



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 JULY 1, 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, Deputy County Counsel Irma Valencia and Asst. Clerk of the Board Janet Slibsager. Chairman Jaime De La Cruz presided.

9:00 a.m. CALL TO ORDER:

- a) Supervisor Loe led the Pledge of Allegiance.

Supervisor Loe called for a Moment of Reflection for our Troops and their Families and the sacrifices they are making.

- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

- c) **Public Comment:** Robert Huenemann, resident, spoke in regards to the proposed Gavilan College and the Dividend Homes projects and how they are two very different projects with different environmental impacts. Mr. Huenemann mentioned that he is located directly adjacent to the eastern boundary of the proposed project and he is very concerned as to how it is going to impact their subdivision. Mr. Huenemann stated he had a petition that was signed by residents of their subdivision requesting that two separate EIR's be done so that those differences are not obscured.

Supervisor Loe stated she would like this item agendaized for a future meeting so that the Board of Supervisors and the Planning Director can provide input and have Gavilan College present.

Joe Thompson, local resident, spoke in regards to the taxes, fees and the overkill of regulations that are strangling and suffocating our small business owners today.

Marty Richman, resident, read a portion of the Declaration of Independence in regards to the relationship of government and the people who are governed.

Bill Kiel, resident, stated he shares the concern of Mr. Huenemann as to what is going on at the end of their street at Harbern Way. Mr. Kiel states he feels that the college should be paying for the EIR.

- d) **Department Head Announcements:** Sheriff Curtis Hill reported that with regards to the Capital project for the new Sheriff's Office they have received information pertaining to a grant opportunity for up to a million dollars to build a permanent functional Emergency Operations Center. Sheriff Hill stated that he would be submitting a recommendation authorizing the County to pursue this grant noting that the application is due July 18, 2008.
- Public Works Director Jerry Lo stated he has been informed by CalTrans that they would be receiving \$158,000 for Highway Safety Program for guardrail grant projects.
- e) **Presentation & Recognitions:**
2008 NACO Achievement Award presented to San Benito County and the Union 4-H Club. (Chairman De La Cruz)
- Chairman De La Cruz announced that the 2008 National Association County Organizations (NACO) achievement award has been awarded to San Benito County and the Union 4-H Club for their program entitled, *With a Little Help from Our Friends*.
- Chairman De La Cruz introduced Danielle Escover from the Union 4-H Club who provided background information in regards to their project raising mosquito fish to distribute to San Benito County residents as part of their West Nile Virus Program and how it benefits San Benito County.
- Chairman De La Cruz passed out San Benito County pins to the members of the Union 4-H Club.
- Chairman De La Cruz mentioned that he would be in Kansas City on July 13, 2008 at the NACO conference to accept their award.
- f) **Board Announcements, Introductions and Presentations:** Supervisor Loe reported that she and Supervisor Botelho had the privilege of going over and looking at the trenching project at Fremont School.
- Supervisor Marcus reported that the Pajaro River Water Authority has received a five million dollar grant for setting up conservation easements in the water flood plain area next to Hwy 152 in the Soap Lake area. Supervisor Marcus mentioned that if anyone would like to be a part of the design process to contact him or anyone on the Pajaro River Water Authority.
- Supervisor Marcus wanted to remind everyone to really be cautious as to how we use fireworks in the county due to the extreme fire hazard this year.
- Supervisor Botelho reported that there was a secondary fault that was found at the Fremont School trenching area and it is inconclusive at this time as they have more work that has to be done before they can determine if the project could proceed at that site.
- Supervisor Botelho stated he attended the funeral services of the former San Benito County Sheriff Harvey Nyland at the Mission San Juan Bautista and it was very well attended. Supervisor Botelho mentioned that the Board should send a thank you letter to each of the different agencies that participated in the funeral procession and he also recognized Sheriff Hill and his department for a job well done.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus approved Consent Agenda Items 1 through 19 with the exception of Items 6, 7, 8, 9, 10, 15, 16 and 17, which were pulled for discussion. (Unanimous)

BEHAVIORAL HEALTH – A. Yamamoto:

- 1) **Approved** contract renewal with Hope Rehabilitation Services for rehabilitation services for the FY 2008/09, for a maximum annual total of \$25,000. File #810
- 2) **Adopted Resolution No. 2008-53** accepting the Department of Mental Health (DMH) Contract with the State Department of Mental Health; and **authorized** the Behavioral Health Director to sign said contract for the period of July 1, 2007 to June 30, 2010. File #810
- 3) **Approved** contract renewal with Remi Vista, Inc. for Therapeutic Behavioral Services for the period of July 1, 2008 to June 30, 2009 in amount of \$70,000. File #810
- 4) **Approved** contract renewal with Monterey County Behavioral Health Services for ongoing outpatient and/or day treatment mental health services for the FY 2008/09 in amount of \$25,000. File #810

CLERK OF THE BOARD – L. Churchill:

- 5) **Approved** the action minutes of the June 10, 2008 meeting.

