used as a surrogate for income levels. In the San Diego region, 40 percent of the total regional housing need must be allocated to the

very low and low income categories. As required by state law, the allocation must seek to reduce the concentration of lower-income households in jurisdictions that have a higher share of lower-income households than the region. The RHNWG considered three alternatives for allocating the regional share numbers by income category. Alternative 1 applies the overall regional percentages for very low (23 percent), low (17 percent), moderate (19 percent), and above moderate (41 percent) income households to each jurisdiction's housing need number. Alternative 3 is derived by adding to or subtracting from the overall regional percentage the difference between a jurisdiction's existing share of lower-income households and the regional overall share. Alternative 2 is the midpoint between Alternatives 1 and 3. For the 1999-2004 cycle the SANDAG Board adopted Alternative 3 as the most equitable way to reduce the concentration of lower income households.

Ms. Baldwin stated that the groups involved in reviewing the RHNA numbers did not come to unanimous agreement, but a general consensus was reached. Most of those involved in this process believe that the numbers are equitable and strike a balance among the many issues raised during the process.

Ms. Baldwin stated that the RHNA identifies the region's housing needs for the next housing element cycle by jurisdiction and by income category. Each jurisdiction is to identify adequate sites for its share of the region's housing needs to provide opportunities for the construction of lower-income housing. Potential sites for lower-income housing include smart growth opportunity areas, older shopping centers and strip commercial areas, downtown redevelopment areas, and transit-oriented development sites. Tools for producing lower-income housing include density bonus projects, inclusionary housing ordinances, accessory units, local housing trust funds, acquisition/rehabilitation of rental units, and homebuyer assistance programs.

Ms. Baldwin also showed the household income limits in San Diego County for a household of four for the four categories: Very low, up to \$34,250; low, up to \$54,800; moderate, up to \$76,100; and above moderate, \$76,100 and above.

Mayor Mark Lewis (El Cajon) asked who would be enforcing these housing numbers.

Councilmember Morrison indicated that this is probably one of the most simplistic formulas for a complex issue. National City is the densest city in the County with over 1,000 affordable housing units and no open space. All of National City's affordable housing is related to redevelopment and higher structures. He noted that increases in taxes for this type of development goes to the redevelopment agency, not to the city. He added that the only way that National City will be able to look at building this number of housing units is related to the tie-in with transit. Without public transportation we can't even think about doing it. We are going to have to start making some regional sense and sharing, and to look at the housing situation realistically rather than parochially. He reminded Board members that these numbers will not meet the real need for housing in our region.

Chair Cafagna stated that at some point those communities that are built out will see a degradation of their quality of life and infrastructure issues if forced to continue to add more housing. The City of Poway has some major issues with the numbers associated with its area.

Public Comment:

Bob Emery, Councilmember, City of Poway, commented that in the North County area, there are 19,000 acres of habitat conservation land, and 13,000 of those are in the City of Poway. It is locked into a habitat conservation plan which places restrictions on land use. We have met our housing needs (696 out of 717— 96 percent) and are not ignoring our responsibilities. The number that has been determined for Poway is more than has been built in the last ten years. It just doesn't fit within the General Plan for Poway and causes a great deal of consternation. There are cities in this region that want to grow and want to build out at levels greater than Poway. He asked the Board to consider this. He said that it will be interesting how HCD will respond to the difference in numbers between it and SANDAG.

Chair Cafagna clarified that Poway has 13,000 out of 25,000 acres of habitat conservation plan land and the rest of North County has 19,000 acres.

Jim Bowersox, City Manager of Poway, stated that he was puzzled about how Poway will be able to meet the housing responsibilities. Only 650 houses have been built in Poway over the past five years. The amount of housing assigned for Poway for the next cycle is twice that amount. He added that Poway shouldn't be penalized for preserving open space.

Scott Molloy, representing the Building Industry Association (BIA), indicated that the BIA is comprised of 1,450 companies and has a workforce of 65,000. They are very concerned about the housing problem. He said that this process has not gone far enough to accommodate the existing gap in housing. There needs to be both an individual and a collective commitment to work together to address the housing gap before the next housing cycle. We need to ensure that economic growth for this area continues.

Lynne Baker, representing the Endangered Habitats League, pointed out that we can provide adequate housing, but it is where you put it and what you build that is important. She said that 59 percent of the need is for houses that cost less than \$300,000. She said that it would be difficult to find any single family homes in this price range today. She noted that the region's need for multifamily housing is 59 percent, not 40 percent. She said that the housing requirements are an unfunded mandate from the state. She also noted that it makes sense for the region to grow vertically, and that there is a fiscal advantage to redevelopment and growth in existing areas.

Board Comments:

Councilmember Madaffer thought that what is most important is that there is some common sense mixed in. We should provide housing that is affordable and place that housing where it makes the most sense. He thanked staff and the members of the working groups for working on this issue. He also thanked the County and City of San Diego staffs who worked together. The City agreed to increase its numbers

of very low and low housing units from the County and gave the County the same number of above moderate units. This agreement should serve as a guide and a model.

