



AGENDA

VCTC and VCOG Administrative Committees

**Thursday, October 6, 2011
4:00 PM**

**Camarillo Police Station
3701 East Las Posas Road
Camarillo, CA 93010**

In compliance with the Americans with Disabilities Act and Government Code Section 54954.2, if special assistance is needed to participate in this meeting, please contact the Clerk of the Board at (805) 642-1591 ext 101. Notification of at least 48 hours prior to meeting time will assist staff in assuring that reasonable arrangements can be made to provide accessibility at the meeting.

1. CALL TO ORDER

2. PUBLIC COMMENTS

3. VCTC/VCOG ORGANIZATION NEXT STEPS

Recommended Action:

Review legal and policy alternatives for restructuring/merging of VCTC and VCOG and consider recommendations for forwarding to full governing boards.

4. ADJOURN



MEMORANDUM

Date: October 6, 2011

To: Administrative Committee Members of VCTC and VCOG

From: Darren M. Kettle, Executive Director

Subject: VCTC/VCOG Organization Next Steps

RECOMMENDATION:

Review legal and policy alternatives for restructuring/merging of VCTC and VCOG and consider recommendations for forwarding to full governing boards.

DISCUSSION:

In the Fall 2009, the Ventura Council of Governments (VCOG) Board of Directors approved a management and administrative services agreement with the Ventura County Transportation Commission (VCTC) through which the Executive Director of VCTC would serve as the Executive Director of VCOG and as necessary utilize VCTC staff to perform VCOG related duties. Besides the Executive Director, VCTC staff performing VCOG responsibilities include the Clerk of the Board, Director of Planning and Technology, Director of Programming (who convenes the member staff Legislative Committee) and Finance Director. Since the agreement was approved by both Boards, the two entities have continued as separate public entities but have enjoyed several shared successes and have benefitted from the knowledge of a single staff most notably the completion of Phase II of the Compact for a Sustainable Ventura County in cooperation with Ventura County Civic Alliance, and a joint meeting between VCOG and VCTC to provide input in to the Southern California Association of Governments (SCAG) SB 375 Sustainable Communities Strategy. VCOG has continued to perform in its role as a forum to discuss more discretionary regional issues that are non-transportation or planning related such as holding a forum to discuss the impacts on local communities of the State's expanded release of inmates, discussions on real estate fraud, and the required every 5 year review of the County Integrated Waste Management Plan.

In November 2010, at the request of the Executive Director, the VCOG Board performed a performance review of the Executive Director and staff. The consensus of the Board was that the staff was performing well in its service to VCOG. The VCOG Board did go beyond the discussion of a classic review, however, and requested that the Executive Director come back with a vision or future for VCOG and its arrangement with VCTC vis-a-vis' regional issues and planning. In response to that request, and recognizing that VCOG is a voluntary joint powers authority consisting of its eleven members (10 cities,

each with one elected member-appointee, and the County, with one elected member-appointee), staff suggested that it might be best to meet with the city managers of the county and the county executive officer to work toward a consensus vision that could be presented to the VCOG Board and potentially a recommendation to VCTC.

In the conversations with the city managers and county executive officer several common themes arose. Many of the managers recognized that with the challenging financial times, an increased focus on developing regional solutions to regional challenges and the value and importance of public outreach and engagement, now is probably the best time to seriously discuss a single entity in the interest of good government and good integrated planning. For the purpose of public/elected officials there would be less confusion as to which entity was responsible for what work and, should the public become more engaged in regional issues, a single regional planning entity reduces confusion in the public participation process. It was recognized that a single entity made sense from a government efficiencies perspective although much of that has been realized through the existing management agreement.

It seemed as though there was general consensus that the timing may now be right to move in the direction described above, though there were some issues raised that could present challenges to merging the two entities. The size and make-up of the two governing boards are different. VCTC has a 17 member board (10 city members, 5 County Supervisors, and two citizen appointees) established by State law while VCOG has an 11 member board (10 city members and 1 County Supervisor) with alternates as defined in a joint powers agreement. In an effort to start the discussion and recognizing the VCTC membership is set in state law and is fully representative, staff suggested that what might make the most sense would be for VCTC absorb the VCOG duties.

