



SAN BENITO COUNTY BOARD OF SUPERVISORS

Don Marcus
District No. 1
Vice-Chair

Anthony Botelho
District No. 2

Pat Loe
District No. 3
Chair

Reb Monaco
District No. 4

Jaime De La Cruz
District No. 5

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

REGULAR MEETING MARCH 28, 2006 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session. Supervisors Monaco, De La Cruz; Botelho, Marcus and Loe were all present. Also present was County Administrative Officer Susan Thompson, Acting County Counsel Irma Valencia and Clerk of the Board Linda Churchill. Chair Pat Loe presided when the following was had to wit:

9:30 a.m. CALL TO ORDER:

- a) Pledge of Allegiance was led by Supervisor Marcus.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

Chair Loe announced that the Public Authority Board for the In House Supportive Services and SEIU have agreed to go to mediation noting that with regards to Item 17 she would allow the public to address the item but there will be no action taken today.

PRESENTATIONS / RECOGNITIONS:

- c) **Presentation of Certificates of Recognitions to “Teachers of the Year” and “Jefferson Award” honorees. (Chair Loe)**

Supervisor De La Cruz presented Certificate of Recognition to Sam Navarez, San Benito County resident and history instructor at Brownell Academy in Gilroy for the past 18 years, who was named Teacher of the Year by the California League of Middle Schools, Region 5.

Supervisor Monaco presented Certificate of Recognition to Dan Quinn, Mathematics Instructor for the past 13 years at San Benito County Joint Union High School, who was named the male Teacher of the Year by the San Benito County Office of Education.

Supervisor Botelho presented a Certificate of Recognition to Tami Cruz, third grade instructor at Gabilan Hills for the past 10 years who was named the female Teacher of the Year by the San Benito County Office of Education.

Chair Loe presented a Certificate of Recognition to Theresa Copeland, local teen and resident of San Benito County who was named as a “Jefferson Award” honoree recognizing her tireless efforts in the quest to combat homelessness.

- d) **Public Comment:** Liz Sparling, Executive Director of San Benito County Chamber of Commerce, and Scott Fuller, Chairman of the Chamber of Commerce Tourism Committee, brought a copy of the March 2006 Sunset magazine which features an article in the Travel section pertaining to a road trip through San Benito County.

John Vallardita, Executive Director of SEIU Local 817, came forward noting that the people demonstrating in front of the building are people that are the working poor who take care of the most vulnerable in society, the seniors and the disabled. Mr. Vallardita stated that they were present to

ask for a wage increase that they have fought for at the state level at Sacramento and feel that what they have asked for is fair.

Chair Loe asked Mr. Vallardita to speak under the appropriate Item # 17. Mr. Vallardita refused to do so.

Mr. Vallardita further stated that the County has mismanaged money and does not know what it is doing with its budget and has the gall to say that it has no money to pay poor people a raise. Mr. Vallardita criticized Supervisor Loe and Supervisor Marcus who he felt were turning their back on these people.

e) **Department Head Announcements:** There was none.

f) **Board Announcements, Introductions and Presentations:** Supervisor Marcus read from a report, and directed to the Elections Department, that he received from RCRC regarding Assembly Bill 1634 which was amended to provide reimbursement to the County for the cost of last November's special election. Each county was asked to check that their reimbursement was sufficient and determine if it did not match the costs. Supervisor Marcus asked the Clerk/Recorder/Registrar of Voters to check the San Benito County number that was listed at \$43,000.

County Administrative Officer Susan Thompson stated that County Clerk John Hodges' Office immediately responded to that request for information and it was sent noting that San Benito County's costs were approximately \$134,000.

CONSENT AGENDA:

ASSESSOR – T. Slavich:

- 1) **Approved** job specifications and salary ranges for Computer Mapping Specialist I, II, and III. *File #7*

BOARD OF SUPERVISORS:

- 2) **Approved** proclamation honoring the San Juan Bautista City Library's 100th birthday for presentation at a reception to be held on April 4, 2006 in conjunction with National Library Month. (Supervisor Botelho) *File #430*
- 3) **Approved** Certification of Recognition honoring Juanita Medeles, San Benito County 2006 Hunger Fighter of the Year for presentation at a reception to be held on March 30, 2006. (Chair Loe) *File #156*

CLERK OF THE BOARD:

- 4) **Approved** action minutes from the February 27, 2006 special joint meeting of the Board of Supervisors, Council of Governments and Hollister City Council.