COUNCIL OF GOVERNMENTS – L. Rheinheimer:

- 6) **Approve contract with Council of San Benito County Governments for professional and clerical services for FY 08/09.**

Joe Thompson, resident, addressed consent items 6 through 10 and his concern in regards to condoning and accepting things that are going on that he feels is bad governance by ratifying these items on the consent agenda. Mr. Thompson feels that each of the five Supervisorial districts should be represented on COG and the power should rest with the Board of Supervisors.

Supervisor Loe stated that she would like a report back sometime in the fall from County Counsel explaining our options. Is it possible that this go to the vote of the people for the Council of Governments Board and is COG legal.

Chairman De La Cruz appointed Supervisor Loe and Botelho to sit in the meeting.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor Marcus, moved to approve Items #6 through #10. (Unanimous)*

- 7) **Approved** contract with Local Transportation Authority for professional and clerical services for FY 08/09. File #1035
- 8) **Approved** contract with Measure A Authority for professional and clerical services for FY 08/09. File #1035
- 9) **Approved** contract with Airport Land Use Committee for professional and clerical services for FY 08/09. File #1035

- 10) **Approved** contract with Service Authority for Freeways and Expressways for professional and clerical services for FY 08/09. File #1035

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 11) **Approved** contract with Reflectxion Resources, Inc. for occupational and physical therapy services for the period of September 1, 2008 to November 28, 2008 in amount not to exceed \$27,872. File #130

INTERNAL SERVICES – R. Inman:

- 12) **Approved** contract with Advanced Computer Experts for professional computer services for the period of July 1, 2008 to June 30, 2009 for an amount not to exceed \$20,000. File #119.1

PUBLIC WORKS DEPARTMENT – J. Lo:

- 13) **Declared** the attached list of equipment and vehicles surplus and directed staff to remove them from the inventory. File 3105

- 14) **Acknowledged** the completion of construction for the Cienega Road Bridge Repair at Bird Creek and **authorized** staff to file Notice of Completion with the County Recorder's Office. File #105

- 15) **Adopt Resolutions for County Service Areas (CSA's) authorizing services for FY 2008/09. (Res. No.'s 2008-54 to 2008-81)**

Supervisor Botelho asked if the CSA Budgets were being approved today as well.

Public Works Director Jerry Loe replied not at this time. This is the first step of the process noting the budgets would come at a later meeting.

Richard Ferreira, resident of CSA #35 Union Heights, spoke in regards to his concern that there are a lot of deficiencies in their county service area that are not being addressed.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco, **Adopted Resolution No. 2008-54 through 2008-81** authorizing services for Fiscal Year 2008/09; and **authorize** Chair to sign Resolutions. File #CSA/105

- 16) **Award of contract to Agee Construction Corporation as the lowest, responsible bidder for the replacement of the Lone Tree Bridge over Arroyo Dos Picachos Creek Project.**

Supervisor Monaco expressed concern that according to the information that was provided this company did not meet the standards that had been requested for the bid proposal.

Public Works Director Jerry Lo responded that Agee Construction did not complete the forms that had been provided by the county instead they provided their own bidder's bond form which is why they were found to be non-responsive.

County Counsel Irma Valencia stated from the legal standpoint, it was considered non-responsive because the bidder did not use the forms provided, they instead crossed out the bond form and attached their own form to it.

Supervisor Marcus spoke in regards to the informality of the bid and if that were the only issue he would be reluctant to turn it down and put it back in the open market, as these bids are expensive to put together.

