



# 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

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

## REGULAR MEETING OCTOBER 7, 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. 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.*
- c) **Public Comment.** Joe Thompson, local resident, spoke with regards to establishing sound, sustainable, transport policy. Mr. Thompson stated that the Governor has just signed the Greenhouse Gas Bill, which he feels constitutes an direct assault on the way of life for many in our county.  
Mr. Thompson also commented with regards to the East/West connector stating that he disagrees with the conclusion of some that this county can afford to pay for it.  
George Lewis, Economic Development Corporation (EDC) San Benito County, introduced the new EDC Executive Director Nancy Martin. Ms. Martin addressed the Board stating that she was very excited about the opportunity and she looked forward to working with the County and all of its citizens in creating a new era of economic development and prosperity.
- d) **Department Head Announcements:** County Administrative Officer (CAO) Susan Thompson reported that she and Planning Director Art Henriques are working on a process to try to establish a way for smaller projects to go through expedited processing and they would be bringing this forward at a future meeting.  
County Librarian Nora Conte announced that the new bookmobile would be coming in the summer of 2009 and thanked the supervisors for their support.  
Director of Integrated Waste Management Mandy Rose announced that an event called “No Drugs Down the Drain” is scheduled for October 11, 2008 for people to bring their expired or unused medications to various local pharmacy collection sites.

- e) **Board Announcements, Introductions and Presentations:** Supervisor Marcus reported that the new courthouse site is back on track for 2009 and the Fourth Street / Fremont School site has been cleared and selected.  
Supervisor Loe reported that she attended a Water / Wastewater Master Plan meeting that was open to the public a couple of weeks ago, noting that it was well attended and very informative and very positive.

## **CONSENT AGENDA:**

*Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, approved Consent Items 1, 2, 3, 4 and 6 and pulling Item #5 and #7 for discussion and action. (Unanimous)*

### **ADMINISTRATIVE BUSINESS – S. Thompson:**

- 1) **Approved** contract with Seniors Council – Area Agency on Aging to help fund programs that promote the independence, health and wellbeing of senior citizens for the period of October 7, 2008 through June 30, 2009 in amount of \$29,100. *File #1042*

### **BEHAVIORAL HEALTH – A. Yamamoto:**

- 2) **Approved** contract with the State Department of Mental Health for specialty Mental Health Services for the period of July 1, 2006 through June 30, 2009; **authorized** the Behavioral Health Director to sign contract; and **adopted Resolution No. 2008-104** to accept the Department of Mental Health funds in the amount of \$597,377.00. *File #810*
- 3) **Approved** contract with Traditions Behavioral Health for psychiatry services for the period of October 7, 2008 to June 30, 2009 for a maximum annual total of \$281,600. *File #810*
- 4) **Approved** request to hire a Mental Health Clinician II at Range 24.9, Step F. *File #810*

### **CLERK OF THE BOARD – L. Churchill:**

- 5) **Approve the action minutes of the September 9, 2008 and September 23, 2008 regular meetings.**  
*Upon motion made by Supervisor Loe and seconded by Supervisors Marcus approved the minutes as recommended. (4-0 Vote. Supervisor Monaco abstained due his non-attendance of the September 23, 2008 meeting.)*

### **HEALTH & HUMAN SERVICES AGENCY – K. Flores:**

- 6) **Approved** proposed agreement with American Medical Response for services necessary to perform required maintenance and service to electronic Patient Care Report (ePCR) System for the period of August 15, 2008 to June 30, 2009 in amount of \$26,583. *File #130*

### **PUBLIC WORKS DEPARTMENT – J. Cox:**

- 7) **Approve contract with CM Pros for construction management services for the Lone Tree Road Bridge Replacement project for period of July 1, 2008 to June 30, 2009 in an amount not to exceed \$195,000.**

Supervisor Marcus stated that he learned that this project would be done by December 2008 and asked why this contract was extended to June 2009.

Acting Public Works Director Janelle Cox explained that CM Pros would need to do follow-up paperwork such as engineer reports after the project is complete.

