



Association of Bay Area Governments  
Bay Area Air Quality Management District  
Bay Conservation and Development Commission  
Metropolitan Transportation Commission

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## JOINT POLICY COMMITTEE — REGIONAL PLANNING PROGRAM

Date: May 6<sup>th</sup>, 2009  
To: Joint Policy Committee  
From: Ted Droettboom, Regional Planning Program Director  
Subject: Draft Policies for the Bay Area's Implementation of SB 375

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At its meeting of March 20<sup>th</sup>, the JPC began consideration of a set of draft policies to guide the Bay Area's approach to Senate Bill 375. The draft policies generated a number of written comments and a flurry of public testimony at the JPC meeting. In order to give the lengthy and thoughtful commentary due consideration, the Committee deferred action on the draft policies.

Attached to this memo is a synopsis of comments and issues, including suggested amendments to the draft policies. Also attached is the original set of policies upon which the comments were based, as well as two comment letters received subsequent to the March 20<sup>th</sup> meeting: one from the City of San José and one from the Northern California Chapter of the U.S. Green Building Council. Comments received on March 20<sup>th</sup> or earlier are archived on the JPC website (<http://www.abag.ca.gov/jointpolicy/jpc-sb375-implementation.htm>).

### RECOMMENDATION

Staff recognizes that some of our partners may still have significant issues with the draft policies, even as amended. It would be unfortunate if the sustainable communities strategy process began in an environment of fundamental discord. Fortunately, the JPC does not need to immediately conclude on the policies, and there is some time to try to work out our disagreements. Accordingly, the executives of the four regional agencies and I RECOMMEND:

THAT regional-agency staff engage in face-to-face discussions with our partner local agencies and other key stakeholders with the objective of bringing a consensus recommendation on implementation policies back to the JPC no later than its September 2009 meeting.



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To: Joint Policy Committee  
From: Ted Droettboom, Regional Planning Program Director  
Subject: Draft Policies for the Bay Area's Implementation of SB 375—Synopsis of Comments and Issues

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At its meeting of March 20<sup>th</sup>, the JPC began consideration of a set of draft policies to guide the Bay Area's approach to Senate Bill 375. The Committee also had before it 18 letters from interested stakeholders, comprising a total of 70 pages of comments on the draft policies. Of the 18 comment letters, ten had been received in the week subsequent to the distribution of the agenda package on March 13<sup>th</sup>—five of these on the day before the meeting and two on the day of the meeting. The City of San Jose submitted comments on April 13<sup>th</sup>, well after the meeting

The draft policies were distributed for public comment on January 23<sup>rd</sup>. A number of powerful organizations, then, required nearly two months—and, in one case, more—to vet the draft policies and produce comprehensive and thoughtful comment letters. This speaks to the importance that these organizations accord SB 375 and to the seriousness with which they regard the region's proposed approach to the bill.

Eighteen members of the public also requested to speak on this item at the Committee meeting, although not all were present when their turns arose. With a very few exceptions, the oral comments echoed the commentary in the letters.

In recognition of the length, complexity and thoroughness of the comments and noting the limited time available to read, absorb, and respond before and during the March meeting, staff proposed that the JPC defer action on the draft policies to its May meeting. To act otherwise would be dismissive of the considerable thought and effort involved in commenting. Accordingly, the Committee took no action on March 20<sup>th</sup>.

This memo, prepared in collaboration with the executive directors/officers of the four JPC member agencies, summarizes the comments received, identifies significant issues requiring resolution, and suggests amendments to the draft policies, giving effect to the proposed resolutions. Most of the comments are directed to specific policies and policy subjects; and this memo, for the most part, follows that pattern as well. The memo also notes and responds to a few general comments that span policy subjects or that raise issues beyond the scope of the draft policies.

### Policy Subject 1: Setting Targets

This is one of the policy subjects around which there is the least consensus. It is also a subject characterized by vague, ambiguous and overly nuanced language. The draft policy uses words like “aggressive” and “significant” without ever precisely defining what those words mean. Similarly, the comment letters use phrases like “ambitious and achievable,” and “feasible, reasonable, and realistic,” although the meaning of those phrases is very much in the eye of the beholder.

Underneath the wordplay is a core issue that unfortunately is also difficult to define and evaluate in the abstract and in the absence of actual numerical targets. That issue lies in the phrase “business as usual,” a phrase which several commentators propose be struck from the discussion leading up to Policy 1. The presence or absence of that phrase is consequential, as it connotes whether (1) we are going to treat climate change as just another factor to be considered along with many other (and, by implication, more important) traditional factors; or whether (2) climate protection becomes a paramount objective that reshapes our fundamental approach to land-use and transportation planning. Your regional-agency staff are more inclined to the second sea-change alternative, as are most of the non-governmental organizations that submitted comments. Most, though not all, of the congestion management agencies appear to favor the first, more incremental alternative, as do two of the building-industry trade groups.

The level of the targets is important because it signals which of the two alternatives will be emphasized in our approach to SB 375. A relatively low set of targets would suggest that we do not need to change past practice very much; higher targets imply greater urgency and the need for more fundamental change.

Partially obscuring the core issue are two peripheral issues related to targets. Both issues enjoy a fair amount of currency and require a response.

The first issue is the assertion that the establishment of targets exposes us to litigation and the greater the target, the greater the litigation risk. We believe the potential for litigation arises not from the targets themselves but from how the targets are used. If the targets are simply transformed into unrealistic and unattainable commitments, without the policies and resources required to achieve those commitments and without acknowledgement that meeting the targets requires consequential corollary actions, some of which may be beyond our direct control, then successful litigation becomes a possibility. If, however, we treat the targets responsibility—as we intend to do—then litigation becomes much less likely. We have to observe, too, that not establishing appropriate targets can also expose us to litigation, as demonstrated by the Attorney General's recent actions around the state regarding plans that fail to adequately address greenhouse-gas emissions.

We also need to be wary of a double standard relative to the establishment of targets. We note that the region has had no apparent reservations about establishing a target for local streets and roads maintenance as defined by an explicit pavement standard, including also an acknowledgement that there is a significant shortfall relative to the targeted condition. It is conceivable that someone might litigate our failure to meet our street-condition target, but no one has, nor has anyone expressed much fear of that risk. Clearly, however, the high commitment of funding to “fix it first” illustrates the utility of establishing an ambitious target.

The second side issue comes from only one source, but it is expressed so forcefully that it demands a rejoinder. This is the contention from the Home Builders Association of Northern California that it is improper for regional agency staff to initiate fundamental policy proposals and seek adoption by the JPC, and that a policy relative to targets is particularly reprehensible as it affects a matter of substance not merely of process. In response, we simply note that it is a long and respected tradition in public service for staff to propose policy initiatives to elected officials. Those elected officials may accept, reject, or modify those proposals based upon arguments from others or their own judgment. The draft policy on targets is consistent with that universally accepted tradition. We will concede, however, that line between substance and process is a blurry one—in this and in many other cases. The proposed policy on targets may affect both process and substance: process in the sense that it will drive our level of effort in preparing the sustainable communities strategy; substance in that it will make a difference if we are successful in achieving the target. We do not believe it is inappropriate to have policies affecting both process and substance.

