



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 MAY 27, 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, Marcus, Botelho and De La Cruz were present. Also present was County Administrative Officer Susan Thompson, County Counsel Dennis Le Clere and Clerk of the Board Linda Churchill for the afternoon session and Assistant Board Clerk Janet Slibsager for the morning session. Chairman Jaime De La Cruz presided

9:00 a.m. CALL TO ORDER:

- a) Supervisor Monaco led the pledge of allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

PRESENTATIONS & RECOGNITIONS:

- c) **Present Awards and Certificates of Appreciation to County Employees who have reached milestone years of service.**

Chairman De La Cruz presented certificates and gift catalogs to county employees who had reached 15, 20, 25, 30, 35 and 40 years of service milestones.

- d) **Public Comment:** Ed Tobin, Salinas Ramblers Motor Cycle Club, stated he is a property owner in South County and spoke at the last meeting pertaining to the closing of the roads in Clear Creek area. Mr. Tobin stated he would like to ask the board to consider working with the Bureau of Land Management to encourage them to do another risk analysis because he feels it is possible that this risk analysis was flawed. Mr. Tobin encouraged the county to keep the county roads open and don't be part of the Bureau of Land Managements efforts to lock the public out of our public lands.

David Huboi, Hollister resident, provided a handout pertaining to green architecture. Mr. Huboi stated he had recently attended a seminar sponsored by AMBAG, Granite Rock and the American Institute of Architects and believes there is an opportunity for business's to adapt to this growing concern. Mr. Huboi submitted copies of information regarding a green building checklist adopted by the Santa Cruz County Board of Supervisors. Mr. Huboi feels this is not just another layer of red tape but what he feels could be a user-friendly valuable

mechanism to promote awareness and encourage implementation. Mr. Huboi stated let us move to the forefront of resource friendly technology and help set a green threshold for future development.

Marvin Jones, Hollister resident, spoke in regards to an article he saw in the Free Lance pertaining to Proposition 98 and individual property rights. Mr. Jones mentioned he also came across an article in regards to tax exempt bonds and was wondering if San Benito County and Hollister are going to be responsible for those obligations if this invisible government organization of HB Capital Resources folds.

County Administrative Officer Susan Thompson responded to Marvin Jones stating the answer is no. None of these organizations, San Benito County or any of the other government organizations are responsible for the repayment.

e) **Department Head Announcements:**

County Administrative Officer Susan Thompson stated that she had the honor to represent the Board and the County of San Benito at the California State Association of Counties (CSAC) legislative meeting and participated as a panel member which pertained to local government budgeting and how to prepare ourselves from the fluctuations in the State decision making and strategies.

Ms. Thompson mentioned that she and Supervisor Monaco attended a kick off breakfast for a Costal Counties group to talk about issues that were the same across those counties to see if we can work together.

Public Works Director Jerry Lo announced that they would be having grand openings at three sites for the County Parks and Recreation Facilities: Thursday, May 29th at 4:00 p.m. at the John Z. Hernandez Park, Wednesday, June 4th at 4:00 p.m. at the Veterans Memorial Park and Thursday, June 5th at 4:00 p.m. at the Historical Park. Mr. Lo stated that the public is invited.

f) **Board Announcements, Introductions and Presentations:**

Supervisor Monaco gave a brief summary report on the California State Association of Counties (CSAC) Legislative Conference that he attended on May 21st and 22nd in Sacramento. Supervisor Monaco stated that the main topic of discussion from the other counties was the State Budgets deficit. Supervisor Monaco mentioned that materials from the conference are available for review at the Clerk of the Board Department, 481 Fourth Street.

Supervisor Monaco stated he also attended the Ag and Natural Resources Policy Committee meeting. The meeting was focused on state water issues, particularly Orange County's clean water act for permit process and the Delta policy statement.

Supervisor Loe stated she attended the Governance Committee meeting and they had some positive information regarding the domestic wastewater treatment plant. Supervisor Loe reported construction is at 87%, a minimal amount of change orders at 5.8% and the contract is at \$57 million dollars noting it was estimated at \$73 million. It looks like it is going to come in way under budget. Supervisor Loe said the scheduled testing will be the 1st part of June and the start up is directly after that.

