



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 18, 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:

- a) Supervisor Monaco led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Joe Tonascia, Southside Road resident, came forward and expressed his frustration with having to wait until the General Plan is completed before he can move forward with plans to build a new building at the corner of Union Road and Airline Highway and felt something needs to be done to be able to get this going.
Marty Richman, local resident, came forward stating that the military charities that he recommended at a previous meeting have been downgraded because their coffers are full. Mr. Richman left a list with the Clerk of the Board for people to review if they wished to make a donation.
- d) **Department Head Announcements:** County Administrative Officer Susan Thompson introduced Duane Tanner who is the new Interim Chief Probation Officer while a recruitment for the position is being done.
- e) **Board Announcements, Introductions and Presentations:** Supervisor Loe reported that she attended a meeting with Assembly member Anna Caballero where she was recognized as Legislator of the Year and in her speech she stated that the counties should start looking at any state monies we have sitting in funds and submit plans right now for expenditure of that money.
Supervisor Botelho attended the Juvenile Justice Commission meeting noting the Commission was now complete and it was very impressive board. Supervisor Botelho stated that the biggest concern for now is the recruitment of a new Chief Probation Officer.

Supervisor Botelho also reported that the renovation of the Community Hall in San Juan Bautista is progressing very nicely. Supervisor Botelho further reported that he attended the RCRC (Regional Council of Rural Counties) meeting in Sacramento and his major concern is the state budget crisis and how it will affect the San Benito County.

Supervisor De La Cruz announced that the Hollister Pee Wee Vikings Football Team earned the National Championship and commended the entire team and coaches.

All Board members wished a Happy Holiday to everyone present.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved Consent Agenda Items 1 through 17 with the exception of Items 8, 9, 12, 13 & 14 which were pulled for discussion. (Unanimous)

ADMINISTRATIVE BUSINESS:

- 1) **Approved** contract with Monterey County for the purpose of providing assistance to veterans of war in San Benito County commencing January 1, 2008 through June 30, 2011. *File #119*

AGRICULTURAL COMMISSIONER – P. Matulich:

- 2) **Approved** amended contract with the California Department of Food & Agriculture for Pierce's Disease Control increasing the contract by \$1700 for fiscal years 2007/2008, 2008-2009 and 2009/2010. *File #1.1*
- 3) **Approved** contract with the California Department of Food & Agriculture for Pest Detection Trapping Services in the amount of \$45,743 for fiscal year 2007/2008. *File #1.1*

ASSESSOR – T. Slavich:

- 4) **Adopted Resolution No. 2007-98** for Assessor Vehicle Standby Allowance. *File #7*

BEHAVIORAL HEALTH- A. Yamamoto:

- 5) **Authorized** Behavioral Health Director to sign and submit to the State Alcohol and Drug Program the Comprehensive Drug Court Implementation notice of grant award allowing the acceptance of \$18,301 of State General Funds for the period of January 1, 2007 through December 31, 2008; and **authorized** Behavioral Health Director to sign related documents. *File #810*

CLERK OF THE BOARD – L. Churchill:

- 6) **Approved** the action minutes of the November 6, 2007 and November 27, 2007 regular meetings.

COUNTY LIBRARY – N. Conte:

- 7) **Accepted** donation of 1,060 books from the San Jose Mercury News for distribution by the San Benito County Free Library during the annual Holiday Program. *File #80*
- 8) **Accept \$1000 cash donation from an anonymous donor to be used for the expenses associated with the Bookmobile Project and approve budget augmentation.**

Supervisor Botelho publicly thanked the anonymous donor.

