



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 23, 2008 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date *in regular session*. Supervisors Loe, Marcus, Botelho and De La Cruz were present. Supervisor Monaco was absent. 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.

9:00 a.m. CALL TO ORDER:

- a) Supervisor Botelho led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **PRESENTATIONS / RECOGNITIONS:**
Present signed proclamation declaring October 3, 2008 as “California Arts Day” in San Benito County. (Chairman De La Cruz)
Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho, approved proclamation declaring October 3, 2008 as “California Arts Day” in San Benito County. (4-0 Vote. Monaco absent.)
Chairman De La Cruz presented the proclamation to Gayle Sleznick and Cesar Flores of the San Benito Arts Council.
- d) **Public Comment:** Joe Thompson, local resident, stated that he was please with the recent resolution adopted by the Board of Supervisors stating their preference for Highway 152. Mr. Thompson said that the Gilroy Dispatch had an article on its front page with a map showing alternatives which were not what the Board of Supervisors adopted. Mr. Thompson said he contacted the newspaper and they have withdrawn that map for future articles.
Marty Richman, local resident, spoke in regards to the six-month severance package that was given to the Public Works Administrator who was just terminated. Mr. Richman felt that the County should do a better job at training and preparing people who have been with the County for several years to move up the ladder and not have to hire people from the outside. Mr. Richman encouraged the County not to give these kinds of “golden parachutes” to people because they do not make any economical sense.

- e) **Department Head Announcements:** County Administrative Officer Susan Thompson reported that at the recent EDC (Economic Development Corporation) meeting they were excited to hear that we now have a signed contract with our new EDC Director Nancy Martin who will begin on October 1st and is a very highly qualified individual who will help us to move forward.

Health & Human Services Agency (HHS) Director Kathy Flores introduced Enrique Arreola, Community Services and Workforce Development Deputy Director, who invited the public and Board members to the upcoming One-Stop Career Center Job Fair to be held on October 15, 2008 from 10 a.m. to 2 p.m.

Sheriff Curtis Hill reported that last week he attended the Correctional Standard Authority meeting held in Alameda County in regards to the jail expansion / re-entry project that we are working with two other counties, Santa Barbara County and San Luis Obispo County. Sheriff Hill stated that there was some confusion in the application process and so a 120-day extension was given. Sheriff Hill felt that San Benito County will be awarded funds in 120 days and stated he would keep the Board of Supervisors posted on the results.

Acting Public Works Administrator Janelle Cox handed out a flyer that will be widely distributed in the county encouraging the public to provide input on the San Benito County Parks and Recreation Master Plan and to attend community meetings to be held on October 7, 2008 and again on October 18, 2008 at the Veteran's Memorial Building. Ms. Cox also reported that the Parks & Recreation Commissioner would also be at the upcoming San Benito County Fair promoting Attendance at these meetings.

- f) **Board Announcements, Introductions and Presentations:** Supervisor Marcus reminded the public that the horse show portion of the County Fair begins on September 27-28 and encouraged everyone to attend both the horse show and the fair.

Supervisor Botelho reported that the San Benito County Fire Safe Council held a seminar recently covering fire safety issues for property in rural areas. Supervisor Botelho reported that it was a successful event with 80 people in attendance with Cal Fire and County Emergency Services making presentations.

Supervisor Botelho reported that the City of San Juan Bautista, Council of Governments (COG) and City of Hollister would soon be adopting a similar resolution to that of the Board of Supervisors pertaining to the realignment of Highway 152 and supporting the most northern route. Supervisor Botelho stated that only this northern route is being considered and this is a Santa Clara Valley Transportation project who will paying for this entire project.

Chairman De La Cruz reported that on September 14, 2008 St. Benedicts Church held its parade and festival that was very successful and thanked the community for their support.

Chairman De La Cruz further reported that on September 20, 2008 Housing Coordinator C.J. Valenzuela held a community forum on housing issues in San Benito County noting it was very well attended.

CONSENT AGENDA:

Chairman De La Cruz stated that Consent Items 9 and 11 would be changed in order noting that Item 11 should be approved first since you cannot fill a position prior to the position being created.

Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, approved Consent Agenda Items 1 through 17 pulling Items 9, 10, 11 and 12 for discussion and also changing the order of Items 9 and 11. (4-0 vote. Monaco absent)

AUDITOR CONTROLLER – L. Chapin:

- 1) ***Adopted Resolution 2008-101*** fixing and levying Fiscal Year 2008-2009 General and Debt Service Taxes and Special Assessments and ***approved*** the fiscal year 2008-2009 Tax Rates, including Debt Service and Direct Assessment charges. *File #608*

BEHAVIORAL HEALTH – A. Yamamoto:

- 2) ***Approved*** contract renewal with Sequoia Psychiatric Health Facility for acute psychiatric hospital services for the period of September 23, 2008 to June 30, 2009 in the amount of \$50,000. *File #810*

CLERK OF THE BOARD – L. Churchill:

- 3) ***Approved*** the action minutes of the September 2, 2008 meeting.
- 4) ***Approved*** amended 2008 Conflict of Interest Code for the San Benito County Office of Education as required by the Political Reform Act. *File #285.7*

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 5) ***Approved*** Memorandum of Understanding (MOU) with State Department of Child Support Services for Third Party Access to Child Support Enforcement System and Child Support Information; and ***authorized*** the Health & Human Services Director to sign said MOU. *File #130*
- 6) ***Appointed*** Mr. Franz M. Schneider to the Community Action Board to represent District #3 for a three-year term effective September 11, 2008 through September 11, 2011. *File #939*
- 7) ***Appointed*** Mr. Barry Warren to the Workforce Investment Board as a private sector representative for a three-year term effective September 9, 2008 through September 9, 2011. *File #939*
- 8) ***Appointed*** Mr. Ruben Garcia to the Workforce Investment Board as a public sector representative for a three-year term effective September 9, 2008 through September 9, 2011. *File #939*

INTERNAL SERVICES – R. Inman:

- 12) **Approve Memorandum of Understanding (MOU) with the San Benito County Deputy Sheriff's Association effective October 1, 2008 through October 1, 2011.** *File #1010*

Deputy Marc Williams, President of the Deputy Sheriff's Association, came forward and thanked the Board of Supervisors and staff for the successful negotiation process.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor Botelho, approved MOU with the San Benito County Deputy Sheriff's Association as recommended. (4-0 vote. Monaco absent)*

- 11) **Approve class specifications, set salary ranges for Public Works Administrator and Building and Grounds Maintenance Supervisor, and revise schedule of authorized positions in the Public Works Department.**

Internal Services Director Rich Inman explained that this was re-designating the job classification and not adding new positions.

Mr. Inman answered questions posed by Board members.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus: 1) Approved Class Specifications for Public Works Administrator and set current salary range at 40.0; 2) Approved Class Specifications for Building and Grounds Maintenance Supervisor and set current salary range at 17.3; 3) Allowed for the position to be filled at either the Public Works and Parks Director or the Public Works Administrator classifications; and 4) Deleted 1.0 FTE Building and Grounds Superintendent from the Public Works Schedule of Authorized Positions and added 1.0 FTE Building and Grounds Maintenance Supervisor to the Public Works Schedule of Authorized Positions. (4-0 Vote. Monaco absent.) File #630*

- 9) **Ratify the appointment of Janelle Cox as Acting Public Works Administrator effective Monday, September 15, 2008.**

Internal Services Director Rich Inman stated this was a request for the appointment of Janelle Cox as Acting Public Works Administrator noting that this position would be set as Salary Range 40.0.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus, ratified the appointment of Janelle Cox as Acting Public Works Administrator as recommended. (4-0 Vote. Monaco absent) File #630*

- 10) **Adopt job specifications for County Service Area Coordinator and set salary at Range 24.6.**

Supervisor Loe stated she did not remember a conversation where it was decided that we were going to hire an employee to perform these duties but we were going to look around and possibly seek a consultant.

Mr. Inman explained that we were not hiring anyone at this point and this provides the Board with the option should they ever want to employ a full-time person to act as a liaison between the CSA's, the Public Works Department and the Board.

Mr. Inman answered questions posed by the Board.

Marty Richman, local resident, suggested that the duties of this position should be well-defined and possibly present a flow-chart on how CSA's work and the Proposition 218 process.

Further discussion ensued.