Supervisor Marcus stated that the Inter-Governmental Committee met and they continued their discussion with the City of Hollister regarding the construction on the courthouse facility. We will be having a project advisory team

committee meeting Thursday, May 29th and will be working towards the completion of the MOU with the City of Hollister regarding the seismic testing and it is looking positive for the Fremont School site.

Supervisor Marcus stated he wanted to dovetail off of one of the comments that was made today from the public in regards to the Clear Creek road closure issue. Supervisor Marcus said that he hopes that they can be kept apprised of a schedule from staff pertaining to the road closure and any environmental documents, etc.

CAO Susan Thompson announced that she is not sure why there is any confusion in regards to the road closure. The Board took action to close the roads and the roads are closed and posted and are not gated. The Bureau of Land Management area is closed to the public and if people are out there they are subjecting themselves to law enforcement issues. Ms. Thompson stated if that changes as far as the opening of BLM that would be at their determination. The opening and closing of the county roads has nothing to do with the BLM's decision about closing their area. Ms. Thompson stated that she needs people to understand that by action of the Board those roads are closed and posted.

Supervisor Monaco mentioned that he has been in close contact with Ms. Thompson regarding this issue and if there are any changes it would definitely be brought before the Board.

Supervisor Botelho reported that he attended the Association of Monterey Bay Area Governments (AMBAG) meeting he attended.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, approved Consent Agenda Items 1 through 19 with the exception of Items 14 and 16, which were pulled for discussion. (Unanimous)

ADMINISTRATION – S. Thompson:

- 1) **Approved** memorandum to Orrick Herrington and Sutcliffe LLP serving notice that the Board of Supervisors will not authorize issuance of Tax and Revenue Anticipation Notes (TRANS) on behalf of San Benito High School District and Hollister Elementary School District and **authorized** Clerk of the Board to sign.
File #13

AUDITOR-CONTROLLER – J.P. Gonzalez:

- 2) **Adopted Resolution No. 2008-35** authorizing the County Treasurer and County Auditor to make temporary transfers as provided in section 6, Article XVI of the Constitution of the State of California. *File #608*

BEHAVIORAL HEALTH – A. Yamamoto:

- 3) **Approved** Memorandum of Understanding (MOU) with the Hollister Youth Alliance to use the Esperanza Center to conduct youth and family counseling, educational and outreach and engagement activities during specified evening hours. *File #810*

CLERK OF THE BOARD – L. Churchill:

- 4) **Approved** the action minutes of the May 6, 2008 regular meeting.

COUNTY COUNSEL – D. LeClere:

- 5) **Approved** budget adjustment to provide for 2007/2008 developer paid legal services in the amount of \$150,000. *(Requires 4/5 vote. Unanimous) File #160*

COUNTY FIRE – R. DiTullio:

- 6) **Approved** the use of mitigation funds for a diesel fuel tank at the San Juan Bautista Fire Station; and **approved** purchase and installation of the diesel tank with Donlee Pump Company. *(Requires 4/5 vote. Unanimous) File #60*

DISTRICT ATTORNEY – C. Hopper:

- 7) **Adopted Resolution No. 2008-36** authorizing 2008/2009 Grant Award for Central Coast Rural Crime Prevention Program and **authorized** the San Benito County District Attorney to sign said grant. *File #205*

FIRST 5 SAN BENITO– K. Castillo:

- 8) **Appointed** Judy Rodriguez to the First 5 San Benito Children & Families Commission for a term of three years effective 6/8/08. *File #155*

HEALTH & HUMAN SERVICES – K. Flores:

- 9) **Adopted Resolution No. 2008-37** authorizing the Director of Health & Human Services Agency to submit an application to the California Integrated Waste Management Board for the Local Enforcement Grant for FY 08/09. *File #130*
- 10) **Adopted Resolution No. 2008-38** extending services for County Service Area (CSA) #36 “Emergency Medical Services and Advanced Life Support Services”. *File #130*
- 11) **Approved** Amendment #1 to the Consortium C-IV Joint Powers Authority Memorandum of Understanding (MOU). *File #130*
- 12) **Approved** contract with Architecture Plus Inc. for architectural and engineering services on the farm worker dorm and kitchen project effective May 29, 2008 to June 30, 2009 in an amount not to exceed \$134,000. *File #750*

LONG TERM CARE COMMISSION – P. Pence:

