



SAN BENITO COUNTY BOARD OF SUPERVISORS

Don Marcus
District No. 1

Anthony Botelho
District No. 2
Vice-Chair

Pat Loe
District No. 3

Reb Monaco
District No. 4

Jaime De La Cruz
District No. 5
Chair

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

REGULAR MEETING APRIL 8, 2008 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date *in regular session*. Supervisors Monaco, Loe, Botelho, Marcus and De La Cruz were all present. Also present was County Administrative Officer Susan Thompson, County Counsel Dennis Le Clere and Clerk of the Board Linda Churchill. Chairman Jaime De La Cruz presided.

9:30 a.m. CALL TO ORDER:

- a) Supervisor Loe led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

PRESENTATIONS / RECOGNITIONS:

- c) **Proclaim April 25, 2008 as Arbor Day in the County of San Benito. (County Administrative Officer for Nants Foley)**

Upon motion made by Supervisor Marcus and seconded by Supervisor Monaco, proclaimed April 25, 2008 as Arbor Day in San Benito County.

Nants Foley accepted the proclamation presented by Supervisor Marcus.

- d) **Public Comment:** Bonnie Flores-Voropaeff, representing Spotlight on Hollister, announced that on May 15, 2008 from 2 p.m. to 7 p.m. local businesses and services will be highlighted with an Expo and Job Fair to be held at the Veterans Memorial Building. Ms. Flores-Voropaeff handed out flyers and asked that we place them in our lobby.

Marty Richman, local resident, repeated comments that he made at the Hollister City Council meeting on Monday evening regarding the possibility of getting a State approved Housing Element. Mr. Richman stated that Hollister may be required to build 3100 new homes noting that anything near that number has no chance of ever being built and that would mean we would never get an approved Housing Element. Mr. Richman asked that this be kept in mind when we start developing the county overall and the ability of other places to absorb housing.

Joe Thompson, Tres Pinos resident, commented with regards to what he feels is the continued erosion of the Board of Supervisors' jurisdiction over COG (Council of Governments) and asked the Board to please step forward and protect its citizens and go to COG and tell them we don't agree with these greenhouse gas taxes or fees.

e) **Department Head Announcements:** County Administrative Officer Susan Thompson reported that administrative staff had just finished the first round of budget review with department heads noting they have had serious discussion and are still trying to close the \$6 million gap.

f) **Board Announcements, Introductions and Presentations:** Supervisor Marcus commented with regards to the controversy that has arisen over the new courthouse location selection. Supervisor Marcus stated that the Project Advisory Committee all agree that it is critical that this project proceed and we cannot jeopardize that funding. Supervisor Marcus explained that in the process the County had to offer up to viable building sites, one being the Fremont School Site which is owned by the City of Hollister and the Flynn Road Site which is property that is owned free and clear by the County of San Benito. The Fremont School Site was unanimously supported by the County, City, Courts, with the State's concurrence, because of the economic viability of having a courthouse downtown is the preferred site. Supervisor Marcus stated that the State is willing to work with us to form a parallel process and in order to appease the community and the organizations that are writing letters stressing the importance of the Fremont School Site the State Representative is willing to come down and answer and clarify any technical questions with regards to this project and they will be present at the City of Hollister Council meeting on April 21st and Board of Supervisors meeting on April 22nd. Supervisor Marcus stated that no one is trying to stop the Fremont School Site but if we cannot build on that site then we should promote the Flynn Road Site for our new courthouse in order to not lose the over \$35 million funding.

Supervisor Botelho reported that he met with Congressman Sam Farr and Monterey County Supervisor Lou Calcagno and the District Manager for the U.S. Postal Service, along with a couple of Aromas residents, in regards to the Aromas post office. Supervisor Botelho stated it was a very successful meeting and they were assured that the US Postal Service does intend to keep their postal service at the same level in Aromas either at that site or another site. Supervisor Botelho stated this was very good news for Aromas residents and was no small victory and thanked the Board of Supervisors for their very proactive approach and support for those efforts.

Supervisor Botelho also reported that on Monday, April 21st he attended a ribbon cutting ceremony at Earthbound Farms. Supervisor Botelho stated that this was a very good example of an important project that moved through our Planning Department process quickly and ahead of time and this means hundreds of jobs for this community and preservation and sustainability of agriculture. Supervisor Botelho praised the County Staff, particularly County Planner Evan Hill, for a job well done.

