



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 ACTION MINUTES FEBRUARY 27, 2007

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session. Supervisors Monaco, Loe; Botelho; De La Cruz and Marcus were all present. Also present was County Administrative Officer Susan Thompson, County Counsel Dennis Le Clere, Deputy Clerk of the Board Sally Navarez for the a.m. session and Clerk of the Board Linda Churchill for the p.m. session. Chair Don Marcus presiding when the following was had to wit:

9:30 a.m. CALL TO ORDER:

Chairman Marcus welcomed back Supervisor De La Cruz following recent surgery.

- a) Pledge of Allegiance to be led by Supervisor De La Cruz.
 - b) *Upon motion duly made by Supervisor Monaco and seconded by Supervisor De La Cruz, **acknowledged** the Certificate of Posting.*
 - c) **Public Comment:** Joe Thompson, local resident, urged COG to participate in the annual application process with the State and Federal government for transportation/transit grants noting those monies should be earmarked for sustainable projects as opposed to just bike paths as in the past. Mr. Thompson urged that the County consider projects that will bring commerce, industry and create jobs for our community.
 - d) **Department Head Announcements:** Planning Director Art Henriques provided an update on the General Plan Update project. Mr. Henriques noted second round of interviews of the stakeholder process will be held shortly and the third round will be held for public input. Mr. Henriques closed by noting public notices will be circulated county wide including the San Juan Bautista, Aromas, Tres Pinos, etc. areas.
- Ag Commissioner Paul Matulich presented a report to the Board on the timeline for the proposed San Benito Mosquito Abatement District and provided an overview of said timeline and board involvement in the upcoming ballot proceedings.
- e) **Board Announcements, Introductions and Presentations:** Supervisor Monaco indicated he was in Seaside on Thursday to witness the Tour of California bike race which was an international event. Supervisor Monaco indicated San Benito County should look at hosting a leg of that race through San Benito County possibly in the future as there were many beautiful rural roads here.

Supervisor De La Cruz read from a prepared statement thanking fellow Board members, Department Heads and members of the public for their support during his recent absence due to surgery. Supervisor De La Cruz thanked the family of the person whose kidney he received for their generosity and urged all to register as organ donators.

Chairman Marcus, on behalf of the Board and staff, commended Supervisor De La Cruz for his courage during his recovery time and continued dedication to the public.

Supervisor Botelho noted he attended the retirement party for John Hodges, County Clerk/Auditor/Recorder and made a presentation on behalf of the Board and indicated a good time was had by all.

Supervisor Marcus provided a very brief update on the Courthouse Security project redesign. Supervisor Marcus also noted that he sat with Supervisor Loe on the Intergovernmental Committee and that the Hollister Wastewater Master Plan, which has been in the works for two years, was now available. Supervisor Marcus indicated he would like to see a public hearing sometime in March, 2007 to discuss this service over the next projected twenty-years.

CONSENT AGENDA:

Chairman Marcus indicated there was a request to pull Item #13 from Consent for further discussion.

BOARD ACTION: Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Monaco, **approved** the Consent Agenda less Item #13. Motion passed unanimously.

BEHAVIORAL HEALTH – A. Yamamoto:

- 1) **Approved** contract for Telepsychiatry Services with the Kings View Corporation for the term of March 6, 2007 to June 30, 2007 for a maximum total of \$22,880.00. (file #810)
- 2) **Approved** contract with Mary Helen Lopez, Licensed Clinical Social Worker, for the term of March 6, 2007 to June 30, 2007 for a maximum annual total of \$5,760.00. (file #810)

CHILDCARE LOCAL PLANNING COUNCIL - K. Bobsin:

- 3) Approve certification of composition of the membership for the San Benito County Childcare Local Planning Council. (file #166)

CLERK OF THE BOARD – L. Churchill

- 4) **Approved** minutes of the January 30, 2007 special meeting; the February 6, 2007 and February 13, 2007 regular meetings.