Supervisor Marcus wanted to make sure that this would not go over amount requested.

Ms. Cox answered no it would not.

**BOARD ACTION:** *Upon motion made by Supervisor Marcus and seconded by Supervisor Monaco, approved contract with CM Pros as recommended. (Unanimous) File #105*

**PUBLIC HEARING (9:00 a.m. or as soon thereafter as the matter may be heard):**

Chairman De La Cruz excused himself from the following item stating that he works for a company that is looking into dumping by-product materials into the landfill and they are now involved in contract negotiations.

Vice-Chairman Botelho presided over the item.

**INTEGRATED WASTE MANAGEMENT DEPT. – M. Rose:**

- 8) **Held public hearing to consider a resolution approving an amended rate schedule for disposal of solid waste at John Smith Road Landfill increasing the rate from \$52.00 to \$57.00 per ton and a proposed revision in the definition of “residual” waste; as well as the addition of a rate for source separated agricultural plastic; approve fourth amendment to the operating agreement between the County of San Benito and Waste Connections, Inc.; and, approve necessary budget transfer. (4/5 vote required)**

Integrated Waste Management Director Mandy Rose provided background information stating that this item was back at the request by the Board at their meeting of September 9, 2008.

Ms. Rose handed out a corrected rate sheet reflecting language with regards to “surcharge”.

Vice-Chairman Botelho opened the public hearing.

Marty Richman, local resident, stated he just wanted to lend his support for this proposal because it is very important to continue to pay as you go rather than put it off. Mr. Richman stated that we must keep active in a recycling program and also keeping enforcement up to date.

There being no further comment from the public the Vice-Chairman closed the public hearing.

**BOARD ACTION:** *Upon motion made by Supervisor Marcus and seconded by Supervisor Loe, approved the transfer with the Integrated Waste Management Budget from Contingencies of \$144,970 to Professional Services for payment to Waste Connections, Inc. as described in the Fourth Amendment to the agreement. (4-0 vote. De La Cruz was not present for vote.)*

*Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus, adopted **Resolution No. 2008-105** approving solid waste rate increase from \$52.00 to \$57.00 and approved other minor changes; and approved the Fourth Amendment of the operating agreement between the County of San*

**REGULAR AGENDA:**

Chairman De La Cruz returned to the meeting and presided over the following items:

**ADMINISTRATIVE BUSINESS – S. Thompson:**

- 9) **Approve Grand Jury Report dated July 31, 2008 and authorize the Chair to sign.**

CAO Susan Thompson provided background information stating that the Board of Supervisors is the statutory agency and is required to respond to the Civil Grand Jury Report. Ms. Thompson noted that the Sheriff and the Chief Probation Officer have provided responses.

Ms. Thompson recommended approval, although there is a recommendation to add a position and she doesn't recommend it at this time due to budget constraints.

Discussion ensued with regards to the recommendation to offering inmates a variety of reading materials.

Robert Scoles, Aromas resident, who retired from Santa Cruz County Sheriff's Office in 2005 stated that he established a program in Santa Cruz County whereby he got donated books into the jail. Mr. Scoles stated that he still volunteers to do this and all you have to do is make sure that these paperback books are appropriate. Mr. Scoles stated that the Sheriff could use Inmate Welfare Funds for this program.

**BOARD ACTION:** *Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco, approved the prepared response to the Grand Jury Report dated July 31, 2008 and authorized the Chairman to sign said response. (Unanimous) File #605*

**PLANNING & BUILDING DEPARTMENT – A. Henriques:**

- 10) **Accept progress report on tracking of project costs for large developments.**

Planning Director Art Henriques reported that the two contractors, one for El Rancho San Benito project and one for the Santana Ranch Project, have been on board now for about two months. Mr. Henriques stated that they are setting up a process and introducing them to the various county departments and various contractors and they are familiarizing themselves with the process.

Mr. Henriques indicated that quarterly reports would be forthcoming. *File #790*

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

Planning Director Art Henriques reported that a follow-up site inspection was conducted on October 2, 2008. Mr. Henriques handed out a checklist indicating the five priorities and what has been completed to date.