Chairman De La Cruz invited the public to attend the meetings pertaining to the new courthouse site.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus, approved Consent Agenda Items 1 through 12. (Unanimous)

AGRICULTURAL COMMISSIONER – P. Matulich:

- 1) **Approved** request to apply for grant funding in the amount of \$2,500 from Fish & Game Commission; and **authorized** Agricultural Commissioner to sign documents. *File #1.1*

BEHAVIORAL HEALTH – A. Yamamoto:

- 2) **Authorized** the County Behavioral Health Director to sign and submit a request for Mental Health Services Act (MHSA) Prevention and Early Intervention Community Program Planning funds for the amount of \$75,000. *File #810*
- 3) **Authorized** the Behavioral Health Director to sign the Amendment No. 1 to Negotiated Net Amount Contract (NNA) with the State Department of Alcohol and Drug Programs (ADP) for the period of July 1, 2007 to June 30, 2010 and; **adopted Resolution No. 2008-27** to accept the ADP amendment to the Negotiated Net Amount Contract (NNA). *File #810*

CLERK OF THE BOARD – L. Churchill:

- 4) **Approved** the action minutes of the March 25, 2008 regular meeting.

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

- 5) **Approved** contract with K & H Integrated Print Solutions for the upcoming June 3, 2008 Statewide Primary Election for printing of ballots and booklets and address/ mailing services effective March 25, 2008 to July 31, 2008. *File #285*
- 6) **Approved** contract with Transcend for translation of election materials for the upcoming June 3, 2008 Primary Election effective March 24, 2008 to June 3, 2008. *File #285*
- 7) **Adopted Resolution No. 2008-28** consolidating the municipal election for the City of San Juan Bautista with the June 3, 2008 Statewide Direct Primary Election. *File #285*
- 8) **Adopted Resolution No. 2008-29** consolidating the Aromas-San Juan Unified School District with the June 3, 2008 Statewide Direct Primary Election. *File #285*

HEALTH & HUMAN RESOURCES – K. Flores:

- 9) **Appointed** Mr. Dale Yarmuth to Community Action Board as the District #5 Board of Supervisors representative effective April 8, 2008 to December 31, 2008. (CSWD) (Sup. De La Cruz) *File #939*
- 10) **Appointed** Mr. Arthur R. Gaeta to the Community Action Board to represent District #5 Low Income Representative for a three year term effective April 8, 2008 to April 7, 2011. (CSWD) *File 939*

PUBLIC WORKS – J. Lo:

- 11) **Approved** contract with Link Construction Company, Inc., as the lowest responsive, responsible bidder for the repair of the Cienega Road Bridge at Bird Creek for the period of April 21, 2008 to June 17, 2008 in the amount of \$119,790; and **authorized** the Public Works Director to approve change orders, when needed, not to exceed 15% of the contract amount, or \$17,968. *File #105*

SHERIFF'S DEPARTMENT – C. Hill:

- 12) **Approved** purchase of equipment for Off Highway Vehicle patrol and enforcement; and **authorized** budget adjustment in the amount of \$33,445. *File #110*

REGULAR AGENDA:

ADMINISTRATION:

13) **P. G. & E. status report on local power capacity issues.**

A Power Point Presentation, titled "Electric System Improvements Planned for San Benito County" was presented by Wendy Sarsfield, P. G. & E. Public Relations Representative for the Central Coast and San Benito County and Jennifer Goncalves, Electric Planner Engineer who handles special projects on the Central Coast. Ms. Sarsfield introduced Tim Blunt, Electric Planning Engineer for San Benito County; Jose Rios, Service and Sales Group and Account Manager for several of the agricultural companies in San Benito County, specifically Earthbound Farms; and Alex Caudillo, Service and Sales Representative who handles the County of San Benito, the City of Hollister and City of San Juan Bautista.

The following members of the public asked questions: Marty Richman, Hollister resident; Rick Pennington; and Joe Torquato, Facilities Director for Earthbound Farms.

Ms. Sarsfield and Ms. Goncalves answered questions posed by the Board and members of the public

Chairman De La Cruz asked Supervisor Botelho to keep the Board of Supervisors abreast of discussions he would be having with P.G.& E. and Earthbound Farms with regards to addressing the problems of the many power outages that occur.
File #119

The Board adjourned for a five-minute break at 10:30 a.m.

PUBLIC WORKS DEPARTMENT – J. Lo:

14) **Receive staff report on the energy efficient lighting provided by the Energy Watch Program to reduce energy usage by the County.**

Theresa Yee, Public Works Department Capital Project Manager, presented a Power Point Presentation outlining the County facilities that have been retrofitted to be energy efficient and stating that the projected annual savings is \$76,912.