Upon motion made by Supervisor Botelho and seconded by Supervisor De La Cruz, accepted the \$1000 cash donation and approved the budget augmentation. (Unanimous) File #80

HEALTH & HUMAN SERVICES – K. Flores:

- 9) **Approve contract with Janette Simin for nursing services for the period of January 1, 2008 to June 30, 2008 for a contract amount not to exceed \$25,000.**

Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved contract as recommended and authorized the Health & Human Services Agency Director to sign said contract. File #130

- 10) **Re-appointed** Mr. Michael Dodgin to the Workforce Investment Board (WIB) to represent the public sector, a mandated representative board position, for a three-year term, effective January 1, 2008 to December 31, 2010. (CSWD) *File #939*

INTERNAL SERVICES – R. Inman:

- 11) **Approved** class specifications as follows: Assistant County Counsel, Housing Programs Coordinator, Information Technology Manager, and Recycling and Resources Recovery Coordinator; set salary ranges for each; **approved** 1.0 FTE for Internal Services, Information Technology (IT) Division; and **authorized** transfer of \$43,000 within the IT budget. (4/5 vote required) *(Unanimous) File #630*

PUBLIC WORKS – J. Lo:

- 12) **Acknowledge the grant applications to the State of California, Safe Route to School Grant Program, requesting placement of four (4) permanent radar speed signs, two (2) each at Southside and Calaveras Schools, in the amount of \$33,000; and requesting a Class I Bicycle Lane facility along Southside Road from gate at Ridgemark to Southside School, in the amount of \$1.2 million, and authorize staff to complete the projects.**

Lengthy discussion ensued with regards to the pros and cons of a bike lane along Southside Road.

The following members of the public addressed the Board: Sally Bettencourt, Southside Road resident; Joe Tonascia, Southside Road resident; and Lori Woodle, Buena Vista Road resident.

Public Works Director Jerry Lo answered questions posed by the Board and public.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, 1) Acknowledged the grant application to the State of California, Safe Route to School Grant Program, requesting a Class I Bicycle Lane facility along Southside Road from back gate at Ridgemark to Southside School, in the amount of \$1.2 million, and authorized staff to complete the project if/when the grant funding is approved; and, 2) Acknowledged the grant application to the State of California, Safe Route to School Program, requesting placement of four (4) permanent radar speed signs, two (2) each at Southside and Calaveras Schools, in the amount of \$33,000, and authorized staff to complete the project if/when the grant funding is approved. (Unanimous) File #105*

SHERIFF / CORONER: - C. Hill:

- 13) **Approve purchase of a new surveillance vehicle and additional surveillance equipment to be used by the Sheriff's Narcotics Division and authorize transfer of grant funds in the amount of \$77,026.**

Sheriff Hill answered questions posed by the Board.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Monaco, 1) Found that the supplier is on the current State of California Department of General Services list of approved suppliers; and, 2) Approved the purchase of a new van and additional surveillance equipment by the Narcotics Division; and, 3) Amended the FY 2007-2008 Fixed Asset Schedule Budget Unit-2516101 to reflect the following: a) increase in vehicles by one (1) in the amount of \$24,630; b) add equipment Thermal Imager in the amount of \$13,512; c) add equipment Portable Police Camera in the amount of \$31,284; d) add body wires totaling \$7600; and, 4) Amended the FY 2007-2008 Sheriff's Grant Budget-2516101 to reflect a decrease in expenditures – Special Department Expense - 6236 in the amount of \$77,026; and, 5) Amended the FY 2007-2008 Sheriff's Grant Budget -2516101 to reflect an increase in Fixed Assets – Vehicles in the amount of \$24,636 and Equipment in the amount of \$52,396. (Unanimous) File #110*

- 14) **Consider changes to the Sheriff Office's Authorized Position Schedule and approve related budget adjustment.**

Sheriff Hill answered questions posed by the Board.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor De La Cruz, approved the following recommendations: a) Deleted 1 FTE Food Services Supervisor (Range 13.2) in Department 220 Corrections; and, b) Allocated 1 FTE Administrative Services Manager (Range 25) to Department 210 Sheriff's Operations; and, c) Approved the budget adjustment transferring the adopted allocation of salary and benefits from Budget Unit 210 – Corrections to Budget Unit 210 – Sheriff's Operations. (Unanimous) File #110*

