



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 SEPTEMBER 2, 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 and Assistant Clerk Janet Slibsager. Chairman Jaime De La Cruz presided.

9:00 a.m. CALL TO ORDER:

- a) Supervisor Marcus led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Richard Ferreira, Union Heights Homeowners Association, expressed his frustration with the services that are not being performed at CSA # 35 (Union Heights) stating that he has tried to work with staff. Mr. Ferreira stated there are problems that need to be addressed stating that the homeowners are willing to pay so to go ahead and bill them because they have work that needs to be done. Mr. Ferreira further complained that at the intersection of Union Heights Drive and Riverside Road there is a blind turn and many of his association members have approached him stating that this is an accident waiting to happen and he has talked to Public Works Department but they seem to think its okay.

Mr. Ferreira stated that he feels that the County has an individual that is running the Public Works Department who is insensitive and inept and something should be done. Mr. Ferreira would like to have this item agendized at a future date and discuss it.

Chairman De La Cruz directed staff to respond to Mr. Ferreira's comments in writing and to copy the Board of Supervisors.

Joe Thompson, Tres Pinos resident, commented that San Benito County has been offered a Trojan horse explaining that the Valley Transportation Authority (VTA) has offered us a multi-million dollar extravaganza of planning in our county. Mr. Thompson stated that the Board's jurisdictional authority ends at the county and likewise Santa Clara County. Mr. Thompson asked the Board to protect us from those to the north of us and to please say no to VTA who are trying to oust the Board of their jurisdiction.

- d) **Department Head Announcements:** County Administrative Officer Susan Thompson reported that we are continuing to work very closely with the partners of San Luis Obispo and Santa Barbara Counties on a reentry facility in Paso Robles related to our jail funding. CAO Thompson stated that if we are successful in achieving this three county agreement, which would site a reentry facility in the Paso Robles area, it is quite likely that we will then be able to receive our funding for expansion of our jail along with Santa Barbara and San Luis Obispo Counties.

CAO Thompson further reported with regards to the Stonegate water issues last Friday a Project Manager candidate was interviewed and has been selected to help solve the long-term water issue at Stonegate. CAO Thompson further reported that in the meantime conversations are still occurring between Tres Pinos Water District and Stonegate. CAO Thompson stated that there are still three very viable alternatives: Tres Pinos Water District, a separate well on property owned by Granite Rock and potentially a connection to the Sunnyslope Water District.

CAO Thompson also reported that she attended a meeting with the Downtown Association where their Specific Plan for revitalization was introduced.

- e) **Board Announcements, Introductions and Presentations:** Supervisor Monaco reported that he attended a community leader's meeting last week where CAO Thompson was the guest speaker. Supervisor Monaco also attended the dedication to the newly opened 152/156 flyover which was very impressive.

Supervisor Monaco further reported that he attended the Monterey Bay Unified Air Pollution Control District Board meeting last week where Moyer grants were discussed and distributed. Supervisor Monaco stated that San Benito County was again successful in getting all of our grant applications approved.

Chairman De La Cruz announced that on September 13, 2008 a parade will be held downtown in celebration of Mexico's Independence Day which is actually September 16, 2008.

CONSENT AGENDA:

Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus, approved Consent Agenda Items 1 through 11 with the exception of Items 2 and 7 which were pulled for discussion. (Unanimous)

ADMINISTRATIVE BUSINESS – S. Thompson:

- 1) **Approved** a contract with Jovenes de Antano for the time period September 2, 2008 through June 30, 2009 in the amount of \$39,608 to assist with providing meals to the senior citizens of San Benito County. *File #1040*
- 2) **Approve a Memorandum of Understanding (MOU) between the Judicial Council of California and County of San Benito for the continued use of the Juvenile Hall court area.**

Chairman De La Cruz asked for clarification as to whether the handout they just received this morning was any different than the MOU in the Board's packet.

CAO Thompson answered that the only difference was that the signature page was now completed.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus, approved and authorized the Chairman to execute a Memorandum of Understanding with the Judicial Council of California Administrative Office of the Courts for the continued use of a court facility located in the San Benito County Juvenile Hall facility and which waives current and future County Facilities Payment under Section 70312 of the Trial Court Facilities Act. (Unanimous) File #120.5*

BEHAVIORAL HEALTH DEPARTMENT- A. Yamamoto:

- 3) **Approved** contract with the San Benito County Office of Education for delivery of Substance Abuse Prevention and Evaluation Grant to reduce alcohol abuse services for the period of July 1, 2008 to June 30, 2011. *File #810*
- 4) **Approved** contract renewal with Planned Parenthood for HIV/Aids Testing, Pre and Post Counseling for the period of September 2, 2008 to June 30, 2009 in an amount not to exceed \$15,000. *File #810*

BOARD OF SUPERVISORS:

- 5) **Directed** Clerk of the Board to submit the nomination of Dr. Marni J. Friedman for consideration to the Monterey Bay Unified Air Pollution Control District Hearing Board to fill the vacancy representing the Physician category. (Supervisor Monaco) *File #1005*

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

- 6) **Approved** contract with Grace and Associates, CPA's for auditing services the County's Financial Statement for the year ending June 30, 2008. *File #608*

COUNTY COUNSEL – D. LeClere:

- 7) **Approve amendments to current legal service agreements with Bingham, McCutchen, LLP and Hoge, Fenton, Jones & Appel, Inc. for services related to the land use project of El Rancho San Benito (ERSB).**

Supervisor Monaco asked for clarification as to whether the parties agreed to this agreement since it made some changes.