COUNTY ADMINISTRATIVE OFFICE – S. Thompson:

- 5) **Approved** amended Joint Powers Agreement creating the CSAC Excess Insurance Authority. *File #36*

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 6) **Approved** appointment of Robert Scoles to the Community Action Board (CAB) representing Board of Supervisors District #2 for a three-year term effective March 28, 2006 through March 28, 2009. *File #939*
- 7) **Approved** appointment of Brenda Weatherly to the Workforce Investment Board (WIB) representing the Private Sector for a three-year term effective March 28, 2006 through March 28, 2009. *File #939*

- 8) **Approved** agreement with the National Council of Crime and Delinquency for implementing and sustaining Structured Decision Making (SDM) Project in the amount of \$15,662 and **authorized** the H&HSA Director to sign on behalf of the County. **File #130**
- 9) Regarding Child Welfare Service Outcome Improvement Plan (CWSOIP) and Small County Initiative Revenue, **approved** the following:
 - a) **Recognized** the CWSOIP funding of \$47,511 in revenue account 2211-500570001; and
 - b) **Recognized** the Small County Initiative funding of \$50,000 in revenue account 2211-500-570001; and
 - c) **Increased** expenditures in Budget Line Item 2211-500-623613 Special Department by \$97,111 for expenditures relating to CWSOIP and Small County Initiative. **File #130**
- 10) **Approved** revenue sharing agreement with One Stop Career Center Partner Agencies. **File #130**

PROBATION – D. Botts:

- 11) Regarding “Bulletproof Vest Program” grant monies, **approved** the following:
 - a) **Allowed** the Probation Department to apply for Department of Justice (DOJ) grant monies to help defray MOU-mandated costs for new body armor; and
 - b) **Authorized** Probation Department to purchase six (6) bulletproof vests for a total amount not to exceed \$3,830. **File #510**
- 12) **Approved** agreement with Paula Norton for the provision of service for minor assigned to the Early Prevention Program and to augment budget with funding from Juvenile Accountability Block Grant Program funds in an amount not to exceed \$12,000 with a contract term of April 1, 2006 through December 31, 2006. **File #510**

SHERIFF – C. Hill:

- 13) **Approved** appointment of the Communications Manager at Step E of Range 23.2 in the Communications Unit of the Sheriff’s Department. **File #116**
- 14) **Approved** Letter of Agreement (LOA) with the State of California Drug Enforcement Agency (DEA) requesting receipt of funds in the amount of \$12,000 to assist in the eradication of marijuana. **File #110**

VICTIM WITNESS PROGRAM – K. Fancher:

- 15) Regarding funding for the Victim Witness Assistance Program, **approved** the following:
 - a) **Approved** grant application for continuation of funding for said Program; and
 - b) **Adopted Resolution No. 2004-20** designating the County Administrative Office as the Implementing Agency for the Program and **authorized** Program Coordinator and County Auditor to sign and submit related documents. **File #165**

REGULAR AGENDA continued:

BUILDING & PLANNING DEPARTMENT – A. Henriques:

- 16) **Receive update from Gavilan College Board and Administration re: proposed Gavilan College campus, and provide direction to staff as deemed necessary.**

Art Henriques, Planning Director, provided a follow-up from the March 14, 2006 Board of Supervisors meeting as requested by the Board. Mr. Henriques noted that the Gavilan Board of Trustees met on the evening of March 14, 2006.

Steve Kinsella, Superintendent of Gavilan College, came forward stating that he has met with the County Administrative Officer and staff and they are continuing to look for property and a number of people have come forward and expressed an interest in working with them in identifying other

potential people and properties to review. Mr. Kensella indicated they are continuing to proceed with their due diligence work on the already identified property.