- 13) **Re-appointed** to the Long Term Care Commission: Barbara Nicoara, Pauline Valdivia, Sally Nesmith, Clay Kempf, John Faustino and Christina Andrade for the term effective January 1, 2008 to December 31, 2010; and **appointed** Barbara Pate, John Beletz and Daphne Weaver for term effective January 1, 2008 to December 31, 2008. *File #1042*

PLANNING DEPARTMENT – A. Henriques:

- 14) **Approve amendment to Agreement No. 2, to extend contract with Precision Inspection Company, Inc. for Building Division services from June 30, 2008 to June 30, 2011.**

Supervisor Loe had a question regarding contract and county full time employees and possibly having all the work done through Precision.

Planning Director Art Henriques addressed Supervisor Loe’s questions.

CAO Susan Thompson provided additional information pertaining to the contract with Precision and how it is beneficial to the county at this time.

Supervisor Monaco mentioned that he would prefer to keep the contract and the two county positions as they are at this time.

Supervisor Marcus stated he likes the idea of the consistency that the City of Hollister and the County both use Precision.

BOARD ACTION: *Upon motion made by Supervisor Marcus, and seconded by Supervisor Botelho, moved to approve amendment to Agreement #2 to extend term of contract for Building Division services with Precision Inspection Company, Inc. from June 30, 2008 to June 30, 2011 and **authorized** the Chair to sign Amendment to Agreement #2. (Unanimous) File #790*

- 15) **Approved** extension of contract term with Bay Area Economics for economic/fiscal analysis services for period of June 12, 2008 to June 12, 2009. *File #790*

PUBLIC WORKS DEPARTMENT – J. Lo:

- 16) **Approve contract with CM Pros, Inc. for civil engineering services for period of May 30, 2008 to June 20, 2009, for an amount not to exceed \$70,000.**

Supervisor Loe questioned CM Pros being brought on for overflow work and how much they would be used.

Director of Public Works Jerry Lo stated that they are anticipating using them for two weeks depending on the workload and projects it would be a short period of time.

BOARD ACTION: *Upon motion made by Supervisor Loe, and seconded by Supervisor Marcus, moved to approve the contract with CM Pros, Incorporated in an amount not to exceed \$70,000 for the period of May 30, 2008 to June 30, 2009. (Unanimous) File #105*

- 17) **Approved** appointment of Talia Gonzalez and Kyle Vallejo as youth commissioners for the San Benito County Parks and Recreation Commission for a one-year term effective May 27, 2008. *File #93*

SHERIFF'S DEPARTMENT – C. Hill:

- 18) **Approved** proposed contract with the City of Hollister for additional Law Enforcement Services for the 2008 Hollister Independence Rally. *File #110*
- 19) **Approved** transfer from Sheriff's salaries in the amount of \$8,700.00 to fixed assets-equipment. *File #110*

REGULAR AGENDA:

COUNTY SUPERINTENDENT OF SCHOOLS – T. Foley:

- 20) **Receive County Superintendent of School's Report.**

Superintendent of Schools Tim Foley provided a report pertaining to Education Code Section 1240 which requires him to visit the schools in our county annually that are in deciles 3 or below and report the result of the visit to the Board of Supervisors. Mr. Foley stated that it was his pleasure to report the following: no deficiencies in instructional materials, school facilities are all in good condition, there are no teacher misassignments or vacancies at these schools, school accountability report cards are accurate and available.

Supervisor Marcus asked if the curriculum was consistent throughout the County?

Mr. Foley stated every school in the state has the California State Standards and the instruction is to be around those standards. The schools can have different instructional material, which comes from the state, and there is a list to choose from for their own districts. Mr. Foley said the curriculum is all aligned with the State Standards. File #13

HEALTH & HUMAN SERVICES – K. Flores:

21) Receive Health & Human Services Agency Director's Report.

Health & Human Services Director Kathy Flores reported on the Governor's May Revised Budget and the potential impact to the Community and Social Services Programs. Ms. Flores provided an overview of some of the programs that would be impacted in the public assistance and protective services programs: CalWorks–10% cut, Child Welfare–11.4% cut, Foster Care Rates–10%, IHSS–10% cut, Medi-Cal eligibility–5% cut, Food Stamps–4% cut, SSI/SSP – Elimination of several cost of living beneficiaries' grants, an estimated 890 San Benito County residents would be impacted. Ms. Flores stated as far as dollars to the County it is going to mean a loss of approximately \$368,000 for our public assistance and protective services programs.

