



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 DECEMBER 4, 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, and Marcus were all present. Supervisor De La Cruz was absent. Also present was County Administrative Officer Susan Thompson, County Counsel Dennis Le Clere and Asst. Clerk of the Board Janet Slibsager. 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 not present today because his father is very ill. Supervisor Marcus wished Supervisor De La Cruz and his family the best.

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

- c) **Public Comment:** Marty Richman, local resident, stated he would like to see support for the old Fremont School across the street as the site for the new Courthouse and encouraged the County and City to get together to see what could be done to make this site adequate.

Chair Marcus replied that on December 18, 2007 Gil Solorio, who sits on the site selection committee would have a full report at the next board meeting in regards to both sites that are being considered.

- d) **Verbal report by Gary Byrne, Executive Director, Community Foundation regarding the needs of the community: (Supervisor Loe)**

Gary Byrnes reported that this year the community foundation would give away about a half million dollars on behalf of donors. Mr. Byrnes stated most of the gifts come from anonymous donors.

Mr. Byrnes stated that the purpose of the Community Foundation is to try and strengthen the non-profit agencies by endowments.

Mr. Byrnes stated they just received a very large gift over two million dollars from Mr. Martin Rajkovich. One million will go to a permanent endowment to help sick children in San Benito County and the other million will go to the High School. Mr. Byrnes stated that the Foundation would like to encourage that there are needs at the present and alot of the non-profits are struggling because of loss of grant monies.

Mr. Byrnes said that they are working with the County and Kathy Flores and are in the process of trying to do a joint-powers agreement between Emmaus House, Community Pantry and the Homeless Task Force.

Kathy Flores, Health & Human Services Director, explained the Homeless Task Force and the Emmaus House absence of funding and how it can affect the services.

Ms. Flores stated that the Homeless Task Force has been receiving about 12 people consistently since they opened up the weekend after Thanksgiving and announced that the County has opened up the Family Winter Shelter at the Migrant Center consisting of 15 units and all have been filled.

Chair Marcus thanked Mr. Byrnes for all of his hard work and thanked Supervisor Loe for bringing Mr. Byrnes forward at this time of the year where everyone thinks a little more about giving. Chair Marcus announced that if anyone is listening and would like to make a donation the Community Foundation the number is 630-1924.

e) **Presentation by Maria Giuriato, Executive Director, Health Professions Education Foundation. (Supervisor De La Cruz)**

Maria Giuriato explained the scholarship and loan repayment program opportunities to students and adults throughout the State of California. Ms. Giuriato stated the focus of the program is to find students in medically underserved communities, and San Benito happens to be one of those communities. Ms. Giuriato stated she brought some packets and they will be sent to the High School, Middle Schools, etc., and any kind of medical facility.

Ms. Giuriato stated that per data they have gathered, San Benito County has some major health problems. Ms. Giuriato stated she would like to set up a Hope mentor project that works closely with the Board of Supervisors, High Schools and Gavilan Community College to work together with regards to these funds that are available.

Chairman Marcus encouraged Ms. Giuriato to stay in touch with Kathy Flores and Susan Thompson with regards to these programs.

Supervisor Botelho thanked Ms. Giuriato for an excellent presentation and for the work that she does in Sacramento and for keeping the central coast in mind.

f) **Board Announcements, Introductions and Presentations:** Chairman Marcus announced that yesterday Supervisor Monaco, Sheriff Curtis Hill, Lieutenant Pat Turturici and himself met with Senator Jeff Denham in regards to the funding and special marijuana growing program.

Chairman Marcus also announced there was an addendum to the agenda under Closed Session Item #14.1 Conference with Legal Counsel, that was not in the regular packet.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved Consent Agenda Items 1 through 8 with the exception of items 2, 5 and 7 which were pulled for discussion. (Unanimous)

CLERK OF THE BOARD - L. Churchill:

- 1) **Approved** corrected minutes for the October 23, 2007 meeting and **approved** the minutes of the special meeting held on November 20, 2007.

