



## 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 MAY 22, 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, Loe, Botelho, De La Cruz and Marcus were all present. 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:

Supervisor Monaco led the Pledge of Allegiance.

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

#### **PRESENTATIONS / RECOGNITIONS:**

- 1) ***Presented*** Certificate of Recognition to Donna Elmhorst who is retiring after more than 21 years with the County of San Benito. (H & HSA) *File #630*
- 2) ***Approved*** and ***presented*** the Proclamation honoring the 60<sup>th</sup> Anniversary to Ruth Gunnels representing the Veterans of Foreign War Ladies Auxiliary. (Supervisor Loe) *File #430*

#### **ADMINISTRATIVE BUSINESS:**

- 3) ***Received report*** from and ***welcomed*** Chief Adam Cuevas, Commander of the California Highway Patrol Coastal Division. (CAO) *File #119*

**Public Comment:** Joe Thompson, Tres Pinos resident, came forward. Mr. Thompson stated the common threat to small businesses that is causing failures is the excessive taxation and burdensome government fees added to the tax burdens. Mr. Thompson urged the Board to send letters to the legislature opposing Assembly Constitutional Amendment #8 and also opposing Assembly Bill 1260 proposed by Assemblywoman Caballero and to send messages to the Governor that we are being taxed to death.

**Department Head Announcements:** Agricultural Commissioner Paul Matulich reported that on May 11, 2007 he sent a letter (copy submitted to BOS) to Henry Renteria, Director of the Governor's Office of Emergency Services requesting a USDA Secretarial Disaster Declaration for drought related losses to rangelands to San Benito County. Mr. Matulich stated that this was the worst drought condition he has seen here in 40 years.

Mr. Matulich further reported on the current weed projects including Artichoke Thistle, Arundo (Giant Reed), Purple Star Thistle, Yellow Star Thistle and Scotch Thistle.

Joe Paul Gonzalez, County Clerk/Auditor/Recorder expressed his concern as head of the Elections Department, with the proposed security measures for the courthouse building. Mr. Gonzalez felt that it may deter people from coming to vote at the courthouse during an election and his office is working towards increasing voter participation.

**Board Announcements, Introductions and Presentations:** Supervisor Loe reported that she attended the new Esperanza House Grand Opening stating that this was a wonderful facility that is going to help people here in our own community. Supervisor Loe reminded everyone to get their walking shoes on and get ready for the Relay for Life event to be held the first weekend in August.

Supervisor Botelho reported that he was a judge for the 4-H Scholarship Awards stating that the entrants' accomplishments are truly amazing and we should encourage kids to enter into these programs. Supervisor Botelho further reported that he attended the Regional Council of Rural Counties (RCRC) meeting last week stating that there are numerous regulations that are handed down by the state and one in particular, AB885, deals with septic tank regulations.

Bob Shingai, San Benito County Environmental Health Department, stated that this law was passed in 2000 and they have been working on the regulations ever since noting that they are shooting for the end of this year to get these regulations in place. Mr. Shingai stated that these would be very drastic regulations and would make it very difficult to put in septic systems.

Supervisor Monaco reported that the California State Association of Counties (CSAC) also opposes AB885.

Supervisor De La Cruz thanked Sheriff Hill for coordinating Leadership San Benito Day last week noting it was a great learning experience.

Sheriff Curtis Hill came forward stating that the purpose of the Leadership Day was to tour all of the county law enforcement facilities and also the courts, Communications and the fire station.

Supervisor De La Cruz commented with regards to the safety issue on Buena Vista Road where there is a dirt road and the traffic is heavy and there are mothers walking with strollers and kids and there needs to be a sidewalk in that county area.

Supervisor De La Cruz said he would like to promote the Saddle Horse Show coming up in June.