In the end, however, after reviewing all the comments, we believe that draft Policy 1 fails the test of good public policy on two counts: (1) it is too vaguely worded, therefore leaving too much to alternative interpretation; and (2) it deals with a matter largely outside our policy control, as the targets will be established, not by the Bay Area, but by the California Air Resources Board with the advice of a statewide committee. To remedy these faults, we suggest modifying an amendment suggested by the CMAs to acknowledge the usefulness of explicit targets in driving policy and action. We propose to amend policy 1 to read as follows<sup>1</sup>:

Policy 1:

The Bay Area regional agencies will fully participate in CARB's regional target-setting process. This participation will occur, to the extent possible, through the RTAC process, through the exchange of data and information with CARB, and through the authority given MPOs to independently recommend targets for their regions.

~~In their participation, the Bay Area regional agencies will seek factors, methodologies, and targets that do not limit this region's ability to achieve significant GHG reductions and that do provide significant challenges to current trends and habits.~~

*The regional agencies, with their partners, will evaluate the targets provided by CARB against the best science available and may decide to establish unofficial aspirational targets which exceed the CARB minimums. The Bay Area will endeavor to construct a Sustainable Communities Strategy that meets these aspirational targets, but will evaluate performance relative to these targets for information only.*

The regional agencies will also seek unambiguous and accurate metrics of target achievement, so that performance relative to the targets can be confidently and unarguably assessed.

<sup>1</sup>In this and all subsequent cases, strikeouts denote deletion and additions are italicized.

### Policy Subject 2: Modeling the Relationship between Transportation and Land Use

Those commenting on the modeling policy seek five qualities with which we fully concur. The policy would be improved by making these qualities more explicit—noting, as do some of the commentators, that achieving modeling perfection should be subordinate to delivering an acceptable sustainable communities strategy on time and that continued close collaboration among modeling entities is essential. We propose to incorporate these qualities by amending the draft policy as follows:

Policy 2: The Bay Area regional agencies will *continue to work together with local partners and regional stakeholders* to construct an integrated ~~and transparent~~ modeling system which ~~facilitates technical, decision-maker and public understanding of how land-use and transportation decisions can be coordinated so as to reduce GHG emissions,~~ *to the extent possible within the time and resources available, achieves these essential qualities:*

- *Transparency—technical, decision-maker and public understanding of how land-use and transportation decisions can be coordinated so as to reduce GHG emissions, facilitated through open disclosure and explanation of assumptions and methodologies, but without over-simplifying complex relationships;*
- *Comprehensiveness—sensitivity to the many factors that influence individual and collective land-use and transportation choices, including, but not limited to: energy prices, parking prices and availability, transportation usage charges, travel-time comparisons among alternative modes, housing affordability, employment locations, school quality, perceived public safety, and the presence or absence of complementary uses, supportive design and other community amenities or liabilities;*
- *Resolution—Spatial and temporal data and analysis at the highest possible level of detail (e.g., below the census tract level and for additional hours beyond just weekday peak periods), but without making the modeling results so dependent on detail that they become unreliable with small variations in the underlying assumptions;*
- *Uniformity—Full involvement of the CMAs and others who engage in complementary modeling activities to facilitate commonality and compatibility among models and a consistent modeling system which extends beyond the regional agencies;*
- *Appropriate Usage—Explicit recognition of the limitations of models in accurately predicting the future and guiding choice (They are representations of potential reality, not reality itself, and are best employed to help differentiate among alternative strategies, not to predict the precise results of a single strategy. They inform decisions; they do not make decisions.).*

### Policy Subject 3: Preparing a Sustainable Communities Strategy and an Alternative Planning Strategy

This is the lengthiest and most consequential of the policy subjects. Predictably, it has generated a great deal of comment.

Among the easier comments to deal with is that relating to an unintended slight to the congestion management agencies in not recognizing the leadership role that some have played on climate change. We apologize for this and propose to amend the offending wording in the policy discussion as follows:

Transportation 2035 has been instrumental in introducing climate protection as a core regional transportation planning objective. ~~to the CMAs and other transportation planning and operating agencies.~~

Also relatively easy to handle is the strong objection which some took to the sixth bullet point under policy 6:

Work with federal agencies to ensure that fiscal constraints and realism tests account for reasonable and probable changes in policy and financial capacity between plan initiation and the RTP horizon year.

The objectors interpreted this to imply an unfair manipulation of the scorecard to make the SCS easier, which we did not intend. As it is standard practice with every RTP to have a discussion with the federal agencies on plan realism, this part of Policy 3 is really unnecessary. Further, as we are interested in achieving actual GHG reductions, not just a paper plan, it is in our interest to apply a tough realism test to assure ourselves that our intent is achievable. To avoid confusion and misinterpreted intent, we propose deleting this clause from Policy 3.

The more difficult commentary relates to resources and to resource priorities. Commentators noticed, as we have, that the SCS is a big and expensive undertaking, both in terms of the technical analysis and the inclusive planning discussion that needs to occur and in terms of the incentives required to make the strategy real.

In terms of technical analysis and planning, our preliminary estimate is that the SCS/RTP/RHNA complex will involve the regional agencies spending three to five times the cost of preparing the usual RTP, not accounting for the costs incurred by CMAs, local governments and others participating in the process.

Incentives are an essential part of implementing the SCS. SB 375 is unambiguous in its assertion that there is no compulsion for local governments to comply with the SCS and that alignment between the SCS and local plans will occur only through objectives in common and incentives. "Incentives" may, in fact, be a bit of a misnomer, as the word usually implies a "bonus motivator," something that gives one a little extra push to engage in a positive behavior. Many local governments need more than bonuses; they are lacking the base resources required to undertake the kind of change contemplated for an effective SCS. Without deep funding, they are incapable of complying, even though they may want to.

Ultimately this may require more resources than are currently in the regional pie, and it could place a significant call on new money as well as lead to the re-prioritization of existing funds. That is why Policy 3 places such an emphasis on resource acquisition. It is also why more than a few commentators are concerned about the content of Policy 3 and the potential diversion of funds from present expenditure programs. We have amended the Policy to clarify that the expenditures called for in the short term are consistent with current regional priorities as established in the most recent RTP, *Transportation 2035* and are consistent with existing state accounts established explicitly to facilitate infill development. We have also agreed with the

commentators that stable transit funding is integral to a successful SCS and have added a bullet point to Policy 3 to that effect.

However, we cannot deny that in the longer term even more resources will be required to assist realization of an effective SCS and this may require some reconsideration of present priorities. Priorities are what planning is all about, and these will benefit from discussion during the actual construction of the SCS. This discussion most appropriately occurs in that context, not without firmer knowledge of what we actually need to accomplish and what the costs are—both in terms of dollars and in terms of alternatives foregone.

On a related issue, some commentators objected (fairly, in our view) to an implied premature judgment on a road-pricing strategy. The policy has been amended to clarify that we are only seeking the authority to implement more comprehensive road pricing if we need it and that the application of that authority, if granted, will only occur if we determine through the SCS process that it is required and feasible. It is prudent to seek authority in advance, as there will only be seven years between the adoption of our first SCS in 2013 and the first target year, 2020.

The amended Policy 3 below reflects our suggested resolution to the concerns and issues discussed above. It also clarifies our intent to pursue the SCS through a broad-based regional/local partnership, building upon partnerships and collaborative mechanisms already in place.

### Policy 3

The Bay Area regional agencies are committed to achieving the region's GHG-reduction targets through the SCS and will prepare an APS only as a last resort.