Discussion ensued. File #130

22) Authorize Chairman to sign letter to Assembly Member Caballero and Senator Denham expressing concern with proposed Adult Protective Services (APS) and Child Welfare Services (CWS) proposed budget cuts.

Health & Human Services Director Kathy Flores stated she is asking that the Board authorize the Chair to send a letter to our local legislators, Assembly Member Anna Caballero and Senator Jeff Denham regarding the proposed Adult Protective Services (APS) and Child Welfare Services (CWS) proposed budget cuts. Ms. Flores mentioned that the County Welfare Directors' Association (CWDA) has put out a "Call of Action" to local areas to educate their boards and the public about this issue.

Supervisor Marcus stated that he strongly supports sending these letters.

Supervisor Botelho stated he also supports sending these letters.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, moved to direct chair to send letters to Assembly Member Cabellero and Senator Denham expressing concern with proposed APS and Child Welfare budget cuts. (Unanimous) File #130*

23) Approve petition to extend Ambulance Service Agreement for Emergency Ambulance, Advanced Life Support and Pre-Hospital Care with American Medical Response for an additional 5 year term expiring June 30, 2014.

Health & Human Services Director Kathy Flores spoke in regards to the request to approve petition to extend Ambulance Service Agreement for Emergency Ambulance, Advanced Life Support, and Pre-Hospital Care with American Medical Response (AMR).

Jim Clark, Emergency Medical Services Coordinator, provided background information pertaining to the Ambulance Service Agreement that the County has with American Medical Response and San Bento Counties emergency medical services.

Supervisor Botelho stated he supports extending the contract, but had a thought or an idea that he would like to discuss with AMR and explore before committing to the 5-year contract. Supervisor Botelho questioned if not approving the extension today would they lose out?

County Counsel Dennis LeClere stated he has not reviewed the contract but the action here today is to develop an amendment. The present contract lasts through June 2009. The action for the Board at this point is just to pursue that amendment.

Chairman De La Cruz mentioned taking the idea to the Finance Committee giving a minimum of two months to respond back. If it were not a good idea it would be put back on the agenda in two months.

Supervisor Botelho said that would work for him.

Direction from Chairman De La Cruz was to delay for 60 days, go to the Finance Committee and bring report back within 60 days. File #130

INTEGRATED WASTE MANAGEMENT – M. Rose:

- 24) Receive information regarding compensation for extraordinary costs at John Smith Road Landfill and direct staff to return with preferred alternative for compensation; and receive information presented regarding the proposed annual rate adjustment mechanism and direct staff to return at a date certain to be determined.**

(Supervisor Monaco left the chambers and returned for the afternoon session)

Integrated Waste Director Mandy Rose stated there were a couple of items before them today for consideration. Waste Connections who is the contract operator at John Smith Road Landfill had a request for compensation for extraordinary costs under the terms and conditions of the operating agreement and a proposed implementation of an annual inflation adjustment rate at the John Smith Landfill.

Jeremy King, District Manager Waste Connections, provided a PowerPoint presentation pertaining to compensation request for extraordinary costs and proposal for annual inflation adjustment. Mr. King stated that the two extraordinary costs that directly impact the landfill are diesel fuel and placement of clay during cell construction.

Discussion ensued pertaining to the extraordinary costs and concern in regards to raising the rates at the landfill.

Mandy Rose mentioned that she would be bringing back an item at a later date pertaining to additional revenue at the landfill.

CAO Susan Thompson stated that before we determine the actual amount we need to check with Auditing to make sure that the figures agree.

Direction from the Chair De La Cruz was to bring back item at a later date pertaining to the extraordinary costs on a consent agenda.

Jeremy King provided the second part of the PowerPoint pertaining to the cost of living adjustment (COLA) calculated annually effective July 1, 2009. The COLA would be used to compensate the operator or reimburse the County for cost increases or decreases due to cost of living and inflation. Mr. King said most contracts have mechanisms in place that allow for annual compensation for inflation and other adjustments; we don't have any sort of compensation and that is why we are coming to the Board with these proposals. The COLA would be applied to three specific operating components: diesel fuel, labor and operating expenses.

