



# SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios  
District No. 1  
Chair

Anthony Botelho  
District No. 2

Robert Rivas  
District No. 3

Jerry Muenzer  
District No. 4

Jaime De La Cruz  
District No. 5  
Vice-Chair

County Administration Building – Board of Supervisors Chambers, 481 Fourth Street, Hollister, California

## REGULAR MEETING APRIL 12, 2011 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in *regular session*. Supervisors Barrios, Botelho, Rivas, Muenzer and De La Cruz were present. Also present were County Administrative Officer Rich Inman, County Counsel Matthew Granger, and Asst. Clerk of the Board Janet Slibsager. Chair Barrios presided.

### 9:00 a.m. CALL TO ORDER:

- a) Supervisor Muenzer led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** There was no one from the public wishing to speak.
- d) **Department Head Announcements:** Public Works Administrator Steve Wittry announced that the parking lot on West Street would be closed from April 12<sup>th</sup> through the 13<sup>th</sup> due to warranty repairs, and was sorry for any inconvenience.  
Mr. Wittry also mentioned that National Parks Week is April 16<sup>th</sup> through the 24<sup>th</sup> and that admission is free to National Parks, so try and visit Pinnacles, our National Park.
- e) **Board Announcements, Introductions and Presentations:** Supervisor Muenzer announced that the Monterey Bay Unified Air Pollution Control District is now accepting applications for AB2766 Motor Vehicle Subvention grant program and that there would be a workshop held on April 25<sup>th</sup> in the San Benito County Board of Supervisors Chambers from 10:00 a.m. to 12:00 p.m. for anyone interested in the grant application.  
Supervisor Muenzer announced that the public workshop for the Resource Recovery Park would be on April 20<sup>th</sup> at 7:00 p.m. at the Veteran's Memorial Building.  
Supervisor Muenzer mentioned that he participated in the field trip to the Clear Creek Area last week and that it was a great day.  
Chair Barrios announced that she attended the 911 Community meeting which was an informational meeting for the Community.  
Chair Barrios mentioned that she also attended the Intergovernmental meeting which there was further discussion in regards to the illegal street

vendors and how they were going to approach this. She said that hopefully they would have something to report after their next meeting in regards to the specifics.

**CONSENT AGENDA:**

*Upon motion made by Supervisor Rivas and seconded by Supervisor Botelho, approved Consent Agenda items 1 through 6. (Unanimous)*

**AGRICULTURAL COMMISSIONER – R. Ross:**

- 1) **Approved** contract with the Department of Food and Agriculture to provide Petroleum Product and Weighmaster Enforcement Services for the period of July 1, 2011 to June 30, 2012, for a total of \$2,325. *File #1.1*

**BOARD OF SUPERVISORS:**

- 2) **Approved** Certificate of Recognition for San Juan Bautista Rotary for their fifteen years of service to be presented at a later date. *File #156*

**LIBRARY - N. Conte:**

- 3) **Approved** the contract with Friends of the San Benito County Free Library for program services provided by staff of the San Benito County Free Library, under the Friends of the Library's CDBG Sub grant for the Grow Strong Family Literacy Program, in an amount not to exceed \$23,900 effective April 12, 2011 through June 30, 2012; and **approved** the Budget Transfer augmenting the Library budget in temporary salaries of \$4,000 in the FY 10/11. *File #80*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 4) **Approved** contract with Parikh Consultants, Inc. for material testing services for the San Juan Bike Lane Project from April 12, 2011 to June 30, 2013 in an amount not to exceed \$20,342.24. *File #105*

**SAN BENITO COUNTY ARTS COUNCIL - R. Inman:**

- 5) **Adopted Resolution No. 2011-29**, approving the San Benito County Arts Council to serve San Benito County as a State and Local partner of the California Arts Council.