County Counsel Dennis LeClere answered yes both parties agreed.

Supervisor Monaco asked how much county staff time is actually spent on this since we've hired two legal firms to handle this and are they doing most of the work.

County Counsel LeClere answered that we do not spend as much time as the two firms but there is a significant amount of time that goes into a lot of it.

Supervisor Monaco expressed his concern stating that we are hiring outside counsel and there are expenditures and the efficiency level concerns him.

County Counsel LeClere explained that time varies and depends on what we're dealing with stating that some items will take a significant amount of time.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, approved amendments to current legal service agreements as requested and authorized the Chairman to sign. (Unanimous) File #60

HEALTH & HUMAN SERVICES – K. Flores:

- 8) **Approved** contract with the California Department of Health Services for Immunization Assistance Program (IAP) for the period of July 1, 2008 to June 30, 2009 in the amount of \$32,490 and **authorized** the Health & Human Services Director to sign. File #130
- 9) **Adopted Resolution No. 2008-98** approving the 2008/2009 Migrant Center Operation and Maintenance Contract with the State Department of Housing and Community Development (HCD) in the amount of \$347,798 and **authorized** the Health & Human Services Director to sign. File #130
- 10) **Approved** agreement with San Jose State University for Clinical Affiliation for Nursing Student Internship Program for the period of August 30, 2008 to August 30, 2012 and **authorized** the Health & Human Services Director to sign. File #130

PUBLIC WORKS DEPARTMENT – J. Lo:

- 11) **Approved** purchase of 0.05 acres from the Pajaro River Mitigation Bank (Wildlands, Inc.) to comply with the Environmental Permit required for the Lone Tree Road Bridge Replacement project in the amount of \$11,250.00. File #105

REGULAR AGENDA:

INTEGRATED WASTE MANAGEMENT – M. Rose:

- 12) **Review the alternative funding options presented and direct staff as to the preferred alternative regarding rate review/John Smith Road Landfill request for compensation by Operator Waste Connections Inc.**

Mandy Rose, Director of Integrated Waste Management Department, provided background information stating that there were a number of alternatives discussed at the May 27, 2008 Board of Supervisors meeting and following Board deliberations the Auditor had some concerns and wanted to make sure that he went through all of the documentation provided by the operator before the Board of Supervisors took any action. The Board's interest at that time was to having a direct payment to the contractor and the Board was looking for a solution that did not impact the ratepayer. The Finance Committee, working with the Auditor, came up with several other alternatives that they felt would not directly impact the ratepayer. Ms. Rose noted that any action the Board takes in this regard obviously will be an impact to the ratepayer and to the taxpayer and it would just be a matter of timing.

Ms. Rose explained the Options for Compensation referred to in the Board's staff report. Option 1 - Indirect Impact and Option 2 - Direct Impact.

Ms. Rose answered questions posed by the Board pertaining to the options.

Marty Richman, local resident, stated that whatever the charge it won't be enough. Mr. Richman expressed a concern about a decision to shorten the life of the landfill. Also, Mr. Richman felt that an incentive should be given to the operator to reduce the use of diesel fuel and there is no incentive if they can pass on costs.

Jeremy King, John Smith Road Landfill District Manager, addressed Mr. Richman's comments stating that because we're in a contract with the County of San Benito, we're obligated to process the material that comes in and our operating hours are set and the only operating efficiency that we can control is the amount of operating time and equipment time we use. Mr. King stated that unfortunately if we decrease the amount of equipment time, and ultimately decrease the amount of fuel, we would burn more landfill air space and ultimately impact the users of the landfill and if we do not operate our equipment to 100% efficiency rather than reducing the landfill space by three years it may be 10 years and ultimately that would put the citizens in a bind. Mr. King further explained that as far as mitigating the fuel and clay, the fuel represents just a small portion of the total cost, but as far as mitigating that between both parties sharing some of the costs out of three years we are asking for only a one-year, 2007 increase, above CPI.

Marvin Jones, local resident, commented that a couple of years ago Ms. Rose came before the Board of Supervisors to notify the Board that there was 15 years left in the landfill, which is a requirement, and now we're speaking of taking three years off of that so within 10 years we're going to need a new landfill and that is not going to be easy.

Ms. Rose responded that the current capacity of the landfill is 20 years.

Joe Paul Gonzalez, County Clerk/Auditor/Recorder, commented that given that the Board of Supervisors gave direction on May 27th that they didn't want the rates to increase it was his recommendation with that constraint then he opted for Option 2 which would actually lower the life of the landfill by three years. Mr. Gonzalez stated that his preferred option is that we should be running this like a business and we should be charging the rate that covers the costs.

