



# 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 SEPTEMBER 13, 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, De La Cruz, Botelho, Rivas and Muenzer were present. Also present were County Administrative Officer Rich Inman, County Counsel Matthew Granger, and Clerk of the Board, Denise Thome. Chair Barrios presided.

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

- a) Supervisor Botelho led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** San Benito County 4-H Council President Sandy Patterson spoke in regards to the loss of the employee at the UC Extension Office that did the paperwork for 4-H and asked that the County honor the agreement signed in 1965 with Howard Harris.  
Ed Tobin of the Salinas Ramblers Motorcycle Club and South County property owner asked the County to consider creating a letter to Congress to re-open Clear Creek.  
Hollister resident Marty Richman spoke in regards to AB 629 and the veterans' cemetery at Fort Ord.
- d) **Department Head Announcements:** Planning Director Gary Armstrong spoke of a grant received from State Housing Development Corporation funds.
- e) **Board Announcements, Introductions and Presentations:** Chair Barrios announced that P.G. & E. was testing gas lines in the County.

### CONSENT AGENDA:

*Upon motion made by Supervisor Botelho and seconded by Supervisor Barrios, **approved** Consent Agenda items with the exception of items 6, 7, 13, 25 and 26 which were pulled for discussion. (Unanimous)*

*Supervisor Botelho announced that he would be abstaining from item #26 on the consent agenda as his family was making the donation. In addition Supervisor*

Botelho noted that the resolution of acceptance of funds should read that the monetary donation came from the Bettencourt family and not the Botelho family.

**AGRICULTURAL COMMISSIONER – R. Ross:**

- 1) **Approved** contract with the Department of Food & Agriculture to provide Sudden Oak Death quarantine enforcement work for the period of July 1, 2011 through June 30, 2012, for a total of \$545.88. *File #1.1*

**AGRICULTURAL COMMISSIONER – R. Ross:**

- 2) **Approved** contract with the Department of Food & Agriculture to provide Light Brown Apple Moth (LBAM) Regulatory services for the period of July 1, 2011 through September 30, 2011, for a total of \$11,475.94. *File #1.1*

**BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:**

- 3) **Authorized** the County Behavioral Health Director to sign the Cal. State University Monterey Bay (CSUMB) agreement for the period of September 13, 2011 to September 13, 2014, for the placement of undergraduate student interns. *File #810*

**BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:**

- 4) **Approved** contract renewal with St. Helena Hospital Center for acute psychiatric hospital services for the period of July 1, 2011 through June 30, 2012, for a maximum amount not to exceed \$70,000. *File #810*

**BOARD OF SUPERVISORS – M. Barrios:**

- 5) **Adopted Resolution No. 2011-73** acknowledging and supporting the Condor Classic Bicycle Event to be held on Saturday, October 22, 2011. *File #156*

**BOARD OF SUPERVISORS – M. Barrios:**

- 6) **Adopt Resolution acknowledging and supporting the San Benito County Chamber of Commerce as they celebrate their 100 year anniversary.**

Item was pulled for discussion.

Chair Barrios presented the resolution to Jessica French of the San Benito County Chamber of Commerce.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho, **adopted Resolution No. 2011-74** acknowledging and supporting the San Benito County Chamber of Commerce as they celebrate their 100 year anniversary. (Unanimous) File #156*

**BOARD OF SUPERVISORS – A. Botelho:**

- 7) **Adopt Resolution requesting the Governor declare a statewide emergency resulting from infestation of Dreissenid (Zebra) Mussels into the water bodies of the State of California.**

Item was pulled for discussion.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Rivas, **adopted Resolution No. 2011-75** requesting the Governor declare a statewide emergency resulting from infestation of Dreissenid (Zebra) Mussels into the water bodies of the State of California. (Unanimous) File #156*

**CLERK/AUDITOR/RECORDER – J. P. Gonzalez:**

- 8) ***Adopted Resolution No. 2011-76*** authorizing San Benito County Clerk to perform all necessary election services to conduct the General District Election for the Monterey County Office of Education to be held on November 8, 2011. *File #285*

**CLERK/AUDITOR/RECORDER – J. P. Gonzalez:**

- 9) ***Augmented*** the Elections FY 2011/12 Budget #1001140 with \$5,000 for additional election services provided to Monterey County Board of Education. *File #285*

**CLERK/AUDITOR/RECORDER – J. P. Gonzalez:**

- 10) ***Adopted Resolution No. 2011-77*** levying taxes and direct assessments for the Fiscal Year 2011-2012; approve the collection fee authorized by Government Code §29142. *File #608*

**CLERK OF THE BOARD – D. Thome:**

- 11) ***Approved*** the action minutes of July 26, 2011, August 16, 2011 regular meetings and August 18, 2011 and August 19, 2011 special meetings.