- 15) **Approved** request to transfer grant funds from Drug Enforcement Agency (DEA) trust account to Sheriff's Operations. *(4/5 vote required.) (Unanimous) File #110*
- 16) **Approved** change in Communications Dispatcher workweek and **authorized** the Communications Manger to make adjustment on the current payroll. *File #116*
- 17) **Made** necessary findings; **approved** lease purchase of 5 patrol cars through Ford Motor Credit to be used by Sheriffs patrol operations with an annual cost of \$45,824.81; and **authorized** Sheriff to sign said agreement. *File #110*

PUBLIC HEARING: (9:30 a.m. or as soon thereafter as the matter may be heard)

- 18) **Held** a public hearing to consider an ordinance repealing and re-enacting Article II of Chapter 5 of the San Benito County Code and adopting by reference the 2006 edition of the International Property Maintenance Code; the 1997 edition of the Uniform Administrative Code; the 2006 edition to the Uniform Swimming Pool, Spa & Hot Tub Code; and, the California Code of Regulations Title 24, 2007 edition of the California Building Standards Code including the following parts:

Part 1, California Administrative Code
Part 2, California Building Code including the Appendix Chapters
Part 3, California Electrical Code including the Appendix Chapters
Part 4, California Mechanical Code including the Appendix Chapters
Part 5, California Plumbing Code including the Appendix Chapters
Part 6, California Energy Code including the Appendix Chapters
Part 8, California Historical Code including the Appendix Chapters
Part 9, California Fire Code including the Appendix Chapters
Part 10, California Existing Building Code including the Appendix Chapters
Part 12, California Referenced Standards Code including the Appendix Chapters;
and, amending those portions of the California Code of Regulations Title 24 and the 1997 Uniform Administrative Code as identified in the ordinance.

Consider proposed resolution finding that modifications of the California Fire Code are reasonable and necessary because of local climatic, geological and/or topographical conditions.

Special Counsel Claude Biddle provided background information.

Evan Hill, County Building Official, presented a Power Point Presentation entitled "California Building Code".

Planning Director Art Henriques and Reno Ditullio, CDF Fire Chief, addressed the Board.

Lengthy discussion ensued.

Chairman Marcus opened the public hearing.

The following members of the public addressed the Board: Marty Richman, Hollister resident; Paul Wattis, Paicines resident; and, Joe Tonascia, Hollister resident.

Lengthy question and answer period and discussion ensued.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, adopted **Ordinance No. 822** thereby adopting the 2007 California Building Standards Code and the 1997 Uniform Administrative Code, the 2006 International Property Maintenance Code, the 2006 Uniform Swimming Pool, Spa and Hot Tub Code; and, continued the public hearing to January 8, 2008 to consider Residential Fire Sprinkler amendments and findings. (Unanimous) File #790*

REGULAR AGENDA:

COUNCIL OF GOVERNMENTS – L. Rheinheimer:

- 19) **Approve letters to Secretary Bonner in support of Trade Corridors Improvement Funds for the State Route 152 Project and the Highway 156 Improvement Project.**

COG Executive Director Lisa Rheinheimer provided background information stating that the recommendation today was to only approve the letter for the Highway 156 Project.

Lengthy discussion ensued.

Marty Richman, local resident addressed the Board.

Supervisor Loe made a motion to send a letter in support of the Highway 156 Improvement Project. The motion died for a lack of a second.

No action was taken. File #1035

INTERNAL SERVICES – R. Inman:

- 20) **Approve contract with Terryberry Company for Employee Recognition Program effective December 3, 2007 through December 1, 2008.** (Continued from 12/4/07 meeting)

Director of Internal Service Rich Inman reported that he would like to get this program going and he would work on getting local businesses involved in providing awards.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz approved the contract with Terryberry Company for Employee Recognition Program as recommended. (Unanimous) File #630

PUBLIC WORKS – J. Lo:

- 21) **Make a finding for the sole source purchase of playground equipment manufactured by Landscape Structures' and distributed by Ross Recreation Equipment; and approve the purchase and installation of playground equipment and safety surfacing for Veteran's Memorial Park in the amount of \$43,818.61 and the Historical Park in the amount of \$41,121.53 from Ross Recreation Equipment for a total amount of \$84,940.14.**

Public Works Director Jerry Lo provided background information stating that a new recommendation was submitted to the Board of Supervisors

Question and answer period ensued.