## **CONSENT AGENDA:**

*Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco approved all Consent Agenda Items with the exception of Items 4 and 22 which were pulled for discussion.*

## **ADMINISTRATIVE BUSINESS:**

### **4) Consider letter of support to Gavilan College Board of Trustees on Hollister Campus development project and authorize chair to sign. (CAO)**

Supervisor Loe stated that language should be included in the letter regarding the mitigation of traffic issues.

Supervisor De La Cruz stated that a sentence should be included stating that this should be through a transparent government process.

**BOARD ACTION:** Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, directed the County Administrative Officer to revise the letter adding a paragraph addressing traffic mitigation measures and also to add "through a transparent government process" to the last sentence of the letter and bring the revised letter back to the Board on June 5, 2007 for consideration. (Unanimous) File #13

**BEHAVIORAL HEALTH – A. Yamamoto:**

- 5) **Approved** the appointment of Marian Cruz as a public interest and family member to the Mental Health Board for a three-year term effective May 15, 2007 through May 15, 2010. File #810
- 6) **Approved** the appointment of Kim Dryden and Eva Reyna to the Substance Abuse Advisory Board each for a three-year term effective May 15, 2007 through May 15, 2010. File #1053
- 7) **Approved** the re-appointment of Margaret Peggy Corrales to the Mental Health Board representing the public interest for District #3 for a three-year term effective January 1, 2007 through January 1, 2010. File #810
- 8) **Approved** appointment of Christine Harwood as public interest member to the Substance Abuse Advisory Board effective June 5, 2007 through June 5, 2010. File #1053

**CLERK OF THE BOARD – L. Churchill**

- 9) **Approved** the minutes of the May 1, 2007 and May 8, 2007 meetings.

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

- 10) **Approved** contract with BMI Imaging Systems, Inc. for conversion of Microfilm to a digital image retrieval system in an amount not to exceed \$76,040.25 with contract term of May 1, 2007 to June 30, 2008. File #1112.5

**FIRST 5 SAN BENITO - K. Castillo**

- 11) **Re-appointed** Kim Dryden to the First 5 San Benito Children and Families Commission for a three-year term beginning June 1, 2007 and ending on May 31, 2010. File #155

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

- 12) **Adopted Resolution No. 2007-22** extending services for CSA #36 Emergency Medical Services and Advanced Life Support. File #75.5
- 13) **Approved** amendment to the HOPWA agreement with the City of San Jose for Fiscal Years 2004/2005 and 2005/2006 extending the term through June 30, 2007. File #130
- 14) **Approved** agreement with Core Medical Group in the amount of \$180,000 for nurse registry services with a contract term of July 1, 2007 through June 30, 2008. File #420
- 15) **Approved** Contract Amendment A02 with the State Department of Health for Medi-Cal administrative activities extending the current termination date of June 30, 2007 to June 30, 2009. File #130

- 16) **Appointed** Ms. Mary Anne Hughes to the Community Action Board as the District #4 Board of Supervisors representative for a three-year term effective May 22, 2010. (CSWD) *File #939*
- 17) **Appointed** Ms. Lorie M. Tilley to the Community Action Board to represent District #3 Low Income Representative for a three-year term, effective May 22, 2007 through May 22, 2010. (CSWD) *File #939*
- 18) **Approved** purchase of Swipe Card/Client Tracking System and make a finding that this is a sole source procurement and an exception to the competitive bid process based on the specialized nature of the equipment and the needs of the service delivery area. (CSWD) *File #939*

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

- 19) **Approved** application and **adopted Resolution No. 21007-23** authorizing application for the 13<sup>th</sup> Cycle Used Oil Block Grant funds from the California Integrated Waste Management Board (CIWMB). *File #142.2*

**INTERNAL SERVICES – R. Inman:**

- 20) **Approved** agreement with CPS Human Services for recruitment and selection services for the Chief Probation Officer. *File #630*

**PUBLIC WORKS – J. Lo:**

- 21) **Authorized** the purchase of two 2008 Hybrid vehicles, Ford Escape through the State of California Multiple Award Schedule for the total price of \$52,390.29 and **authorized** the Director of Public Works to sign vehicle purchase agreement. *File #105*