Mr. Henriques stated that there has been substantial progress made noting that some items are to be completed by November 1, 2008.

Agricultural Commissioner Paul Matulich reported that most of what he has requested to be done is complete and that in the spring there will be rodent control done.

Chairman Marcus asked if any further complaints have been received from neighbors.

Mr. Henriques replied there have been none.

Mr. Matulich reported that he has received two positive e-mails about the improvements to the property.

Supervisor Loe reported that this property is in her district and she has received calls from people stating that the property is looking much better.

*Supervisor Loe asked for another report to be agendized for the November 4, 2008 meeting. File #790*

The Board adjourned for a break at 9:43 a.m. and reconvened at 9:50 a.m.

12) **Review amended Planning Fee Schedule and provide comment and direction to staff.** *(Continued from 9/23/08 meeting.)*

Planning Director Art Henriques provided background information stating that following the Board's direction on September 23, 2008 staff has looked into potential fees that could be a base rate but hourly. Mr. Henriques indicated that the revised proposed fee schedule is included in the Board's packet noting that staff is ready to move forward on this item.

Lengthy discussion ensued about the merits of the new proposed rates.

*Chairman De La Cruz directed staff to set a public hearing on adoption of the new Planning Division fee schedule. File #790*

13) **Receive report on the Gavilan College DEIR and provide comment and direction to staff.**

Planning Director Art Henriques provided background information reporting that the public review period for the Gavilan College Draft Environmental Report and the Fairview Corners Project (DEIR) began on September 3, 2008 and ends on October 17, 2008. Mr. Henriques noted that a draft comment letter to Dr. Steven Kinsella, Superintendent, Gavilan College District, is included in the Board's packet for review and comment.

Lisette Knight, Associate Planner, stated that the final version of the letter would be agendized for the October 14, 2008 meeting for Board approval. Ms. Knight reported on the comments regarding the following items: Campus housing; Lighting and the Dark Skies Ordinance; Emergency access; Consistency with the San Benito County General Plan Land Use Element; Water availability; commercial/retail components of the project; Hazardous fault zones; Traffic impacts; Inconsistency with the Noise Element of the General Plan and the Noise Section of the County Code; and other minor items such as grammatical errors.

Ms. Knight and Mr. Henriques answered questions posed by Board members.

Fire Chief Mike Marlow, Cal Fire, expressed concern about potential fire hazards and stated that statistics need to be prepared.

Board members provided input.

*Chairman De La Cruz noted that this item would be back on the October 14, 2008 to consider the final written comment letter. File #790*

**BOARD OF SUPERVISORS:**

- 14) **Receive report on Community Stabilization Grants for the acquisition, demolition and rehabilitation of foreclosed and abandoned homes and provide direction to staff.** (Supervisor Loe)

Supervisor Loe stated that she asked to have this item on the agenda after reading an article in the local newspaper and she would like an update on how this affects our county.

C.J. Valenzuela, Housing Programs Coordinator, reported that there was a lot of activity nationally, statewide and locally in housing, the environment and financial sectors and everyone is trying to figure out the best approach and a strategic plan.

Mr. Valenzuela handed out two documents entitled “Statewide Sum of Grants – Neighborhood Stabilization Program (NSP)” dated Friday, September 26, 2008 and “California’s Allocation” listing California jurisdictions and their NSP allocation.

Mr. Valenzuela reported that the Housing and Economic Recovery Act of 2008 provides \$3.9 billion in supplemental Community Development Block Grant dollars to local governments for the acquisition, demolition and rehabilitation of foreclosed and abandoned homes. California received \$529 million dollars on September 26, 2008 from the U.S. Department of Housing and Urban Development (HUD). Of those funds, the California Department of Housing and Community Development will administer \$145 million to local jurisdictions that do not get money directly from HUD. Mr. Valenzuela reported that San Benito County is officially a non-entitlement county meaning we do not get our money directly from HUD but would have to apply to the State Housing Community Development Department.