To assist in the preparation of a realistic and attainable SCS, the regional agencies will:

- ~~Form a partnership~~ Partner with ~~local transportation and land use authorities~~ *with CMAAs, transit agencies, local governments, and with* other relevant stakeholders to cooperatively prepare an SCS, beginning no later than the end of 2009;
- *In balance with other programming priorities, begin programming and allocating funds from the current RTP's \$2.2 billion TLC account no later than fiscal year 2010-11 so as to demonstrate a tangible commitment to priority development areas that assist in reducing GHGs;*
- Initiate joint programming of regional-agency funding (e.g., MTC and BAAQMD grants) to achieve synergies and maximize combined impact, *beginning with pilot efforts built upon the MTC's new Climate Change fund and the Air District's TFCA program;*
- *Consistent with the current RTP and forthcoming discussions on new incentives for priority development areas, give priority consideration to SCS-supportive incentives in the allocation and programming of new funding (e.g., the federal stimulus package) as it becomes available to the regional agencies;*
- Advocate for early and appropriately directed incentives for PDAs and PCAs from existing state programs *which are intended to encourage infill development and land conservation, and advocate* for the creation of additional incentive mechanisms through new state legislation in advance of the SCS;

Policy 3 continued

- *Advocate for the restoration of more stable funding to transit operations, which will be essential to reducing VMT and GHGs.*
- ~~Work with federal agencies to ensure that fiscal constraints and realism tests account for reasonable and probable changes in policy and financial capacity between plan initiation and the RTP horizon year;~~
- ~~Advocate for road pricing and other transportation measures and regional transportation pricing authorities that can contribute to reducing VMT per capita and hence related GHGs so that these authorities can be available to the SCS if required.~~

Policy Subject 4: Achieving Consistency with Adjacent Regions

This policy seems to be universally supported as written. Therefore, we propose no amendments.

Policy Subject 5: Synchronizing and Conforming the SCS and the RTP with the Regional Housing Needs Allocation (RHNA)

Under this subject, we received some strong philosophical and political commentary relating to the ethics and efficacy of state housing-element law and the RHNA process. These issues are beyond the scope of these policies and are more appropriately addressed to the State Legislature.

There are two issues which are germane to the policies and susceptible to policy amendment. The first of these is a call for once again emphasizing that the process will occur as a partnership between regional and local interests, and we have added some words to that effect. Inclusion and partnership is integral to a successful process, and it cannot be repeated too many times. It is also appropriate to use already established partnership and advisory mechanisms where possible, rather than build an entirely new collaborative infrastructure.

The second issue relates to some discomfort among members of the JPC, other regional leaders, and a few of the commentators about referring matters *first* to the JPC without prior consideration at the responsible agency. The policy has been amended to allow prior agency review to occur if desired, but to require thorough vetting at the JPC before final and firm decisions are taken, fully consistent with the JPC's role as defined by state law. We must observe, however, that this could potentially lengthen the elapsed time required to achieve policy resolution and the time commitment which regional leaders must make to additional meetings. In either case, the JPC is only advisory and there is no delegation of formal authority and responsibility to the JPC. However, the SCS is all about joint policy, and for joint policy to be successful it is essential that it be considered in a genuinely joint manner.

Our proposed resolution to the two issues is reflected in the amendments below.

**Policy 5:**

The SCS, RTP and RHNA will be developed together through a single and integrated cross-agency work program, *developed and implemented in partnership with the other regional agencies, congestion management agencies, local governments, and non-governmental organizations which have a stake in the work and its outcomes.*

~~All Progress and interim~~ products in the cross-agency work program will be reported in draft ~~first~~ to the JPC *for a thorough interagency vetting before being referred with JPC recommendations; and through the JPC for final decision* ~~to~~ by the committees, board, and commission ~~charged with making draft and final decisions on~~ *formally responsible for each of the three policy instruments: MTC for the RTP, ABAG for the RHNA, and both for the SCS.*

The JPC *and its member agencies will share draft material with partnership groups, consultative committees and advisory councils and with one another* ~~may, from time to time, form subcommittees, including additional representatives from each of the agencies to~~ facilitate broadened vetting of significant ~~draft documents~~ *ideas and initiatives. From time to time, the JPC may initiate special task forces, widely representative of affected regional and local interests, to assist in the detailed drafting of contentious and consequential policies and measures.*

To the extent feasible, policy reports and adopting resolutions for each of policy instruments will reference implications for the other instruments so that all decisions are cognizant of interdependencies.

**Policy Subject 6: Providing CEQA Assistance**

There are no comments that would lead to substantive amendments to this policy as written.

**Policy Subject 7: Aligning Regional Policies**

We propose amending Policy 7 to again clarify the role of our local partners and to clarify the role of the JPC relative to its member agencies. Of particular relevance is the requirement under state law—SB 849 (Torlakson) and AB 2094 (DeSaulnier)—that the Joint Policy Committee “shall coordinate the development and drafting of major planning documents prepared by ABAG, MTC, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission, including reviewing and commenting on major interim work products and the final draft comments prior to action by ABAG, MTC, the Bay Area Air Quality Management District, and the San Francisco Bay Conservation and Development Commission.”

A few commentators have objected to the JPC's consideration of an indirect source rule (ISR). The desirability of an ISR is best addressed when the Air District begins its discussion of its proposal later this year.

One area unsusceptible to resolution through policy amendment is the City of San Jose's observation that the JPC is incapable of responsibly vetting consequential land-use and transportation policy as it lacks direct representation from the region's largest city, where much of that policy will play out. This issue can only be resolved by member-agency appointments to JPC.

**Policy 7:**

*Starting immediately, and consistent with the JPC's role as defined in state law, all significant regional-agency policy documents affecting the location and intensity of development or the location and capacity of transportation infrastructure will be vetted through the JPC and evaluated against the filter of the emerging SCS. As with all regional-agency policies affecting local land-use discretion or local-level transportation investments, the policy documents will be developed in partnership with the applicable local governments, congestion management and transit agencies and with the participation of other interested stakeholders. As well, the final decision on any regional policy lies with the responsible regional board or commission to which the JPC is advisory.*

**Other Issues and Concerns**

In the course of reviewing the draft policies to guide the SB 375 process, a number of commentators have raised issues of substantive policy that are best addressed in the sustainable communities strategy itself and are most appropriately discussed and resolved in the context of developing that strategy. Among these are the importance of considering employment location in addition to housing location, issues of displacement, gentrification and affordable housing, parking prices and availability, climate-protection fees and taxes, economic feasibility of alternative development forms and new approaches to housing supply, broad equity concerns, greenfield protection, value recapture, criteria for rewarding performance not merely intent, and a broadened menu of incentives and financial assistance. We concur that most, if not all, of these subjects are integral to a successful strategy and we look forward addressing them with our partners.

At least one commentator has also raised the possibility of the SCS addressing other greenhouse gas emissions beyond those generated by automobiles and light trucks. While we agree this would be desirable, we note that it goes considerably beyond the scope of the SCS as required by SB 375 and may go well beyond the capabilities of the regional agencies and our partners to accomplish in the time available. We suggest that a more reasonable objective would be to treat non-automotive emissions as potential co-benefits of a strategy directed at automobile emissions. Many of the initiatives we undertake to reduce automotive emissions will also reduce other emissions, but we do not believe we have the capacity or the authority to undertake other planning activities aimed exclusively at non-automotive initiatives—at least not within the SB 375 mandate.

**RECOMMENDATION**

The amendments suggested above respond positively to most of the comments we received on our initial draft, and we are grateful to the commentators for helping us improve on that draft. There are, however, areas of continued disagreement, where accepting some comments would be counter to the spirit of the proposed policies and would work against the intent of SB 375 and against efforts to achieve real reductions in greenhouse gas emissions. While we cannot recommend acceptance of these contentious comments, we are not entirely comfortable with recommending our counter proposal to you either. To do so would likely just generate another round of commentary and start the sustainable communities strategy on a note of unfortunate discord with many of our key partners.