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, 1) Made findings for the Sole Source Purchase of playground equipment manufactured by Landscape Structures' and distributed by Ross Recreation Equipment; and 2) Approved agreement with Ross Recreation equipment for the period December 18, 2007 to January 31, 2008 in an amount not to exceed \$100,000 and authorized the Chairman to sign said agreement. (Unanimous) File #105.3

SUPERIOR COURT – G. Solorio:

- 22) **Status Report on the Project Advisory Team's progress with regard to developing a recommendation for a new courthouse construction.**

Court Executive Officer Gil Solorio presented a status report stating that this has been a true collaboration of efforts including community involvement.

Accepted report. File #595

PLANNING DEPARTMENT – A. Henriques:

- 23) **Receive updated report regarding Commercial Zone Study and provide direction as necessary.**

Planning Director Art Henriques presented a Power Point Presentation entitled "Summary of Key Retail & Economic Opportunities".

Mr. Henriques answered questions posed by the Board.

The following members from the public addressed the Board: Graeme Robertson, Rocks Ranch and Joe Tonascia, local farmer.

The Board provided comments.

County Administrative Officer Susan Thompson stated that an action document would be forthcoming at a future date.

File #790

PLANNING DEPARTMENT – A. Henriques:

- 26) **Held a public hearing to consider an ordinance amending San Benito County Ordinance No. 501, Chapter 5, Article VII of the San Benito County Code, Sections 5-32, 5-33, 5-34, 5-35, 5-36, 5-37, 5-37.1, 5-37.2 establishing Agricultural Building Exemption, revising exemption definitions and requirements and qualifications.**

Planning Director Art Henriques provided background information stating that basically this ordinance would further clarify an attempt to better standardize the policy that the County has in dealing with agricultural exemptions.

Principle Planner Byron Turner presented the staff report stating that currently the process has been abused and isn't fair to everybody who is involved and therefore Planning Staff was directed to revise it.

Question and answer period ensued.

Chairman Marcus opened the public hearing.

The following members of the public addressed the Board: Wendell Chambers, Lake Farm; Joe Thompson, Tres Pinos resident; Paul Wattis, Paicines resident; and, Joe Tonascia, representing the San Benito County Farm Bureau.

Chairman Marcus closed the public hearing.

Lengthy discussion ensued and the Board provided further recommendations for inclusion in the ordinance.

Chairman Marcus summarized the direction of the Board members as follows:

- Allow for extension
- Special consideration for size
- Farm Bureau and Cattlemen's Association comments
- All zoning involved and considered
- Multiple parcels may be considered
- Continue with policy to be appealable to the Board of Supervisors

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, continued the public hearing to February 5, 2008 at 1:30 p.m. allowing time for the San Benito County Farm Bureau and the Cattlemen's Association to review the proposed ordinance and provide their comments. (Unanimous) File #790*

- 27) **Hold a public hearing to consider an ordinance revising the hillside development regulations by repealing Ordinance No. 781 in its entirety and re-enacting Sections 18-148.1 through 18-148.8 of the San Benito County Code Chapter 18 (Zoning Ordinance No. 479), Article XIII. The Ordinance is entitled an Ordinance of the County of San Benito, Repealing Ordinance No. 781 (Hillside Development Regulations) and Re-Enacting Section 18-148.1 et seq. of Chapter 18 (Zoning) of the San Benito County Code Relating to the Regulation of Hillside Development.**

Planning Director Art Henriques provided background information.