No action was taken. File #790

SITTING AS THE PUBLIC AUTHORITY BOARD FOR IN HOME SUPPORTIVE SERVICES:

The Board adjourned as the Board of Supervisors and reconvened as the Public Authority Board for In Home Supportive Services.

Chair Loe reiterated that the Public Authority Board and SEIU have agreed to go to mediation. There were no speaker cards for this item.

Supervisor Marcus stated that it was not appropriate for him to respond or comment under the Public Comment portion of the agenda. Supervisor Marcus stated that this county was in a tremendous financial crunch and they have tried to be consistent from the perspective of the Board in giving wage increases across the Board. Supervisor Marcus further stated that these people are vital to the community, as are all of the employees of San Benito County and while he understands the importance we have to draw the line where there are budget constraints noting that the county is in a \$6 million deficit right now and his decision was based on these factors.

17) Approve and implement a 3% salary increase for In Home Supportive Services employees.

This item was withdrawn from the agenda due to the agreement to go to mediation.

The Board adjourned as the Public Authority Board for In Home Supportive Services and reconvened as the Board of Supervisors.

PUBLIC WORKS:

18) Approve Request For Proposal (RFP) for a Project Manager for the development of a One Stop Permit Center.

Margie Riopel, Management Analyst, provided background information reporting that at the November, 2005 the Board of Supervisors previously directed staff to develop an RFP for the remodel of the Southside Convalescent Hospital to accommodate a One Stop Permit Center and a Steering Committee has developed an RFP to obtain a Project Manager.

BOARD ACTION: *Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho approve the Request for Proposal for a Project Manager for the development of a One Stop Permit Center and authorized the Chair to sign said RFP. (Unanimous) File #105*

BUILDING & PLANNING DEPARTMENT continued – A. Henriques:

19) Review proposed revisions to the ranking system to Ordinance No. 751, Growth Management, for minor subdivisions and provide direction to staff.

Art Henriques, Planning Director, provided background information stating that the Board of Supervisors previously requested that staff and the Planning Commission have a community discussion about updating the Growth Management System as it is at this point in time.

Mr. Henriques referred to the supportive documents in the Board packets titled Project Rating Scale for Minor subdivisions as well as a revised potential matrix to be used when ranking minor subdivisions.

A Power Point presentation was shown titled Preliminary Allocations, (proposed revisions to the residential growth management ranking system) and included the following: Overview; Major Changes Proposed; Primary Categories; Water & Sewage Disposal; Farmland; Secondary Categories; Water & Wastewater Systems; Geology & Soils; Traffic Circulation; Preservation & Conservation; Design & Location; and Project vs. Project.

Board members provided comment and input to Planning staff for possible incorporation into the revised ranking system.

No action was taken. File #790

20) Receive report on the San Benito County General Plan Update process and provide direction to staff.

Art Henriques, Planning Director, reported that the Board has been interested in starting a discussion on an update of the County's General Plan and a Power Point presentation was given which included the following topics: General Plan Basics; General Plan Requirements; Implementation Tools; Update Considerations; Why Update?; Previous Updates; Required Elements; Some Major Plan Components; Data; Optional Elements; Additional Items; Combined Elements; Housing Element; Regular Updates; Office of Planning and Research; Possible Legal Implications of Inadequate General Plan; Style and Presentation; CEQA; Possible Steps to Amend the General Plan; Process Suggested By OPR; Process Suggested by OPR; Resources; Resources; and Next Steps for Future Sessions.

The Board asked the Planning Director to come back sometime in April 2006, in the afternoon, for a study session. File #790

ADMINISTRATIVE BUSINESS:

21) Discuss and augment District Attorney budget. (CAO)

County Administrative Officer Susan Thompson reported that this item was on the agenda due to a request for funding beyond the appropriated amount that the Board of Supervisors has previously adopted for the District Attorney's office operation indicating that the District Attorney has previously requested \$300,000 augmentation to his budget and just recently has requested an additional \$50,000 augmentation to his budget. Ms. Thompson noted that the recommendations and options as listed on the Agenda Item Transmittal are by no means the only options that the Board has.