We do, however, have some time to work out the differences with our partners before the SCS program starts in earnest this fall, and we are confident that a face-to-face, interest-based dialogue can improve understanding and trust. While there will likely to be some areas where we need to agree to disagree, we believe it is worth the time and effort to work on something approaching a consensus recommendation. Further, this in-depth conversation among partners is consistent with the process of inclusion we are recommending for the development of the SCS itself, and it is appropriate to model that essential inclusionary process with the finalization of the implementation policies.

As well, we are aware that some elected leaders of our member agencies are not entirely comfortable with a more active role for the JPC, even though that role is effectively mandated by state law. Postponing action on the implementation policies will give the member agencies more time to consider the acceptability of this role relative to alternatives.

Accordingly we RECOMMEND:

THAT regional-agency staff engage in face-to-face discussions with our partner local agencies and other key stakeholders with the objective of bringing a consensus recommendation on implementation policies back to the JPC no later than its September 2009 meeting.



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## JOINT POLICY COMMITTEE — REGIONAL PLANNING PROGRAM

Date: March 12, 2009  
To: Joint Policy Committee  
From: Ted Droettboom, Regional Planning Program Director  
Subject: Policies for the Bay Area's Implementation of Senate Bill 375

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Attached is a draft set of policies which are proposed to guide the process through which the Bay Area's regional agencies will implement SB 375 (Steinberg). The draft policies were distributed to the JPC and to stakeholders in January so that there would be ample opportunity to consider and comment on the draft policies before they were submitted for adoption at the JPC's March meeting. Some stakeholders have provided written comments, and these are also attached to this memorandum.

The draft policies are essentially policies for making policies (i.e., "meta-policies"). They were developed by senior staff from all four of the JPC member agencies and are supported by the Executive Directors/Officers of each.

The draft policies are designed to facilitate the achievement of five qualities, which we believe are essential for the successful implementation of SB 375 and for the responsible and effective conduct of our ongoing regional planning responsibilities. These qualities are:

1. **Challenge** to the *status quo* and to business as usual, in recognition of the urgency and magnitude of the global climate-change imperative;
2. **Integration**
  - Between ABAG's and MTC's respective contributions to the Sustainable Communities Strategy (SCS) and, if required, the Alternative Planning Strategy (APS),
  - Between the Regional Transportation Plan (RTP) and the Regional Housing Needs Allocation (RHNA),
  - Between analytic modeling results and planning choices,
  - Between the requirements of SB 375 and other ongoing and proposed regional planning initiatives undertaken by any and all of the four JPC member agencies,

- Between the efforts of the Bay Area and those of adjacent regions;
3. **Inclusion** of all the entities—local governments, congestion management agencies, transit providers, non-governmental organizations (NGOs), business, development and environmental interests—required to make the SCS real, achievable, and more than a paper plan;
  4. **Momentum**, continuing and building upon the climate-protection, focused-growth, transit-oriented-development, road-pricing and other related land-use and transportation planning initiatives already moving forward under the leadership of the JPC member agencies;
  5. **Impact** on the actual, on-the-ground production of greenhouse gases without compromising the region's overall objectives for economic prosperity, environmental sustainability and social equity.

Our approach to SB 375, as guided by these policies, will significantly change how we prepare the Regional Transportation Plan (RTP) and how we develop the Regional Housing Needs Allocation (RHNA). It will also affect the planning activities of the Air District and influence the way BCDC prepares for change on the Bay's shoreline. In addition, the approach requires that the JPC play a considerably enhanced role in all regional planning products. SB 375 and our preparation of a Sustainable Communities Strategy clearly bring *joint* policy to the forefront and require that the JPC and its regional-agency members engage in an unprecedented partnership with other members of the Bay Area community.

## RECOMMENDATION

### I RECOMMEND:

- A. THAT the Joint Policy Committee adopt the attached Policies for the Bay Area's Implementation of SB 375 (the Policies); and
- B. THAT the Joint Policy Committee refer and commend the Policies for adoption by its member agencies.



## JOINT POLICY COMMITTEE

### Policies for the Bay Area's Implementation of Senate Bill 375

#### Introduction

SB 375<sup>1</sup> (Steinberg) was passed by the California State Assembly on August 25<sup>th</sup>, 2008, and by the State Senate on August 30<sup>th</sup>. The Governor signed it into law on September 30<sup>th</sup>, 2008.

The bill mandates an integrated regional land-use-and-transportation-planning approach to reducing greenhouse-gas (GHG) emissions from automobiles and light trucks, principally by reducing vehicle miles traveled (VMT). Within the Bay Area, automobiles and light trucks account for about 26 percent of our 2007 GHG inventory<sup>2</sup> and about 64 percent of emissions from the transportation sector.

SB 375 explicitly assigns responsibilities to the Association of Bay Area Governments (ABAG) and to the Metropolitan Transportation Commission (MTC) to implement the bill's provisions for the Bay Area. Both agencies are members of the Joint Policy Committee<sup>3</sup> (JPC). The policies in this document were approved by the JPC and provide guidance to the two lead regional agencies in fulfilling their responsibilities in collaboration with their JPC partners, the Bay Area Air Quality Management District (Air District) and the San Francisco Bay Conservation and Development Commission (BCDC).

#### Bay Area Climate-Protection Context

On July 20<sup>th</sup>, 2007, the JPC approved a *Bay Area Regional Agency Climate Protection Program*<sup>4</sup>. This program has as a key goal: "To be a model for California, the nation and the world." Following from this key goal is a supporting goal: "Prevention: To employ all feasible, cost-effective strategies to meet and surpass the State's targets of reducing greenhouse-gas emissions to 1990 levels by 2020 and to 80% below 1990 levels by 2050." In pursuit of these goals, MTC's current Regional Transportation Plan (RTP) update, *Transportation 2035*<sup>5</sup>, has evaluated transportation strategies and investment programs relative to a target of reducing GHG emissions from on-road vehicles in the year 2035 by 40 percent compared to 1990 levels. ABAG has established the same target for assessing alternative land-use scenarios in the

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<sup>1</sup> [http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb\\_0351-0400/sb\\_375\\_bill\\_20080930\\_chaptered.html](http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0351-0400/sb_375_bill_20080930_chaptered.html)

<sup>2</sup> Bay Area Air Quality Management District, *Source Inventory of Bay Area Greenhouse Gas Emissions*, December 2008 ([http://www.baaqmd.gov/pln/documents/regionalinventory2007\\_003\\_000.pdf](http://www.baaqmd.gov/pln/documents/regionalinventory2007_003_000.pdf))

<sup>3</sup> The Joint Policy Committee (JPC) is a regional planning consortium of the Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District (BAAQMD or the "Air District"), the San Francisco Bay Conservation and Development Commission (BCDC), and the Metropolitan Transportation Commission (MTC)

<sup>4</sup> <http://www.abag.ca.gov/jointpolicy/JPC%20Action%20on%20Climate%20Protection.pdf>

<sup>5</sup> [http://www.mtc.ca.gov/planning/2035\\_plan/index.htm](http://www.mtc.ca.gov/planning/2035_plan/index.htm)

development of the latest iteration of the region's policy-based forecast of population and employment: *Projections 2009*<sup>6</sup>.

The Bay Area's regional agencies have clearly recognized the primacy of the climate-change challenge as a driver of public transportation and land-use policy, and we have embraced the urgency of GHG reduction. The momentum established by our policies and actions to date will carry over into our implementation of SB 375. We do not regard SB 375 as a vexatious new requirement, but rather as an instrument to assist us in continuing and accelerating the climate-protection journey upon which we have already embarked. We are genuinely concerned with making real and measurable progress in reducing the impact which motor-vehicle travel has on the global warming problem. That concern will be paramount in our approach to SB 375 and is reflected in the policies which follow.

