



**AGENDA**  
**EXECUTIVE COMMITTEE MEETING**  
**FRIDAY, JULY 7, 2017 – 9:00 A.M.**  
**OMNITRANS**  
**1700 WEST FIFTH STREET**  
**SAN BERNARDINO, CA 92411**

The meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or Limited English Proficiency services are needed in order to participate in the public meeting, requests should be made through the Board Secretary at least three (3) business days prior to the Committee Meeting. The Board Secretary’s telephone number is 909-379-7110 (voice) or 909-384-9351 (TTY). If you have comments about items on the agenda or other general concerns and are not able to attend the meeting, please mail them to Omnitrans at 1700 West Fifth Street, San Bernardino, California, Attention Board Secretary. Comments may also be submitted by email to [BoardSecretary@omnitrans.org](mailto:BoardSecretary@omnitrans.org).

**THIS MEETING IS AVAILABLE BY TELECONFERENCE AT THE FOLLOWING LOCATION AND WILL BE CONDUCTED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 54953(B).**

**CITY OF CHINO HILLS, 14000 CITY CENTER DRIVE, CHINO HILLS, CA 91709**

**THIS LOCATION IS ACCESSIBLE TO THE PUBLIC AND MEMBERS OF THE PUBLIC MAY ADDRESS THE COMMITTEE FROM THIS TELECONFERENCE LOCATION.**

**A. CALL TO ORDER**

**B. ANNOUNCEMENTS/PRESENTATIONS**

1. Next Committee Meeting: August 4, 2017 – 9:00 a.m.  
Omnitrans Metro Facility

**C. COMMUNICATIONS FROM THE PUBLIC**

This is the time and place for the general public to address the Board for items that are not on the agenda. In accordance with rules applicable to meetings of the Executive Committee, comments on items not on the agenda and on items on the agenda are to be limited to a total of three (3) minutes per individual.

**D. POSSIBLE CONFLICT OF INTEREST ISSUES**

N/A

**E. DISCUSSION ITEMS**

- |   |    |
|---|----|
| 1. Approve Executive Committee Minutes – June 2, 2017   | 2  |
| 2. Review and Recommend to the Administrative & Finance Committee, Electronic Communications Policy | 5  |
| 3. Omnitrans Internship Program   | 14 |
| 4. Formation of a Rail Committee for Redlands Passenger Rail Project Implementation                 | 18 |

**F. BOARD BUSINESS**

There is no Closed Session scheduled.

**G. REMARKS AND ANNOUNCEMENTS**

**H. ADJOURNMENT**



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San Bernardino, CA 92411  
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ITEM #           E1          

**EXECUTIVE COMMITTEE MEETING  
MINUTES  
JUNE 2, 2017**

**A. CALL TO ORDER**

The Executive Committee Meeting was called to order by Chair Sam Spagnolo at 9:00 a.m., Friday, June 2, 2017 at the Omnitrans Administrative Offices.

**COMMITTEE MEMBERS ATTENDING**

Council Member Sam Spagnolo, City of Rancho Cucamonga – Board Chair  
Council Member Ed Graham, City of Chino Hills – via Teleconference  
Council Member John Roberts, City of Fontana  
Council Member Alan Wapner, City of Ontario

**COMMITTEE MEMBERS NOT PRESENT**

Council Member Ron Dailey, City of Loma Linda – Board Vice Chair  
Council Member Penny Lilburn, City of Highland

**OTHERS ATTENDING**

Haviva Shane, General Counsel

**OMNITRANS STAFF ATTENDING**

P. Scott Graham, CEO/General Manager – via Teleconference  
Doug Stanley, Interim Director of Special Transit Services  
Don Walker, Director of Finance  
Julienne Overland-Villegas, Senior Administrative to the CEO/General Manager

**B. ANNOUNCEMENTS/PRESENTATIONS**

Next Committee Meeting:           Friday, July 7, 2017, 9:00 a.m.  
  Omnitrans Metro Facility

**C. COMMUNICATIONS FROM THE PUBLIC**

There were no communications from the public.

**D. POSSIBLE CONFLICT OF INTEREST ISSUES**

There were no Conflict of Interest Issues.