Discussion ensued.

Direction from the Chair De La Cruz was to refer to the finance committee.

Adjourned as the San Benito County Board of Supervisors and reconvened as the San Benito County Financing Corporation at 11:37 a.m. (The minutes for the County Financing Corporation have been prepared separately)

Reconvened as the San Benito County Board of Supervisors at 11:43 a.m.

INTERNAL SERVICES – R. Inman:

25) Award bid to OBS, Inc. as the lowest responsive bidder and approve the purchase of the Library Bookmobile at \$167,167.

Internal Services Director Rich Inman provided background information in regards to purchasing a bookmobile.

Supervisor Loe stated she had some concern in regards to moving forward with this purchase at this time due to the price of gas.

Supervisor Marcus also expressed concern in regards to costs.

Supervisor Botelho stated he understands his fellow supervisors concerns, but views this as spending one-time money on a one-time capital asset and supports the purchase of the bookmobile.

Chair De La Cruz stated he would like to continue this item to the 1:30 p.m. meeting so that Supervisor Monaco could be present.

Supervisor Loe stated she would like to know how much money we have in the budget for next year for diesel and maintenance on both vehicles and have that information available at 1:30 meeting.

This item was continued to the afternoon session in order for Supervisor Monaco to be present.

PLANNING DEPARTMENT – A. Henriques:

26) Receive General Plan update and provide direction to staff as necessary.

This item was moved to the afternoon session.

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.)

The Board adjourned into Closed Session and reconvened into regular session re:

27) Public Employee performance evaluation

Title: County Counsel – (Government Code Section 54957)

County Counsel Dennis LeClere reported that the Board did not consider this matter and continued it to the meeting of July 1, 2008. File #235.6

28) Public Employee Discipline / Dismissal / Release

Authority: California Government Code Section 54957

County Counsel Dennis LeClere reported that the Board considered and accepts settlement agreement. File #235.6

29) Conference with Legal Counsel - Anticipated litigation

(a) Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9

Number of Cases: 1

No reportable action. File #235.6

AFTERNOON AGENDA

1:30 P.M.

PUBLIC HEARINGS:

Supervisor Monaco was present for the afternoon session.

(Continued from morning session)

INTERNAL SERVICES – R. Inman:

- 25) Award bid to OBS, Inc. as the lowest responsive bidder and approve the purchase of the Library Bookmobile at \$167,167.**

Internal Services Director Rich Inman summarized discussion from the morning session for Supervisor Monaco who was absent during this item.

County Librarian Nora Conte handed out two documents that had been requested from the morning session. One document lists the first year startup and second year support cost estimates associated with the Bookmobile Library Services and the second document lists the Mobile Library Services Learning Center Budget projections for the first year costs for service launch and ongoing support.

Lengthy discussion ensued about the merits of a second bookmobile and the projected ongoing costs.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco, approved the award of the bid to OBS Inc. as the lowest responsive bidder and approved the purchase of the Library Bookmobile at a cost of \$167,167.00. (Unanimous)*

PLANNING DEPARTMENT – A. Henriques:

- 26) Receive General Plan update and provide direction to staff as necessary.**

Planning Director Art Henriques presented a Power Point Presentation titled "General Plan, Follow-Up to March 6 Workshop" which covered the following points: Phase One Public Survey; Planning Commission / Board Comments on the Draft Work Plan for the Next Phase; Work Plan Comments; Public Comments; Further Comments; Request for Qualifications; General Plan Advisory Committee; Four Key Areas for Next Phase; Some General Plan Advisory Committee Options; General Plan Advisory Committee; Communication with Public; Private Development Requests; Some Other Agencies; and, Budget.

Supervisor Monaco stated that he supported the staff working on some kind of process or guidelines for review of the property owners who request their land's inclusion. Supervisor Monaco encouraged continuation of regular updates and also supported the idea of more public meetings

and a lot more advertising for those meetings. Supervisor Monaco also likes the smaller advisory committee with workshops held. Supervisor Monaco suggested schools as a public outreach and also a public announcement at the local theater. Supervisor Monaco further stated that the Parks and Recreation Commission should be included in the agency groups.