### Policy Subject 1: Setting Targets

SB 375 requires that the California Air Resources Board (CARB) set GHG-reduction targets for cars and light trucks in each California region for the years 2020 and 2035. CARB must release draft targets by June 30, 2010 and adopt targets by September 30, 2010.

To assist in establishing these targets, CARB is required to appoint a Regional Targets Advisory Committee (RTAC) composed of representatives of Metropolitan Planning Organizations<sup>7</sup> (MPOs), affected air districts<sup>8</sup>, the League of California Cities (the League), the California State Association of Counties (CSAC), local transportation agencies<sup>9</sup>, and members of the public—including homebuilders, environmental organizations, environmental-justice organizations, affordable housing organizations, and others. The Advisory Committee is tasked with recommending factors to be considered and methodologies to be used in establishing the targets, not recommending the targets themselves—though MPOs are explicitly permitted to recommend targets for CARB's consideration.

In recommending factors to be considered and methodologies to be used, the Advisory Committee may consider any relevant issues, including, but not limited to, data needs, modeling techniques, growth forecasts, the impacts of regional jobs-housing balance on interregional travel and GHG emissions, economic and demographic trends, the magnitude of GHG-reduction benefits from a variety of land use and transportation strategies, and appropriate methods to describe regional targets and to monitor performance in attaining those targets. The advisory committee shall provide a report with its recommendations to CARB no later than September 30, 2009, and CARB must consider the report before setting the targets. After the publication of the Advisory Committee Report, MPOs are required to hold at least one public workshop in their region. In establishing the targets, CARB is also required to exchange technical information with MPOs and associated air districts.

The prescribed target-setting process, including the multi-sector RTAC, creates a dynamic between *need* (i.e., the reduction required to contribute to the state's overall greenhouse-gas-reduction targets) and *feasibility* (i.e., the perceived probability of satisfying that need through

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<sup>6</sup> <http://www.abag.ca.gov/planning/currentfcst/news.html>

<sup>7</sup> In the Bay Area, the Metropolitan Planning Organization is MTC.

<sup>8</sup> In the Bay Area, the Bay Area Air Quality Management District.

<sup>9</sup> In the Bay Area, this might include Congestion Management Agencies (CMAs), transit providers, and the transportation planning/streets-and-roads arms of local governments.

available regional planning and implementation mechanisms.) That dynamic may be premature and limiting. Until one goes through the actual process of producing and evaluating a target-based plan, the feasibility of that plan, and the target to which it responds, is mostly just conjecture. The necessity to limit the target based on an *a priori* judgment of feasibility is also obviated by the legislation's provision of an escape valve, the Alternative Planning Strategy (APS), which provides a mechanism to identify additional measures if target achievement proves not to be feasible in the initial plan, the Sustainable Communities Strategy (SCS).

In the 2009 RTP update and in the *Projections 2009* process, ABAG and MTC have established very aggressive GHG-reduction targets, based on the transportation sector's large contribution to the region's GHG inventory and on the science-based need to reduce GHGs to 80 percent below 1990 levels by the year 2050. The Bay Area's regional agencies are committed to achieving a significant reduction in transportation-related GHGs and are opposed to constraining that reduction by setting targets that are too low and that do not provide sufficient challenge to business as usual. We also want to ensure our efforts are rewarded with observable progress, not just with well-intentioned but unimplemented plans.

#### Policy 1:

The Bay Area regional agencies will fully participate in CARB's regional target-setting process. This participation will occur, to the extent possible, through the RTAC process, through the exchange of data and information with CARB, and through the authority given MPOs to independently recommend targets for their regions.

In their participation, the Bay Area regional agencies will seek factors, methodologies, and targets that *do not* limit this region's ability to achieve significant GHG reductions and that *do* provide significant challenges to current trends and habits.

The regional agencies will also seek unambiguous and accurate metrics of target achievement, so that performance relative to the targets can be confidently and unarguably assessed.

#### Policy Subject 2: Modeling the Relationship between Transportation and Land Use

Travel models (mathematical simulations of travel behavior relative to the regional transportation system and the distribution of land uses) are used to compare the impact of alternative transportation strategies, alternative investment packages and alternative land-use patterns. The land-use patterns that are fed into the travel models are also, in part, generated by mathematical models of economic and demographic trends.

SB 375 requires that the California Transportation Commission (CTC), in consultation with the California Department of Transportation (Caltrans) and CARB, maintain guidelines for travel models. The guidelines must, to the extent practicable within resource constraints, account for:

- The empirical relationship among land-use density, automobile ownership, and vehicle miles traveled (VMT);
- The impact of enhanced transit service on vehicle ownership and VMT;
- Induced travel behavior and land development likely to result from highway or rail expansion;

- Mode splits between automobile, transit, carpool, bicycle, and pedestrian trips;
- Speed and frequency, days, and hours of operation of transit service.

SB 375 also requires that MPOs disseminate the methodology, results, and key assumptions of their travel models in a way that would be usable by and understandable to the public.

Models will be key tools in developing and assessing the alternative transportation and land-use strategies required to implement SB 375. MTC is currently replacing its travel model with a new instrument more attuned to the CTC guidelines. ABAG is about to update its land-use forecasting models.

This is an opportune time to ensure that the region's models are integrated and can be used in an iterative manner, with not only the land-use models feeding into the travel model but with the travel model also feeding back into the land-use models so that the development impacts and requirements of various transportation measures and investments can be more confidently evaluated and so that a mutually reinforcing land-use *and* transportation strategy can be constructed. At present, the relationship is very linear and one-way, with the land-use forecast informing the travel model but the travel model only indirectly influencing how we forecast land use. Achieving two-way integration will require a much closer working relationship between ABAG and MTC staff engaged in modeling and forecasting than has heretofore been the case.

While the models are very technical and complex, it is also a worthy and responsible objective to aim for more public transparency of model methodologies, assumptions and particularly limitations.

**Policy 2:**

The Bay Area regional agencies will work together to construct an integrated and transparent modeling system which facilitates technical, decision-maker and public understanding of how land-use and transportation decisions can be coordinated so as to reduce GHG emissions.

**Policy Subject 3: Preparing a Sustainable Communities Strategy and an Alternative Planning Strategy**

SB 375 requires that each MPO (MTC and ABAG in the Bay Area) prepare a sustainable communities strategy (SCS). This strategy is to, among other things, constitute the land-use forecast for the Regional Transportation Plan (RTP) and must comply with federal requirements for that forecast, including most importantly that it be judged to be realistically attainable during the twenty-five-year period of the RTP. One criterion for judging realistic attainability is congruence with local-government general plans, specific plans and zoning.

The SCS shall be adopted as part of the RTP<sup>10</sup> and shall:

- Identify the general location of uses, residential densities, and building intensities within the region;
- Identify areas within the region sufficient to house *all* the population of the region, including all economic segments of the population, over the course of the planning period of the RTP

<sup>10</sup> The next RTP update, and the first to which SB 375 will apply, is scheduled to be adopted in March 2013.

(i.e., 25 years), taking into account net migration into the region, population growth (presumably referring to natural increase), household formation, and employment growth;

- Identify areas within the region sufficient to house an eight-year projection of the regional housing need;
- Identify a transportation network to service the transportation needs of the region;
- Gather and consider the best practically available scientific information regarding resource areas and farmland in the region;
- Consider state housing goals;
- Forecast a development pattern for the region, which when integrated with the transportation network and other transportation measures and policies, will achieve, to the extent practicable, the targeted greenhouse-gas emission reduction from automobiles and light trucks, while also permitting the RTP to comply with the Clean Air Act;
- In doing all of the above, consider spheres of influence that have been adopted by LAFCOs.