Chief Engineer Chris Hickey of Agee Construction explained the reason as to why they provided their own forms and not the counties.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus, moved to (1) Accept all responsive bids in the bid summary report; (2) Determine Agee Construction's bid is non-responsive; (3) Find it is in the public interest to waive the immaterial defect in Agee Construction's bid and waive the immaterial defect; (4) Award the contract to Agee Construction as the lowest responsible bidder and authorize the chair to sign the contract in the amount of \$1,656,977.65; (5) Authorize the Public Works Director to approve change orders, when needed, not to exceed 15% of the contract amount or \$248,546. (Unanimous) File #105*

- 17) **Authorize staff to prepare and submit applications for each of two Safe Routes to School Projects under the competitive Federal Safe Routes to School Grant Program; appoint the County Administrative Officer, or designee, as agent to manage the projects in the event that either or both are winning projects.**

Supervisor Monaco stated he would like to congratulate our Public Works Department for bringing this before the Board of Supervisors as it is a very needed project.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, moved to **authorize** staff to prepare and submit applications for each of two Safe Routes To School Projects under the competitive Federal Safe Routes To School Grant Program and appoint the County Administrative Officer, or designee, as agent to manage the projects in the event that either or both are winning projects. (Unanimous) File #105*

SHERIFF'S DEPARTMENT – C. Hill:

- 18) **Approved** service agreement with Connect-City regarding telephone emergency notification services (TENS) effective July 1, 2008 to June 30, 2010 in amount of \$92,240; and **approved** the budget adjustment transfer. (4/5 vote) File #116
- 19) **Approved** request for out of state travel for two Deputy Sheriff's to attend the National Association School Resource Officers 2008 National Conference, July 28 through August 1, 2008 in Phoenix, Arizona. File #110

REGULAR AGENDA:

INTERNAL SERVICES – S. Thompson:

- 20) **Adopt amended Department Head Salary Plan replacing the requirement that the County Administrative Officer (CAO) provide a recommendation for evaluations of the County Counsel and Agricultural Commissioner to simply consulting with the CAO.**

County Administrative Officer Susan Thompson stated that this was back for consideration with the language changes that reflects the request from the Board at the previous meeting.

Supervisor Monaco stated he still had a concern as to how it was amended and it does not reflect what he thought it should. Supervisor Monaco would like some kind of statement that would state that the Supervisors may

consult with the County Administrative Officer as part of their evaluation procedures.

Supervisor Marcus stated he would like to make that change today.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus, **approved** item with the following language: Evaluations of the County Counsel and Ag Commissioner shall be conducted by the Board of Supervisors. The Supervisors may consult with the County Administrative Officer as part of their evaluation procedure. (Unanimous) File #630

PLANNING DEPARTMENT – A. Henriques:

- 21) **Adopt the ordinance amending Chapter 17 of the San Benito County Code (Subdivision Ordinance 617, as previously amended) to revise Article IX, Section 17-63, Improvements, General, to authorize the Planning Commission to defer frontage improvements for minor subdivisions under certain circumstances. Planning Commission Resolution 2008-01 recommends enacting the proposed ordinance. CEQA Determination: exempt under CEQA Guideline 15061(b)(3).**

(Continued from June 24, 2008 meeting)

Planning Director Art Henriques stated that this item was before the Board at the June 24, 2008 meeting and the matter was being brought back today with the proposed amendments and for the adoption of Ordinance amending Section 17-63 of the San Benito County Code.

BOARD ACTION: Upon motion made by Supervisor Marcus and seconded by Supervisor Loe, **adopted Ordinance No. 829** amending Section 17-63 of the San Benito County Code. (Unanimous) File #790

- 22) **Direct staff to proceed with research regarding large project processing during the General Plan Update; or, continue processing ongoing large projects and including El Rancho San Benito project.**

Planning Director Art Henriques stated that this is an item that came up at the May 27th meeting and at the general plan workshop in regards to large development projects. Mr. Henriques mentioned that there were some concerns expressed regarding the El Rancho San Benito project and there was an interest in having some action items brought back to the Board for further review, which is being presented today. Mr. Henriques provided background information in regards to the Large Development Projects and General Plan Procedures and asked the Board to review the report and provide further direction as necessary.

Supervisor Loe voiced concern if the County should be spending close to one half million dollars on a General Plan that is going to be out dated before it is completed.

Supervisor Marcus stated that the PRGI process that was recently developed and amended somewhat draws the line to where you are amending your General Plan. Supervisor Marcus stated an item of concern was the DMB project requesting a zone change. Supervisor Marcus said he thought that the PRGI process was to ask the public if they wanted the zone change.