**SHERIFF- C. J. Hill:**

- 22) **Approve augmentation of Sheriff's Communications Expenditure and Revenue Schedules to implement the "911 for Kids" Project.**  
Supervisor De La Cruz commented that this was a perfect concept and he would like to piggyback on this for other similar programs.  
**BOARD ACTION:** *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, approved Item 22 as recommended. (Unanimous) File #116*
- 23) **Adopted Resolution No. 2007-24** authorizing the Sheriff to sign all related documents and **approved** Grant Award Agreement with funds from the Unified Narcotic Enforcement Team (UNET) Task Force. *File #110*

**REGULAR AGENDA:**

**INTEGRATED WASTE MANAGEMENT: M. Rose**

- 24) **Approve contract Amendment #1 with Constance Hornig, Esq. for additional legal services to develop the request for Proposal/Franchise Agreement for Solid Waste Services for the San Benito County Regional Agency.**  
Mandy Rose, Director of the Integrated Waste Management Department, provided background information stating that the Scope of Work needed to be greatly expanded.  
Ms. Rose answered questions posed by the Board.

**BOARD ACTION:** Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, approved Contract Amendment #1 with Constance Hornig, Esq. as recommended. (Unanimous) File #142.2

- 25) **Request review of Amendment to Agricultural lease at 2733 John Smith Road, Hollister, California from lessee Agco Hay Company and direct staff as appropriate.**

Mandy Rose, Director of the Integrated Waste Management Department, provided background information stating that there was a request from the lessee to consider an amendment with regards to the class of livestock that was to be grazed on the property.

Greg Renz, the lessee, came forward stating that there was a confusion in the lease and he had made an assumption that he shouldn't have noting that he never had a "gender" lease before and there had been no incidents of cattle getting out.

Lengthy discussion ensued with regards to the provisions of the lease.

Supervisor Loe felt that it needed to be looked into further.

**BOARD ACTION:** Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, denied the request for a lease amendment and directed that the lease be maintained as originally drafted. (4-1 Vote. Loe voted no.) File #75.4

- 26) **Approve Amendment to Agreement #5 with Norcal Waste Systems of San Benito County to extend the existing contract one-year under the same terms and conditions.**

Mandy Rose, Director of the Integrated Waste Management Department, requested that this agreement be extended for one year noting that the Request for Proposal (RFP) process has taken longer than originally anticipated.

**BOARD ACTION:** Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, approved the extension of the existing contract with Norcal Waste Systems of San Benito County as recommended. (Unanimous) File #142

#### **INTERNAL SERVICES – R. Inman:**

- 27) **Consider the following items pertaining to hard to recruit positions: a) authorize the creation of positions; b) establish annual retention bonus; and, c) establish salary incentives.**

Rich Inman, Director of Internal Services, reported that this is not an answer or a guarantee but a strategy, a concept to try to put in to place to see if this will in fact facilitate our ability to recruit, attract and attain people in some very difficult positions. Mr. Inman noted that they were starting with three departments but there are other recruitment problems that exist that may take different approaches.

Lengthy discussion ensued with Mr. Inman answering questions from the Board.

**BOARD ACTION:** Directed the Internal Services Director to begin the process as recommended subject to meet and confer and bring it back to the Board for consideration at a later date. File #630

11:10 a.m. The Board adjourned for a 10-minute break and reconvened re:

#### **PLANNING AND BUILDING – A. Henriques:**

- 28) **Consider request for inactivation of CSA #49 – Hollister Ranch Estates and take action as appropriate. (Continued from May 1, 2007 meeting.)**

Art Henriques, Director of Planning and Building, provided background information, stating that the Homeowners Association of Hollister Ranch Estates wanted a little more direction on how to go about researching the files and if staff would be available to answer their questions in order for them to be able to come back to the county with an official proposal for an amendment.