Marty Richman, Hollister resident, stated that there should be a central place for disposing of CFL's noting they have mercury in them.

Ms. Yee answered questions posed by Board members.

County Administrative Officer Susan Thompson will talk with Integrated Waste Management Director Mandy Rose regarding a disposal site for CFL's.

Chairman De La Cruz asked if there was some kind of program for the public to trade their light bulbs for the new energy saving light bulbs and directed the County Administrative Officer to look into it and come back within two months with information.
File #1111

TRES PINOS WATER DISTRICT – P. Alvarado:

15) **Consider appointment to the Tres Pinos Water District Board to fill current vacancy for the term expiring in November 2008.**

Supervisor Loe declared a conflict of interest due to having a former sister-in-law applying for this seat and excused herself from the proceedings.

Pam Alvarado, Manager of the Tres Pinos Water District, provided background information explaining the reason for requesting an appointment by the Board of Supervisors.

County Counsel Dennis Le Clere explained that since the Tres Pinos Water District does not have its own statute it operates under the general statute of Water Code which basically defers to the Government Code. If the Board of Directors does not act within 60 days then Govt. Code Section 1780 permits the Board of Supervisors to step in and appoint a person as long as it does it within 90 days of notification, therefore, the Board of Supervisors will have to act before the end of April.

Supervisor Monaco stated that this situation is within his district and noting this has created a tempest in the small township of Tres Pinos and it is important that the citizens of Tres Pinos Water District understand the role of the Board of Supervisors. Supervisor Monaco indicated that a special election would be costly and noting that this vacancy would be filled only through November 2008. Supervisor Monaco stated he would like to hear from the candidates.

Joe Paul Gonzalez, Registrar of Voters, stated that it was too late for this matter to be placed on the June 2008 election.

Candidates Janie Lausten and Bobby Zaucha addressed the Board of Supervisors and answered questions. The remaining applicants were not present at the meeting.

Speaking as a citizen of Tres Pinos, Pamela Alvarado supported Janie Lausten.

The following Tres Pinos residents came forward in support of Bobby Zaucha: Ed Schmidt, Robert Frusetta and Jaime Frusetta.

Marty Richman, Hollister resident, stated that he would just like to see the Board of Supervisors pick someone who will meet all obligations and will comply with all rules.

Supervisor Monaco recommended the appointment of Janie Lausten who he felt would provide a calming influence to the Tres Pinos Water Board for the next six months.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus, appointed Janie Lausten to the Tres Pinos Water District Board to fill the unexpired term expiring November 2008. (4-0 Vote. Loe abstained.) File #695*

COUNCIL OF GOVERNMENTS – L. Rheinheimer:

16) Receive presentation on the Highway 25 Bypass project upcoming detour

COG Executive Director Lisa Rheinheimer reported that the Highway 25 Bypass Project is moving along very quickly but before getting to the finish line of opening the project there will be a major detour in the area of Sunnyslope and Airline Highway.

Mary Dinkuhn, Project Manager, explained the detour and handed out maps. Ms. Dinkuhn reported that the detour will last approximately 30 days and the public should expect delays and allow extra time beginning the end of April or early May.

Board members encouraged COG to get this message out to the public as soon as possible. *File #1035*

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.)

17) Conference with Legal Counsel – Existing Litigation – (Subdivision (a) of Section 54956.9)

1. Simpson vs. County of San Benito, et al. (San Benito Superior Court, Case No. CU 08 00038)
County Counsel Dennis Le Clere reported that the Board confirmed the retention of Steve Barber, outside Counsel in this case. File #235.6

AFTERNOON AGENDA **1:30 p.m.**

REGULAR AGENDA: (Continued)

PLANNING & BUILDING DEPARTMENT – A. Henriques:

- 18) **Approve reimbursement agreement between El Rancho San Benito LLC and San Benito County to fully recover County costs to review this project.**

Planning Director Art Henriques provided background information stating that this was a recommendation from staff for approval of this reimbursement agreement. Mr. Henriques noted that there had been recent Board of Supervisors discussion and direction given this past week and he believed that they have responded to the Board's comments and addressed those issues that were included in the reimbursement agreement before the Board today. Mr. Henriques stated that once this agreement was approved we then will be coming back to the Board and also update the Planning Commission with the process and some more detail.