INTERNAL SERVICES – R. Inman:

- 2) **Approve Memorandum of Understanding (MOU) between the County of San Benito and the San Benito County Employees Association/SEIU Local 521, effective October 1, 2007 through September 20, 2010.**

Susan Thompson, CAO stated she just needed to correct the dates of the contract to be effective October 1, 2007 through September 30, 2010.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved item as corrected. File #630

- 3) **Adopted Resolution No. 2007-94** modifying the compensation and benefits plan for the Management Employees Group (MEG); and approved Employment Agreement with the Management Employees Group (MEG), for a term of three years effective October 1, 2007 through October 2, 2010. File #630
- 4) **Adopted Resolution No. 2007-95** entitled "Resolution of the San Benito County Board of Supervisors regarding wages and benefits for Confidential Management and Confidential Employees from October 7, 2007 to September 30, 2008". File #630

- 5) **Approve contract with Terryberry Company for Employee Recognition Program effective December 3, 2007 through December 1, 2008.**

Supervisor Botelho questioned the employee program. Supervisor Botelho asked if it was possible to have gifts originated within the county. Mr. Inman replied that every gift for the 5 and 10 years would have a county logo and the employees would be able to shop through a catalog and would be identified as San Benito County.

Supervisor Botelho said he would like to see gifts that were from San Benito County.

Mr. Inman stated he would look into providing gift certificates from local stores and would report back at the December 18, 2007 meeting.

INTEGRATED WASTE – M. Rose:

- 6) **Accepted** Used Oil Block Grant funds from the California Integrated Waste Management Board in the amount of \$24,661., and authorized Integrated Waste Management to sign said grant. File #142
- 7) **Approve Amendment to Agreement #1 with Golder Associates and Field Solutions, Inc. and approve contract with Robert F. Enz Construction, Inc. for the installation of a new extraction well for the period of November 27, 2007 to April 30, 2007.**

Supervisor Botelho had questions with regards to wells and financial considerations.

Mandy Rose, Integrated Waste Management Department provided clarification.

Ms. Rose announced that she had a correction to the contract for Enz Construction that should read effective December 4, 2007 and ending April 30, 2008.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco approved with amended dates. (*Unanimous*) File #75.4

SHERIFF DEPARTMENT – C. Hill:

- 8) **Authorized** purchase of additional server and operating system, increase revenue and established fixed assets for County Communications in the amount of \$7,000. File #110

REGULAR AGENDA:

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

- 9) **Receive the County Registrar’s report on plan for compliance with Secretary of State re-certification mandate #4 requiring an “Air Gap” solution; and consider budget augmentation from General Fund Contingency to Elections 1001140 in the amount of \$25,000; and authorize the County Registrar to purchase all needed hardware and software required to implement the “Air Gap” solution in amount not to exceed \$25,000.**

Mike Hodges, Elections Department provided background information with regards to Mandate #4 requiring the “Air Gap” system. Mr. Hodges stated he is recommending that the Board approve this contract.

Susan Thompson, CAO stated that the IT staff and Elections both agree that this is a workable and necessary improvement and is a technical issue.

Supervisor Monaco voiced concern regarding the funding.

Supervisor Loe questioned Sequoia’s interest.

Chair Marcus stated there should be someone from the Secretary of State’s office standing at the podium, not Mr. Hodges, so we can ask them some legitimate questions as to how they can continue to drain money from every county in the state for these programs and leaving our hands tied.

Lengthy discussion ensued.

Supervisor Loe stated they should host a meeting with other counties and invite the Secretary of State to attend.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, approved the budget augmentation from General Fund Contingency to Elections 1001140 in the amount of \$25,000 to comply with certification Mandate #4 and authorized the County Registrar to purchase all needed hardware and software required to implement the “Air Gap” solution in an amount not to exceed \$25,000.

Supervisor Monaco directed staff and Supervisor Loe to work with registrar of voters to set up a meeting. (Unanimous) File #285

SHERRIF DEPARTMENT – C. Hill:

- 10) **Approve agreement of Cooperation with California Department of Corrections and Rehabilitation.**

Lieutenant Turturici announced that there was a stabbing last night on C Street in Hollister where a young man was killed and there is a suspect.

Lieutenant Pat Turturici reported that the prisons and jails across the state are over crowded and our jail is not at that point yet. Lieutenant Turturici stated Assembly Bill 900 was approved by the governor, which provides for 1.2 billion dollars for county jails to expand their facilities and he is asking the Board to approve the agreement of cooperation so we can acquire some of the money for our County Jail. Lieutenant Turturici stated they are looking at building a 48-bed wing and a 144-bed expansion also and the cost would be about 19 million dollars.

Susan Thompson, CAO, added that this is a first step that will allow us to continue to the next step and does not commit the board to anything at this time.