Supervisor Botelho stated that the public would be more interested when the color crayons come out as far as zoning designations and bringing out different land uses.

Supervisor Marcus stated he would like to see more specific timetables which could be specific only to certain aspects such as private requests. Supervisor Marcus stated he would like to see a target as to how we are going to continue the outreach process. Supervisor Marcus supported having a smaller advisory committee. Supervisor Marcus further stated that existing developments need to know what General Plan they would be following.

Supervisor Loe felt that the advisory committee should be directly from the public and not supervisors or planning commissioners and then follow up with updates to the Planning Commission and Board of Supervisors.

County Administrative Officer Susan Thompson suggested that we might want to think about reimbursement mileage, meals and etc. for the advisory committee members.

It was the consensus of the Board to have a nine to fifteen member advisory committee.

File #790

PLANNING DEPARTMENT – A. Henriques:

- 30) **Adopt Resolution denying the appeal and upholding the Planning Commission's decision re: Use Permit 976-07. Location: 766 Riverside Road, Hollister, CA (APN 021-050-016). Appellant/Applicant: Jose and Rocio Garcia. Zoning: Agricultural Productive. CEQA Determination: None required for denial. (Continued from May 13, 2008 public hearing)**

Assistant Director of Planning Byron Turner provided background information stating that the appeal was heard by the Board of Supervisors on May 13, 2008 and at that time directed staff to return on May 27, 2008 with a resolution denying the appeal.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus, adopted Resolution No. 2008-39 upholding the Planning Commission's decision to deny Use Permit 976-07 and denying the applicant's appeal.*

(Unanimous) Appeal File

- 31) **Held a public hearing to consider an appeal of the San Benito County Planning Commission's April 16, 2008 approval re: Minor Subdivision No. 1177-05. Request: Overturn Planning Commission's adoption of the following conditions of approval for Minor Subdivision 1177-05: 20(a)**

requiring roadway dedication, 21(a)&(b) requiring roadway improvements, 25(a)&(b) requiring fair share contributions toward roadway improvements and 26 requiring entry into a maintenance and reimbursement agreement for an existing roadway. Applicant/Appellant: Everett Grabeel. Location: 4661 Fairview Road, Hollister, CA. APN 17-15-49. Zoning: Agricultural Productive. CEQA Determination: Mitigated Negative Declaration. (Proposed Resolution) (Continued from May 13, 2008 meeting.)

Assistant Director of Planning Byron Turner provided background information and provided a Power Point Presentation showing the Parcel Map and explaining Conditions 20a; 21a & b; 25a & b; and 26 being appealed and staff's response to those conditions. Mr. Turner recommended that the Board adopt the proposed resolution upholding the decision of the Planning Commission.

Chairman De La Cruz opened the public hearing.

Applicant / Appellant Everett Grabeel came forward and explained how the lots were created and noting that the current property owners don't want any additional pavement added on to their existing property. Mr. Grabeel stated that almost every parcel on the property accesses on to Magladry Road and there is really no reason not to consider the driveway when it's mapped and installed properly, approved by the surveyor, approved for installation by the Public Works Department. Mr. Grabeel asked about the amount of fair share contributions and how staff came up with the \$35,000. Mr. Grabeel stated he does not have a problem with the dedication but widening the road does not make sense.

Mr. Turner pointed out that staff did identify an error in the fair share in limprovements noting that it should reflect two lots and not three lots and the numbers were inaccurate. Mr. Turner stated that if his math was correct the corrected numbers should read: (a) \$9034.64 and for (b) \$23,691.66 and this needed to be noted for the record.

Board members asked questions of Planning and Public Works staff, County Counsel staff and the appellant.

Chairman De La Cruz closed the public hearing.

Further discussion ensued regarding maintenance of the roads, the responsibility for maintaining the road and the requirements for the width of the road and impact fees and the potential cost to the county if they were to maintain the road in the future.

Chairman De La Cruz asked for a motion to be made otherwise the appeal would not be granted. There was no motion made.

Deputy County Counsel Shirley Murphy noted that due to procedural requirements in the Map Act and County Ordinance the Board must adopt its decision in writing within 10 days of concluding the public hearing.

Supervisor Marcus stated that he wished there was some clear direction or way that this could be mitigated as he really sympathized with this appellant.