BOARD ACTION: Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho, adopted job specifications for County Service Area Coordinator as recommended. (4-0 Vote. Monaco absent) File #630

PUBLIC WORKS – J. Cox:

- 13) **Declared** equipment to be surplus for the following county departments: Health & Human Resources, Behavioral Health, Public Works and the San Benito County Free Library and **directed** staff to remove them from inventory. File #105
- 14) **Adopted** the plans and specifications for the Migrant Center childcare building demolition and playground improvements and **directed** staff to solicit bids for the work. File #105.3
- 15) **Awarded** contract to Hough Construction Company as the lowest responsive, responsible bidder for the San Benito County Health Department floor in an amount not to exceed \$15,460; **approved** contract and **authorized** the Chair to sign; and **authorized** Acting Public Works Administrator to issue change orders not to exceed 10 percent of the contract amount or \$1,546; and **authorized** budget transfer of \$5,881. (4/5 vote) File #420

SHERIFF'S DEPARTMENT – C. Hill:

- 16) **Approved** Memorandum of Understanding (MOU) with the County of Santa Clara, Santa Cruz and Monterey for the governance, operation and maintenance of a Monterey Bay Area Microwave System (MBAMS); and **authorized** the County Administrative Officer to sign said MOU. File #110
- 17) **Rescinded** Resolution 2008-85 and **adopted Resolution No. 2008-102** for state and federal assistance and funding under the State Homeland Security Grant Program for FY 08. File #110

REGULAR AGENDA:

ADMINISTRATIVE BUSINESS – S. Thompson:

- 18) **Review, make any necessary changes, and approve 2009 Board of Supervisors Calendar.**

County Administrative Officer Susan Thompson reported that the Clerk of the Board has prepared the 2009 Board of Supervisors calendar for review and approval by the Board.

Chairman De La Cruz suggested that the Retreat dates be changed.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, approved a revised calendar changing the March 12, 2009 Retreat date to May 21, 2009 and changing the October 15, 2009 Retreat date to November 19, 2009. (4-0 Vote. Monaco absent) File #156

PLANNING & BUILDING DEPARTMENT – A. Henriques:

- 19) **Review the proposed Planning Fee Schedule and provide comments.**

Planning Director Art Henriques provided background information stating that staff surveyed neighboring counties and also San Luis Obispo County whose

fees are the closest match to our county. Mr. Henriques indicated that based on current activity levels, an increase to fees collected could generate as much as \$145,000 and also then make adjustments each year for CPI (Consumer Price Index).

Discussion ensued. It was the consensus of the Board to consider hourly rates for certain categories.

Chairman De La Cruz directed staff to come back with hourly rate proposals for feasible categories. File #790

20) Receive progress report on abatement of Cerrato property located at 1720 Cienega Road, Hollister.

Planning Director Art Henriques provided a progress report on the abatement of the Cerrato property stating that staff was able to meet with Harold Cerrato on Friday, September 19, 2008 and walked the property quite extensively. Mr. Henriques reported that progress is being made particularly in the area of trees, foliage and vegetation removal and stumps and dead tree removal. Mr. Henriques reported that Mr. Cerrato indicated on Friday that it would take him 10 to 14 days to finish. Mr. Henriques further reported that Mr. Cerrato has removed some of the rubbish, trash, debris and etc.

Mr. Henriques reported that as far as removing the vehicles and dealing with the building structures there has been minimal work in that area. It has been pointed out to Mr. Cerrato what he needs to do and it was also pointed out to him by the Building Official that he would have to get a permit for some of the building work and that has to be worked out as far as the timing.

Mr. Henriques stated that there would be an action item report on the October 7, 2008 meeting.

Agricultural Commissioner Paul Matulich reported that he did meet with Mr. Cerrato on September 19th and he has pruned some areas and has cut down some of the dead trees but he still needs to remove all of the stumps noting that he has accomplished quite a bit and we'll see what he does in the next couple of weeks. *File #790*

21) Receive report on the Gavilan College Draft Environmental Impact Report (DEIR).

Planning Director Art Henriques provided background information stating that this was an introductory report on the Gavilan College proposal including the Draft Environmental Impact Report (DEIR). Mr. Henriques stated that staff was not ready today to give a lot of comments on the environmental document but this was an overview and then open to the public and Board for initial comments. Mr. Henriques noted that this item would be agendaized on the October 7, 2007 meeting to take further input and provide further direction to staff.

The Power Point Presentation included the following:

- Vicinity Map
- College vs. Development
- Proposed Projects
- Proposed Site Map
- Lead Agencies
- Gavilan's DEIR Approval
- Fairview Corners

Supervisor Botelho stated that people are lumping these two projects (Gavilan College and Fairview Corners) together and we need to hear them as two stand-alone projects and hold them to the same requirements as any other developer. Supervisor Botelho had questions with regards to the allocation and ranking system process.

Supervisor Loe agreed with Supervisor Botelho and stated she has problems with the DEIR already asking if this would be coming back for comments.

Mr. Henriques answered yes it would.