**SHERIFF'S OFFICE – D. Thompson:**

- 6) **Approved** contract with Enmage, Inc. for operational area emergency operations center training for the period of April 12, 2011 through July 31, 2011 in the amount of \$35,000. *File #110*

**PUBLIC HEARINGS – 9:00 A.M. (Or as soon thereafter as the matter may be heard)**

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 7) **Hold a public hearing to adopt a resolution certifying Board consideration of the Mitigated Negative Declaration adopted by Caltrans for the State Route 101 @ San Juan Grade Interchange Project, making related findings and adopting the Mitigated Negative Declaration and Mitigation Measures and approve the Freeway Agreement with the State of California Department of Transportation.**

Public Works Administrator Steve Wittry provided background information and a PowerPoint presentation in regards to the San Juan Road Interchange Project. Items covered were: Freeway Agreement; proposed San Juan Road Interchange; proposed San Juan Interchange Cole Road Realignment and staff recommendations.

*Chair Barrios opened the Public Hearing.*

Jim West, Aromas resident, had a question as to why the North Bound 101 traffic doesn't have a ramp, and instead shows a U turn. He said a lot of trucks come out of Watsonville and that U turn is going to make it difficult for them and he felt that it should be looked at.

Mr. Wittry provided information since Caltrans was not present.

*Chair Barrios closed the Public Hearing.*

Supervisor Botelho acknowledged the concern of Mr. West. Supervisor Botelho said that the residents are pleased that these improvements are going in. Mr. Botelho believes this is a good project and does support it.

Chair Barrios voiced concern in regards to Mr. West's question and whether it should go back to Caltrans before approving anything.

Mr. Wittry said that the item before the Board of Supervisors today is in relation to the Freeway Agreement and the disconnection of Cole Road to 101 and that the feedback from today in regards to the trucks and the U turn can be forwarded on to Caltrans for them to review.

**BOARD ACTION:** *Upon motion made by Supervisor Botelho and seconded by Supervisor Muenzer; **considered** the environmental effects as noted in the Mitigated Negative Declaration adopted by Caltrans on December 7, 2009; **adopted Resolution No. 2011-30**, to certify that the Board has reviewed and considered the information in the Mitigated Negative Declaration previously adopted by Caltrans for the State Route 101 @ San Juan Road Interchange Project, making related findings thereto, and taking other related action; **approved** the Freeway Agreement for the San Juan Road Interchange project; **authorized** the Chair to sign the Freeway Agreement with the State of California Department of Transportation; and **directed** the Director of Public Works to submit the fully endorsed Freeway Agreement to the County Recorder for filing if necessary. (Unanimous) File #105*

## **REGULAR AGENDA:**

*For each regular agenda item, the following schedule shall occur:*

- a) Staff report.
- b) Public opportunity to address the Board on a particular agenda item. Please fill out a speaker card and present it to the Clerk prior to consideration of the item.
- c) Consideration by the Board.

## **BOARD OF SUPERVISORS:**

- 8) **Discussion of the Off-Highway Motor Vehicle Recreation Commission's review of the off-highway vehicle specific risk assessment of the naturally occurring asbestos exposure at the Clear Creek Management Area.** (Chair Barrios)

Chair Barrios said that this item was on the agenda to discuss the Off Highway Vehicle (OHV) Commission meeting that was held on April 5<sup>th</sup> at the Veterans Building in regards to the asbestos exposure at the Clear Creek Management Area.

District Supervisor of Hollister Hills Jeff Gaffney provided information that was discussed at the OHV meeting in regards to the U.S. Environmental Protection Agency's study and the State of California Off-Highway Motor Vehicle Recreation Division's study that was performed by the International Environmental Research Foundation (IERF) and the differences. Mr. Gaffney said that there was a really good panel discussion after the studies were presented.

Mr. Gaffney said that one of the statistics used was that you would be more likely to die driving to and from Clear Creek than if you were to ride in the park.

Mr. Gaffney said that IERF felt very strongly that for the two days that they went into Clear Creek and studied and took samples that those two days showed that it was safe to be in the area, per the samples that they had taken.

Mr. Gaffney said that EPA feels that their study is solid and that the samples that they had taken reflect differently than those of IERF.

Mr. Gaffney said that at the end of the meeting, the Off-Highway Vehicle Commission took the position that they want to send off letters to Legislatures and Administrators to let them know that they were in concurrence with what IERF had determined.