BOARD ACTION: Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho, adopted **Resolution No. 2008-40** upholding the decision of the Planning Commission and denying the appeal of Everett Grabeel. (3-2 vote. Monaco and De La Cruz voted no.)

Supervisor Botelho stated that he really had a problem with some parts of these road requirements, especially the court going into these parcels and he felt that somehow it should be privately maintained and it should be a certain standard, but not to have to pave it like a county road when it should be a private

property decision. Supervisor Botelho said we should be getting back to that type of process. We should evaluate our standards and also some of these other costs that this particular developer has to go through otherwise we are going to be in deep trouble and there will be other things that we won't be able to accomplish in this county. *Appeal File*

REGULAR SESSION:

PLANNING DEPARTMENT – A. Henriques:

- 32) **Receive Large Development Projects Planning Process and Procedure Report under Chapter 30 of the San Benito County Code General Plan and Specific Plan Local Procedures (PRGI Ordinance) and comment as necessary.**

Planning Director Art Henriques presented a Power Point Presentation titled "Large Development Projects, Planning Process and Procedure, May 27, 2008 which covered the following points: Previous PRGI presentations before the Board; The Purpose of the Meetings; Proposed Process of Residential Applications That Go Through PRGI; Process; Notice of Incomplete; General Plan Amendment; Specific Plan; Notice of Complete; Draft EIR; Response to Comments; Final EIR; and, Approval / Denial.

Mr. Henriques answered questions posed by Board members.

Supervisor Loe stated that at this time she did not see how we could allow this project (DMB, El Rancho San Benito) to move forward. Supervisor Loe said we are in the process of a new General Plan that we're going to spend a half million dollars on and we're asking the public to become involved in how this community will develop. Supervisor Loe stated that she feels it is extremely important that this project wait until we have a new General Plan adopted and becomes part of that plan and to waste the time it would take to take this project at this time through the old General Plan, with all of the non-compliance issues, is just something she can't imagine us wasting staff time on. Supervisor Loe further stated that she did know how we could ask the public to take this project and bring it in with the new General Plan because we won't need a new General Plan if we take this project and approve it outside of the planning arena we've got going on right now and because of the size of this it will take up our resources for years and years. Supervisor Loe stated that she believed this project has got to be looked at as we move forward with the new General Plan and she would like to make that in the form of a motion.

Chairman De La Cruz stated that he did not think we could make a motion on this item.

Supervisor Loe stated that staff is asking us to recommend how to move forward and she was recommending we move forward with this with the new General Plan and not outside of the new General Plan.

Chairman De La Cruz asked County Counsel if the motion was allowable.

County Counsel Dennis Le Clere answered that he did not think it would be allowable under the way the item was agendaized. County Counsel Le Clere stated this item was just to receive Large Development Projects Planning Process and it was general so any questions from a hypothetical nature would be

allowed and the motion would probably be improper; however, it could be brought back at the next meeting for further discussion.

Chairman De La Cruz stated then he would not allow the motion, but we could go through different avenues by putting this on the next agenda.

Supervisor Loe then asked that it be brought back on the next agenda for a motion at that time.

Chairman De La Cruz asked if there were other supervisors who were willing to agree with Supervisor Loe because he would need two supervisors to place this on the agenda and he would support that if there were another supervisor that was willing to accept it.

Supervisor Marcus asked if it was to bring it as a discussion.

Chairman De La Cruz answered no it would be to make a motion.

Supervisor Marcus asked if it would be an action item.

Chairman De La Cruz answered yes.

Supervisor Marcus said he would support it.

Chairman De La Cruz then directed the County Administrative Officer to put it on a future meeting agenda and asked what was the next available meeting date.

County Administrative Officer Susan Thompson answered that June 24th would probably be the next full morning and afternoon Board session that we would have.

Chairman De La Cruz stated that he and Ms. Thompson could get together tomorrow (May 28th) and discuss what was the best available time to place it on the agenda. *File #790*

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, Marcus, Botelho, De La Cruz

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to Tuesday, June 3, 2008 at 9:00 a.m. for a regular meeting.

JAIME DE LA CRUZ, CHAIRMAN

San Benito County Board of Supervisors

ATTEST:

Linda Churchill
Clerk of the Board
Afternoon Session

Janet Slibsager
Assistant Board Clerk
Morning Session