Item E3 was heard before Items E1 and E2.

## **E. DISCUSSION ITEMS**

1. Approve Executive Committee Minutes – February 3, 2017 and Special Executive Committee Minutes- February 15, 2017

M/S (Wapner/Roberts) that approved the Executive Committee Minutes of February 3, 2017 and Special Executive Committee Minutes of February 15, 2017. Motion was unanimous by Members present.

2. Revised Fiscal Year 2017-2018 Annual Budget

Director of Finance, Don Walker presented this item.

Member Wapner had some questions regarding the funding source for Route 290 and Mr. Walker provided clarification.

M/S (Wapner/Roberts) that recommended the Board of Directors approve the Revised Fiscal Year 2017-2018 Annual Budget replacing the \$554,434 Low Carbon Transit Operation Program (LCTOP) funding with Local Transit Funds (LTF). Motion was unanimous by Members present.

3. New Policy: Electronic Communications presented by Omnitrans Legal Counsel

General Counsel Haviva Shane presented this item and provided some background about the recent California Supreme Court decision in the *City of San Jose v. Superior Court* regarding electronic communications and how that court ruling affects public agency employees and officials. She presented a proposed policy and recommended that the policy be adhered to by all Omnitrans employees and the Board of Directors. There was some discussion regarding the development of a separate Omnitrans email account for Board Members to facilitate separating personal and city related email and Omnitrans business. There was also some discussion as to how this policy relates to Omnitrans employees and it was determined that the policy will not be applicable to coach operators as they do not conduct business related communications utilizing their personal cell phones. The policy will apply to office employees that conduct business via email. The Committee asked that the language regarding Authority officials be changed to “strongly encourage” rather than be required to adhere to the policy. Ms. Shane will make the revisions to the policy as discussed and this item will be readdressed at the next Executive Committee for review. Omnitrans IT Department will be contacted following this meeting to develop individual email accounts for Board Members via the already established Omnitrans Contact Us Site.

## **F. BOARD BUSINESS**

There was no Closed Session.

**G. REMARKS AND ANNOUNCEMENTS**

There were no announcements.

**H. ADJOURNMENT**

The Committee adjourned at 9:39 a.m. The next Executive Committee Meeting is scheduled Friday, July 7, 2017, at 9:00 a.m., with location posted on the Omnitrans website and at the Omnitrans San Bernardino Metro Facility.

Prepared by:

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Araceli Barajas, Executive Staff Assistant



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ITEM #           E2          

**DATE:** July 7, 2017

**TO:** Executive Committee Chair and Members of the Executive Committee

**THROUGH:** P. Scott Graham, CEO/General Manager

**FROM:** Haviva Shane, General Counsel

**SUBJECT: NEW POLICY:  
ELECTRONIC COMMUNICATIONS**

**FORM MOTION**

Review revisions to proposed electronic communications policy, provide any further direction to Omnitrans' General Counsel Haviva Shane and forward policy to Administrative and Finance Committee for review.

**BACKGROUND**

At the Executive Committee meeting held on June 2, 2017, the Committee considered a draft electronic communications policy related to the California Supreme Court decision in *City of San Jose v. Superior Court* holding that electronic communications stored on the private, nongovernmental accounts of local agency officials could be considered "public records" and subject to disclosure under the Public Records Act.

The Committee directed General Counsel to craft revisions to the policy to narrow its application to office staff as opposed to all Omnitrans staff; to provide for an Omnitrans administrative account for use by Board members when transmitting e-mails related to Omnitrans business on a non-Omnitrans electronic mail account; and to otherwise make changes to the policy related to its application to Board members.

**DISCUSSION**

General Counsel has drafted proposed revisions to the draft policy, which are shown in redline in the version of the policy accompanying this report. In addition, Omnitrans' Senior Executive Assistant to the CEO/General Manager, Julienne Overland-Villegas, has worked with IT staff on creating an administrative account and will be available to further discuss this account, and its proposed use by the Board.