Chair Cafagna said that the idea is to get the housing built to satisfy the need. He wondered what will happen in Poway if a number is issued and it can't meet the need. He asked if we have served the community by adopting a number that is not realistic.

Councilmember Madaffer said that everyone needs to do their best and we need to work together within the region to meet our housing needs.

Supervisor Jacob agreed that this was an unfunded mandate from the state. The state chooses to impose certain standards on us locally that undermine our local control. The County is in the process of preparing the Environmental Impact Report (EIR) for the update of the County's General Plan 2020. These numbers are consistent even though our update will go far beyond 2010. There is still a real lack of understanding of the unincorporated area and the needs of that area. She said that two-thirds of the eastern portion of the County is on groundwater, and is groundwater dependent, which will restrict the amount of growth that can be placed into this portion of the County. The state doesn't understand that. She applauded the City of Poway for doing an excellent job of planning its housing. Each city should determine what is best for its jurisdiction. We shouldn't force a number of dwelling units on any area. We are also not given an opportunity to take the existing low-income housing into consideration.

Councilmember Jantz agreed that this is an unfunded state mandate. He also wondered how the numbers will be enforced. He mentioned that if La Mesa didn't have a parking lot along the trolley right-of-way that is being planned for development, there wouldn't be an opportunity for low income housing. Very little has been taken into account about what we have already done.

Mayor Smith indicated that San Marcos is in a similar situation as Poway. We have provided a lot of open space. One of their projects was 2,000 acres but 1,100 of those acres were required to be set aside as open space. If we are allowed to use some of the land that we have had to give up for open space, we could build more houses. San Marcos is also unhappy with the numbers. We approved a 200-unit low income housing project in one neighborhood and before we approved it, we looked at what was already there. There were already 780 low income housing units in that neighborhood. We should be able to count the existing low-income housing numbers.

Mayor Kellejian asked if the Board is presenting one income alternative or all three. Mayor Pfeiler clarified that we are forwarding Alternative 3.

Mayor Kellejian stated that Solana Beach has a transit project that will help meet its low income housing figure. He said that allocating the 130 units in Solana Beach into the four income categories will be a problem. He asked for staff to send him

the information related to Alternatives 1 and 2. *Ms. Baldwin agreed to provide all three income allocation alternatives.*

Councilmember Tom Golich, representing NCTD, stated that affordable housing units are being built in the Carmel Valley area; however, there is no public transportation serving that area. He said that we need to put public transit in areas where affordable housing is located.

Chair Cafagna agreed that affordable housing has to have corresponding public transit.

Councilmember Jack Feller (Oceanside) said that Oceanside already has a lot of affordable housing. He thought it was a shame not to be able to count any of the existing affordable housing toward meeting these numbers and that we should figure out a way to do that.

Mayor Pro Tem Finnila asked staff to explain why the San Diego region is able to self-certify our housing elements. *Ms. Baldwin explained that self-certification is a pilot program that allows jurisdictions in the San Diego region to self-certify their housing elements if they meet affordable housing production goals set for the region. If a jurisdiction self-certifies its housing element, it is not required to submit the element to HCD for review. Our housing self-certification program only runs through this current housing element cycle. If you met the goals during this cycle you will be able to self-certify your 2005-2010 housing element. Right now there is no legislation in place to allow self-certification for the next housing element for the 2010-2015 time frame. Ms. Baldwin commented on not being able to count existing low-income units. She said that the RHNA determines one, which is why existing units do not count for future housing needs. About 40 percent of the future population will be in the low-income range and that is what we should be planning for.*

Councilmember Morrison said that every jurisdiction in the region has had to take some undesirable things. Regionally less than 1 percent of housing units are Section 8; however, National City has 17.9 percent of Section 8 housing units. Our children need for us to address the housing issue with some realistic solutions, not with rhetoric. How we share that need is how we come together at this table.

Councilmember Rindone stated that low-cost housing is an oxymoron. SANDAG is a regional Board and all of us represent the community at large and the parochial views of the communities we come from. We are hearing a concern about trying to meet these goals. The number before us is about half of what we really need. This is a beginning of the process. We have to look at the bigger picture of where we are going and need to come back to the planning guide and look at the number one issue in the region, which is housing. These are goals to strive for. This is a regional issue, not just a state mandate.

Corky Smith clarified that the action on this item is to release the RHNA numbers for public review; the Board is not voting to approve the numbers.

Action: Upon a motion by Supervisor Jacob and a second by Mayor Smith, the SANDAG Board approved release of the draft RHNA for 2005-2010, for a 90-day public review period, as follows: (1) the region's share of the state's housing need (regional share) for the 2005-2010 housing element cycle should be 107,000 units; (2) the allocation by jurisdiction should be based on the methodology that uses SANDAG's 2030 forecast to allocate the 88,922 units forecast for the 2003-2010 time period, and allocates the 18,078 units remaining based on each jurisdiction's projected share of the region's 2000-2010 employment growth with two modifications described in the report; and (3) the allocation by income category should be based on the methodology that seeks to reduce the concentration of lower income households to the greatest degree (Alternative 3). Final action on the RHNA is scheduled for the January 28, 2005, SANDAG Board meeting. Yes – 19 (weighted vote, 100%). No – 0 (weighted vote, 0%). Abstain – 0 (%). Absent – City of San Diego B.