Mr. Valenzuela further reported that San Benito County is ranked as the seventh hardest hit of California’s 58 counties in the foreclosure crisis.

Lengthy discussion ensued about what the County can do to encourage disbursement of these funds to San Benito County.

Supervisor Elect Margie Barrios expressed concern over whether the County would be involved in buying homes from people that are strapped or would they be buying from the bank and will the County be fixing abandoned homes and be in the business of real estate. Ms. Barrios expressed concern that the 18-month window is not that far away and the County would need a plan and process how the County would be buying and selling the homes.

The following members of the public addressed the Board: Joe Thompson; Marty Richman, local resident; and Robert Scoles, Aromas resident.

Supervisor Loe clarified that we are not talking about buying and selling homes but to help qualified people with a couple of months mortgage payments and this should not be handled by the Planning Department but by the Community Action Board or such agencies.

***BOARD ACTION:*** *Directed staff to prepare a resolution and letters to RCRC, CSAC, NACO and our state representatives emphasizing San Benito County’s need for these entitlements and the fact that San Benito County ranks seventh hardest hit of all California counties in the foreclosure crisis. (Item to return to Board of Supervisors on October 14, 2008.) File #790*

- 15) **Letter of support for the expansion of the KART/AITS Program (farm workers vanpooling) into the Central Coast.** (Supervisor Monaco)

Supervisor Monaco asked for support from his fellow supervisors stating that this is a request for support of an extension of the KART/AITS program which is basically a carpooling service which our Board has supported in the past.

**BOARD ACTION:** *Upon motion made by Supervisor Monaco and seconded by Supervisor Marcus, authorized Chairman to sign letter of support and submit to Ron Hughes, Kings Area Rural Transit, Agricultural Industries Transportation Service, supporting the expansion of the KART/AITS Program into the Central Coast. (Unanimous) File #156*

- 16) **Report on California State Association of Counties (CSAC) Board of Director's Meeting.** (Supervisor Monaco)

Supervisor Monaco reported that he attended the September 11, 2008 CSAC Board of Director's meeting in Sacramento stating that most of the meeting was spent on discussing the upcoming propositions that are on the state ballots and CSAC's positions on these propositions.

Supervisor Monaco announced that he had submitted the information he received at the CSAC meeting to the Clerk of the Board of Supervisors and that information is available for public review. *File #1110*

#### **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:

- 17) **Conference with Labor Negotiator**

Authority: California Government Code Section 54957.6

Agency Designated Representative: Susan Thompson, CAO

Employee Organizations: Law Enforcement Management  
Confidential Management  
Confidential Clerical  
Department Heads

***No reportable action.*** *File #235.6*

- 18) **Conference with Legal Counsel – Anticipated Litigation**

(Government Code Section 54956.9)

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

Number of Cases: 1

***Item 18 was withdrawn from the agenda.***

- 19) **Conference with Legal Counsel – Existing Litigation –**

(Subdivision (a) of Section 54856.9)

Name of Case: Frank Del Carlo, et al. vs. COSB (Case No. CU-06-00079)

***No reportable action.*** *File #235.6*

## **AFTERNOON SESSION 1:30 P.M.**

### **PLANNING & BUILDING DEPARTMENT – A. Henriques:**

20) **Receive report on the Growth Management Ordinance and provide comment and direction to staff.**

Planning Director Art Henriques provided background information stating that the Board of Supervisors requested additional information pertaining to the Growth Management Ordinance and staff has prepared an analysis of allocations awarded since the inception of the ordinance and how many of these allocations have been translated to building permits; statistics showing the growth rate of the unincorporated County, not including the cities of Hollister and San Juan Bautista; discussion regarding the legality of the Ordinance and further California Environmental Quality Act (CEQA) analysis and also included tables for allocations for building permits and other information.