Some believe that the SCS is just ABAG's *Projections* under another name and with slightly different prescriptions and constraints. It is much more than that. While the SCS will, in part, play a role similar to *Projections* in the RTP, it is not just a land-use forecast, but a preferred development pattern *integrated* with the transportation network and with transportation measures and policies. It approaches in intent and content a comprehensive land-use and transportation plan for the region. As such, it should play a more fundamental guiding role for the RTP than does *Projections*, which is mostly used now for the Environmental Impact Report (EIR) and for air quality conformity analysis accompanying the RTP.

Before adopting the SCS, we will be required to quantify the reduction in greenhouse gas emissions projected to be achieved by the SCS and identify the difference (if any) between that reduction and the CARB targets for the region.

If the SCS is unable to reduce greenhouse gas emissions to the targeted levels, then we must prepare an Alternative Planning Strategy (APS) showing how the greenhouse-gas targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The APS is a separate document from the RTP but may be adopted at the same time as the RTP. In preparing the APS, we are required to:

- Identify the principal impediments to achieving the targets through the SCS;
- Describe how the GHG targets would be achieved by the alternative strategy and why the development pattern, transportation measures and transportation policies in the APS are the most practicable choices for the achievement of those targets;
- Ensure that the APS complies with all the federal requirements for an RTP "except to the extent that compliance with those requirements would prevent achievement of the GHG targets" (i.e., the APS is essentially exempted from the criterion of realistic attainability);
- Develop the APS in the same manner and consider the same factors as we would to develop an SCS.

The APS is essentially a more aggressive GHG-reduction strategy than would be permissible under the federal requirements for an RTP—i.e., financially constrained and with a realistic land-use forecast.

As the SCS is an official part of the RTP, it is required by federal law to be internally consistent with the other parts of the RTP, including the financially constrained transportation investment package. This is what gives the SCS its power: transportation projects identified for funding in the RTP investment package must be consistent with the SCS<sup>11</sup>.

As the APS is not included in the RTP and therefore does not influence transportation investment, its potential impact is much more limited. It serves essentially two purposes, the first explicit in the legislation, the second implicit: (1) to provide access to some California Environmental Quality Act (CEQA) concessions for qualifying development projects<sup>12</sup>, and (2) to provide a means through which the state can be informed of additional powers, authorities or resources required to meet regional GHG-reduction targets.

The Bay Area's regional agencies are committed to making a real difference in reducing GHGs. Therefore, it is in our interest to achieve as much progress toward this region's targets in the SCS as possible. Those land-use changes, transportation measures and transportation policies which can only be identified in the APS are essentially those that we have conceded cannot be implemented; that is, we cannot provide the required assurances to the federal government that those changes, measures, and policies meet the realism test—at least not within the current distribution of authorities. If the changes, measures and policies are not real, then the GHG reductions are also not real. We will not attain the on-the-ground improvement we desire and need.

Meeting the realism test for the SCS requires two preconditions: (1) alignment of local land-use policy with the preferred land-use pattern in the SCS<sup>13</sup> and (2) authority and resources to undertake the required transportation policies and measures. To maximize our probability of success, we need to be acquiring those preconditions now, building upon the momentum that we have established with the target driven RTP, *Transportation 2035*, with the performance-based

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<sup>11</sup> The legislation specifically excludes a subset of investment projects from this requirement, including those contained in the 2007 or 2009 Federal Statewide Transportation Program (STP), those specifically listed in a sales tax ballot measure approved before the end of the 2008, and arguably those funded through Proposition 1-B (2006). Further the legislation does not require a sales tax authority to change the funding allocations approved by voters for categories in a sales tax measure adopted before the end of 2010.

<sup>12</sup> CEQA concessions are extended to two potentially overlapping types of development projects: (1) a residential or mixed-use project consistent with an SCS or APS; and (2) specifically defined "transit priority projects" (TPPs). Subject to incorporating mitigation measures from previous reviews, the EIRs for SCS- or APS-consistent projects will not be required to address growth-inducing impacts, global warming impacts, or regional transportation network impacts. Further SCS- or APS-consistent development projects will not have to prepare a reduced-density alternative to address local traffic impacts. TPPs will be exempt from CEQA review if they are consistent with an SCS or APS and comply with a long list of other mandatory and optional criteria.

<sup>13</sup> SB 375 explicitly provides that neither the SCS nor the APS will regulate the use of land or supersede the exercise of the land-use authority of cities and counties. It further stipulates that there is no requirement that a city's or county's land-use polices and regulations, including its general plan, be consistent with the RTP (including the SCS) or with the APS. Therefore, alignment of local land-use policy with the SCS will have to be voluntary.

*Projections 2009* and with the Bay Area's voluntary development and conservation strategy, *FOCUS*<sup>14</sup>.

*Transportation 2035* has been instrumental in introducing climate protection as a core regional transportation planning objective to the CMAs and to other transportation planning and operating agencies. The *Projections 2009* process has initiated a productive discussion with local-government officials on the impact that land-use and development has on transportation GHGs. *FOCUS* has provided mechanisms, priority development areas (PDAs) and priority conservation areas (PCAs), through which the regional agencies and local governments can partner on achieving a land-use pattern that contributes to lower VMT and hence fewer GHG emissions.

To enable the region to prepare a genuinely effective SCS in association with the 2013 RTP, the cooperative policy discussions begun with the 2009 RTP and with *Projections 2009* need to continue and accelerate over the next few years and into the formal beginning of the SCS process. A successful SCS will not be proposed and imposed by the regional agencies, but will be built and owned cooperatively at all levels by all the transportation and land-use authorities in the Bay Area.

We also need to make substantial progress on the implementation of the PDAs and PCAs, so that local governments have concrete examples upon which to draw when constructing local plans that are consistent with the SCS. And we need to establish trust among local governments that substantial regional and state assistance to PDAs and PCAs is truly forthcoming. Full local-government participation in the *FOCUS* PDA and PCA initiatives is conditioned on the provision of incentive funding. In *Transportation 2035* MTC established a \$2.2-billion<sup>15</sup> Transportation for Livable Communities (TLC) account to, in part, assist PDAs and transit-oriented development. Early programming of dollars in the TLC account can set a positive stage for an SCS that enjoys local-government support and, therefore, is more likely to be realistically attainable.

### Policy 3

The Bay Area regional agencies are committed to achieving the region's GHG-reduction targets through the SCS and will prepare an APS only as a last resort.

To assist in the preparation of a realistic and attainable SCS, the regional agencies will:

- Form a partnership with local transportation and land-use authorities and with other relevant stakeholders to cooperatively prepare an SCS, beginning no later than the end of 2009;
- Begin programming and allocating funds from the \$2.2 billion TLC account no later than fiscal year 2010-11 so as to demonstrate a tangible commitment to priority development areas that assist in reducing GHGs;
- Initiate joint programming of regional-agency funding (e.g., MTC and BAAQMD grants) to achieve synergies and maximize combined impact;

<sup>14</sup> <http://www.bayareavision.org/initiatives/index.html>

<sup>15</sup> As a federal requirement, enumerated in escalated dollars of the day.