Ms. Thompson further reported that the initial problem today is that we have existing unpaid claims against the county because we have no legal appropriations to pay them and we also have a request for funding for future costs from this point to the end of the fiscal year which is June 30, 2006 that the department is going to need to continue to operate even though all of the moneys appropriated thus far have been expended.

Ms. Thompson stated that staff is seeking direction and explained the recommendations as listed on the Agenda Item Transmittal. Ms. Thompson indicated a change in her Recommendation 7(b) of the Agenda Item Transmittal to read as follows: The Board could consider requiring the District Attorney to obtain contracts for services specifying hourly rates and charges for any existing or new experts or attorneys prior to engaging or incurring any expenses.

The Board held a question and answer period. Joe Paul Gonzalez, County Finance Director was present to answer questions.

Chair Loe asked if there was anyone from the public who would like to address this issue. The following speakers came forward.

Eva Reyna, long time Hollister resident, came forward. Ms. Reyna felt money was being wasted on the District Attorney and should be spent on the poor and needy. Ms. Reyna supported a vote of no confidence in the District Attorney.

Bob Cruz, Hollister resident came forward. Mr. Cruz stated that Supervisor De La Cruz should remove himself from voting on this item and that Supervisor Monaco should not vote on Item 21 since he was the one that placed Item 22 on the agenda and that would be to censure the District Attorney. Further Mr. Cruz felt that we should wait until the June 6, 2006 election and let the people decide whether or not the community wants the District Attorney to stay in office.

District Attorney John Sarsfield came forward stating that the District Attorney budget is roughly \$1 million and is essentially created at least one year in advance and it is nothing more than his department's best estimate of what crimes are going to be occurring six to 12 months from now. Mr. Sarsfield stated that sometimes they get it right and sometimes they get it wrong and sometimes there are more cases and sometimes there are less cases and sometimes the cases are more complex than we would normally expect them to be, but it is simply an estimate. Mr. Sarsfield explained what the District Attorney Department spends.

Lengthy discussion ensued with questions from the Board of Supervisors to the District Attorney.

Supervisor Marcus asked County Counsel for clarification of the recommendations of Items 1 through 7(c) that were spelled out today noting there was a correction to Item 7(b) specifying hourly rates and predicting hours of engagement and there was a suggestion by the District Attorney to possibly change Item 7(c). Supervisor Marcus asked if in any of that discussion are we crystal clear from a legal position that to enact any of these actions we are well within the law.

County Counsel Irma Valencia answered that Item 7(b) was corrected so that the Board of Supervisors isn't approving contracts for experts and those types of services because that is clearly within the District Attorney's purview since he knows who he needs to handle his cases.

Supervisor Marcus asked Mr. Sarsfield if from his perspective were the items we are discussing within the law.

Mr. Sarsfield answered that Item 7(c) was not.

Supervisor Monaco asked if there was a discrepancy between what the District Attorney was saying and what County Counsel was saying about Item 7(c).

County Counsel answered she believed there was.

Further discussion ensued regarding possibilities as to how to resolve this problem.

Joe Paul Gonzalez, County Finance Director, addressed the proposed idea to set up a contingency and explained other methods. Mr. Gonzalez stated there needs to be a budget augmentation approved and departments should make their best efforts to stay within their budgets.

Supervisor Marcus suggested that the Board move to approve Recommendations 2 through 5, less Items 6 and 7, and bring back Item 7 expeditiously with options just on budget control measures from here on.

Supervisor De La Cruz asked Supervisor Marcus if his suggestion was to pay everything that is on the books right now.

Supervisor Marcus stated he believed that we have to and he did not feel there was an option on Items 2 through 4.

Supervisor De La Cruz felt everything has to go together.

Further discussion ensued.

Supervisor De La Cruz made a motion to pay everything that the auditor sent back to the District Attorney's office and bring this matter to a future Board of Supervisor's meeting to consider the rest of the items.

County Administrative Officer Susan Thompson stated that would not work because we are already over-spent by \$91,000 so before we can start paying additional bills of the \$20,000, that were returned, we have to pay the \$91,000 first.