Mr. Henriques referred to a letter submitted by Kim DuPont, Geneil Court resident, stating that he would meet with Ms. DuPont and discuss the process.

Lengthy discussion ensued with questions about the legal process answered by County Counsel Dennis Le Clere.

**BOARD ACTION:** *Supervisor Monaco made a motion to deny the request to deactivate the CSA at this time; and, directed that the Hollister Ranch Estates Homeowners Association, if they wish to continue pursuit of the request, amend their request in order to address the public easements, amendments to the map that created the subdivision, amendments to the CEQA document, payment to the County for the loss of open space, proof of adequate financing and infrastructure to maintain the roads to County standards, and make the necessary application to LAFCO for review. Supervisor De La Cruz seconded the motion.*

Under the question. Supervisor De La Cruz asked if the applicant has met the qualifications to go before LAFCO.

Mr. Henriques answered that they want to go through the files before they talk to any professionals about going anywhere and they have to get concurrence from the entire Homeowners Association and if they find it is too complicated or it is going to be too expensive they may decide a different course of action.

The Chair called for the question.

*The motion passed unanimously. File #790*

29) **Introduce Ordinance revising Chapter 31 (Growth Management Ordinance) of the County Code regarding the Preliminary Allocations Ranking System and tie breaking procedures; waive reading of said ordinance and continue to the June 5, 2007 meeting for final adoption.**

Art Henriques, Director of Planning and Building, provided background information stating this item is based on the review of the revised ranking system noting that they have had input from the community and the Planning Commission and the Board of Supervisors have also discussed the ranking system.

Byron Turner, Principle Planner, came forward reporting that this ordinance was being revised to create a fairer process. Mr. Turner detailed the point categories that were revised.

Discussion ensued and the Board provided further input for clarification to the proposed ordinance.

**BOARD ACTION:** *Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, introduced the ordinance, waived reading of said ordinance, and continued the matter to the June 5, 2007 meeting for re-introduction of said ordinance with items discussed today included. (Unanimous) File #790*

The Board adjourned for lunch at 12:05 p.m. and reconvened at 1:00 p.m. re:

30) **Consider proposed resolution accepting grant of open space easement to San Benito County from Robert Enz and Tina Enz for TM-03-69.**

Byron Turner, Principle Planner, provided background information reporting that the applicant has submitted an instrument in order to grant the Open Space Easement to San Benito County and Planning staff questions whether this grant to the County meets with the intent of Condition #17 of the Conditions of Approval set by the Planning Commission. Also,

the grant of easement submitted by the applicant has a broader definition of agriculture than specified on the County's grant of easement form.

Doug Marshall, Attorney, representing the applicant came forward and spoke on behalf of his client. Mr. Marshall addressed issues including the language being the same for a private entity versus a public entity and stated that he has problems with the County's Grant of Easement form and also the proposed resolution.

Lengthy discussion ensued. The issue of whether or not the County should be a land trust was discussed and whether or not we should be looking into a private land trust. Also, whether or not the county's form should be used was addressed.

Mr. Marshall was allowed time to meet with his client and return after Item 31 for further consideration.

Further discussion and input occurred after Item 31 was completed and the Board took the following action.

**BOARD ACTION:** *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, continued the matter to June 5, 2007 with the understanding that the parties involved (County Counsel, Planning staff, applicant/attorney) will get together prior to that date. (Unanimous) File #645*

### **ADMINISTRATIVE BUSINESS:**

- 31) **Consider authorizing the Chair to cast the official ballots and vote "yes" for the proposed Mosquito and Disease Control Assessment on parcels owned by San Benito County and located within the proposed benefit assessment district.**

#### **(CAO)**

County Administrative Officer Susan Thompson explained that the County owns property that are subject to the benefit assessment and under the law the County would need to pay just as any other landowner would pay.

Marvin Jones, local resident, came forward expressing his dissatisfaction with this process. Mr. Jones stated that the county should recuse itself from voting and be ethical.

