



SAN BENITO COUNTY BOARD OF SUPERVISORS

Don Marcus
District No. 1
Chair

Anthony Botelho
District No. 2

Pat Loe
District No. 3

Reb Monaco
District No. 4

Jaime De La Cruz
District No. 5
Vice-Chair

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

REGULAR MEETING FEBRUARY 6, 2007 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date *in regular session*. Supervisors Monaco, Botelho, Marcus and Loe were present. Supervisor De La Cruz was absent. Also present was County Administrative Officer Susan Thompson, County Counsel Dennis Le Clere and Clerk of the Board Linda Churchill. Chairman Don Marcus presided.

9:30 a.m. CALL TO ORDER:

- a) Supervisor Monaco led the Pledge of Allegiance.

Chairman Marcus announced that Supervisor De La Cruz was absent from the meeting due to having a kidney transplant over the weekend. Chairman Marcus and the Board wished Supervisor De La Cruz and his family well.

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

c) **Public Comment:** Joe Thompson, Tres Pinos resident, came forward. Mr. Thompson urged the Board to agendize sending firm instructions to its Council of Governments (COG) delegates regarding its stand on the East/West Connector stating that it should be built in Santa Clara County. Further Mr. Thompson stated the county should not knuckle under to Monterey County and should not agree to the AMBAG (Association of Monterey Bay Area Governments) blueprint for transit models.

d) **Department Head Announcements:** County Administrative Officer (CAO) Susan Thompson introduced Janelle Cox a new Management Analyst in the Administrative Office.

Joe Paul Gonzalez, County Clerk/Auditor/Recorder/ Registrar of Voters, came forward. Mr. Gonzalez referred to a letter handed out to the Board of Supervisors, directed to Candice Hooper, District Attorney and dated January 25, 2007. The letter came from Bruce McDannold, Interim Director, State of California Office of Voting Systems Technology Assessment and concerns an investigation that was requested by the former District Attorney John Sarsfield regarding allegations by a single voter that an electronic voting machine used at the General Election on November 7, 2006 was biased against two candidates making it difficult to vote for those two candidates. Mr. Gonzalez reported that this intensive investigation exonerated the San Benito County

Elections Department of any irregularities with the electronic machines that were used in that precinct and their investigation found nothing to substantiate the voter's allegations.

- e) **Board Announcements, Introductions and Presentations:** There were none.

CONSENT AGENDA:

Consent Item No. 7 was withdrawn from the agenda.

Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, approved Consent Items 1 through 11 with the exception of Items 4, 5, & 10, which were pulled for discussion. (4-0 Vote. De La Cruz absent)

BEHAVIORAL HEALTH – A. Yamamoto:

- 1) Regarding agreement renewal with the Department of Mental Health for State hospital bed use, consider the following:
 - a) **Authorized** the Behavioral Health Director sign said agreement #06-76307 with the State for Fiscal Year 2006/2007; and
 - b) **Authorized** Chair to sign **Resolution No. 2007-7.** File #810

CLERK OF THE BOARD:

- 2) **Approved** the action minutes of the meeting of January 23, 2007.

CLERK / AUDITOR / RECORDER / ELECTIONS: J. Gonzalez:

- 3) **Authorized** the Clerk/Auditor/Recorder to sign agreement with Monterey Bay Office Products for a Gestetner AO45 Wide Format Plotter/Scanner in the amount of \$14,546.32 to be paid from the Recorders Modernization Trust. File #943.1
- 4) **Approve payment to Hodges Consulting Services in the amount of \$9,000 for additional required Election Support Services for the November 5, 2006 General Election.**

Supervisor Botelho expressed concern with the doubling of the original estimate for this contract.

Mr. Gonzalez responded that all costs were quantified in the documentation submitted to the Board in their packets and he explained what those costs were.