*Policy 3 continued*

- Give priority consideration to SCS-supportive incentives in the allocation and programming of new funding (e.g., the federal stimulus package) as it becomes available to the regional agencies;
- Advocate for early and appropriately directed incentives for PDAs and PCAs from existing state programs and for the creation of additional incentive mechanisms through new state legislation in advance of the SCS;
- Work with federal agencies to ensure that fiscal constraints and realism tests account for reasonable and probable changes in policy and financial capacity between plan initiation and the RTP horizon year;
- Advocate for road pricing and other transportation measures and authorities that can contribute to reducing VMT and hence GHGs.

Policy Subject 4: Achieving Consistency with Adjacent Regions

As referenced under Policy Subject 3, the SCS will be required to identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, taking into account net migration into the region, natural increase, household formation, and employment growth.

This is a substantial departure from present regional-planning practice, which has assumed some spillover of Bay-Area-generated housing and transportation demand into adjacent regions, particularly into the Central Valley. We can plan to accommodate all our population growth, but our plans are unlikely to be realized if they are not consistent with those of our neighboring regions, who may continue to plan on the basis of accommodating exogenous demand from the Bay Area. Early and frequent discussions with surrounding regions to coordinate assumptions and policies is, therefore, required.

Policy 4:

The Bay Area regional agencies will initiate discussions and consult with our neighboring regions throughout the model-development and SCS planning processes to facilitate consistency in assumptions and policies.

Policy Subject 5: Synchronizing and Conforming the SCS and the RTP with the Regional Housing Needs Allocation (RHNA)

SB 375 requires that the RHNA/housing element cycle will be synchronized and coordinated with the preparation of every other RTP update, starting with the first update after 2010 (i.e., 2013). RTP updates occur every four years, and housing elements must be adopted by local governments eighteen months after the adoption of the RTP. With a few exceptions, the region will now be on an eight-year RHNA cycle and local governments will be on eight-year housing-element cycles. In addition to synchronizing with the preparation of the RTP and the SCS contained therein, the RHNA allocation must be consistent with the development pattern included in the SCS, and the resolution approving the RHNA shall demonstrate that it is

consistent with the SCS. Housing elements and associated local zoning adopted pursuant to the RHNA may be among the most important means for making the SCS real.

The 2008 ABAG RHNA process was the first in the state to explicitly connect the regional housing allocation to the sort of focused-growth and transit-oriented development principles which are likely to be central to the SCS. We, therefore, have a head start on the consistency requirements of SB 375. However, many of jurisdictions that received higher RHNA numbers as the result of the newly applied principles also persuasively argued that they required additional resources to respond to the infrastructure and service requirements of more housing and population. A more intimate connection with the RTP will be required to assist resources to flow in the same direction as housing requirements.

Existing law makes MTC responsible for the RTP and ABAG responsible for the RHNA. SB 375 makes both agencies jointly responsible for the SCS, though the SCS will also be adopted as part of the RTP. To ensure coordination and complementariness and to ensure that both agencies are fully cognizant of their commitments to each other and of their joint commitments to other partners and the region, all three instruments—the RTP, the RHNA and the SCS—should be developed and adopted together as a regional-agency partnership.

#### Policy 5:

The SCS, RTP and RHNA will be developed together through a single and integrated cross-agency work program.

Progress and interim products in the cross-agency work program will be reported *first* to the JPC, and through the JPC to the committees, boards, and commission charged with making draft and final decisions on each of three policy instruments: MTC for the RTP, ABAG for the RHNA, and both for the SCS.

The JPC may, from time to time, form subcommittees, including additional representatives from each of the agencies, to facilitate broadened vetting of significant draft documents.

To the extent feasible, policy reports and adopting resolutions for each of policy instruments will reference implications for the other instruments so that all decisions are cognizant of interdependencies.

#### Policy Subject 6: Providing CEQA Assistance

SB 375 provides various levels of CEQA assistance to housing and mixed-use development projects based on their conformity with a number of criteria, including consistency with an SCS or APS. However, the legislation only vaguely defines “consistency” and then in manner which may not be compatible with current Bay Area regional land-use planning practice. One approach to clarifying “consistency” is the preparation of a programmatic environmental impact review (EIR) for the SCS (and for the APS, if required). Development projects, as well as infrastructure projects, might also be able to “tier off” this EIR, and thus become eligible for additional CEQA assistance in addition to that provided through SB 375. The feasibility of this approach, and of alternatives, requires the resolution of a number of technical and legal issues, including the relationship to the EIR presently prepared for the RTP. Work to resolve these issues needs to occur as soon as possible as it will clearly affect the manner in which we prepare the SCS/APS.

**Policy 6:**

In consultation with appropriate CEQA authorities, the regional agencies will develop and finalize, no later than June 2010, a functional design for the structure and content of the SCS, the APS and associated environmental impact review documents sufficient for these to be confidently employed as the basis for determining eligibility for CEQA assistance as contemplated in SB 375 and, if feasible, to provide additional CEQA assistance for projects which contribute positively to environmental objectives for the region.

**Policy Subject 7: Aligning Regional Policies**

While ABAG and MTC develop the region's first SCS, the Air District and BCDC will also be putting together policies and regulations that will affect the region's distribution of land uses and the placement of public infrastructure. Both agencies may, as well, propose projects which could be included in the RTP.

In its effort to control criteria pollutants (e.g. ozone precursors and particulate matter), the Air District may, under existing authority, consider an indirect source rule (ISR) that regulates the construction and long-term transportation impacts of land development and requires mitigation or payments in lieu for development which does not meet established standards. Of particular concern is development which is deemed to increase automobile travel and hence vehicle emissions. The Air District may also seek to limit development in certain areas so as to reduce exposure to noxious particulate matter and other localized air toxins.

BCDC will be preparing an adaptation plan to prepare for inevitable sea-level rise and storm surges affecting areas on and near the Bay shoreline. This will have implications for the location of future development and perhaps for the relocation of present development and infrastructure.

It is essential that both the Air District's work and BCDC's be aligned with the SCS so that the regional agencies complement and do not contradict one another. Confusion will not contribute to the multi-level collaboration required to achieve a sustainable communities strategy that works.

**Policy 7:**

Starting immediately, all regional-agency policies affecting the location and intensity of development or the location and capacity of transportation infrastructure will be vetted through the JPC and evaluated against the filter of the emerging SCS.

April 13, 2009

Mr. Ted Droettboom  
Regional Planning Program Director  
Joint Policy Committee  
101 Eighth Street  
Oakland, CA 94604

Dear Mr. Droettboom:

Thank you for the opportunity to review and comment on the Draft Policies for the Bay Area's Implementation of Senate Bill 375. We understand that these policies set forth the "ground rules" for the interdisciplinary work of the four regional agencies pursuant to the legislation, and the goal in the JPC-approved Bay Area Regional Agency Climate Protection Program to employ all feasible, cost-effective strategies to meet and surpass the State's targets of reducing greenhouse gas (GHG) emissions.

Overall, we support the majority of the general policy statements in the document dated January 15, 2009. We would like to highlight a couple of key issues.

Policy #2: Integrated and Transparent Modeling System: We agree that a transparent modeling system is critical to the success of this effort. Transparency needs to go beyond the regional agencies. It is essential that local jurisdictions have meaningful participation in the development of the model that will be used as a basis for the Sustainable Communities Strategy, and related regional planning efforts (e.g., Regional Housing Needs Assessment, Regional Transportation Plan, etc.).

Policy #7: All Regional Policies to be Vetted through JPC First: It is premature to establish this policy. The representation issues for the JPC are currently in flux, and until local jurisdictions are comfortable that their interests will be adequately heard by the JPC, this policy should not be adopted. Similarly, Policy #5 should be amended to delete the second sentence regarding "cross-agency work products will be reported first to the JPC."