**COUNTY COUNSEL – M. Granger:**

- 12) ***Approved*** Legal Services Agreement with the San Benito County Office of Education to provide up to ten hours of legal services per year at a rate of \$120/hour during FY 2011-12, and annually thereafter until cancelled. *File #160*

**COUNTY COUNSEL – M. Granger:**

- 13) **Adopt Resolution authorizing Code Enforcement to proceed with Administrative Abatement of the Public Nuisance at 1980 Bolsa Road (019-02-0-013-0) (regarding the Purple Cross RX Medical Marijuana Dispensary), and finding that a public nuisance does exist and that there is sufficient cause to abate the same, and directing that the nuisance be abated by the County at the expense of the owner and/or occupier, the expense to be specially assessed against the parcel, and a lien imposed, in the event of nonpayment by the owner or occupier.**

Item was pulled for discussion.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Barrios, **adopted Resolution No. 2011-78** authorizing Code Enforcement to proceed with Administrative Abatement of the Public Nuisance at 1980 Bolsa Road (019-02-0-013-0) (regarding the Purple Cross RX Medical Marijuana Dispensary), and finding that a public nuisance does exist and that there is sufficient cause to abate the same, and directing that the nuisance be abated by the County at the expense of the owner and/or occupier, the expense to be specially assessed against the parcel, and a lien imposed, in the event of nonpayment by the owner or occupier. (The motion passed 4 to 1. Supervisor De La Cruz voted no) *File #790**

**HEALTH & HUMAN SERVICES AGENCY – K. Flores:**

- 14) ***Approved*** Revenue Agreement with the California State Department of Parks and Recreation to fund EMS Services and mitigate impact of Hollister Hills SVRA

for the period of January 1, 2012 to December 31, 2013; and **authorized** the Health & Human Services Agency to sign agreement. *File #130*

**HEALTH & HUMAN SERVICES AGENCY – K. Flores:**

- 15) **Approved** the Emergency Housing & Assistance Program (EHAP) Agreement with the State Department of Housing & Community Development in the amount of \$25,247, and **authorized** the HHSA Director to sign the agreement and any amendments to such grant agreement. *File #939*

**HEALTH & HUMAN SERVICES AGENCY – K. Flores:**

- 16) **Approved** the license agreement with ACT Inc. for the use of WorkKeys Skills Assessment System, and **authorized** the Deputy Director and/or the Director to sign said agreement. *File #939*

**HEALTH & HUMAN SERVICES AGENCY – K. Flores:**

- 17) **Approved** the CA Multi-Sector Workforce Partnership MOU for the National Emergency Grant (NEG) between San Benito County and Partnering Workforce Investment Board's, and **authorized** the Director and/or the Deputy Director to sign said MOU and any amendments to such MOU. *File #939*

**HEALTH & HUMAN SERVICES AGENCY – K. Flores:**

- 18) **Approved** the CA Multi-Sector Workforce Partnership Agreement with the South Bay Workforce Investment Board, Inc. in the amount of \$176,493 and **authorized** the HHSA Director to sign the agreement and any amendments to such grant agreement; **approved** the FY 2011/12 budget augmentation in amount of \$176,493 for the CA Multi-Sector Workforce Partnership activities. (4/5 vote) *File #939*

**HEALTH & HUMAN SERVICES AGENCY – K. Flores:**

- 19) **Approved** the deletion of one (1) Full Time Equivalent (FTE) Integrated Case Worker I/II (Range 14.9/16.9) to the Schedule of Authorized Positions and the addition of one (1) FTE Eligibility Worker I/II (Range 10.9/12/9) to the Schedule of authorized positions. *File #630*

**INTEGRATED WASTE MANAGEMENT – M. Rose:**

- 20) **Approved** contract with Lawrence & Associates for Engineering Consulting Work on Landfill Expansion at John Smith Landfill for the period of September 13, 2011 to September 12, 2012 in the amount of \$30,345. *File #142*

**PLANNING DEPARTMENT – G. Armstrong:**

- 21) **Approved** reimbursement agreement between Sandman and San Benito County to fully recover County costs to review and process this project. *File #790*