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 5) **Approved** appointment of Diane Berry-Wahrer to the Workforce Investment Board representing the State of California Department of Rehabilitation, a mandated representative board position, for a three year term effective February 27, 2007 through February 27, 2010. (file #939)
- 6) **Approved** appointment of Alanna Mendoza to the Youth Employment Program Council to represent the Youth Employment Opportunity Program, an out of school program representative, for membership effective February 27, 2007. (file #939)
- 7) **Approved** appointment of Nora Jimenez to the Youth Employment Program Council to represent the San Benito High School Workability Program, a youth activity organization, for term membership effective February 27, 2007. (file #939)

8) **Approved** re-appointment of Mary Damm to the Workforce Investment Board to represent a required private sector agency for a three year term effective February 27, 2007 through February 27, 2010. (file #939)

9) **Approved** re-appointment of Connie Herndon to the Workforce Investment Board to represent a required private sector agency for a three year term effective February 27, 2007 through February 27, 2010. (file #939)

INTERNAL SERVICES – R. Inman:

10) **Approved** amendment to employment agreement with Art Henriques, Director of Building and Planning. (Continued from 2/6/07 mtg.) (file #630)

11) **Approved** amended agreement between the County of San Benito and Law Enforcement Managers to change the term of the agreement from October 1, 2006 to September 30, 2007. (file #630)

PUBLIC WORKS – J. Lo:

12) **Declared** vehicles and equipment as surplus per County procedure and remove from inventory. (file #105)

SHERIFF – C. Hill:

13) **Approve purchase of security cabinet for the California Law Enforcement Telecommunications System (CLETS) and augment Budget Unit #210 in the amount of \$850 for expenditures and revenues.**

County Counsel Dennis Le Clere noted this item had an augmentation request and therefore, would required a four-fifths vote and that action should be clearly indicated.

BOARD ACTIONS:

- 1) *Upon motion duly made by Supervisor Botelho and seconded by Supervisor Monaco, **approved** purchase of the requested security cabinet. Motion passed unanimously.*
- 2) *Upon motion duly made by Supervisor Monaco and seconded by Supervisor De La Cruz, **approved** the transfer of funds to Budget Unit #210. Motion passed unanimously.* (file #116)

14) **Approved** two (2) agreements with Identix Inc. for maintenance of fingerprint equipment for four (4) locations, County Jail, Juvenile Hall, County Office of Education and the Aromas-San Juan School District each with contract terms of September 13, 2006 through March 31, 2007 **and** April 1, 2007 through March 31, 2008. (file #110)

9:30 a.m. PUBLIC HEARINGS:

PLANNING & BUILDING DEPARTMENT - A. Henriques:

15) **Hold a public hearing to consider an ordinance amending Chapter 18 of the San Benito County Code (Ordinance 479) to revise Section 18-145.4(c), Application procedure for accessory senior second units.**

Planning Director Art Henriques and Principal Planner Byron Turner provided background information relative this matter.

This being the duly noted time and place, Chairman Marcus opened the public hearing.

Steve Johnson, Panoche Road, and questioned why even discuss this matter. As tings were now, he owned a 40-acre parcel in south county which was in the Williamson Act, but isn't allowed to place a second residential unit on his property and would like a better explanation of what the specific criteria was.

Planning Director Henriques briefly explained the process.

Hearing no one further wishing to address the Board, Chairman Marcus closed the public hearing.

Discussion ensued regarding affordable housing matters; caretakers units defined versus senior second units and further looking into the potential of converting of such units into affordable housing.

Supervisor Loe noted she wanted to see a report back on this matter next year for a report back and then annually on the same. Supervisor Loe also asked to look at the placement of 2-units (senior 2nd, etc) units on a lot be included in the General Plan review process.

BOARD ACTION: *Upon motion duly made by Supervisor Monaco and seconded by Supervisor Botelho, adopted Ordinance #810 as recommended. Motion passed unanimously. (file #790)*

16) Hold a public hearing to consider an ordinance for Zone Change 90-80A (Pacheco Creek Estates). Applicant: Casa de Fruta Orchards. Location: Highway 156 & Pacheco Creek Drive, Hollister, CA.

Background information was provided by Planning Director Art Henriques and Principal Planner Byron Turner.

Discussion ensued.

This being the duly noted time and place, Chairman Marcus opened the public hearing.

Joe Zanger, Jr. representing the applicant, indicated this matter has been ongoing since February of 2003. Mr. Zanger indicated he has worked with the Planning Department via the PUD process and indicated this matter has received approval from the Planning Commission following the soils analysis addressing the Grade #1 soil issue. Mr. Zanger questioned what more was necessary in order to move forward.

Discussion ensued regarding the delay in processing this matter.

Hearing no one further wishing to address the Board, Chairman Marcus closed the public hearing.

Lengthy discussion ensued regarding the Grade #1 soils, CEQA requirements; possibly contracting with the geologist who reviewed this matter for other Planning projects and the need for a definitive timeline to move this matter through.

County Counsel Dennis Le Clere urged the Board to continue the public hearing to another date rather than close the matter.