#### Future Policy Considerations

We look forward to working with the JPC and the regional agencies on the specific policies that will be needed to meet SB375. Below are some initial ideas for future consideration in terms of land use, transportation, and Regional Housing Needs Assessment (RHNA).

Land Use Considerations. We encourage the JPC to consider including in its set of policies some incentives or credits for GHG-reducing measures that jurisdictions are already implementing, such as focusing growth to transit locations. Other examples of such measures

include the City of San José's Green Vision and San José's Green Building policies (see attachments). Many of the actions associated with these measures can result in significant reductions in GHGs.

Transportation Considerations. San José has been a leader in the pursuit and implementation of Regional Transportation policies that encourage residential and nonresidential densities, increase transit use and relieve traffic congestion by reducing the number of single occupant drivers. Taken together these efforts are an important step toward significantly reducing the number of vehicle miles traveled and the levels of greenhouse gas emissions. These efforts can be built upon at the regional level as we implement the directives of SB 375. The pursuit and implementation of the Sustainable Communities Strategy (SCS) is consistent with San José's efforts to date and we would welcome the Region's participation in similar efforts.

Working with the Santa Clara Valley Transportation Authority (VTA) and MTC in the development of the Transportation 2035 Regional Plan update San José has supported and recommends the following initiatives:

- Emphasize the importance of maintaining existing roadways and transit facilities by investing regional funds in local streets and roads and transit rehabilitation.
- Encourage Transit expansion (BART, High Speed Rail, and Light Rail) and the development of more "Transit Friendly" communities.
- Encourage the development, use and public agency fleet expansion of alternative fuel vehicles.
- Support the expansion of Project Development Areas (PDA's) development incentives that are funded through the use of the nearly \$2.2 billion in regional Transportation for Livable Communities (TLC) funds.
- Through PDA's and the expansion of the Regional Bicycle Network, expand development of bicycle and pedestrian improvements to encourage increased use and mode shift.
- Develop the Regional "HOT Lane" network in an effort to further reduce VMT and ensure that resources generated by any express lane program are returned to source for the funding of local transit expansion and maintenance, thereby further reducing VMT.
- Encourage Region wide development of congestion pricing strategies (Toll Roads, VMT, VLF, etc.)
- Recommend substantial reinvestment in Transportation and Transit at the Federal level by supporting significant expansion of next Authorization of the Federal Transportation program. Any New Authorization should include:
  - A 25 to 40 cent increase in the Federal Gas Tax
  - Streamlining of the number federal transportation programs
  - Increase in the return to source and local control of the Federal allocation
  - Emphasis on the development of "Green Technologies" and low emission vehicles

San José has already initiated and expanded many of these efforts and welcomes regional support in their further development.

RHNA Considerations. Reducing vehicle miles traveled is an important objective. Encouraging an increase in public transportation options and the use of more efficient vehicles both will help the State meet its GHG-reduction targets. But more action is needed. It is imperative that residents are provided opportunities to, and are encouraged to, live and work in the same community. By locating housing near employment, the need to travel long distances to work is no longer necessary thus resulting in a reduction in vehicle miles driven and lower GHG emissions. Some cities have considerably more jobs than housing for their employees, or have high cost housing and low wage jobs. Both of these situations result in the need for workers to travel distances, sometimes long distances, between work and home. Other cities have the opposite situation, where employed residents exceed the number of jobs. This also results in the need for employees to travel to reach a job outside their home town.

Currently the Regional Housing Needs Allocation (RHNA) does not consider the jobs-housing balance, or jobs-housing *imbalance*, when allocating housing goals. In order to further the goals of SB375, RHNA goals should allocate additional housing capacity to those jurisdictions that have a surplus of jobs. This will encourage the development of housing opportunities near current employment centers, providing employees with the chance to live and work in the same community. Additionally, the State should consider RHNA allocation goals when allocating affordable housing funding to jurisdictions. Those jurisdictions with the highest State housing goals should be given preference in the allocation of these scarce resources.

#### Amendments to SB 375

SB 575 is a placeholder bill for potential amendments to SB375. We recommend that the JPC support amending SB 375 to address: 1) accounting for beneficial actions (such as those described in this letter) in a quantifiable manner, and 2) liberalizing CEQA review for projects that incorporate these measures. With these recommendations we can more readily reduce GHGs by implementing all practical and cost-effective methods available.

#### Conclusion

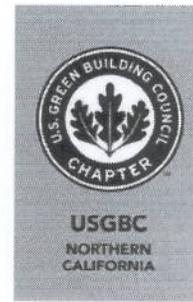
We look forward to the collaborative involvement with local jurisdictions to meet the requirements of SB375. Thank you again for the opportunity to comment. If you have questions or need additional information, please contact Laurel Prevetti, Assistant Director of Planning, Building, and Code Enforcement at 408/535-7901.

Sincerely,



Debra Figone  
City Manager

Attachments



May 1, 2009

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Chairperson Scott Haggerty and Members of the Joint Policy Committee  
P.O. Box 2050  
Oakland, CA 94604-2050

**RE: Draft Policies for Implementation of SB 375**

Dear Chairperson Haggerty and Members of the Joint Policy Committee:

On behalf of the Northern California Chapter of the U.S. Green Building Council (USGBC-NCC), thank you for the opportunity to comment on the Joint Policy Committee's draft policies for implementation of SB 375.

The USGBC is a national, non-profit organization committed to expanding sustainable building practices and sustainable communities. With nearly 1500 members, the Northern California Chapter of the USGBC is an active advocate for built environments that are environmentally responsible, profitable and healthy places to live and work.

SB 375 presents the opportunity to drastically alter the course of land use planning and development, both here in the Bay Area and throughout the State of California. However, the bill could also be rendered ineffectual if MPOs and local decision makers choose not to use SB 375 as a tool to lower greenhouse gas emissions, but rather as just one more legislative mandate demanding perfunctory compliance.

USGBC-NCC applauds the JPC's stated goal to recognize the primacy of climate change as a driver of land use policy, and to regard SB 375 as an "instrument to.... continue and accelerate the climate-protection journey." We strongly support the draft policies' ambitious goals for implementation of SB 375 in the region, and agree that the Bay Area should strive throughout the implementation process to be a model for California.

In furtherance of those goals, we offer the following comments on the draft policies:

- *The SCS should limit Vehicle Miles Traveled (VMTs) to the greatest extent feasible:* We agree that the SCS is not just a land use forecast, but a preferred development pattern. The SCS should therefore incorporate a land use plan that reflects existing development but also contains development policies and plans that limit VMTs to the greatest extent feasible.

- *Programmatic EIRs:* Development projects that are consistent with and support the policies of the SCS or APS should receive meaningful CEQA relief. USGBC-NCC supports preparation of a thorough Programmatic EIR for the SCS/APS so that eligible development projects are able to tier off of that PEIR .
- *Incentives:* The SCS/APS should include recommendations for incentives for projects that are consistent with the SCS/APS, such as expedited permitting processes and reduction/elimination of fees or assessments. In addition, the SCS should include incentives for local jurisdictions to modify local land use plans for consistency with the SCS/APS.

We look forward to working closely with the JPC and other stakeholders to develop policies for meaningful implementation of SB 375 in order to achieve the ultimate goal of attaining substantial GHG reductions in the Bay Area.

Sincerely,



Andrea Traber  
President, Board of Directors  
USGBC-NCC



Dan Geiger  
Executive Director  
USGBC-NCC

cc: Ted Droettboom, Regional Planning Program Director