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

- 22) **Approved** Amendment No. 1 with Brummel, Myrick & Associates for mechanical engineering services for the Sheriff Administration/County Permit Center project, increasing the contract by \$1,200 for a total not to exceed of \$12,000. *File #105.3*

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

- 23) **Approved** Amendment No. 1 with Thoma Electric, Inc. for electrical engineering services for the Sheriff Administration/County Permit Center project, increasing the contract by \$2,200, for a total not to exceed amount of \$14,700. *File #105.3*

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

- 24) **Approved** contract change order No. 2 with Della Mora Heating, Sheet Metal & Air Conditioning Inc. for replacement of Courthouse Chiller and Cooling Tower project, in an amount not to exceed \$7,397.00 and a total contract amount not to exceed \$116,774. (4/5 vote) *File #105.3*

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

- 25) **Adopt Resolution accepting donation of a bench in the amount of \$450 for installation on the Juan Bautista de Anza Trail.**

Item was pulled for discussion.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho, **adopted Resolution Res. No. 2011-79 accepting** donation of a bench in the amount of \$450 for installation on the Juan Bautista de Anza Trail. (Unanimous) *File #105**

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

- 26) **Adopt Resolution accepting donation of funds in the amount of \$358 for the purchase and installation of trees at the San Benito County Historical and Recreation Park.**

Supervisor Botelho abstained from Item #26

Item was pulled for discussion.

Marty Richman, Hollister resident, commented that it would be nice to thank the donors by putting a memorial plaque on the item donated or a sign in the administration building with a picture of the item and the donor's name.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **adopted Resolution No. 2011-80 accepting** donation of funds in the amount of \$358, from the Bettencourt Family, for the purchase and installation of trees at the San Benito County Historical and Recreation Park. (the motion passed; 4 yes, 0 no, 1 abstained [Botelho]) *File #105.3**

**SAN BENITO COUNTY LONG TERM CARE COMMISSION – P. Valdivia:**

- 27) **Appointed** Mr. Jonathan M. Hudson Sr. to the Long Term Care Commission for a three year term effective September 13, 2011 through September 13, 2014; reappoint Pauline Valdivia and Clay Kempf to the Long Term Care Commission for a three year term effective September 13, 2011 through September 13, 2014. *File #1042*

*The Board will adjourn as the San Benito County Board of Supervisors and reconvene as the San Benito County Board of Equalization re:*

**San Benito County Board of Supervisors sitting as the County Board of Equalization:**

The Board adjourned as the San Benito County Board of Supervisors and reconvened as the San Benito County Board of Equalization.

- 28) **Adopted** the Finding of Facts for assessment appeal application (Daniel Emmett Lynch, APN 020-270-006-000) as revised. (Unanimous) *File #197*

*Adjourn as the San Benito County Board of Equalization and reconvene as the San Benito County Board of Supervisors.*

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

**ADMINISTRATION – R. Inman:**

- 29) **Discussed and provided staff direction on Option 5C; read title of ordinance for the record: "An Ordinance of the County of San Benito amending Article III (Supervisory Districts) of Chapter 3.01 of Title 3 of the San Benito County Code, amending the boundaries of all Supervisory Districts as results of 2010 census Date"; open and conducted public hearing; accepted introduction and waived further reading of ordinance and continued this matter to September 27, 2011 for adoption.**

County Administrative Officer Rich Inman gave a staff report.

Chair Barrios opened the public hearing.

Hollister resident Aurelio Zuniga spoke under public comment.

There being no further public comment, the Chair closed the public hearing.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor De La Cruz, read the title of the ordinance for the record, **accepted** introduction and **waived** further reading of the ordinance and **continued** the matter to September 27, 2011 for adoption. (Unanimous) File #119*

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

**PLANNING DEPARTMENT – G. Armstrong:**

- 30) **Conducted a Public Hearing to review the project record and Planning Commission resolution No. 2011-08; read the title of the Ordinance for the record: "An Ordinance of the County of San Benito, amending Chapters 21.07 of title 21 and Section 19.29.003 and 19.29.005 of Title 19 of the San Benito County Code pertaining to the Growth Management System, General Plan Amendments allowing Potential Residential Growth Increase and General Plan Amendments"; accepted introduction and waived further reading of the ordinance; and continued the matter to September 27, 2011 for adoption.**

Planning Director Gary Armstrong gave a PowerPoint presentation.