Supervisor De La Cruz withdrew his motion.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho approved Items 2 through 7 of Agenda Item Transmittal as follows:*

- 2. Consider appropriation of funds to meet assumed County obligation to pay costs already incurred and to include costs expected as necessary through the end of the current fiscal year; and*
- 3. Approve transfer in the amount of \$12,600 from salaries and benefits to services and supplies; and*
- 4. Approve transfer in the amount of \$108,633 from contingencies to specific line items; and*
- 5. Consider freezing one Deputy District Attorney position for the remainder of the fiscal year; and*
- 6. Consider layoff of one administrative/clerical position in the District Attorney's office for the remainder of the fiscal year; and*
- 7. Establish budget management controls effective 3/29/2006 by*
 - a) instituting line item control of Services and Supplies appropriations; and*
 - b) consider requiring the District Attorney to obtain contracts for services specifying hourly rates and charges for any existing or new experts or attorneys prior to engaging or incurring any expenses;*

- (Item b as amended by the County Administrative Officer at the beginning of the meeting) and*
- c) *require the District Attorney to submit request for budget augmentation prior to incurring expenses which would exceed the maximum allocation on any line item within his approved budget;*

and directed County Administrative Susan Thompson and District Attorney John Sarsfield to bring back consideration of the financial impact on layoffs and which position.

Under the question:

It was clarified that with regards to Item 6 it would only be a consideration of a layoff and the District Attorney would be involved in the decision as to which position would be laid off.

Chair Loe asked with regards to Item 7c was there a way that we could see new wording before we adopt it.

Acting County Counsel Irma Valencia stated that the following could be added at the end of Item 7c "not authorized by Government Code Section 29601".

Chair Loe asked Supervisor De La Cruz if he would amend his motion to add that language.

Supervisor De La Cruz answered no.

Chair Loe called for the question.

The motion passed 4-1 with Chair Loe voting no. File #205

County Administrative Officer Susan Thompson clarified that with regards to the conversation that they will be having about Item 6 there is not an individual employee specific noting that we are Civil Service Employer and it is going to have to be classification specific and all of the civil service protections for those individual employees will apply. Ms. Thompson stated she wanted to make it clear that it was not about a person.

Supervisor Marcus asked then if the County Administrative Officer would be bringing to the Board of Supervisors all of the forecasting pertaining to if someone is laid off what the buyout is and what would be the total cost?

Ms. Thompson answered yes indicating the other possibility that they could look at would be the possibility of avoiding a layoff and making it a transfer where there is vacant position and noting that these are all potential ramifications.

Supervisor De La Cruz stated that he did support Supervisor Loe when she stated earlier that we purposely created a contingency account to take care of the dollars being spent in case people get laid off and he remembered during the budget process we talked about that and he expected that would come forward in the next recommendation if it comes forward in that way. ***File #205***

BOARD OF SUPERVISORS:

- 22) Consider vote of no confidence in the San Benito County District Attorney and request Attorney General investigation and opinion of the condition of public business entrusted to the District Attorney. (Supervisors Monaco and De La Cruz)**

Supervisor Monaco stated that many people in San Benito County have contacted him personally expressing great concerns about the function of the District Attorney's office and this is the second time in a relatively short period of time that this Board has had reason to question our District Attorney's actions. Supervisor Monaco stated that once again he felt it is necessary for our Board to discuss the functioning of our District Attorney's office and he would therefore like to hear from our citizens and the Board.

The Chair asked if there were any comments from the public.

Ruben Lopez, San Juan Bautista resident, came forward. Mr. Lopez stated that in 10 weeks there will be an election and he felt we should let the people decide then, noting that this attempt to censure doesn't look for the county and is an embarrassment.

Richard Place, Hollister resident, came forward. Mr. Place asked for a vote of no confidence to protect the public from any more of these politically motivated witch-hunts.

Fernando Gonzalez, Hollister resident and businessman came forward. Mr. Gonzalez feels the Board of Supervisors should have a censure on the District Attorney but it really should go much further and go to the Attorney General's office to come down and determine from an outside source that would be fair and impartial.