Mr. Gaffney said that the information would have to be examined by experts and he doesn't know what the conclusion will be.

Rick Cooper with the Bureau of Land Management Hollister Field Office said that he was mainly here today to hear what the Board of Supervisors thoughts were.

Mr. Cooper said that his take from the meeting on April 5<sup>th</sup> was that they had received another piece of information from the IERF study along with several other studies that have taken place out in the Clear Creek Area to weigh and use in their decision making process. They will have the State of California Health the Department of Toxic Control and the Environmental Health Hazard Assessment Office along with the EPA provide feedback of the reports along with BLM toxicologist in Denver looking at it.

Mr. Cooper said that they are at a point now with the Final Environmental Impact Statement (FEIS) to go forward with a proposed plan to Washington D.C. for review. Mr. Cooper said that if we went out now with the report you could anticipate a record of decision about the end of August.

Mr. Cooper said that it is his hope also, to get the land opened back up as soon as they can for public use and said that it would be a decision made by several people not just a decision out of a hat.

Supervisor Muenzer said that we need to work with both agencies to facilitate the best use of that area, as it is a very beautiful area.

Supervisor Botelho concurred with Supervisor Muenzer and mentioned the need of a maintenance program for the roads in the Clear Creek area and the property owners in that area.

Chair Barrios said that she would like to get the area opened as soon as possible. She said that she wished that the Board of Supervisors could have taken a stronger stand back when they wanted to close the Clear Creek area but it was out of their hands.

*Chair Barrios said that they would agendaize an item in regards to Clear Creek roads under closed session as potential litigation.*

*Chair Barrios said that she would like to have the Board of Supervisors support the idea of Clear Creek Management Area being opened up for recreation again and in the near future send a letter of support that it is a safe place. File #755*

**BOARD OF SUPERVISORS:**

**9) Approve letter to EPA supporting the addition of the New Idria Mercury Mine site to the National Priorities List (Superfund List).**

Chair Barrios explained the letter to be signed by the Board of Supervisors.

CAO Rich Inman pointed out a correction in the letter.

Supervisor Muenzer voiced concern in the wording in paragraph two.

Supervisor Rivas also had concern in regards to the reading of paragraph two.

The consensus of the Board of Supervisors was to delete the entire paragraph two and delete the word "are" in paragraph three.

**BOARD ACTION:** *Upon motion made by Chair Barrios and seconded by Supervisor Muenzer, **approved** letter to EPA supporting the addition of the New Idria Mercury Mine site to the National Priorities List (Superfund List), with the recommended changes. (Unanimous) File #156*

**BOARD OF SUPERVISORS:**

**10) Discussion and/or direction concerning Highway 156 Supplemental Environmental Impact Report (EIR).**

Supervisor Botelho pointed out some items of concern to him in regards to the Environmental Impact Report (EIR) for Highway 156 improvements. Some of those items were noise, loss of prime farm land in San Juan Valley, number of lanes, frontage road and the dollar match with the County and Caltrans for the realignment and hydrology.

Supervisor Botelho read a letter from Cathy Alameda, San Juan farmer, in regards to her concern in losing prime farm land and the loss of income to the local businesses.

Supervisor Botelho also voiced his concern in regards to the lack of study by Caltrans in the Highway 156 Supplement EIR. He said that this is an Urban Expressway designed in a Rural County and will change the character of the County forever.

Ted Thoeny, San Juan resident and Civil Engineer, said that Caltrans is not proposing an expressway. Mr. Thoeny said the amount of right of way that they are going to take across San Juan Valley is 500' and the cost to the County is estimated at a billion dollars. Mr. Thoeny said that the project is not necessary. Mr. Thoeny left the Board of Supervisors a few handouts.

Jolene Cosio, San Juan resident, said that she opposes this choice and believes that San Juan made a mistake many years ago when they allowed the bridge and the widening out to 101 from San Juan. Ms. Cosio said it is hard to work with Caltrans and she does not see the point of losing Ag land.

Discussion ensued by Board in regards to their concerns and where they want to go from here.

*Chair Barrios **directed** Supervisors Botelho and Rivas to work on a comment letter with our CAO Rich Inman and bring back to the Board of*

Supervisors meeting on April 26, 2011 for approval to send to Caltrans in regards to the EIR.