The Board asked questions of staff.

The Chair opened the public hearing.

Those speaking under public comment were; San Juan Bautista resident Ted Thoeny, Jason Noble representing the San Benito County Association of Realtors, Hollister resident Janet Brians, Brad Sullivan of Lombardo and Gilles, Hollister resident Marty Richman, Hollister resident Pat Loe, Hollister resident

Ray Pierce, Paul Rovella of Lombardo and Gilles and Hollister resident Richard Bettencourt.

There being no further public comment, the Chair closed the public hearing.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Rivas, **continued** the matter to September 27, 2011 with the two items of Potential Residential Growth Increase (PRGI) and Growth Management Ordinance (GMO) to be brought back separately for further consideration. (Unanimous) File #790*

The Board adjourned at 10:55 a.m. for a short break and reconvened at 11:06 a.m. into regular session.

**PLANNING DEPARTMENT – G. Armstrong:**

- 31) **Held public hearing regarding Enz Lot Line Adjustment No. 11-546; receive any public comments; close public hearing; no motion by the Board of Supervisors is necessary. The matter will be referred to the Planning Commission for a report on the proposed action's consistency with the General Plan, and will be brought back before the Board of Supervisors at a future date for further action.**

Assistant Planning Director Byron Turner gave a staff report and explained that the item needed to go to the Planning Commission first and asked that the Board hold the public hearing, no action be taken and the matter would be brought back at a later date.

Chair Barrios opened the public hearing.

There being no public comment, the Chair closed the public hearing.

No action was taken. *File #790*

**REGULAR AGENDA:**

**SHERIFF'S OFFICE – D. Thompson:**

- 32) **Allow the Sheriff to accept a donation of \$1,000 from the Gavilan Kennel Club in support of the K-9 Unit.**

Joe Pendry of the Gavilan Kennel Club presented the donation of \$1,000 to Sheriff Thompson to help support the K-9 unit.

*Upon motion made by Supervisor Rivas and seconded by Supervisor De La Cruz, **accepted** the \$1,000 donation from the Gavilan Kennel Club to go towards the support of the K-9 unit. (Unanimous) File #110*

**ADMINISTRATION – R. Inman:**

- 33) **Discussion and direction to staff concerning the applicability of tax sharing agreement to Silver Oaks senior housing project.**

County Administrative Officer Rich Inman gave a staff report.

Marty Miller, partner in the Silver Oaks Project, spoke on the matter.

Direction was given to CAO Inman to meet with the applicant and bring back the recommended formulation for the September 27, 2011 consent agenda for approval. *File #119*

**ADMINISTRATION – R. Inman:**

- 34) **Rescind lay-off of one (1) Sheriff Lieutenant; allocate one (1) Sheriff Sergeant and add it to schedule of positions and delete one (1) Sheriff Lieutenant; authorize payment of accrued benefits over FY 2011/12 and FY 2012/2013; rescind lay-offs of one (1) Deputy Sheriff and two (2) Correctional Officers; approve appropriation and revenues of \$252,700 in Sheriff Operations and \$172,300 in Sheriff Jail as shown on attached operating Budget Transfer Adjustment.**

Hollister resident Marty Richman spoke under public comment.

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Barrios, **rescinded** lay-off of one (1) Sheriff Lieutenant; **allocated** one (1) Sheriff Sergeant and **added** it to schedule of positions and delete one (1) Sheriff Lieutenant; **authorized** payment of accrued benefits over FY 2011/12 and FY 2012/2013; **rescinded** lay-offs of one (1) Deputy Sheriff and two (2) Correctional Officers; **approved** appropriation and revenues of \$252,700 in Sheriff Operations and \$172,300 in Sheriff Jail as shown on attached operating Budget Transfer Adjustment. (Unanimous) File #630*

**CLERK/AUDITOR/RECORDER – J. P. Gonzalez:**

- 35) **Adopt Resolution establishing Audit Committee as a Standing Committee of the Board of Supervisors of San Benito County; Chairperson appoints two members to Audit Committee and Board affirm said appointments.**

Clerk-Auditor-Recorder Joe Paul Gonzalez gave a staff report.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho, **adopted Resolution No. 2011-81 establishing** an Audit Committee as a standing committee of the Board of Supervisors. (Unanimous)*

Chair Barrios appointed herself and Supervisor Muenzer to serve on the Audit Committee for the remainder of the year.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor De La Cruz, **accepted** Chair Barrios' recommendation for appointment of Supervisors Barrios and Muenzer to the Audit Committee. (Unanimous) File #608*

**COUNTY COUNSEL – M. Granger:**

- 36) **Adopt Resolution supporting consideration of the most Southern Alignment of the proposed Highway 152 Trade Corridor and amending Resolution 2008-98.**

Supervisor Botelho recused himself from the matter as the study encompassed property that he owned. Supervisor Botelho then left the meeting at 11:40 a.m.