Moscopia Simonidis, Salinas resident came forward. Ms. Simonidis, who worked with Mr. Sarsfield in Salinas, supported the District Attorney.

Sam Navarez, Hollister resident, came forward encouraging the District Attorney and the Board of Supervisors to separate personal issues in making this decision and make a decision that is best for the county.

Robert Scoles, Aromas resident, came forward suggesting that we get someone from outside the county to come in and look at the situation and hold the censure until that time.

District Attorney John Sarsfield stated that the District Attorney is a difficult job under the best of circumstances because no matter what they do whenever they charge somebody there is at least one unhappy person. Mr. Sarsfield stated that a vote of no confidence is purely symbolic and he would love to have the Attorney General's office come down here and he has asked them to do that and it would be fine with him.

District Attorney John Sarsfield further stated that he accepts responsibility for what he has done in prosecuting the Los Valientes because he felt it was the right thing to do.

Further comments were heard.

Supervisor Botelho, Supervisor Marcus, Supervisor De La Cruz and Supervisor Monaco expressed their reasons for taking a vote of no confidence in District Attorney John Sarsfield.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz moved to take a vote of no confidence in our District Attorney and that the Chair of the Board appoint two board members, recommending Supervisors Botelho and Marcus who have a history of working with our District Attorney; the County Administrative Officer and any additional county staff that she deems necessary; and the acting County Counsel and any of her staff that she deems necessary to contact the Attorney General's Office of the State of California by telephone to clarify how to proceed with a request for an investigation of the District Attorney's Office in San Benito County to be followed with a letter requesting an appointment to have the above named group go to the Attorney General's Office to make a formal request for an investigation of the following:*

- *The condition of public business entrusted to the District Attorney, including expenditure of public funds in excess of budgeted authority; and*
- *Negligence in concentrating on his primary duty to prosecute criminal offenses*

and further that the two supervisors representing the Board of Supervisors and/ or staff report back to the Board by the April 25, 2006 meeting on the status of this issue.

Under the question. Chair Loe asked what are we really trying to do here today – have the Attorney General step in and take over the District Attorney's office?

Supervisor Monaco answered that he was requesting an investigation in the activities and he hasn't requested anything further.

Chair Loe stated that we have an election coming up in three months. Isn't it up to the people to judge? Chair Loe believes that the District Attorney is an elected official, just like the Board of Supervisors, and that the people of this county can make this decision and she sees no benefit at this time to go to the Attorney General's office. There is only six months left to the election.

Roll Call Vote:

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

The motion passed 4-1. File #205

The Board adjourned for a short break at 1:55 p.m. and reconvened as the San Benito County Financing Corporation.

Held San Benito County Financing Corporation public hearing.

The minutes for the San Benito County Financing Corporation have been prepared separately.

The Board adjourned as the San Benito County Financing Corporation at 2:15 p.m.

1:30 P.M. PUBLIC HEARINGS (or as soon thereafter as the matters may be heard):

The Board reconvened at 3:00 p.m. after a lunch break.

Item #28 was moved to this time to allow the consultant to get back to Los Angeles in a timely fashion.

ADMINISTRATIVE BUSINESS:

28) Hold public hearing regarding a proposed resolution regarding the securitization of tobacco settlement payments.

Kellie Kennedy, Management Analyst, explained that in March 2000, San Benito County received its initial allocation of tobacco settlement revenue and on May 14, 2002 the Board adopted Resolution 2002-49 approving the form of and the execution and delivery of a purchase and sale agreement, a trust agreement and an escrow related to the sale of San Benito County's tobacco settlement revenues. This sale returned approximately \$7.3 million in capital improvement funds which are still on deposit and available for Board approved projects. Ms. Kennedy stated that the adoption of today's resolution is for the securitization of an additional amount of 2006 settlement payments.

Catherine Bando, Bond Underwriter, RVC Capital Investments, came forward. Ms. Bando explained that they were engaged by California State Association of Counties (CSAC) in 2000 to put this program together with JP Morgan and with Citi Group. Ms. Bando stated that they were now presenting an opportunity to get additional monies out of the original transaction that was executed in 2002. Ms. Bando explained the history that has now lead to a renewed market for tobacco securitization.