Supervisor Botelho state he did not want to see this happen in the future.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, approved additional payment to H. C. S., Michael Hodges, for extra election support services provided for the November 7, 2006 General Election in the amount of \$9,600.00. (Vote 4-0.) File #285*

COUNTY COUNSEL – D. LeClere:

- 5) **Approve increase in the billing rate of the Office of County Counsel from \$63.00 per hour to \$120.00 per hour effective July 1, 2007.**

Supervisor Monaco stated that we need to regularly monitor our fee schedule so this doesn't happen again where it becomes a 100% increase.

Question and answered period ensued. County Counsel Dennis Le Clere explained the basis for this increase.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, approved the increase in the billing rate of the Office of County Counsel from \$63.00 per hour to \$120.00 per hour effective July 1, 2007. (Vote 4-0)
File #160

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 6) **Authorized** the H&HSA Director to sign proposal with Homephone Systems and move forward with purchase of equipment to replace antiquated telephone system. File #130

INTERNAL SERVICES – R. Inman:

- 7) Approve amendment to employment agreement with Art Henriques, Director of Building and Planning.
(Withdrawn from the agenda)
- 8) Regarding purchasing program and technology requisition, consider the following:
- a) **Approved** and **authorized** the CAO and her designees to utilize the FOCUS Program; and
 - b) **Approved** and **authorized** the Internal Services Division to purchase hardware and software through SBC DataCom through the FOCUS Program. File #119.1
- 9) **Approved** agreement with Advanced Computer Experts for the provision of professional computer services on an “as needed” basis reflected in written work orders from the County’s IT Division at an amount not to exceed \$20,000 with a contract term of February 6, 2007 through January 31, 2008. File #119.1

PUBLIC WORKS – J. Lo:

- 10) **Approve proposed resolution establishing Public Use and Necessity for the John Smith Road Realignment. (Res. No. 2007-8)**

Supervisor Botelho asked for an explanation of the process and why we were at an impasse.

Assistant Public Works Director Arman Nazemi provided background information noting that this action will expedite the process.

Sylvester Heinberg, Property Manager for Ulrich Wingens Trust, came forward stating that the property owner did not want to dissect his property and reduce it from 90 acres to 65 acres. Mr. Heinberg handed out a document outlining Alternative Intersection Concepts and stating he hoped they could all work together.

Discussion and question and answer period ensued.

County Counsel noted that this item requires a 4/5 vote.

BOARD ACTION: Upon motion made by Supervisor Loe and seconded by Supervisor Monaco, adopted **Resolution No. 2007-8** establishing Public Use and Necessity for John Smith Road Realignment and authorized the Chair to sign said resolution. (Vote 4-0) File #105

SHERIFF-CORONER: C. Hill:

- 11) **Approved** the purchase of four (4) Digital In-Car Video Systems for a total of \$17,990.00 and augment the Sheriff's Patrol Budget (1001210) accordingly. (4/5 vote required) (Vote 4-0) *File #110*

PUBLIC HEARING: 9:30 A.M. (Or as soon thereafter as the matter may be heard).

PLANNING DEPARTMENT: A. Henriques:

- 12) **Held a public hearing to consider an ordinance for Zone Change 05-147 Applicant: Juventino Rodriguez Location: 380 Flora Avenue, Hollister. APN: 19-14-06 Request: A zone change from AP (Agricultural Productive) to C-2 (Neighborhood Commercial). Zoning: Agricultural Productive.**

Byron Turner, Principal Planner, provided background information stating that on December 6, 2006 the Planning Commission adopted Resolution 2006-25 recommending approval of Zone Change 05-147 which would re-zone approximately one acre from AP (Agricultural Productive) to C-2 (Neighborhood Commercial). The applicant intends to convert the existing structures into storage facility, retail outlet and sheet metal shop for a heating and air conditioning business.

The Chairman opened the public hearing. There were no members of the public who wished to address the Board. The Chairman closed the public hearing.

Supervisor Loe expressed concern regarding the level of service on that road right now.