Attachments: Redline of electronic communications policy

# **ELECTRONIC COMMUNICATIONS POLICY**

## **POST SAN JOSE**

### **Background and Purpose**

The Omnitrans Board of Directors as the legislative body of Omnitrans hereby adopts the following policy regarding the conduct of Omnitrans' business via electronic communications by employees. Specifically, this policy is adopted in light of the City of San Jose case, which held that a city employee's communications related to the conduct of public business do not cease to be public records under the California Public Records Act, simply because they were sent or received using a personal account or personal device.

Existing and emerging electronic communications technologies have become an integral part of the ability of Authority staff members to efficiently and effectively conduct Authority business. Such technology has the potential to enhance communications with the public and provide a higher level of service to the citizens of the Authority. However, with such technology in the work environment, the Authority must ensure it continues to meet its legal obligations with respect to transparency in the conduct of the people's business, including in the area of public records disclosure and retention requirements. To that end, the following protocol will be followed.

### **Definitions**

For purposes of this policy, the following definitions apply:

“Authority” means the Omnitrans Joint Powers Authority.

“Authority employee” shall mean any office staff~~employee~~ of the Authority.

“Authority official” shall mean any board member of the Authority.

“Authority business” shall be construed broadly to mean information relating to the conduct of the public's business or communications concerning matters within the subject matter of the Authority's jurisdiction, including, but not limited to, pending or potential Authority projects, past or prospective Authority agenda items, or Authority budgets or expenditures involving Authority funds. Resolution of the question will involve an examination of several factors, including: (a) the content itself; (b) the context in, or purpose for which, it was written; (c) the audience to whom it was directed; (d) the purpose of the communication; and (e) whether the writing was prepared by an Authority employee acting or purporting to act within the scope of his or her employment.

“Electronic communications” includes any and all electronic transmission, and every other means of recording upon any tangible thing in any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Without limiting the nature of the foregoing, “electronic communications” include e-mails, texts, voicemails, and also include communications on or within commercial applications (apps) such as Facebook Messenger, Twitter, WhatsApp, etc.

“Electronic messaging account” means any account that creates, sends, receives or stores electronic communications.

### **Policy/Protocols**

1. All Authority employees shall be assigned an Authority electronic messaging account. Any Authority official who requests an Authority electronic messaging account shall be assigned such an account.
2. An Authority administrative account shall be created for use by Authority officials. It is the policy of Authority that Authority officials copy all electronic communications related to Authority business to the Authority administrative account.
- ~~2.3.~~ Authority accounts shall be used to conduct Authority business. Authority employees shall not use personal accounts for the creation, transmission or storage of electronic communications regarding Authority business.
- ~~3.4.~~ All Authority employees shall, within 15 days following the adoption of this policy, search all private, nongovernmental electronic messaging accounts to which they have user access and locate any electronic communications that might constitute a “public record”, because it involved “Authority business”, as set forth above. All such communications shall be forwarded to the Authority employee’s Authority-provided account. To the extent the Authority employee believes that any part of such communications contain personal matter not related to the conduct of the public’s business, the Authority employee shall provide a declaration, as set forth in paragraphs 10 and 11, below. Authority officials are encouraged to comply with the requirements in this provision by forwarding public records to the Authority administrative account, or to the Authority electronic messaging account of said official, as applicable.
- ~~4.5.~~ The Authority accounts, along with the attendant access to the Authority’s account server, are solely for the Authority and Authority employee’s or official’s use to conduct Authority business and shall not be used for personal business or political activities. Incidental use of Authority electronic messaging accounts for personal use by Authority employees or officials is permissible, though not encouraged.
- ~~5.6.~~ If an Authority employee receives an electronic message regarding Authority business on his/her non-Authority electronic messaging account, or circumstances require such person to conduct Authority business on a non-Authority account, the Authority employee shall either: (a) copy (“cc”) any communication from an Authority employee’s personal electronic messaging account to his/her Authority electronic messaging account; or (b) forward the associated electronic communication to his/her Authority account no later than 10 days after the original creation or transmission of the electronic communication. Authority officials are encouraged to comply with this policy by forwarding messages to the Authority administrative account or to the official’s Authority electronic messaging account, as applicable.
- ~~6.7.~~ Authority employees shall endeavor to ask persons sending electronic communications regarding Authority business to a personal account to instead utilize

the Authority employee's account, and likewise shall endeavor to ask a person sending an electronic communication regarding non-Authority business to use the Authority employee's personal or non-Authority electronic messaging account.