BOARD ACTIONS: *Upon motion duly made by Supervisor Monaco and seconded by Supervisor De La Cruz,*

- 1) ***Directed*** Planning Staff to update the Planning Commission and receive input from the Planning Commission on this matter; and
- 2) ***Directed*** Planning staff to bring back a proposed ordinance for first reading before the Board at the meeting of April 24, 2007 to revise the PUD Ordinance based on comments from the Planning Commission, Board of Supervisors and public as well as include some flexibility in allowing prime farmland to be located in a PUD; and
- 3) ***Continued*** the Public Hearing on Zone Change 90-80A (Pacheco Creek Estates) to ***Tuesday, May 1, 2007.***

Motion passed unanimously. (file #790)

REGULAR AGENDA:

BOARD OF SUPERVISORS:

17) Approve language of letter to the California Transportation Commission in support of funding for the regions priority transportation projects.

COG Executive Director Lisa Rheinheimer provided background information relative to this matter.

BOARD ACTION: *Upon motion duly made by Supervisor Loe and seconded by Supervisor Botelho, directed that said letter be forwarded to the CA Transportation Commission as*

recommended and **included** providing a copy of said letter to local State and Federal representatives as well. Motion passed unanimously. (file #1035)

Board took a five-minute break.

DISTRICT ATTORNEY – C. Hooper:

21) **Receive report and consider reorganization of the District Attorney department.**

Chairman Marcus asked that this Item be moved up as the DA was due in court shortly.

Item moved with Board consensus.

District Attorney Candice Hooper came forward and provided background information relative to this matter.

Discussion ensued.

BOARD ACTIONS: Upon motion duly made by Supervisor Monaco and seconded by Supervisor De La Cruz, **approved** the following actions:

- a) **Approved** the deletion of 1.0FTE Paralegal position; and
- b) **Approved** the addition of 2.0FTE Deputy District Attorney I/II/III' and
- c) **Approved** the addition of 0.50FTE Office Assistant I/II; and
- d) **Approved** the job specification for a new classification of Investigative Assistant Range 12.7 and **approved** the addition of 1.0FTE of same.

(file #630/205)

COUNTY CLERK / RECORDER / AUDITOR - J. Gonzalez:

20) **Receive report and consider reorganization of Auditor/Recorder/Clerk department.**

County Clerk/Recorder Joe Paul Gonzalez provided background information relative to this matter.

Discussion ensued.

BOARD ACTIONS: Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Monaco, **approved** the following actions:

- a) **Approved** the deletion of 1.0FTE Finance Director Range 30.5 and **allocated** 1.0FTE Assistant Auditor Range 30.5; and
- b) **Approved** the deletion of 1.0FTE Accounting Manager Range 25.4 and **allocated** 1.0FTE Staff Analyst Range 24 in the Clerk/Recorder/Elections Department; and
- c) **Approved** the deletion of 1.0FTE Accounting Technician Range 13.7 in Auditor's Office and **allocated** 1.0FTE Accounting Clerical Supervisor Range 18.7; and
- d) **Approved** the deletion of 1.0FTE Account Clerk III Range 11.7 in the Auditor's Office and **allocated** 1.0FTE Payroll Technician Range 15.7 as a flexible appointment; and
- e) **Approved** the deletion of 1.0FTE Account Clerk I/II/III Range 11.7 and **allocated** 1.0FTE Property Tax Specialist Range 15.7 as a flexible appointment; and
- f) **Approved** the allocation of 1.0FTE Deputy Clerk/Recorder I/II/III to the Recorder's Budget; and
- g) **Approved** the classification for Assistant Auditor; Staff Analyst, Accounting Clerical Supervisor and Property Tax Specialist positions; and
- h) **Approved** augmentation to the Recorder's budget (1001260) in the amount of \$11,900 from the Modernization Trust and **transfer** in the amount of \$31,000 in salary/benefit savings from the Auditor's budget (1001110) to Recorder's budget (1001260) in the amount of \$15,500 and County Clerk budget (1001259) in the amount of \$15,500.

Motion passed unanimously. (file #630/608)

BOARD OF SUPERVISORS:

24) **Receive report from ad hoc Committee – San Juan Bautista services and provide direction to staff as necessary. (Supervisors Loe and Botelho)**

Background information was received from Supervisor Loe and Supervisor Botelho.

Discussion ensued regarding the level of support service necessary; did the County possess the manpower to take on additional responsibilities and should the City of San Juan Bautista look to other alternatives such as hiring a professional consultant.