19. LOCAL PROJECT SAFE NEIGHBORHOODS PROGRAM (INFORMATION)

Mayor Sessom provided introductory remarks in place of Councilmember Guerin, Vice Chair of the Public Safety Committee, who had to leave. Mayor Sessom reported that in the United States, guns are involved in over 300,000 violent crimes annually and a teenager is more likely to die from a gunshot than from all other natural causes of death combined. President George Bush and Attorney General John Ashcroft announced Project Safe Neighborhood (PSN) in 2001 as a comprehensive, strategic approach to reducing gun violence in our nation. Mayor Sessom thanked Dr. Cindy Burke for all of the work she has done on this program.

Dr. Burke stated that SANDAG received a federal grant in 2003 to provide an approach to reduce gun violence in our nation. Strategies include aggressive enforcement of gun laws, an outreach program, and handgun violence prevention curriculum. SANDAG's Criminal Justice Division was selected as the media outreach partner in October 2003 after completing a competitive selection process. The objective was to create a message that would be informative and effective. We looked at crime statistics for 2002, and found that one in three juveniles had been threatened with a gun, most had prior history and gang involvement related to having a gun, protection was most often cited as the reason for having a gun, and family pressure was most often cited as the reason for not getting a gun. SANDAG staff conducted focus groups with youth and held interviews at juvenile hall. They also held supplemental focus groups with youth to see if they thought the messages would be effective. Area maps were shown representing 2002 arrest data. Three messages/images approved by the Office of Justice programs were shown.

Ms. Burke stated that the fall pilot program will be kicked off in the next several weeks at the following middle schools: Lincoln Middle School (Oceanside), Gompers Secondary School (San Diego), Horace Mann Middle School (San Diego), Palm Middle School (Lemon Grove), and Chula Vista Middle School. Message dissemination includes the kick-off event, signs placed at transit shelters and on billboards, posters, and book covers; and public service announcements. The next steps are to complete the initial message dissemination, monitor the effectiveness of the message, modify the message as necessary, and to expand the message distribution.

Action: This item was presented for information only.

20. UPCOMING MEETINGS

The next regular Board of Directors business meeting is scheduled for Friday, October 22, 2004.

21. ADJOURNMENT

The meeting was adjourned at 11:58 p.m.

GARY L. GALLEGOS
Secretary

**ATTENDANCE
SANDAG BOARD OF DIRECTORS' MEETING
SEPTEMBER 24, 2004**

JURISDICTION/ ORGANIZATION	NAME	ATTENDING	COMMENTS
City of Carlsbad	Ramona Finnilla (Member)	Yes	
City of Chula Vista	Jerry Rindone (Alternate)	Yes	
City of Coronado	Phil Monroe (Member)	Yes	
City of Del Mar	Crystal Crawford (Member)	Yes	
City of El Cajon	Mark Lewis (Member)	Yes	
City of Encinitas	Christy Guerin (Member)	Yes	
City of Escondido	Lori Holt Pfeiler (Member)	Yes	
City of Imperial Beach	Mayda Winter (Alternate)	Yes	
City of La Mesa	Barry Jantz (Member)	Yes	
City of Lemon Grove	Mary Sessom, Vice Chair (Member)	Yes	
City of National City	Ron Morrison (Member)	Yes	
City of Oceanside	Jack Feller (Member)	Yes	
City of Poway	Mickey Cafagna, Chair (Member)	Yes	
City of San Diego – A	Dick Murphy (Member)	Yes	
City of San Diego - B	Jim Madaffer (Member)	Yes	
City of San Marcos	Corky Smith (Member)	Yes	
City of Santee	Hal Ryan (Member)	Yes	
City of Solana Beach	Joe Kellejian (Member)	Yes	
City of Vista	Judy Ritter (Alternate)	Yes	
County of San Diego	Diane Jacob (Member)	Yes	
ADVISORY MEMBERS LISTED BELOW (ATTENDANCE NOT COUNTED FOR QUORUM PURPOSES)			
Caltrans	Pedro Orso-Delgado (Alternate)	Yes	
MTDB	Leon Williams (Member)	Yes	
NCTD	Tom Golich (1st Alternate)	Yes	
Imperial County	Victor Carrillo (Member)	No	
US Dept. of Defense	CAPT Daniel King (Member)	Yes	
SD Unified Port District	Jess Van Deventer (Member)	No	
SD County Water Authority	Bud Lewis (Alternate)	Yes	
Baja California/Mexico	Javier de Leon (Alternate)	Yes	