~~7.~~8. Authority employees and officials understand they have no expectation of privacy in the content of any electronic communication sent or received on an Authority account or communication utilizing Authority servers. Authority provided electronic devices, including devices for which the Authority pays a stipend or reimburses the Authority employee, are subject to Authority review and disclosure of electronic communications regarding Authority business. Authority employees and officials understand that electronic communications regarding Authority business that are created, sent, received or stored on an electronic messaging account, may be subject to the Public Records Act, even if created, sent, received, or stored on a personal account or personal device.

~~8.~~9. In the event a Public Records Act request is received by the Authority seeking electronic communications of Authority employees or officials, the Senior Executive Assistant to the CEO/General Manager ("Executive Assistant") shall promptly transmit the request to the applicable Authority employee(s) or official(s) whose electronic communications are sought. The Executive Assistant shall communicate the scope of the information requested to the applicable Authority employee or official, and an estimate of the time within which the Executive Assistant intends to provide any responsive electronic communications to the requesting party.

~~9.~~10. It shall be the duty of each Authority employee and official receiving such a request from the Executive Assistant to promptly conduct a good faith and diligent search of his/her personal electronic messaging accounts and devices for responsive electronic communications. The Authority employee or official shall then promptly transmit any responsive electronic communications to the Executive Assistant. Such transmission shall be provided in sufficient time to enable the Executive Assistant to adequately review and provide the disclosable electronic communications to the requesting party.

~~10.~~11. In the event an Authority employee or official does not possess, or cannot with reasonable diligence recover, responsive electronic communications from the Authority employee's or official's electronic messaging account, the Authority employee or official shall so notify the Executive Assistant, by way of a written declaration, signed under penalty of perjury. In addition, an Authority employee or official who withholds any electronic communication identified as potentially responsive must submit a declaration under penalty of perjury with facts sufficient to show the information is "personal business" and not "public business" under the Public Records Act. The form of the declaration is attached hereto as Attachment A.

~~11.~~12. It shall be the duty of the Executive Assistant, in consultation with the Authority's Legal Counsel, to determine whether a particular electronic communication, or any portion of that electronic communication, is exempt from disclosure. To that end, the responding Authority employee or official shall provide the Executive Assistant with all responsive electronic communications, and, if in doubt, shall err on the side of caution and should "over produce". If an electronic communication involved both



public business and a personal communication, the responding Authority employee or official may redact the personal communication portion of the electronic communication prior to transmitting the electronic communication to the Executive Assistant. The responding Authority employee or official shall provide facts sufficient to show that the information is “personal business” and not “public business” by declaration. In the event a question arises as to whether or not a particular communication, or any portion of it, is a public record or purely a personal communication, the Authority employee or official should consult with the Executive Assistant or Legal Counsel. The responding Authority employee or official shall be required to sign a declaration, in a form acceptable to Legal Counsel, attesting under penalty of perjury, that a good faith and diligent search was conducted and that any electronic communication, or portion thereof, not provided in response to the Public Records Act request is not Authority business.

~~12.~~13. Authority provided AB 1234 (ethics) training should include a discussion of the impacts of the City of San Jose case and this policy. Such training should include information on how to distinguish between public records and personal records. Authority employees who receive AB 1234 training from other providers should actively solicit training from the alternative provider on the impacts of the City of San Jose case.

~~13.~~14. Authority employees and officials understand that electronic communications regarding Authority business are subject to the Authority’s records retention policy, even if those electronic communications are or were created, sent, received or stored on an Authority employee’s or official’s personal electronic messaging account. It is a felony offense to destroy, alter or falsify a “public record”. As such, unless the Authority employee or official has cc’d/transmitted electronic communications in accordance with paragraph 45 above, or as otherwise specified in this policy, that Authority employee or official must retain all electronic communications regarding Authority business, in accordance with the Authority’s adopted records retention policy, regardless of whether such electronic communication is originally sent or received on a personal electronic messaging account.