Supervisor Botelho said that he also had a concern in regards to the funding obligation of the County.

Chair Barrios said that this item can be agendized for the meeting on May 3, 2011 for discussion. *(Unanimous) File #156*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

**11) Receive Sheriff Admin. /County Permit Center Project update report.**

Capital Project Manager Adam Goldstone provided a brief update and a PowerPoint presentation in regards to the Sheriff Administration/County Permit Center design located at 2301 Technology Parkway for the purpose of housing the Sheriff, Planning & Building and Public Works Departments.

Discussion ensued by Board and staff.

**BOARD ACTION:** *Upon motion made by Supervisor Botelho and seconded by Supervisor Rivas, **accepted report.** (Unanimous) File #105.3*

*The Board entered into closed session at 10:45 a.m. and reported out at 11:30 a.m.*

**CLOSED SESSION:**

*Matters discussed during Closed Session include existing and pending litigation, personnel matters and real property negotiations. Reportable actions taken by the Board during Closed Session will be announced during open session. (Gov. Code Section 54957.1(a) & (b), Ralph M. Brown Act.)*

**12) Conference with Labor Negotiator:**

**Authority: California Government Code Section 54957.6**

**Agency Designated Chief Negotiator: Linzie Daniel and Jacki Credico, Management Analyst**

**Employee Organization: Deputy Sheriffs Association, Management Employees' Group, Law Enforcement Management, General Unit Employees**

*No reportable action. File #235.6*

**13) Conference with Legal counsel-Anticipated Litigation.**

**Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9: Number of Cases: (1)**

**Closed session is authorized by Section 54956.9 (b)-(3) (A).**

*County Counsel Matt Granger reported that the Board of Supervisors would continue this item to the April 26, 2011 meeting in closed session.*

**AFTERNOON SESSION**

**1:30 P.M.**

**1:30 P.M. PUBLIC HEARING** *(Or as soon thereafter as the matters may be heard)*

**PLANNING DEPARTMENT – G. Armstrong:**

**14) Hold a public hearing to adopt an ordinance as recommended by Planning Commission Resolution 2011-12, adding a new Chapter 19.39 Noise Control Regulations to Title 19 of the San Benito County Code.**

Planning Director Gary Armstrong provided information in regards to the proposed ordinance that would add a new Chapter to our County Code for Noise Regulations, which would specify maximum sound levels according to zoning district standards for special sound sources such as amplified sound equipment and defines activities exempt from the ordinance which includes agricultural items and onetime events. Mr. Armstrong handed out a Decibel (Loudness) Comparison Chart. Mr. Armstrong presented staff's recommendation.

Chair Barrios opened the Public Hearing.

Bill Lee, Hollister resident, encouraged the Board of Supervisors to pass this ordinance; he said it would help solve a lot of issues down the road for the County.

Ken Dunn, Hollister resident, said that he has very little confidence in Decibel meters. He said that we need some firm rules.

Chair Barrios closed the Public Hearing.

Lengthy discussion ensued by Board and staff in regards to their concerns in regards to the proposed ordinance and questions directed and answered by County Counsel Matt Granger, Assistant County Counsel Barbara Thompson and Planning Department staff.

***BOARD ACTION:*** Upon motion made by Supervisor De La Cruz and seconded by Supervisor Rivas, **continued** to April 26, 2011 at 1:30 to adopt Ordinance, with the recommended changes proposed by the Board of Supervisors. (Unanimous) File #790

## REGULAR AGENDA:

### HUMAN RESOURCES – J. Credico:

- 15) **Approve the Fourth Amendment to the Memorandum of Understanding between the County of San Benito and the Deputy Sheriff's Association related to employee concessions.**

Management Analyst Jacki Credico provided information in regards to the Fourth Amendment to the Memorandum of Understanding (MOU) with the Deputy Sheriff's Association related to employee concessions.