Chair Marcus questioned the manning of the new facility.

Lieutenant Turturici stated the State wants to bring in State Correctional Officers to work the reentry program and the Sheriff is totally against that.

Marty Richman, local resident, voiced concern and encouraged the Board not to put too much excess capacity into the jail.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved the Agreement of Cooperation with the California Department of Corrections as presented. (3-1 vote, Botelho voted no, De La Cruz absent). File #110

INTERNAL SERVICES – R. Inman:

11) **Approve contract with MuniFinancial to develop Capital Improvement Plan effective October 31, 2007.**

Rich Inman, Director of Internal Services reported that the plan has been in the development stage since last fiscal year. Mr. Inman stated that there is money in this year's budget in the amount of \$50,000. Mr. Inman provided background information of the plan. Mr. Inman stated it went out to bid there were eight companies and after review MuniFinancial was the most qualified.

Marty Richman, local resident, voiced concern that there are no impact fees on the hospital district but stated Measure L was passed. Mr. Richman stated growth puts a strain on your health care system and feels that maybe someone can give the hospital board a little insensitive when this evaluation is done to consider impact fees for capital improvement to service the population.

Susan Thompson, CAO also provided background information.

Art Henriques, Planning Director, reported that this could tie in with what LAFCO is doing right now with regards to the need for growth.

Discussion ensued.

Chair Marcus asked if it is practical to have a progress report as it goes along.

Mr. Inman stated he would bring back a report.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, approved the contract between San Benito County and MuniFinancial for the development of the Capital Improvement Plan at a cost not to exceed \$45,000. (Unanimous) File #630

12) **Approve expenditure for out of state for three candidates for Chief Probation Officer interviews.**

Rich Inman, Director of Internal Services provided information regarding the expenditure for out of state travel expenses for three candidates.

Supervisor Botelho had a question in regards to the contract amount.

Susan Thompson, CAO explained the recruitment firm service procedure and contract amount.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, approved the expenditure for out of state travel for three candidates for Chief Probation Officer interviews. (Unanimous) File #510

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 at 11:15 a.m. and reconvened into Regular session at 12:30 p.m. re:

- 13) **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 was withdrawn File #235.6

- 14) **Conference with Labor Negotiator:**
Authority: California Government Code Section 54957.6
Agency Designated Representatives: Rich Inman
Employee Organization: Appointed Department Heads
No reportable action. File #235.6

- 14.1) **Conference with Legal Counsel:**
Existing Litigation – (Subdivision (a) of Section 54956.9)
Name of Case: Friends of Tres Pinos v. County of San Benito, et al; Superior Court, San Benito County; Case No. CU-07-00186
BOARD ACTION: The Board authorized retention of Counsel to represent County on this case.

1:30 p.m. Public Hearings:

ASSESSOR – TOM SLAVICH:

- 15) **Hold public hearings to consider Land Conservation Act (LCA) Requests and take action as appropriate re:**

Assessor Tom Slavich provided background information for each LCA request indicating that the Agricultural Preserve Advisory Committee recommended approval of all requests as submitted.

The Chairman opened the public hearings for each request with no one from the public wishing to address the Board. The Chairman closed each hearing.

BOARD ACTIONS:

- **Fox Creek Fund LLC:** Compatible Use Request: 11 Assessor Parcels, Book 26, Pages 9, 11 & 12 and Book 27, Pages 2 & 3.
Upon motion made by Supervisor Monaco and seconded by Supervisor Botelho, approved request as recommended. (Unanimous)
- **Rever / Ginsburg Trust:** Compatible Use Request: APN's 027-10-0-026-0; 027-10-0-028-0; 027-12-0-021-0; 027-12-0-022-0.
Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco, approved request as recommended. (Unanimous)
- **Towle, Charles Trust:** Division Request: APN's 027-09-011-0; 027-14-0-007-0; 027-14-0-014-0; 027-14-0-025-0.
Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved request as recommended. (Unanimous)