~~14.~~15. Failure of an Authority employee to abide by this policy, following its adoption, may result in one or more of the following:

- Disciplinary action, up to and including termination;
- Censure (for elected employees);
- Revocation of electronic device privileges (including revocation of stipend or reimbursement);
- Judicial enforcement against the Authority employee directly, by the requesting party; and
- If this policy is adopted by way of ordinance, such penalty as is provided for violation of Authority ordinance.

| ~~15.16.~~ This policy does not waive any exemption to disclosure that may apply under the California Public Records Act.

DRAFT

**ATTACHMENT A**

**DECLARATION**

[attached on following page]

DRAFT

In the matter of:

California Public Records Act Request  
Pursuant to Gov. Code § 6250 *et seq.*

Re: \_\_\_\_\_  
\_\_\_\_\_

Insert shorthand name of record request, including  
request number, if applicable

Requester: \_\_\_\_\_  
Print or type name of requester

Declaration of:

\_\_\_\_\_  
Print or type name of employee

**Regarding Search of Personal Electronic  
Messaging Account**

STATE OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
OMNITRANS JOINT POWERS AUTHORITY

I, \_\_\_\_\_ declare:  
Print name

1. I received notice of a California Public Records Act (“CPRA”) request regarding a search of my personal electronic messaging account(s).

2. I understand that the CPRA request seeks:

\_\_\_\_\_  
Insert text of CPRA request.

3. I am the owner or authorized user of the following personal electronic messaging account and have the authority to certify the records:

\_\_\_\_\_  
Insert description of personal electronic messaging account(s).

4. I have made a good faith, diligent, thorough, and complete search of the above mentioned personal electronic messaging account(s) for all electronic communications potentially responsive to the above mentioned CPRA request.

5. Any responsive electronic communications discovered, and referenced below, were prepared or used by me in the ordinary course of business at or near the time of the act, condition or event.

6. Any responsive electronic communications discovered, and referenced below, are true

copies of all records described in the above mentioned CPRA request.

Check the applicable box:

- I certify that I do not possess responsive electronic communications.
- I certify that I cannot reasonably recover responsive electronic communications.

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Explain efforts to retrieve responsive electronic communications and why you were unable to recover responsive electronic communications.

- I certify that I discovered potentially responsive electronic communications from my personal electronic messaging account, but I am withholding that information because the information is “personal” business. This is for the following reasons:

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Describe with sufficient facts why the contested information is personal business and not subject to the CPRA. Attach additional pages, if necessary.

- I certify that I discovered potentially responsive electronic communications from my personal electronic messaging account. I am providing all responsive information. However, some information is nonresponsive and I am withholding that information, because the information is personal business. This is for the following reasons:

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Describe with sufficient facts why the contested information is personal business and not subject to the CPRA. Attach additional pages, if necessary.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I have personal knowledge of the facts set forth above.

Executed this \_\_\_ day of \_\_\_\_\_ 20\_\_\_ , in \_\_\_\_\_, California.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_



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ITEM #           E3          

**DATE:** July 7, 2017

**TO:** Executive Committee Chair and Members of the Executive Committee

**THROUGH:** P. Scott Graham, CEO/General Manager

**FROM:** Marjorie Ewing, Director of Human Resources Safety & Regulatory Compliance

**SUBJECT: OMNITRANS INTERNSHIP PROGRAM**

**FORM MOTION**

Review, receive and file the proposed Internship Program for Omnitrans.

**BACKGROUND**

The Agency had a very successful Internship program last year that ran from March through September 2016. The program was funded by a Workforce Development Grant from the Federal Transportation Administration (FTA) and was completed. At this time there are no Workforce Development Grants available from the FTA.

**DISCUSSION**

The Agency is proposing to continue the Internship Program and is seeking authority to use Local Transportation Funds (LTF). The program would be a year round paid program; affording the intern the opportunity to gain real world work experience on meaningful projects under the guidance of transportation professionals. The intern will have the opportunity to use problem solving, communication and decision-making skills; gaining a deeper awareness and appreciation for the many facets of transportation. All departments will have the opportunity to create an intern position(s) with a scope of work that may cover the student's major or minor degrees.