Mr. Turner answered that there was no red flag of any significant level of service.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco, waived the reading of the ordinance; approved and adopted the Mitigated Negative Declaration; adopted Ordinance No. 807 (Zone change 05-147) and made findings that the re-zone will serve the public necessity, convenience, general welfare and is good zoning. (Vote 3-1. Supervisor Loe voted no.) File #790*

REGULAR AGENDA:

AGRICULTURAL COMMISSIONER: P. Matulich:

- 13) **Appoint one member representing the interest of wildlife conservation to the Taylor Act Grazing Advisory Board to fill the unexpired term of Ken Range ending July 2008.**

Agricultural Commissioner Paul Matulich stated that both applicants were qualified to sit on this advisory board and he was not going to recommend one or the other as he felt both applicants could do the job and there is only one at-large member who sits on this advisory board.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco, moved to draw names for appointment to the Taylor Act Grazing Advisory Board. (Vote 4-0)*

The Agricultural Commission drew Jim Hawkins' name from the two names that submitted an application.

Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, appointed Jim Hawkins to the Taylor Act Grazing Advisory Board to fill the unexpired term of Ken Range ending July 2008. (Vote 4-0) File #1.1

Directed Clerk to notify both applicants of the appointment and the manner in which the appointment was made.

PLANNING DEPARTMENT – A. Henriques:

14) Approve Master Reimbursement Agreement for Planning Consultants and direct staff to return with related contracts for large project reviews.

Art Henriques, Director of Planning & Building Inspection Services, provided background information, stating that County Counsel and the Planning Department have worked on this draft agreement and he is before the Board today to talk about a Master Reimbursement Agreement template noting this was a draft concept.

Following Mr. Henriques' presentation the Board held a lengthy discussion and offered suggestions for inclusion in this agreement.

Brad Sullivan, Hollister resident, came forward urging the Board to pass this type of an agreement noting that he has past experience as an attorney in these types of cases and there can be conflicts that can be kept out of the Board Chambers.

BOARD ACTION: *Directed staff to return to the Board of Supervisors at a future meeting for further discussion and input and including suggestions made by the Board at today's meeting. File #790*

BOARD OF SUPERVISORS:

15) Hold discussion regarding proposed Assembly and Senate Bills that would move the 2008 Primary Election from June to February 5 and take action as appropriate to oppose these bills. (Supervisor Loe)

Supervisor Loe indicated that Supervisor De La Cruz would like to be a part of this conversation and recommended bringing this item back at a future meeting to discuss.

Reba Jones, local resident, read a prepared statement by Marvin L. Jones, Chairman of the San Benito County Republican Party. The statement was handed out to the Board of Supervisors. Ms. Jones read from the statement that the San Benito County Republican Party had taken the position to support the opposition to move the presidential primary to February 2008.

This item was continued to the February 27, 2007 meeting. File #156.1

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.)

16) Conference With Real Property Negotiators

Authority: California Government Code Section 54957.8

Property: APN: 053-14-0-013-0

Address: 424 West Street, Hollister, CA 95023

Agency Negotiator: Susan Thompson, CAO, Rich Inman, Internal Svcs. Dir.

Negotiating Parties: Owner/Seller: Fernando Gonzalez

Under Negotiation: Price and terms of payment

BOARD ACTION: *Direction was given to the Real Property Negotiator. File #235.6*

17) Conference with Legal Counsel – Existing Litigation

Authority: California Government Code Section 54956.9(a)

a) Pekin v. Scagliotti, et al. (Case No. CU-03-00150)

No reportable action.

b) Pekin v. County of San Benito, et al. (Case No. C05 05402)
No reportable action. File #235.6

SITTING AS THE PUBLIC AUTHORITY FOR IN HOME SUPPORTIVE SERVICES:

18) Conference With Labor Negotiator

Authority: California Government Code Section 54957.6

Agency Designated Representative: JoDan & Associates, Inc.

Employee Organization: SEIU, Local 817 – In Home Supportive Services (IHSS)

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, Botelho, Marcus

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: De La Cruz

There being no further business the Board adjourned to its next regularly scheduled meeting on February 13, 2007 at 9:30 a.m.

DON MARCUS, CHAIRMAN

San Benito County Board of Supervisors

ATTEST:

Linda Churchill, Clerk of the Board