CAO Susan Thompson stated that in talking with County Clerk/Auditor/Recorder Joe Paul Gonzalez about a contract they are leaning towards establishing a position, probably a part-time contract position, under Mr. Henriques' authority to actually manage all of this incoming accounting information from the various departments and being the point for communications with DMB in keeping that balance up.

Supervisor Loe asked when does staff plan on coming back with further information on the project.

Mr. Henriques answered that it would be sometime in May.

Ray Becker, El Rancho San Benito LLC, thanked the Board of Supervisors and staff for their hard work.

BOARD ACTION: *Upon motion made by Supervisor Marcus and seconded by Supervisor Monaco, approved the reimbursement agreement between El Rancho San Benito LLC and San Benito County to fully recover the County Cost to review the project and authorized the Chairman to sign said agreement on behalf of the Board of Supervisors. (Unanimous) File #790*

1:30 P.M. - PUBLIC HEARING: (or as soon thereafter as the mater may be heard)

PLANNING & BUILDING DEPARTMENT – A. Henriques:

- 19) **Held a public hearing to consider an appeal of the San Benito County Planning Commission's March 19, 2008 denial re: Minor Subdivision No. 1165-05(A). Request: overturn Planning Commission's denial and approve Minor Subdivision 1165-05(A), amending the tentative subdivision map to delete Condition 18, requiring dedication of the subdivision's access road. Applicant/Appellant: Jeff Hall Location: McMahan Road, Hollister, CA. APN 17-050-009. CEQA Determination: Mitigated Negative Declaration was**

adopted in connection with the approval of Minor Subdivision No. 1165-05. No further environmental analysis deemed necessary for the proposed amendment. (Proposed Resolution)

Planning Director Art Henriques introduced Principal Planner Byron Turner who provided background information and presented a Power Point Presentation describing the appellants request, the project history and showing maps of the Legal Access, Physical Access and a photograph of the actual access at the end of McMahon Road. Mr. Turner stated that the purpose of the dedication is to ensure legal and physical access to the current and all future property owners and staff recommends denial of the appeal based on the inconsistency with the Subdivision Ordinance.

Chairman De La Cruz opened the public hearing.

Anne Hall, San Benito Engineering and Surveying and Brad Sullivan, Attorney with Lombardo & Gilles spoke on behalf of the appellant .

County Counsel Dennis Le Clere and Deputy Counsel Shirley Murphy spoke on behalf of the county and staff.

Lengthy discussion ensued.

Chairman De La Cruz closed the public hearing.

Supervisor Marcus stated that he has knowledge and a history of this property noting that planning staff and County Counsel had done their job. They have taken the restrictions and erring strictly on the side of caution and that is why it has taken so long because it has to come to the Board of Supervisors where we make the subjective views based on the individual projects. Supervisor Marcus said this is an agricultural parcel that has been in the family for generations and is a land split only whereby both pieces of party are remaining in the Williamson Act and they have already offered to keep that land in a ten-year agricultural environment. Supervisor Marcus urged the Board to favor the appeal and to allow this family to divide this property in half noting there is a very big difference between a land split and a large subdivision. Supervisor Marcus stated this is a unique situation and feels this appeal should be respected and that we should remove Condition #18 from the application.

Supervisors Botelho and Monaco favored the appeal.

Supervisor Loe stated she has a different opinion because her concern is what happens in year eleven. Supervisor Loe stated she really believes that there is some way that these property owners can work this out with some kind of dedication to the County. Supervisor Loe said she has sat here for too many years when something like this has come back before the Planning Commission or the Board of Supervisors and then want to subdivide further. Supervisor Loe stated that she did not see how reasonable people cannot work out some kind of dedication, even it's between Parcel 1 and Parcel 2, in an area that we don't feel there will ever be a road but at least we've got that if there is a problem 15 years from now and then it will be the County's problem.

BOARD ACTION: *Upon motion made by Supervisor Marcus and seconded by Supervisor Monaco, continued the public hearing to the April 22, 2008 meeting at 9:30 a.m. and directed staff to come back with the necessary resolution granting the appeal of Jeff Hall and removing Condition #18 as a requirement. (4-1 Vote. Loe voted no.)*
Appeal File

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: Monaco, Loe, Botelho, Marcus, De La Cruz
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to Tuesday, April 22, 2008 at 9:30 a.m. for a regular meeting.

JAIME DE LA CRUZ, CHAIRMAN
San Benito County Board of Supervisors

ATTEST:
Linda Churchill
Clerk of the Board