Assistant Planning Director Byron Turner presented a Power Point Presentation addressing the items as reported by Planning Director Art Henriques. The Power Point Presentation included the following:

- Allocations vs. Building Permits
- Unincorporated County Growth Rate
- Legality
- CEQA
- Options to consider.
- Recommendations

The following members of the public addressed the Board with regards to the Growth Ordinance and the Transfer of Development Credit (TDC) Program: Brian Curtis, local resident; Scott Fuller; San Juan Oaks; Marty Richman, local resident; Janet Brians, local resident and Jeanette Langstaff, local resident.

Lengthy discussion ensued and input was provided by Board members.

It was the consensus of the Board to include the following options in amending the Growth Ordinance:

- An expansion of the exemptions to include all projects that will connect to public water and sewer
- Exemptions for projects going through the TDC Program and ordinance.
- Language regarding PRGI exemptions to be clarified by Planning staff and some back for further discussion.
- CEQA process to be included along with General Plan process.
- Link the growth cap rate to the State of California growth rate and no lower than 1%.
- Exempt projects that offer the community other benefits through development agreements
- Exempt projects that is for agricultural or estate purposes regardless of the zoning.

Supervisor Loe asked if they were going to put a cap on the exemptions?

Chairman De La Cruz stated that this could be discussed when this item is again on the Board's agenda. *File #790*



The Board adjourned for a 10 minute break at 2:50 p.m. and reconvened at 3:00 p.m. re:

21) **Receive report on the Inclusionary Housing Ordinance and provide comment and direction to staff.**

Planning Director Art Henriques provided background information stating this was the second monthly report on the Inclusionary Housing Ordinance as requested by the Board of Supervisors. The Board asked for further information on what would it take to consider reducing the 30% inclusionary requirement.

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

- September 23, 2008 Board of Supervisors meeting;
  1. The Board directed staff to return on October 7, 2008 with a plan of action to reduce the inclusionary requirement from 30% to 20%.
  2. The Board also indicated that the in-lieu fee should be updated to reflect 2008 affordability and income levels.
- Amend the Housing Element
- Amend the County Code
- Amend the Administrative Manual
- CEQA
- In-Lieu Fee
- Additional Items recommended by the Planning Commission:
  1. 30% requirement should be lowered
  2. Economic incentives should be added to the program.
  3. In-lieu fees should not require annual analysis.
  4. Program should consider other types of housing such as rentals, town-homes, condominiums, senior housing and apartments.

Chairman De La Cruz noted that the Agenda Item Transmittal and report stated that the direction by the Board was to reduce the inclusionary requirement from 30% to 20% but he recalls that it was the wish of the Board of Supervisors to bring back what it would take to reduce the 30% but not to specifically 20%.

The following members of the public addressed the Board: Scott Fuller, San Juan Oaks; Janet Brians, local resident; and Jeannette Langstaff, local resident.

Lengthy discussion ensued and the Board provided their input.

*It was the consensus of the Board to have the Planning staff return on the October 28, 2008 meeting with a report on the following items:*

- *Information regarding the impact of the status of the San Benito County Housing Element.*
- *An analysis of Assembly Bill 2280.*
- *An analysis of the "20-unit threshold.*

*In addition staff was directed to begin necessary steps to prepare changes to the Inclusionary Housing Ordinance as follows:*

- *Include rentals and allow mix of housing types*
- *Change the fee structure to most updated figures.*
- *Include automatic reviews of the ordinance when the Housing Element is updated.*

- *Reduction of the 30% requirement to 20%*

Supervisor Marcus would like to know that with regards to any of the items discussed today, particularly changing the percentage, what is going to be the County's cost to do an EIR within the next six months just to do this and then a year from now be doing another EIR parallel to that same issue. Supervisor Marcus said he would like a report back on this scenario.

Mr. Henriques thinks these implementations can be done with a Negative Declaration and not upset the Housing Element status. Mr. Henriques will report back on October 28<sup>th</sup>. *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: Loe, Marcus, Botelho, De La Cruz  
NOES: SUPERVISORS: None  
ABSENT: SUPERVISORS: Monaco

There being no further business the Board adjourned at 3:30 p.m. to October 14, 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