Supervisor Loe commented that the mitigation that they are using for the traffic impact basically using the traffic model that was adopted by COG is not the correct mitigation to be used. Supervisor Loe further stated that another problem she has with this document is under PRGI it states that because this is part of a Specific Plan area it doesn't fall under PRGI. Supervisor Loe also said with regards to the water issue it states right now they are talking about hooking up to Sunnyslope Water and she does not believe that Sunnyslope Water District could hook them up today. Supervisor Loe also commented with regards to the size and height of the commercial buildings (Page 13) stating it just looks wrong in comparison to other projects.

Supervisor Marcus commented with regards to the PRGI issue stating that because this would be more than 99 homes it would not be exempt from the PRGI process and he needs to understand this part of the document and how this particular project would be exempt from the public's input. Supervisor Marcus stated he has a problem with larger projects sucking up the allocations and he would like to discuss this further when this item comes back.

Marty Richman, local resident, stated that the City of Hollister and the Redevelopment Agency and the County of San Benito planning departments should all be working hand in hand on projects and economic developments.

Mr. Henriques stated that he would be coming back at the October 7, 2008 meeting with comments from today and provide information and the environmental issues and how the city and county are pursuing economic development. File #790

22) Affordable Housing Workshop and provide direction to staff.

Planning Director Art Henriques provided background information stating that today's focus is to look at the Housing Workshop that was held on September 20, 2008 and some upcoming workshops that are being planned and also the Housing Element work that is being done. Mr. Henriques said they would be coming back at the October 7, 2008 meeting with a lot more detail on the proposed updates to loan documents, resale restrictions and etc.

C.J. Valenzuela, Housing Program Coordinator, addressed the Board and provided a Power Point Presentation covering some of the Affordable Housing Workshops that have been created and one has already been presented; the Affordable Housing Webpage and working together with the City of Hollister, as well as community organizations, to help update the City and County's Housing Element.

Mr. Valenzuela answered questions posed by Board members and introduced Bill Chow, the new Redevelopment Agency Manager with the City of Hollister. *File #790*

AFTERNOON SESSION 1:30 P.M.

PUBLIC HEARING: 1:30 P.M. *(Or as soon thereafter as the matter may be heard)*

PLANNING & BUILDING DEPARTMENT – A. Henriques:

- 23) Held a public hearing to consider a resolution re: vacation of a conservation and scenic easement, under Government Code Section 25367, if it determines that the easement is no longer required for County or public use. Applicant: Ron Moritz. Location: 41 Seely Avenue, Aromas, CA 95004 (Assessor's Parcel Number 011-210-094-0). General Plan: Rural Transitional. Zoning: Rural Transitional. CEQA Determination: This project has been determined to be exempt from CEQA pursuant to section 15061(b)(3).

Assistant Planning Director Byron Turner provided a Power Point Presentation covering the following points: The Subject Property; Historical Schematic; A Brief History; and, Staff Recommendations. Mr. Turner stated that staff recommends adopting the resolution.

Mr. Turner answered questions posed by Board members.

Chairman De La Cruz opened the public hearing. There was no one from the public who wished to address the Board. Chairman De La Cruz closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus, adopted **Resolution No. 2008-103** vacating the easement as to the subject parcel, under Government Code section 25367, and finding: 1) That the easement is no longer required for County or public use; 2) That vacation of the easement is consistent with the County's General Plan; and, 3) That vacation is except from CEQA pursuant to CEQA Guideline section 15061(b)(3). (4-0 Vote. Monaco absent). File #790*

REGULAR AGENDA:

PLANNING & BUILDING DEPARTMENT – A. Henriques:

- 24) Approve contract with David Powers & Associates for Phase I of preparation of an Environmental Impact Report (EIR) for the DMB – El Rancho San Benito project in an amount not to exceed \$95,520; and authorize the Planning Director to sign said contract.

Planning Director Art Henriques provided background information noting that under signature authority of the County Administrative Officer we do have an interim agreement with David Powers and Associates as well as the Planning Consultant that is also coming before the Board today as the next item.

Lengthy discussion ensued with regards to the services that this contractor would provide and who would be overseeing this contract performance.

Mr. Henriques assured the Board that this was a very capable and experienced company.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus, awarded the contract with David Powers & Associates, in an amount not to exceed \$95,520, for Phase I of preparation of an Environmental Impact Report (EIR) for the DMB – El Rancho San Benito Project; approved the contract and authorized the Planning Director to sign said contract. (4-0 Vote. Monaco absent) File #790

- 25) **Approve contract with Denise Duffy & Associates for Planning and Project Management Services for the DMB – El Rancho San Benito Project in an amount not to exceed \$200,000; and authorize the Planning Director to sign said contract.**

Planning Director Art Henriques provided background information stating that this contract is a proposal to hire Denise Duffy and Associates for planning and project management services for DMB – El Rancho San Benito Project. Mr. Henriques stated that this was different in the sense that staff is proposing to engage Denise Duffy for the overall life of the project to assist in the overall management, coordination, to externally and internally assist the county staff and also to coordinate with David Powers & Associates and to coordinate meetings with the applicants to help us to work the project all the way through the process.