BOARD ACTION: *Directed the County Administrative Officer forward a letter to the San Juan Bautista City Manger indicating their request for services by the San Benito County Public Works Department is not feasible at this time due to staffing shortages. (file #1119)*

25) **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) (cont from 2/6/07 mtg)**

Supervisor Loe and CAO Thompson provided background information relative to this matter.

Lengthy discussion ensued relative to financial impacts to the County overall, Elections staff, possibly setting up this new election as a completely mail in election, and for staff to check with CSAC, RCRC and AMBAG regarding other counties positions are relative to this matter.

BOARD ACTION: *Directed that a letter be sent indicating San Benito County would support such a move providing the State of California completely funds associated costs as the financial implications to the smaller, rural counties would be significant. (file #156)*

18) **Approve interagency agreement with the San Benito County In Home Supportive Services Public Authority with a term of July 1, 2004 through June 30, 2008.**

Internal Services Director Rich Inman provided background information relative to this matter.

BOARD ACTION: *Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Monaco, approved said interagency agreement with IHSS as recommended. Motion passed unanimously. (file #630)*

Chair Marcus **adjourned** as the San Benito County Board of Supervisors and **reconvened** as the Public Authority for In Home Supportive Services.

SITTING AS THE IN HOME SUPPORTIVE SERVICES (IHSS) PUBLIC AUTHORITY:

19) **Approve interagency agreement with the San Benito County In Home Supportive Services Public Authority with a term of July 1, 2004 through June 30, 2008.**

Internal Services Director Rich Inman indicated this matter was identical to Item #18 but required the Public Authority for IHSS approved said agreement as well.

ACTION: *Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Monaco, approved said interagency agreement as recommended. Motion passed unanimously. (file #130.1)*

Chair Marcus **adjourned** as the Public Authority for In Home Supportive Services and **reconvened** as the San Benito County Board of Supervisors.

ADMINISTRATIVE BUSINESS:

23) **Hold discussion regarding the re-scheduling of the Board Retreat.**

CAO Susan Thompson provided a variety of potential dates for the Board to consider.

Discussion ensued.

BOARD ACTION: *It was the consensus of the Board to reschedule said Retreat to **Tuesday, March 20, 2007 at 9:00 a.m.** and break from 12:00 p.m. – 1:30 p.m. in order to accommodate a previous engagement scheduled for Supervisor Loe.*

CAO Thompson reminded the Board that she would need the items for this agenda by Tuesday, March 13th. (file #156)

22) **Receive report regarding difficult to recruit positions.**

Per the Chair, due to the lateness of the hour, this matter was moved to first discussion item when returning at 1:30 p.m.

Board adjourned to Closed Session.

CLOSED SESSION:

26) **Conference with Legal Counsel – Existing Litigation – (Subdivision(a) of Section 54856.9)**

Name of Case(s):

- 1) **Susan Graves as guardian ad litem for Cody Graves v. County of San Benito, et al (Case no. C06-04360)**

Upon exiting Closed Session, Counsel Le Clere reported out that the Board of Supervisors approved settlement with Susan Graves as guardian ad litem for Cody Graves v. San Benito County, et al. (file #235.6)

SITTING AS THE PUBLIC AUTHORITY FOR IN HOME SUPPORTIVE SERVICES:

27) **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)

Matter was withdrawn from the agenda by the CAO. (file #235.6)

1:30 p.m. REGULAR AGENDA (Continued)

INTERNAL SERVICES – R. Inman:

22) **Receive report regarding difficult to recruit positions.**

Rich Inman, Internal Services Director, provided an oral report to alert the Board of Supervisors of the difficulty in recruiting certain positions.

Input was provided by the following departments who have a significant problem with the recruitment of certain positions: Kathy Flores, Director of Health & Human Services Agency; Kathleen Bolter, Supervising Public Health Nurse; Steve Pierce, Deputy Director of Human Services; and Alan Yamamoto, Director of Behavioral Health.

Mr. Inman indicated that the next step would be to bring solutions to the Board of Supervisors for consideration. *File #630*

Item 30 was moved for consideration at this time.

BUILDING & PLANNING – A. Henriques:

30) **Review and consider options for distribution of preliminary allocations previously allocated for affordable housing.**

Planning Director Art Henriques provided background information stating that on December 19, 2006 the Board of Supervisors approved an amendment to Ordinance 733 (Growth Management System) to exempt required affordable housing from the allocation process in the Growth Management System and as a result the County now has an additional 30 allocations that may be distributed. Mr. Henriques outlined several alternatives for the Board's consideration.