Furthermore, Omnitrans envisions partnering with each city in the JPA in awarding an internship. This will afford the selection process be representative of the JPA and communicate the partnership city officials have with public transit.

Normal Hiring Range: \$15.00 to \$20.00/hour depending on education level. Part-time employment approximately 20 hours per week not to exceed 1,000 hours within a continuous 12-month period. The intern positions do not offer benefits.

**FUNDING SOURCE**

The cost associated with this program is budgeted in the Administration Department and is within the CEO/GM's authority.

**CONCLUSION**

Internship programs offer tremendous benefits to business in terms of increasing productivity and recruiting well-suited staff members – especially in small to medium sized organizations.

PSG:ME

Omnitrans

## Job Description

**Job Title:** Intern

**Department:** Marketing-Planning

**Reports to:** Service Planning Manager

**FLSA Status:** Hourly Part-time employment approximately 20 hours per week not to exceed 1,000 hours within a continuous 12-month period.

Normal Hiring Range: \$15.00 to \$20.00/hour depending on education level.

**Summary** Under the direction of the Department Director of Marketing and Planning and the guidance of the Service Planning Manager. The intern role is a developmental position that will be assisting in maintaining transit operations and ridership associated databases, providing field analysis of service issues, and collecting and analyzing operation data to provide effective and efficient performance measurements and transit planning solutions associated with the operation of the fixed bus route service. At a high level, would be able to use through final public hearings (likely in March 2018), up to 20 hours per week.

**Essential Duties and Responsibilities** - Key elements of projects would include infield observation and reporting (Solid bullets are SRTP related, open circles are downtime items). Other duties may be assigned

- OmniGo Data Collection (Ridership, OTP, etc) since automated systems are detailed enough for refinement
- Support on data evaluation of all existing services, including writing of portions of the evaluation chapter
  - This could also be expanded in downtime to completing some of the related PMT support for NTD, which relieves Victor's workload to work on the chapter.
- Using analysis to aid in the development of service recommendations (note taking, mapping, etc)
- Support on Public Hearings related to findings
- Support Development Planning, potentially with the Sustainability Chapter of the SRTP, including cataloging changes since last SRTP
  - In downtime, if any, could also support Stops and Stations with validation of stop surveys, which will feed into stop spacing for SRTP.

Key skills:

- Strong Writing Skills
- Strong Analytical Skills
- GIS a plus
- Bilingual a plus

College Junior, Senior or Grad preferred. Planning, Econ, Business, Stats, similar preferred.



Reasonable accommodations may be made to enable qualified individuals with disabilities to perform the essential functions. Apply on-line at [www.omnitrans.org](http://www.omnitrans.org). On-line applications must include past work history and be fully completed to be considered. Resumes will not be accepted in lieu of a complete on-line application. Omnitrans, 1700 West Fifth Street, San Bernardino, CA 92411 Candidate must be eligible to work in the United States. An Equal Opportunity Employer Successful candidate must pass company physical, drug and alcohol test. This job description is not intended to be a complete listing of all the job duties required of this position, but to provide information on the general scope of the position.



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ITEM #           E4          

**DATE:** July 7, 2017

**TO:** Executive Committee Chair and Members of the Executive Committee

**FROM:** P. Scott Graham, CEO/General Manager

**SUBJECT: FORMATION OF A RAIL COMMITTEE FOR REDLANDS PASSENGER RAIL PROJECT IMPLEMENTATION**

**FORM MOTION**

Discuss the need and interest of forming a Rail Committee for the Redlands Passenger Rail Project (RPRP) implementation.

**BACKGROUND**

At the Executive Committee meeting held on February 3, 2017, Member Wapner expressed interest in the idea of forming a Rail Committee to work on the implementation of the Redlands Passenger Rail Project and requested that an item be brought to the Executive Committee for discussion.

**CONCLUSION**

Determine whether a Committee for the RPRP implementation should be formed.

PSG