- **Strohn Trust** : Lot Line / Division: 5 Assessor Parcels, Book 27, Pages 28 & 30.
Upon motion made by Supervisor Loe and seconded by Supervisor Monaco, approved request as recommended. (Unanimous)
- **Caputo Children's Trust:** Enlargement: 5 Assessor Parcels, Book 27, Page 10.
(Proposed resolution.)
Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved request as recommended and authorized chair to sign contract. (Resolution No. 2007-96)
(Unanimous)
- **Enza Zaden Research USA Inc.:** New Application: 018-14-0-001-0.
(Proposed resolution.)
Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, approved request as recommended and authorized chair to sign contract. (Resolution No. 2007-97)
(Unanimous)
- **O'Connell Ranch, LLC:** Partial Non-Renewal: 16 Assessor Parcels, Book 13, Pages 9, 10, 11 & 12.
Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco, approved request as recommended. (Unanimous)
- **Bourdet, Mitch / Kristy:** Non-Renewal: 021-06-0-018-0
Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved request as recommended and authorized chair to sign non-renewal. (Unanimous) File #7.1

PLANNING DEPARTMENT – A. Henriques:

- 16) **Held a public hearing to consider an appeal of the San Benito County Planning Commission's October 17, 2007 denial re: Minor Subdivision No. 1203-07. Request: Applicant/Appellant: Kenneth May. Location: Chateau Drive, San Juan Bautista, CA. APN 011-023-009. (Continued from 11/20/07)**

Chairman Marcus opened the public hearing. Chair Marcus stated there has been an additional request by the applicant to continue the public hearing to a later date. Chairman Marcus stated they would hear from the public today but it would be the will of the Board to continue at another date and time.

Joe Smith, neighbor stated he would like to see a decision made today. Mr. Smith stated he is against proposal submitted. Mr. Smith voiced concern regards to safety in case of a fire for the residents to get out.

Paul Rovella, Attorney for Lombardo & Gilles representing applicant for his regular attorney, stated as they understood the item was going to be continued.

Principal Planner Byron Turner came forward to state that staff requested the original continuance at the November 20, 2007 hearing date due to some noticing problems. Mr. Turner stated the hearing was reset for today December 4, 2007.

Chairman Marcus stated that there is a letter from the applicant that requests a continuance from today and noted the applicant is not here to represent himself. Chair Marcus stated that the applicant's representative party seems to feel that there was some kind of guarantee made by the County that this was again going to be continued.

Susan Thompson, CAO stated there is no guarantee made by the County for any continuance ever. Ms. Thompson asked Clerk of the Board Linda Churchill. Ms. Churchill stated it is standard procedure that the Board has to grant the continuance so the applicant either needs to be here or have someone represent him in the event that the Board chooses not to continue.

Lengthy discussion ensued by the Board.

Chairman Marcus stated he wanted to hear from staff and public and continue to a later date if the Board decides to do so.

Planning Director Art Henriques and Principle Planner Byron Turner provided a PowerPoint presentation. Mr. Turner stated that the Planning Commission asked the applicant to bring back an access from Chateau. Mr. Turner stated the applicant did not do that; instead they came back with information as to why they did not feel it was appropriate for the access to come off of Chateau and why it was appropriate to come off of Alexander. Mr. Turner stated that the Planning Commission denied the project coming off of Alexander and asked that it be sent to the Board.

Question and answer period ensued.

The following members of the public addressed the Board: Donald Moses, representing 1 of 4 families living on Alexander Lane, stated he is saddened that this is being continued. Mr. Moses stated that with the access going through Alexander Lane it would take away some of their property and reduce the value of the property.

Dennis High, neighbor, stated he would like to see this heard and not continued.

Armando Lopez, neighbor on Alexander, stated that it was a lack of respect of the applicant to not be here or to have someone here to represent him to at least request continuance.

Ann Hall, San Benito Engineering representing the applicant, apologized for being late. Ms. Hall stated when the applicant received notice of continuance from the November 20, 2007 meeting they realized they would not be able to attend this date. Ms. Hall stated a letter was sent asking for a continuance because they could not be here. Ms. Hall stated that it was their understanding that it was going to be set for January 8, 2008. Ms. Hall stated her client would like to have the opportunity to present their case and with that respect would like to ask for it to be continued.

Chair Marcus stated he wanted to let the public know that the Board represents the County and they have to be cautious of any legal ramifications and feels in this particular case he is suggesting they continue this public hearing.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, continued the hearing to the January 8, 2008 meeting at 1:30 p.m. (4-0 vote) De La Cruz absent*

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, Marcus, Botelho

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: De La Cruz

There being no further business the Board adjourned to December 18, 2007 at 9:30 a.m. for a regular meeting.

DON MARCUS, CHAIRMAN

San Benito County Board of Supervisors

Attest:

Janet Slibsager, Asst. Clerk of the Board