In May of this year both the Commission and the VCOG Board of Directors voted unanimously to move forward with the merging or restructuring the two bodies to become one with VCTC serving as the VCOG Board, and directed staff and legal counsel to develop the necessary legal instruments to implement the change. The initial concept drafted by legal counsel was a simple designation process that would have required independent actions by each city and the county approving a resolution modeled after the current VCOG Joint Powers Agreement designating VCTC to act as VCOG as appropriate and necessary. Concurrently, the Commission was to be asked to approve a similarly structured resolution accepting the designation to act in the capacity of VCOG upon 2/3rd (or 8) local jurisdictions approving the local resolution.

Over the course of the summer both staff and legal counsel from several cities have reviewed the documents from both a legal and governance perspective. As part of that review, a legal issue was identified that negates the approach of each local jurisdiction adopting a resolution designating VCTC to serve in the capacity of VCOG and maintain VCOG as a legal and separate public entity. This latest development was reported to both the VCOG Board of Directors and the Commission at their September 2011 governing board meetings. Given the unanimous action of both governing boards to proceed with the merger/restructuring of VCTC and VCOG the Executive Director requested that the Chairs of the two boards call a joint meeting of the Administrative Committees of VCTC and VCOG to discuss how to proceed.

Assuming that it continues to be desirable to move in the direction of the merger/restructuring the following alternatives should be considered.

1. Amend existing VCOG Joint Powers Agreement (JPA) to conform with governance structure of VCTC. This alternative is the simplest administratively as it would require minor changes to in two paragraphs of the existing JPA. In order for the governing board membership of VCOG to

be consistent with that of VCTC, the changes would include eliminating alternates for cities and the county **and** including the five members of the county Board of Supervisors along with the 2 public members. With this alternative the two VCTC citizen members would not be eligible to vote on VCOG specific items. An amendment to the JPA requires the consent of all members.

2. Draft new Joint Powers Agreement to create a “new” VCOG with a governance structure consistent with VCTC. Assuming that there is no need to make any other substantive changes to the existing JPA, this alternative would be necessary only if one or more of the parties to the existing JPA opts to not approve an amendment.
3. Have VCOG contract with VCTC to manage and carry out VCOG duties on its behalf. In effect, VCOG would take a single action to “contract” with VCTC and delegate voting on VCOG items to the members of the Commission. In this scenario, the two VCTC citizen members would be entitled to vote on VCOG items. Also, this approach would permit all city and county members of the Commission regardless of whether the local jurisdiction endorsed the concept and/or continued to pay annual VCOG dues.
4. Proceed with “designation by resolution” approach, effectively, “shelving” the VCOG Joint Powers Authority as an active legal entity and requiring VCTC to accept the potential legal risks for conducting programs beyond those already in statute or permitted under existing law.

As part of ongoing dialogue with city managers and the county executive officer, other alternatives may be developed beyond those identified above and could be presented to the joint meeting of the Administrative Committees.

For reference the current VCOG JPA is attached and the Public Utilities Code Section that sets the membership of VCTC is below.

Public Utilities Code Section 130054.1. The Ventura County Transportation Commission shall consist of the following members:

- (a) Five members of the Ventura County Board of Supervisors.
- (b) One member from each incorporated city within Ventura County who shall be the mayor of the city or a member of its city council. The term of a member under this subdivision terminates when he or she ceases to hold that office or when replaced by the city council.
- (c) One citizen member appointed by the Ventura County Board of Supervisors, who shall not be an elected official, but who shall be a resident of Ventura County.
- (d) One citizen member appointed by the Ventura County City Selection Committee, who shall not be an elected official, but who shall be a resident of Ventura County.
- (e) One nonvoting member appointed by the Governor.

Attachment
VCOG Joint Powers Agreement

VENTURA COUNCIL OF GOVERNMENTS
A JOINT POWERS AUTHORITY

AGREEMENT

VENTURA COUNCIL OF GOVERNMENTS JOINT POWERS AUTHORITY

Pursuant to Section 6500, *et seq.*, of the Government Code and other applicable law, this Ventura Council of Governments Joint Powers Authority Agreement ("Agreement") is made and entered into by and between the following public entities (collectively "Entities"): County of Ventura, City of Camarillo, City of Fillmore, City of Moorpark, City of Ojai, City of Oxnard, City of Port Hueneme, City of San Buenaventura, City of Santa Paula, City of Simi Valley, and City of Thousand Oaks.