***BOARD ACTION:*** Upon motion made by Supervisor De La Cruz and seconded by Supervisor Muenzer, **approved** the Fourth Amendment to the MOU between the County of San Benito and the Deputy Sheriff's Association related to Employee Concessions. (4-1, vote, Rivas was not present) File #630

### HUMAN RESOURCES - J. Credico:

- 16) **Approve the Second Amendment to the Memorandum of Understanding between the County of San Benito and the Law Enforcement Management Group related to employee concessions.**

Management Analyst Jacki Credico provided information in regards to the Second Amendment to the Memorandum of Understanding (MOU) with the Law Enforcement Management Group related to employee concessions.

***BOARD ACTION:*** Upon motion made by Supervisor Muenzer and seconded by Supervisor Rivas, **approved** the Second Amendment to the MOU between the County of SB and the Law Enforcement Management Group related to employee concessions. (Unanimous) File #630

## HUMAN RESOURCES – J. Credico:

### 17) Approve the Third Amendment to the Memorandum of Understanding between the County of San Benito and the Management Employees' Group related to employee concessions.

Management Analyst Jacki Credico provided information in regards to the Third Amendment to the Memorandum of Understanding (MOU) with the Management Employees' Group (MEG) related to employee concessions.

Supervisor Botelho said that he was grateful that we are meeting with our employees and receiving some much needed consideration. Supervisor Botelho said that he strongly feels that we should have freezes on step increases as well as COLA's across the board. He said that he would like to see the MEG group step forward to delay the 1% increase or eliminate it all together, he said that he would also like to see our Elected Officials step forward and share in this burden that local government, county has.

Supervisor Rivas said that he agreed with Supervisor Botelho and thanked staff for their hard work to get these concessions. Supervisor Rivas said that he did not think it was acceptable for the MEG Group not to delay their 1% COLA. He said that we all have to share this pain, it is not easy. He also said that he hoped that the Elected Officials would step forward and give something up.

Supervisor De La Cruz thanked Jacki Credico and Rich Inman for working with the groups to make this happen and those groups who stepped up and contributed. He said that we have two groups of managements that are not willing to cooperate with what the rank and file has done already, that being the Management Employees Group (MEG) and the Elected Officials, they have given nothing back to the table. He said that he would like to have the MEG come back to the table and discuss the 1% that they are not willing to give up.

Supervisor Muenzer said that he concurred with everything else that had been said and cannot support this motion to go forward.

Chair Barrios said that she echoed her fellow Supervisors as well. She said that she would like to have our staff and negotiation team go back and work with MEG, this is not acceptable. She believes that the Elected Officials are going to come forward; they have in the past and are hoping they will do so again. She said not all of them but most of them did. Chair Barrios thanked those groups that have stepped up in good faith and made some concessions. She said that the Management Employees Group (MEG) needs to do the same.

Supervisor De La Cruz said that he would be a fool not to accept the \$409,000 dollar concession, and at the same time we have to move on it hoping that it would come back to the table for negotiation, but the truth of the matter is it is not going to happen. He said if it gets approved today it is a done deal and they will not negotiate. Supervisor De La Cruz said that the MEG has put them in a bad situation.

Chair Barrios said that we could go ahead and accept the concession that they have made to date, but request that they go back to the table to negotiate the 1%.

Supervisor Botelho said that when it comes to budget time we may have to cut jobs anyway.

**BOARD ACTION:** *Upon motion made by Chair Barrios and seconded by Supervisor Botelho, **approved** the Third Amendment to the Memorandum of Understanding (MOU) between the County of San Benito and the Management Employees' Group related to employee concessions, with the idea that they will*



go back to the table with negotiator to address the 1% COLA. (Unanimous) File #630

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The vote of each member of the Board of Supervisors upon each matter at the foregoing meeting, unless otherwise stated, was as follows:

AYES:	SUPERVISORS:	Botelho, Rivas, Muenzer, De La Cruz, Barrios
NOES:	SUPERVISORS:	None
ABSENT:	SUPERVISORS:	None

There being no further business the Board adjourned to April 26, 2011 at 9:00 a.m.

**MARGIE BARRIOS, CHAIR**  
San Benito County Board of Supervisors

**ATTEST:**  
Janet Slibsager, Asst.Clerk of the Board