Ms. Bando indicated that one development that had actually occurred today (March 28, 2006), which was expected, was under the Master Settlement Agreement where you are entitled to this revenue stream there is the ability for the four major tobacco manufacturers to reduce their payment because of competition from the non-participating manufacturers. The payment that is due this April is expected to be smaller which may jeopardize this transaction.

Ms. Bando answered questions from the Board of Supervisors.

The Chair opened the public hearing. There being no comment from the public the Chair closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor De La Cruz adopted **Resolution No. 2006-21** approving the form of and the execution and delivery of a purchase sale agreement, a trust agreement and an escrow agreement related to the sale of San Benito County's tobacco settlement revenues and authorized the Chair to sign said resolution. (Unanimous) File #155*

BUILDING & PLANNING DEPARTMENT – A. Henriques:

27) Hold public hearing to consider a proposed ordinance to amend Chapter 18 of the San Benito County Code requiring crowing fowl permits. Location: San Benito County. Environmental Evaluation: Categorically Exempt. San Benito County Planning Commission Resolution No. 2006-03

Art Henriques, Planning Director, provided background information stating the Board has received many complaints over many months about the impacts that roosters have made on various members of the community and those people have asked for further regulation of this problem. Mr. Henriques reported that under the present County Code if you have 500 or more crowing fowl

typically a Use Permit is required with the Planning Commission noting there are several sites where they have a little bit under that number and approximately two months ago the Board requested that Planning Commission and staff work with the community and get input and prepare an ordinance with amendments to the County Code to provide the County a higher level of review and notch down those numbers.

Stacy Watson, Code Enforcement Officer, presented a Power Point Presentation which included the following topics: Why A Crowing Fowl Ordinance?; Complaints Derived from Crowing Roosters; Housing of Crowing Fowl; Standard Game Cock Housing; Reasons for Individual Housing; Results from Roosters Housed Together; and, Current Regulations Ineffective. Also, included was a newspaper article entitled "Rooster Law Has No Teeth".

Supervisor Marcus thanked staff for their work on this issue noting that there have been many legitimate complaints about this problem since he became a supervisor.

Questions by the Board were answered by staff and although the Board had issues with some of the old language of the Zoning Ordinance it was decided to move forward with this ordinance relating to crowing fowl and take up other issues as they arise.

The amortization clause and the abatement of violations were discussed.

The Board discussed modifying the language regarding youth groups. Deputy County Counsel Shirley Murphy indicated that to modify the language of the Zoning Ordinance it would have to go back to the Planning Commission. The Board opted not to do that at this point.

The Chair opened the public hearing.

Charles Lomanto, Lone Tree Road resident, thanked the Board of Supervisors for their participation and to the Planning Commission and staff for their expedient work.

The Chair closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho, moved to receive San Benito County Planning Commission Resolution No. 2006-and adopted **Ordinance No. 796** AMENDING ORDINANCE NO. 479, ZONING, as previously amended (Chapter 18 of the San Benito County Code) to regulate Crowing Fowl. File #790*

The Board adjourned at 3:40 p.m. into Closed Session and reconvened into Regular Session re:

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.)

23) Conference with Legal Counsel – Existing Litigation

Authority: California Government Code Section 54956.9(a)

a) William Damm & Mary Damm vs. San Benito County Board of Supervisors, Tina Bertuccio, et al.

No reportable action. File #235.6

24) Public Employment

Authority: California Government Code Section 54957

Title: County Counsel

No reportable action. File #235.6

25) Public Employment

Authority: California Government Code Section 54957

Title: Director of Internal Services

No reportable action. File #235.6

26) Public Employee Discipline/Dismissal/Release

Authority: California Government Code Section 54957

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; De La Cruz; Botelho; Marcus & Loe
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned at to its next regularly scheduled meeting on, Tuesday, April 4, 2006 at 9:30 a.m.

PAT LOE, CHAIR
San Benito County Board of Supervisors

ATTEST:
Linda Churchill, Clerk of the Board