WITNESSETH

The Entities hereto do agree as follows:

Section 1. Recitals. This Agreement is made and entered into with respect to the following facts:

- a. That there is a need for area wide planning and coordination between the Entities whose collective jurisdiction is in, the County of Ventura ("County"); and
- b. That the public interest requires that long range planning, development and redevelopment within the political boundaries of the Entities must necessarily be coordinated, which can be accomplished only by means of a joint powers agency involving the active participation of the Entities; and
- c. That each of the Entities, by and through its legislative body, has determined that a regional organization to accomplish such planning and related activities is required in furtherance of the public interest, necessity and convenience; and
- d. That the legislative body of each of the Entities has independently determined that the public interest, convenience and necessity require the execution of this Agreement by and on behalf of the said Entities.
- e. Except as provided by Section 2 of this Agreement, this Agreement supersedes the agreement previously entered into by the Entities which was effective December 1, 1992, and the First Amendment to said agreement effective January 15, 1997.

Section 2. Separate Legal Entity. The Entity created by the Agreement dated December 1, 1992 (referenced in Section 1.e above) is a separate legal entity within the meaning of Section 6503.5 of the Government Code ("Agency"). This Agreement reaffirms that the Agency is a separate legal entity.

Section 3. Name. The name of the Agency shall be the Ventura Council of Governments.

Section 4. Purpose of Agency. The purpose of the creation of the Agency is to provide a vehicle for the Entities and other interested persons, public and private entities and organizations to engage in regional, cooperative and comprehensive planning to assist the Entities in the conduct of their affairs as public entities. In addition, the Agency will provide a regional organization for the review of federal and state projects which involve the use of federal and/or state funds, in various forms.

Section 5. Creation of Governing Body. There is hereby created a Governing Body for the Agency ("Governing Body") to conduct the affairs of the Agency. The Governing Body shall be constituted as follows:

- a. City Entities. Designation of Regular City Members and Alternate City Members of Governing Body. One person shall be designated as a member of the Governing Body ("Regular City Member") and one person designated as an alternate member of the Governing Body ("Alternate City Member") by the legislative body of each of the Entities, except the County; and
- b. County. Designation of Regular County Member and Alternate County Member of Governing Body. One person shall be designated as a member of the Governing Body ("Regular County Member") and one person designated as an alternate member of the Governing Body ("Alternate County Member") by the legislative body of the County; and
- c. Eligibility. No person shall be eligible to serve as a Regular City Member, an Alternate City Member, a Regular County Member or an Alternate County Member unless that person is, at all times during the tenure of that person as a member of the Governing Body, an appointed or elected member of the legislative body of one of the appointing Entities. Should any person serving on the Governing Body fail to maintain the status as required by this Section 5, that person's position on the Governing Body shall be deemed vacated as of the date such person ceases to qualify pursuant to the provisions of this Section 5.

Section 6. Common Powers. The Agency shall have and exercise the following powers:

- a. Serve as a forum for the review, consideration, study, development and recommendation of public policies and plans with County-wide and regional significance; and
- b. Assemble information helpful in the consideration of problems peculiar to the Entities; and
- c. Explore practical avenues for intergovernmental cooperation, coordination and action in the interest of local public welfare and means of improvement in the administration of governmental services.

Section 7. Use of Public Funds and Property. The Agency shall be empowered to utilize for its purposes, public and/or private funds, property and other resources received from the Entities and/or from other sources. Subject to the approval of the Governing Body, the Entities shall participate in the funding of the Agency in such a manner as the Governing Body shall prescribe, subject to the provisions of Section 23 of this Agreement. Where applicable, the Governing Body of the Agency may permit one or more of the Entities to provide in kind services, including the use of property, in lieu of devoting cash to the funding of the Agency's activities.