Principle Planner Byron Turner presented the staff report and a Power Point Presentation entitled "Hillside Development & Design Review". Mr. Turner reported that the current ordinance was adopted by the Board of Supervisors in December 2004 and is applicable to new residential developments or building additions located within a major subdivision, no existing lots of record, which are located on slopes 15% or greater.

Mr. Turner explained the problems with the ordinance as it exists today and outlined the recommendations of the Planning Commission.

Chairman Marcus opened the public hearing.

The following members of the public addressed the Board: Al Guerra, local resident; Joe Thompson, Tres Pinos resident; Paul Wattis, Paicines resident; Marty Richman, local resident; John Eade, local resident; Brad Sullivan, local resident; Bob Brians, North County resident, submitted two documents to the Board; Richard Saxe, Aromas resident; Robert Scoles, Aromas resident; and, Bill Hunter, San Juan Bautista resident.

Chairman Marcus closed the public hearing.

Lengthy discussion ensued.

Supervisor Botelho made a motion to accept the View Shed Ordinance as submitted with the ability to amend it at a later date as needed. Supervisor Loe seconded the motion.

Chairman Marcus asked for clarification of the motion asking if this was to approve and adopt an ordinance repealing Ordinance 781 in its entirety and amend the San Benito County Code Chapter to adopt Section 18-148.1 through 18.148.8.

Supervisor Botelho said that was correct.

Chairman Marcus further asked for clarification if it included finding that the revisions of the ordinance qualify for a Categorical Exemption from CEQA as an action by a regulatory agency and to direct the Clerk of the Board to publish the summary of the ordinance and post a copy of the ordinance; or, to direct staff to come back for Board of Supervisors' comments as discussed today.

Supervisor Botelho said then we wouldn't be adopting the ordinance.

Chairman Marcus stated he was concerned about the eight (8) items presented in the Power Point Presentation to clarify this particular ordinance.

Supervisor Botelho said that is what he thought he was basing his motion on – the ability to come back with those eight (8) items.

County Counsel Dennis Le Clere stated then the intent is to adopt the ordinance today and then direction to come back.

County Administrative Officer Susan Thompson clarified that if the ordinance were adopted today and if they wanted to amend it then it would be another process of adopting an ordinance.

The Chairman called for the question.

Supervisors Loe and Botelho voted yes.

Supervisors Monaco, De La Cruz and Marcus voted no.

The motion failed 2-3.

BOARD ACTION: *Supervisor De La Cruz made a motion to repeal the existing Ordinance No. 781 in its entirety and because of CEQA refer it back to the Planning Commission. Supervisor Monaco seconded the motion.*

Deputy County Counsel Shirley Murphy clarified the motion stating that basically it is a continuance at this point with direction to process the Board's desired change to essentially change it to just repealing the existing standards and refer that back to the Planning Commission.

Supervisor De La Cruz concurred. The motion is to continue the matter to a date uncertain and directing staff to refer the Board of Supervisors' recommendation to repeal Ordinance No. 781 in its entirety to the Planning Commission for CEQA review

and a report and recommendation regarding the Board's intended modification of the proposed ordinance previously reviewed by the Planning Commission.

The Chairman called for the question.

Supervisors De La Cruz, Monaco and Marcus voted yes.

Supervisors Botelho and Loe voted no.

The motion passed 3-2. File #790

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 3:35 p.m. and reconvened into Regular Session re:

24) **a) Conference with Legal Counsel concerning anticipated and existing litigation.**

Number of cases: 1

No reportable action. File #235.6

b) Existing Litigation – (Government Code Section 54956.9(a):

Number of cases: 2

Name of Case: Friends of Tres Pinos v. County of San Benito, et al; Superior Court, San Benito County; Case No. CU-07-00186

Name of Case: Frank Del Carlo, et al. v. County of San Benito, et al.; Superior Court, San Benito County; Case No. CU-06-00079

No reportable action. File #235.6

25) **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

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, De La Cruz, Marcus, Botelho

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to January 8, 2008 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