County Administrative Officer Susan Thompson noted that at the last round of distribution of preliminary allocations there were only two applicants who actually appealed the decision and did not receive allocations totaling eight (8) units.

Chairman Marcus excused himself from this item due and would abstain from the routing of these allocations staying consistent with the process due to not being involved with a decision made on one of the appellants.

Vice Chairman De La Cruz presided over the remainder of this item and asked if there were any members of the public who wished to address the Board.

Kevin Turner and Andreas Abramson, appellants of the preliminary allocation process felt they should have been allocated points and should now receive their allocations.

Discussion ensued.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, directed staff to distribute eight (8) allocations to the two recent Preliminary Allocation appellants (Abramson and Turner & Silvera) and to add the 22 remaining allocations to the next Preliminary Allocation cycle. (4-0 Vote. Marcus abstained) File #790*

2:10 p.m.

Chairman Marcus returned and presided over the remainder of the meeting. Vice-Chair De La Cruz left the meeting for an appointment.

TREASURER / TAX COLLECTOR - M. L. Andrade:

28) Review by the Board of Supervisors regarding a Claim for Cancellation and Refund of Delinquent Property Tax Penalty received from Raleys / Nob Hill (Claim No. 05-010) related to APN's 11-003925-10-1 and 057-23-0-027-0 and take action as appropriate.

Treasurer/Tax Collector Mary Lou Andrade provided background information stating that Raleys-Nob Hill would like their case heard by the Board of Supervisors in regards to a claim to request the penalty waived. Ms. Andrade explained the details by which this tax payment was deemed late and noted that the Tax Refund Committee voted to denied the claim.

Troy Dinin, Senior Tax Manager, for Raley's came forward. Mr. Dinin asked the Board to take a look at the copy of the envelope stating they believed they complied with the law itself and the spirit of the law with regards to the postage meter date.

Lengthy discussion ensued and Deputy Counsel Shirley Murphy read the Government Code Section relating to the U.S. Postal Service postmark noting that the Tax Collector has the right to decide if the date of the postmark is satisfactory.

BOARD ACTION: *Supervisor Loe made a motion to uphold the decision of the Tax Refund Committee.*

County Counsel Dennis LeClere recommended that the Board also make a factual finding that the postage was not mailed at an appropriate time and therefore resulted in a late payment.

Supervisor Loe agreed to include the factual finding in her motion. Supervisor Monaco seconded the motion. (4-0 Vote. De La Cruz absent) File #673

ADMINISTRATIVE BUSINESS:

29) Consider an ordinance amending Chapter 13 (Purchasing) of the San Benito County Code; introduce ordinance, waive reading of the ordinance and continue to March 6, 2007 for adoption said ordinance.

Margie Riopel, Management Analyst, reported that the Internal Services Department has prepared a proposed amended Purchasing Ordinance which will replace Chapter 13 of the San Benito County Code which currently exists. Ms. Riopel further noted that in addition a Purchasing and Contracting Procedures Manual has been developed that will further define the ordinance in more detail and provide procedures for the departments to use.

Supervisors expressed their concerns that the departments stay within their budgets and that competitive bidding is important.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, introduced ordinance amending Chapter 13 (Purchasing) of the San Benito County Code; waived the reading of the ordinance; and, continued the item to March 6, 2007 for adoption of said ordinance. (4-0 vote.) File #118*

31) Receive report on Board Sub-committee on Potential Residential Growth Increase (PRGI) program.

Art Henriques, Planning Director, provided a report and a Power Point presentation entitled Potential Residential Growth Increase Program (PRGI), A Report from the Board of Supervisors

PRGI Subcommittee. Mr. Henriques reported that this subcommittee met with staff on three different occasions, at meetings open to the public, to review this program contained within the Land Use Element of the General Plan. The subcommittee completed its review and is recommending some changes to PRGI.

Lengthy discussion ensued and input was received from the Board of Supervisors and the public regarding proposed changes to the PRGI program.

Scott Fuller, San Juan Oaks and Brad Sullivan, Lombardo and Gilles, provided input.

No formal action taken. The Planning Director and County Counsel will bring back recommended changes to the Board of Supervisors for consideration. *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: Monaco, Loe, Botelho, De La Cruz, Marcus
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to its next regularly scheduled meeting on March 6, 2007 at 9:30 a.m.

DON MARCUS, CHAIRMAN

San Benito County Board of Supervisors

ATTEST:

Linda Churchill, Clerk of the Board (p.m. session)

Sally Navarez, Asst. Clerk to the Board (a.m. session)