Section 8. Governing Body. Functions.

a. Voting. Members of the Governing Body shall be entitled to cast a vote on matters pending before the Governing Body only if such person is physically present at the meeting of the Governing Body.

b. Participation of Alternates. An Alternate Member may participate in the proceedings of the Governing Body only in the absence of the Entity's Regular Member.

c. Quorum. A quorum of the Governing Body shall consist of not less than fifty percent plus one of its total voting membership.

d. Committees. As needed, the Governing Body may create permanent or ad hoc advisory committees to give advice to the Governing Body on such matters as may be referred to such committee by the Governing Body. Such a committee shall remain in existence until dissolved by the Governing Body. Qualified persons shall be appointed to such committees by the Chair of the Governing Body subject to ratification of the appointment by the Governing Body and each such appointee shall serve at the pleasure of the Governing Body. Subsequent to the approval of the original agreement dated December 1, 1992 (referenced in Section 1.e of this Agreement), the Governing Body created a permanent committee known as the Administrative Committee. The Administrative Committee shall set its own meeting schedule and shall advise the Governing Body on matters within the subject matter jurisdiction of the Agency. The Chair of the Governing Body shall serve as the Chair of the Administrative Committee.

e. Actions. Actions taken by the Governing Body shall be by not less than a majority vote of the total voting membership of the Governing Body unless by a provision of this Agreement, the Bylaws or applicable law a higher number of votes is required to carry a particular motion.

Section 9. Duties of the Governing Body. The Governing Body shall be deemed, for all purposes, the policy making body of the Agency. All of the powers of the Agency, except as may be expressly delegated to others pursuant to the provisions of this Agreement, the Governing Body's Bylaws or orders of the Governing Body or by specific action of the Governing Body, shall be exercised by and through the Governing Body.

Section 10. Roberts Rules of Order. The substance of Roberts Rules of Order shall apply to proceedings of the Governing Body, except as may otherwise be provided in this Agreement, the Bylaws or orders of the Governing Body or applicable law.

Section 11. Meetings of the Governing Body. The Governing Body shall by means of the adoption of Bylaws establish the dates and times of regular meetings of the Governing Body. Regular meetings shall be held not less than four times during each calendar year during the term of this Agreement. The location of each such meeting shall be as directed by the Governing Body.

Section 12. Election of Chair and Chair-Elect.

a. The Chair-Elect holding office as of the last regular meeting of the Governing Body for the calendar year shall be deemed elected to the position of Chair of the Governing Body and shall serve as Chair for a term of one year commencing January 1 of the succeeding calendar year. The Chair-Elect shall be elected at the last regular meeting of the Governing Body for the calendar year and shall serve as Chair-Elect for a term of one year commencing January 1 of the succeeding calendar year. Only members of the Governing Body are eligible to hold the positions of Chair and Chair-Elect. The Governing Body, by majority vote, may change the date for the election of the Chair-Elect and any such change shall only be applicable to the election specified by the Governing Body.

b. If there is a vacancy for any reason in the position of Chair or Chair-Elect, the Governing Body shall forthwith conduct an election and fill such vacancy for the unexpired term of such prior incumbent.

c. The Chair shall be the chairperson of the Governing Body and shall conduct all meetings of the Governing Body and perform such other duties and functions as required of such person by this Agreement, the Bylaws or the Governing Body. The Chair-Elect shall serve as Chair in the absence of the Chair and shall perform such duties as may be required by this Agreement, by the Chair, the Governing Body and the Bylaws.

Section 13. Designation of Treasurer and Auditor. The Governing Body shall designate a qualified person to act as the Treasurer for the Agency and a qualified person to act as the Auditor of the Agency. If the Governing Body so designates, a qualified person may hold both the office of Treasurer and the office of Auditor of the

Agency. The compensation, if any, of a person or persons holding the offices of Treasurer and/or Auditor shall be as set by the Governing Body of the Agency.

Section 14. Agency Treasurer. The person holding the position of Treasurer of the Agency shall have charge of the depositing and custody of all funds held by the Agency. The Treasurer shall perform such other duties as may be imposed by applicable law, including those duties described in Section 6505.5 of the Government Code, and such duties as may be required by the Governing Body. The Agency's Auditor shall perform such functions as may be required by this Agreement, the Bylaws and direction of the Governing Body.