Supervisor Monaco stated he does not think that our County needs another moratorium at this time. Supervisor Monaco stated we do have a General Plan in place and it is still working and he believed that the staff should process applications as they are received.

The following residents spoke in opposition to a moratorium and asked the Board to move forward with DMB and other projects: Charles Scott, Marilyn Ferreira, Victoria Montoya, and Richard Ferreira.

Ray Becker, Representative of DMB-El Rancho San Benito, spoke in regards to the General Plan and asked the Board to avoid any temptation to defer review of new possibilities, new ideas and new projects until such time as the General Plan is updated. Mr. Becker stated they would like to work their way through the process and have the people make the decision about the merits of their project.

Discussion and questions ensued by Supervisors and Ray Becker.

The following residents spoke in opposition of the large projects and asked the Board to consider the General Plan update and to let the citizens speak: Helen Ross, Edwina Young, Jeannette Langstaff, Janet Brians, Sharry Jones, Linda Harrison, Natasha Wist and Mary Zanger.

Franz Schneider, resident, stated he does not believe that there is a moratorium issue at this time; I believe the question is whether projects can be processed as part of the General Plan update. Mr. Schneider mentioned he thought the General Plan looks like a very good plan and believes the projects should be processed as part of the General Plan update.

Marty Richman, resident, stated this was a pity. It has nothing to do with the General Plan but is an attempt to stop this development.

Lengthy Discussion ensued.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, moved to process all on going projects under the guidelines of current ordinances that we have in place. (Vote 4-1, Loe voted no) File #790*

BOARD OF SUPERVISORS:

- 23) **Concur with the creation of an ad hoc Board Subcommittee and Chairman's appointments to review the 1% Growth Cap and the 30% Inclusionary Housing Ordinances for the purpose of overseeing the preparation of analysis and policy recommendations to the Board for consideration.**

Chairman De La Cruz reported that at the last Board Retreat one of the goals the Board wished to work on was the 1% Growth Cap and 30% Inclusionary Housing Ordinance. Therefore, he was asking today to create an Ad Hoc Subcommittee and appoint two Supervisors to start working with the staff and the Planning Commission to prepare analysis and policies.

Supervisor Marcus stated that the 1% was developed years ago and feels that the 1% is not the right growth cap for this community at this time. Supervisor Marcus stated he feels the whole process needs to be looked at and he would like to be a part of that process.

Supervisor Botelho stated he does not object to looking at both of these items and is concerned in regards to the 30% Inclusionary Housing and agrees with forming a committee.

Supervisor Loe stated she feels it is important that the County grow at the same rate as California, but thought that we were going to bring these policies forward with the new General Plan and look at them with the public through the General Plan process. Supervisor Loe stated she supports looking at these items but would like to have an open process and would like to have the public involved.

Supervisor Monaco stated he is concerned about the 30% Inclusionary Housing and would support forming an ad hoc committee.

Jeannette Langstaff, resident, stated that she does not feel that there should be any changes without working on the General Plan and that it be open to the public.

Franz Schneider, resident, believes that these two items should be part of the General Plan process rather than something separate.

Edwina Young, resident, stated she feels that these items should be public and maybe have committee include people from each of the five districts.

Janet Brians, resident, stated these items should be a part of the General Plan, open to the public and no separate committee meeting held behind closed doors.

Marty Richman, resident, stated these are hot button topics and is in favor of having public meetings, but it would bog this Board down, so maybe a series of community meetings or general meetings on the General Plan would be better.

Supervisor Monaco stated that he feels they are getting off track. We are asking to form an ad hoc committee to oversee the preparation of analysis and policy recommendations and he supports that and believes that shows good leadership. Supervisor Monaco said we are not denying public input or closing the doors to the public.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus, moved to support the formation of an Ad Hoc Board Sub Committee and Chairman to appoint members to that committee to review the 1% Growth and 30% Inclusionary Housing Ordinance with the purpose of overseeing the preparation and analysis and policy recommendations to the Board for consideration. (4-1 vote. Loe voted no) File #790*

CLOSED SESSION:

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

- 24) Public Employee performance evaluation – Title: County Counsel – (Government Code Section 54957)**
No reportable action. 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: Monaco, Loe, Marcus, Botelho, De La Cruz
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to July 22, 2008 at 9:00 a.m. for a regular meeting.

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

ATTEST:
Janet Slibsager
Asst. Clerk of the Board