Mr. Henriques answered questions posed by Board members about the services this contract would provide noting that the contractor would be working directly through himself.

BOARD ACTION: Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho, awarded the contract to Denise Duffy and Associates, in an amount not to exceed \$200,000, for planning and project management services for the DMB – El Rancho San Benito project, approved the contract and authorized the Planning Director to sign said contract. (4-0 vote. Monaco absent) File #790

- 26) **Receive report on the Inclusionary Housing Ordinance.**

Planning Director Art Henriques provided background information stating that the Board had previously directed staff to schedule monthly agenda items to address the Growth Management and Housing and the report today was a kickoff report on the Inclusionary Housing Ordinance.

Assistant Planning Director Byron Turner presented a Power Point Presentation covering the following points:

- History of the Inclusionary Housing Ordinance
- Discussion of the In-Lieu Fees
 - 2003 Calculation
 - 2008 Calculation
 - Yearly Updates
- Discussion regarding construction requirements
- Other jurisdiction's inclusion ordinances
- Finances
 - \$274,578.43 collected to date in inclusionary housing fees.
- Staff recommendations.

Mr. Turner noted that this item would be on the Planning Commission's agenda October 1, 2008.

Supervisor Marcus felt that it was very important that the amounts charged based on the 2008 calculations continue to be updated on a yearly basis. Supervisor Marcus felt that based on surrounding areas the 30% should be dropped right away.

Supervisor Botelho agreed that we need to get this percentage where it should be and it should be lowered right away. Supervisor Botelho would also like to see how the in-lieu fees are working and feels we need more rental units and more higher density opportunities and there should be more options for apartments, senior dwellings, caretaker residences and smaller footprint houses that would lend itself to affordability.

Ray Becker, DMB – El Rancho San Benito, stated he very much appreciated the process that the Board of Supervisors is going through right now because with regards to the Inclusionary Housing Ordinance one hundred percent of zero is still zero and in fact that is what has been built under this ordinance. Mr. Becker felt that any projects that come before the Board of Supervisors would come with requests to amend the Inclusionary Housing Ordinance in some way. Mr. Becker stated that equity sharing should also be considered. Mr. Becker also suggested that a market analysis be done in this county to see what is actually needed. Mr. Becker suggested that the County incorporate experts in the affordable housing process such as CHISPA or South County Housing.

Sally Bettencourt, local resident, asked when the \$274,000 is collected is there a law that stipulates how to you have to use it and when you have to use it. Ms. Bettencourt also asked if the County has taken into the consideration the condition of this community noting there are 2500 houses in foreclosure. Ms. Bettencourt stated she did not see why the County wants to become landlords and she did not feel the County should not step into this project and should take an overall look at where affordable housing should go and cooperate with the City of Hollister.

Mr. Henriques noted he would be coming back with some of the answers at the October 7, 2008 meeting. Mr. Henriques stated that staff has been working with the City of Hollister and there is a cooperative program to share reports and combine our resources. Mr. Henriques indicated that staff would be coming back with information and recommendations such as equity sharing. Mr. Henriques further stated that they have been talking with CHISPA and South County Housing.

Mr. Henriques stated that the Housing Program Coordinator is looking into the foreclosed home issue. Also, Mr. Henriques stated that they will be looking into the issue of how to use the fees and staff will report back on October 7, 2008.

Chairman De La Cruz directed staff to come back on October 7, 2008 with a report or recommendation as to what is necessary to change the 30% inclusionary housing requirement.

Supervisor Loe asked if we could get some kind of idea as to what the housing stock is out there right now.

Chairman De La Cruz directed staff to agendize an item pertaining to the financing mechanism and the procedures and regulations on how to build a low-income home. Chairman De La Cruz noted that this did not have to be done right away, but on a future agenda.

Supervisor Elect Margie Barrios stated that she liked the idea of having experts address the Board of Supervisors with regards to affordable housing.

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: Loe, Marcus, Botelho, De La Cruz

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: Monaco

There being no further business the Board adjourned at 2:40 p.m. to October 7, 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