Sally Bettencourt, local resident, stated she had no objection to the Mosquito Abatement Program but she had concerns with sending \$50,000 back to the State for the costs for this year and also there is no sunset on this assessment.

Discussion ensued as to whether the Board of Supervisors should vote for the assessment so as not to skew the election results. It was the consensus of the Board that the Mosquito Abatement Program is necessary but there was not agreement on the Chairman casting the vote on behalf of the County Board of Supervisors.

**BOARD ACTION:** *Supervisor Loe made a motion to move forward and to authorize the Chairman to vote yes on behalf of the Board of Supervisors for the proposed Mosquito and Disease Control Program on parcels owned by the County of San Benito. Supervisor Monaco seconded the motion.*

#### **Roll Call Vote:**

Supervisor Loe	-----	Yes
Supervisor Monaco	-----	Yes
Supervisor De La Cruz	--	No
Supervisor Botelho	-----	No
Supervisor Marcus	-----	Yes

***The motion passed 3-2.***

Supervisor De La Cruz left the meeting for an appointment.

32) **Consider consolidated County/City Affordable Housing Staff Team and provide direction to staff.**

County Administrative Officer Susan Thompson provided background information stating that she was bringing this item forward on behalf of the Intergovernmental Committee. Ms. Thompson reported that it was agreed upon that there are serious issues due to the lack of affordable housing in this community. Ms. Thompson stated that part of the problem in addressing the issue is going to be having staff resources sufficient to actually the project forward. The City of Hollister has similar issues and we are looking at opportunities to do consolidated staffing that might save both entities some overhead costs. Ms. Thompson stated that this would be brought forward at budget hearings.

Discussion ensued. *It was the consensus of the Board to move forward to pursue development of a consolidated County/City Affordable Housing Staff team. File #20*

**ADDENDUMS:**

32.1) **Consider submission of letter in opposition to the Governor's proposed elimination of the Williamson Act subsidy that would eliminate over \$767,000 annually of vital County General Fund discretionary revenue. (CAO)**

County Administrative Officer Susan Thompson reported that she was bringing this matter to the Board's attention and recommended urging the Legislature to oppose the elimination of Williamson Act subsidy.

**BOARD ACTION:** *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, authorized the Chairman to submit a letter on behalf of the Board of Supervisors in opposition to the Governor's proposed elimination of the Williamson Act subsidy. (4-0 vote. De La Cruz was absent.) File #865*

Supervisor De La Cruz returned to the meeting during the discussion of the following item.

32.2) **Consider a letter of support for continuation of the San Juan Bautista Water System Grant. (Supervisor Botelho)**

County Administrative Officer Susan Thompson reported that this item came to her attention Thursday afternoon when she became aware that the final audit report was prepared by the Office of the Inspector General for the Economic Development Administration (EDA) granting agency that had supplied the grant funding for the San Juan Bautista water and wastewater system improvement noting that the audit did not end on a very good note and the loss of funds would be a huge blow to constituents of San Juan Bautista.

Comments were made by the Board.

**BOARD ACTION:** *Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, authorized the Chairman to sign a letter of support for continuation of the San Juan Bautista Water System Grant. (Unanimous) File #1119*

**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.)*

33) **Conference with Legal Counsel – Anticipated Litigation**

- (a) Initiation of Litigation pursuant to subdivision (c) of Government Code  
Section 54956.9 Number of Cases: 1

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



34) **Conference with Legal Counsel – Existing Litigation – (Subdivision(a) of Section 54956.9)**

(a) Sarsfield vs. San Benito County Board of Supervisors, et al. (Federal Court, Case No. C 07 2528.

***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, De La Cruz, Marcus

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to June 5, 2007 at 9:30 a.m. for a regular meeting.

**DON MARCUS, CHAIRMAN**

San Benito County Board of Supervisors

Attest:

Linda Churchill, Clerk of the Board