Those speaking under public comment were; Ron Vaccarezza president of the San Benito County Farm Bureau, Hollister resident Pat Loe, Hollister resident Janet Brians, Brad Sullivan of Lombardo and Gilles and Joe Zanger of the San Benito County Farm Bureau.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor Muenzer, **directed** staff to draft a letter with strong language to be brought back to the Board for approval. (The motion passed 4 yes, 0 no, 1 abstained [Botelho]). File #156*

Supervisor Botelho returned to the meeting.



**COUNTY COUNSEL – M. Granger:**

- 37) **Adopt Resolution and approve purchase contract with Piper Jaffray & Co. and the Hollister Elementary School District providing for the issuance of Hollister Elementary School District 2011-2012 Tax and Revenue Anticipation Notes.**

County Counsel Matt Granger gave a staff report.

Carlos Villafuerte of Piper, Jaffray and Company and attorney representing the Hollister School District and Jack Bachofer, Chief Business Officer for the Hollister School District spoke on the matter.

*Upon motion made by Supervisor De La Cruz and seconded by Supervisor Rivas, **adopted Resolution No. 2011-82** and **approved** purchase contract with Piper Jaffray & Co. and the Hollister Elementary School District providing for the issuance of Hollister Elementary School District 2011-2012 Tax and Revenue Anticipation Notes. (Unanimous) File #575*

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

- 38) **Introduce an ordinance amending Chapter 17.01 of the San Benito County Code, Traffic Regulations, establishing a speed limit of 55 miles per hour (mph) on McCloskey Road between Fairview Road and the City Limits; waive the reading of said ordinance; and continue to October 18, 2011 for adoption of said ordinance.**

Public Works Director Steve Wittry gave a staff report.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Barrios, **introduced** an ordinance amending Chapter 17.01 of the San Benito County Code, Traffic Regulations, establishing a speed limit of 55 miles per hour (mph) on McCloskey Road between Fairview Road and the City Limits; **waived** the reading of said ordinance; and **continued** to October 18, 2011 for adoption of said ordinance. (Unanimous) File #105*

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

- 39) **Receive informational report regarding pending action by the Regional Water Quality Control Board in reference to a Water Softener Ordinance within San Benito County and provide direction to staff.**

Public Works Director Steve Wittry gave a staff report.

*Directed staff to bring back a draft ordinance re: water softeners in the new year. File #105*

**CLOSED SESSION:**

The Board adjourned into closed session at 1:56 p.m. and reconvened into regular session at 2:40 p.m.

- 40) **Conference with Labor Negotiators**  
**Agency Designated Representative(s): Rich Inman**  
**Unrepresented Employees: Appointed Department Heads in Non-General Fund Departments**  
*No reportable action. File #235.6*

- 41) **Conference with Legal Counsel-Anticipated Litigation.**  
**Initiation of litigation pursuant to subdivision (c) of Section 54956.9:**  
**Number of Cases: (1)**  
*Approved on a vote of 5 to 0 to take legal action on behalf of the County. Once formally commenced, the action, the identity of the defendants and other particulars will be disclosed upon inquiry unless disclosure jeopardizes the process of service. File #235.6*
- 42) **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)(C)**  
*This item was pulled from the agenda. File #235.6*
- 43) **Personnel (Government Code Section 54957). It is the intention of the board to meet in closed session to: Public Employee Discipline/Dismissal/Release**  
*Approved disability retirement on a vote of 5 to 0 for an employee holding the position of Correctional Officer II.*  
**Adopted Resolution No. 2011-83** *relative to the application of Jozell A. Castaneda for industrial disability retirement from her employment with the County of San Benito Sheriff's Office. (Unanimous) File #235.6*

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

There being no further business, the Board adjourned at 2:44 p.m. to September 27, 2011 at 9:00 a.m.

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

**ATTEST:**  
 Denise R. Thome, Clerk of the Board