Section 15. Designation of Other Officers and Employees. The Governing Body may employ such other officers or employees or independent contractors as appropriate and necessary to conduct the affairs of the Agency. The Governing Body shall appoint a qualified person who is not a member of the Governing Body, to serve in the position of Executive Director of the Agency. The Executive Director shall perform such duties as may be imposed upon that person by this Agreement, the Bylaws, other applicable law, or express direction of the Governing Body.

Section 16. Obligations of Agency. The debts, liabilities and obligations of the Agency shall not be the debts, liabilities or obligations of any of the Entities. No member of the Agency shall be responsible, directly or indirectly, for any obligation, debt or liability of the Agency, whatsoever.

Section 17. Agency Powers. Exercise of. The Agency shall have all of the express powers set forth in Section 6500, *et seq.*, of the Government Code, and other applicable laws and this Agreement. The Agency shall, in addition, have all implied powers necessary to perform its functions. The Agency shall exercise its powers only in a manner consistent with the provisions of this Agreement, the Bylaws and applicable law.

Section 18. Control and Investment of Agency Funds. The Governing Body shall adopt a policy for the control and investment of its funds and shall require strict compliance with such policy. The policy shall comply, in all respects, with all provisions of applicable law.

Section 19. Term. The Agency created pursuant to this Agreement shall continue in existence until such time as this Agreement is terminated. This Agreement may not be terminated except by an affirmative vote of not less than two-thirds (2/3) of the total voting membership of the Governing Body.

Section 20. Application of Laws to Agency Functions. The Agency shall comply with all applicable laws in the conduct of its affairs, including, but not limited to, the Ralph M. Brown Act (Section 54950, *et seq.*, of the Government Code).

Section 21. Members of Agency.

a. Withdrawal. A member may withdraw from this Agency by filing its written notice of withdrawal with the Chair of the Governing Board, not less than 60 days before the end of any fiscal year occurring during the term of this Agreement. Such a withdrawal shall be effective at 12:00 o'clock a.m. on the last day of the fiscal year during which the timely notice of withdrawal was given. The withdrawal of a Member shall not, in any way discharge, impair or modify the obligations of the withdrawing Member, in existence as of the effective date of its withdrawal. Withdrawal of a Member shall not affect the remaining Members. A withdrawing Member shall not be entitled to the return of any funds or other assets belonging to the Agency, until the effective date of termination of this Agreement.

b. New Members. New Members may be admitted to the Agency upon an affirmative vote of not less than two-thirds (2/3) of the total voting members of the Governing Body, provided that such a proposed new member is a public entity whose jurisdiction lies within, and/or immediately adjacent to, the boundaries of the County. Admission to membership shall be subject to such terms and conditions as the Governing Body as may deem appropriate.

c. Alternate Method of Withdrawal. Notwithstanding any other provision of this Agreement to the contrary, any member may withdraw from this Agency at any time provided that not less than two-thirds (2/3) of the members who are then parties to this Agreement, approve such withdrawal. No such withdrawal shall be effective unless and until the proposed withdrawing member has met all of its financial obligations pursuant to this Agreement. The effective date of the withdrawal shall be the date that all of resolutions duly adopted by the legislative bodies of each member approving such withdrawal, are filed with the Executive Director of the Agency.

Section 22. Interference With Function of Members. The Governing Body shall not take any action which constitutes an interference with the exercise of lawful powers by a member of the Agency.

Section 23. Budget. The Governing Body shall adopt an annual budget for the Agency for the fiscal year commencing July 1 of each year. The budget shall be adopted, and dues shall be approved, at the last regular meeting of the Governing Body prior to June 30 of each year or at the first meeting, regular or special, of the Governing Body after June 30.