Supervisor Botelho stated that the Finance Committee (Botelho & De La Cruz) met with Waste Connections and staff and went over the options very thoroughly. Supervisor Botelho stated that he did not want to increase rates at this time and we should be pursuing more land.

Chairman De La Cruz stated there were too many increase and taxpayers should get a break. Chairman De La Cruz favored adding 60 more tons per day.

Supervisor Monaco supports the increase of tonnage and felt we should be more aggressive in land acquisition since this would trigger a short life for landfill. Supervisor Monaco encouraged services that are provided by Regional Council of Rural Counties (RCRC) by an advisory committee to come in and look at our operations and give us some indications and directions. Supervisor Monaco does not want to pass on increased rates to our citizens at this time.

Supervisor Loe stated that a ton of garbage is a lot of garbage and she did not think that the average person in the City of Hollister, or people that get their garbage picked up, are going to be running to the dump every month with an extra ton of garbage. Supervisor Loe feels that raising the rates up by \$5.00 or \$6.00 right away, along with taking some money out of reserves, should take care of it and this would not place a huge crunch or somebody's budget.

Supervisor Marcus stated that no one wants to raise the rates but he favors taking all of the money out of the reserves and leaving the rates alone and leaving the taxpayers and the business owner where they are. Supervisor Marcus stated that he would secondly compromise to raise the rates slightly and take money out of reserves.

Supervisor Botelho stated he was not comfortable with using reserve money and would rather use it for acquiring adjacent property to expand the landfill. Supervisor Botelho stated he was willing to reach a compromise but he wanted to leave today

directing staff to start exploring, with Waste Connections, expansion of the landfill with adjacent areas.

Chairman De La Cruz asked Board members what their preferred option was:

Supervisor Botelho – Option 2

Supervisor Marcus - Option 1

Supervisor Monaco – Option 2

Supervisor Loe – Raising rates on disposal at site.

Chairman De La Cruz – Option 2

Chairman De La Cruz directed staff to proceed with Option #2.

County Administrative Officer Susan Thompson stated that at this point, for total transparency, we will proceed with Option #2 but we will also be bringing back several items at future meetings for Board consideration as well.

Ms. Rose asked if the Board would be taking an actual action to increase tonnage to 310 tons per day on an annual average.

County Counsel Dennis LeClere explained how the Board could take action and noting the direction is limited to Option #2.

Supervisor Marcus clarified that the Board's recommendation is to increase the tonnage and he is basically saying he was not in favor of that recommendation.

Supervisor Monaco stated that he wanted to make sure that we don't lose sight in future agenda items that we're planning on an expansion of the facility and looking at the whole thing; and also, that we engage from our membership in RCRC the ability to have their advisory committee of the Joint Powers Agreement to give us a better picture of the whole thing.

CAO Thompson stated that she would look into it right away.

Supervisor Monaco stated it should be done through Supervisor Botelho who represents us on RCRC.

BOARD ACTION: *Chairman De La Cruz stated for the record: Supervisors Botelho, Monaco and De La Cruz favor Option #2. Supervisor Marcus favors Option #1. Supervisor Loe has requested that we start immediately considering raising rates on the disposal on the site. File #75.4*

Assistant Board Clerk Janet Slibsager clerked the remainder of the meeting.

PLANNING DEPARTMENT – A. Henriques:

13) Review and discuss the San Benito County Growth Management Ordinance and provide direction to staff.

Planning Director Art Henriques provided a PowerPoint presentation pertaining to Review One of the growth management ordinance and covering the following points; the History, Historic Growth, Point System, Review, General Plan, Allocation Review, Allocation Formula, Cap Increase, Recent Growth, Ordinance Goals, Options to Consider, CEQA, Recommendations and Questions.

Mr. Henriques answered questions by Board Members pertaining to the historic growth chart and if population included the growth within the city of Hollister and San Juan Bautista.

Supervisor Marcus voiced concern in regards to rural and urban growth and having some consistency.

Mr. Henriques mentioned that would be something they could clarify and bring back at a follow up meeting.

Planning Director Art Henriques explained that today is mainly a kick off to get started and provide a big picture to receive questions and comments and receive direction.

Chairman De La Cruz asked if this item could be held after 1:00 p.m. in the future for the public to attend.

CAO Susan Thompson stated she would like direction from the board in regards to when they would like to have this item heard.

Chairman De La Cruz will get together with CAO Susan Thompson to discuss setting this item during the 1:30 p.m. afternoon session on future agendas.

The following members of the public spoke in regards to the current growth management ordinance: Joe Thompson, Jason Noble, Steve Loos, Scott Fuller, Al Guerra, Mark Davis, John Eade, Marty Richman and Ray Becker.

Lengthy discussion ensued by Board members and staff.

Planning Director Art Henriques noted that the questions and concerns discussed at today's meeting would be addressed at the October 7, 2008 meeting.

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 September 9, 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
and
Janet Slibsager
Asst. Board Clerk