Section 24. Dues of Members. The members of the Agency shall be responsible for the payment to the Agency, annually, of dues in the amounts periodically budgeted by the Governing Body, as and for the operating costs of the Agency ("Dues") as follows:

a. Three-fourths (3/4) of all Dues shall be borne by the Entities in proportion to their respective populations. The population figures shall be those population figures set forth in the most recent Population and Housing Estimate prepared by Department of Finance of the State of California ("Estimate") as of January 1 of each year.

b. The remaining one-fourth (1/4) of such Dues shall be borne equally by the Entities

c. The total amount of Dues imposed in any fiscal year, shall not exceed \$200,000.00, unless approved by not less than a majority weighted vote by Members of the Governing Body. "Weighted vote", as used in this subsection, c., of Section 23 of this Agreement, shall be determined as follows: The vote of each Regular or Alternate Member shall be assigned a value equal to the percentage of the amount of the Entity's Dues to the total amount of the proposed Dues which would be paid by all of the Entities.

d. Illustration of Dues Formula. Attached hereto as Exhibit A is a true copy of the "Ventura Council of Governments 2002-2003 Annual Dues." Pursuant to the formula as set forth in this Section 23, the population figures for the entities and the budget amount specified in Exhibit A shall be modified periodically in the manner provided by the Agreement.

e. Subject to the provisions of Section 24.c of this Agreement, dues may be increased during the Fiscal Year upon a two-thirds (2/3) vote of the members who are then parties to this Agreement.

f. Dues are payable within 60 days of the approval of the dues or by August 1 following the date of the approval, whichever is later. Any Entity which has not paid its dues within said period shall lose its voting privileges under this Agreement until such time as the dues are paid.

Section 25. Issuance of Bonds. The Governing Body shall be permitted to issue bonds or other evidence of indebtedness pursuant to the provisions of Section 6540, *et seq.*, of the Government Code and/or any other applicable law.

Section 26. Disposition of Assets. Upon termination of this Agreement, after the payment of all obligations of the Agency, any assets remaining shall be distributed to the Entities in proportion to the then obligation of those Entities' obligation to participate in the funding of the Agency as provided in section 23 hereof.

Section 27. Amendment. This Agreement may be amended at anytime with the consent of all of the Entities.

Section 28. Entire Agreement. This Agreement embodies the entire understanding among the Entities with respect to the matters addressed herein and supercedes all prior agreements, understandings and negotiations, whether written or oral.

Section 29. Headings. The section and subsection headings of this Agreement are for reference purposes only and are not intended to modify the meaning of the text of the section or subsection.

Section 30. Effective Date. The effective date of this Agreement shall be July 25, 2002.

That the Entities have caused this Agreement to be executed on their behalf, respectively, as follows:

County of Ventura

Chairperson of the Board of Supervisors

ATTEST:

County Clerk

City of Camarillo

Mayor

ATTEST:

City Clerk

City of Fillmore

Mayor

ATTEST:

City Clerk

City of Moorpark

Mayor

ATTEST:

City Clerk

City of Ojai

Mayor

ATTEST:

City Clerk

City of Oxnard

Mayor

ATTEST:

City Clerk

City of Port Hueneme

Mayor

ATTEST:

City Clerk

City of San Buenaventura

Mayor

ATTEST:

City Clerk

City of Santa Paula

Mayor

ATTEST:

City Clerk

City of Simi Valley

Mayor

ATTEST:

City Clerk

City of Thousand Oaks

Mayor

ATTEST:

City Clerk

EXHIBIT A

Ventura Council of Governments
2002-03 Annual Dues

	Population ¹	% of Total Population	Calculated based on $\frac{3}{4}$ Population $\frac{1}{4}$ Equally
Camarillo	57,077	7.58%	\$5,968
Fillmore	13,643	1.81%	2,723
Moorpark	31,415	4.17%	4,050
Ojai	7,862	1.04%	2,291
Oxnard	170,358	22.62%	14,428
Port Hueneme	21,845	2.90%	3,335
San Buenaventura	100,916	13.40%	9,242
Santa Paula	28,598	3.80%	3,840
Simi Valley	111,351	14.78%	10,021
Thousand Oaks	117,005	15.53%	10,443
County of Ventura	93,127	12.36%	8,660
	753,197	100.00%	\$75,000

¹ The population figures shall be those population figures set forth in the most recent Population and Housing Estimate prepared by Department of Finance of the State of California ("Estimate").