



## 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 DeLaCruz  
District No. 5

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

### SPECIAL MEETING APRIL 7, 2006 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in **special session**. Supervisors Reb Monaco, Jaime De La Cruz, Anthony Botelho, Don Marcus and Pat Loe were all present. Also present was County Administrative Officer Susan Thompson, Deputy County Counsel Shirley Murphy and Clerk of the Board Linda Churchill. Chair Pat Loe presided.

#### 9:30 a.m. CALL TO ORDER:

- a) Supervisor Monaco led the Pledge of Allegiance.
- b) *Acknowledged Certificate of Posting.*

#### REGULAR AGENDA:

*For each regular agenda item, the following schedule shall occur:*

- a) Staff report.*
  - b) Public opportunity to address the Board on a particular agenda item. Please fill out a speaker card and present it to the Clerk prior to consideration of the item.*
  - c) Consideration by the Board.*
- 1) **Consider and approve various actions related to the District Attorney budget:**
    - a) **Approve Intra Object Line Item transfers.**
    - b) **Review contract between San Benito County and Nancy Battel, Attorney at Law.**
    - c) **Consider District Attorney budget augmentation request.**
    - d) **Direct staff with regard to transfer of contingency funds.**

County Administrative Officer Susan Thompson reported that they were holding this meeting today at the request of the Court to address an issue that the Judge agrees may be immediate and that is several things related to the request of the District Attorney to augment his budget and to continue to engage an attorney for services to his department.

Ms. Thompson stated she would first like to consider the request to approve some Intra Object Line Item transfers (Item a) which basically are a clean up from what was proposed and the Board adopted on March 28, 2006.

Joe Paul Gonzalez, County Finance Director, answered questions by the Board.

**BOARD ACTION:** *Upon motion made by Supervisor Marcus and seconded by Supervisor Monaco approved intra object transfer of appropriations between line items within the District Attorney's amended budget. (Unanimous)*

With regards to Item b Ms. Thompson stated she had nothing to report except that there was a letter received from the District Attorney. Ms. Thompson noted that there was an Engagement Letter that

has been around for some time but we don't have a contract to review today because of the unavailability of Ms. Battel. Ms. Thompson reported that they did have an estimate for augmentation but we don't have a contract asking Mr. Sarsfield to address the matter.

District Attorney John Sarsfield was present to answer questions by the Board noting that in the letter he had indicated that he requested a municipality rate. Mr. Sarsfield stated that as a general rule they did not bid expert services because you have to go and find the expert and they have attempted to reduce costs whenever possible on non-expert services. Mr. Sarsfield stated that he did not have an objection to having a contract with Nancy Battel, noting it was not an unreasonable thing, but he didn't think it was necessary at the time and he still does not think its necessary, but it is a reasonable request. However, as he explained to Judge Sanders, it was simply physically impossible to do that and if the Board wanted to continue this to another date that would be fine.

Lengthy discussion ensued with regards to a proposed contract with Nancy Battel and clarification of the term expert.

Supervisor Marcus asked Mr. Sarsfield that based on what Ms. Thompson has said was Mr. Sarsfield comfortable with the order that the Court has given for this meeting that we cannot conclude it based on the parameters set in the agenda.

Mr. Sarsfield answered that it was his understanding from the court order that the Board was to consider the augmentation requests which included the contract. Mr. Sarsfield stated that the Court is well aware that Ms. Battel is out of the country and so as a practical matter with regards to the contract, nothing can be done on it.

Supervisor Marcus said he was just asking if Mr. Sarsfield was comfortable with the direction that we cannot conclude this meeting under the Court's direction.

Mr. Sarsfield answered that if the question is whether or not he believes that the Board has complied, then the answer is yes he believes they have complied.

Joe Paul Gonzalez answered questions relative to the District Attorney budget.

Supervisor Monaco wanted clarification that with regards to consideration of Item b, because of lack of presence of Ms. Battel, that County Counsel was advising that we are not moving forward with this item.

Deputy Counsel Shirley Murphy agreed that there was nothing to move forward on.

Supervisor Monaco asked then what does this do to Item (c) regarding consideration of a budget augmentation request by the District Attorney.

County Administrative Officer Susan Thompson stated that the District Attorney has made a request, although the direct linkage between that request and what would be necessary to fund the specific services for Ms. Battel is just an estimate.

Supervisor Monaco stated then that item (c) would have to be considered at a later date and it also directly affects the Board's direction to staff with regards to the transfer.

Supervisor Monaco said he was willing to make a motion to continue this item to some later date and although he typically would like to make it a date certain, in this case he didn't know that there was a date certain to make.

*Supervisor Monaco made a motion to continue this item under the direction of staff and County Counsel.*

Ms. Thompson stated that would be her recommendation and it would be appropriate because we are going to have a lot of events between now and the next Board meeting that might cause the Board to need to schedule another special meeting. We are actually going to go into mediation and we are potentially go into court and this kind of process moves very quickly. Ms. Thompson said there might be another special session next week.

Deputy Counsel Shirley Murphy made a recommendation that if the Board wanted to continue this matter to a date certain the Board may wish to continue it to next Tuesday's (April 11, 2006) meeting unless there is a continuation of the mediation.

*Supervisor Monaco said he was not concerned about making it a date certain because he understood all of the dynamics of the process and he would like to just make a motion to continue this item to be reconvened at the direction of staff and County Counsel.*

Supervisor De La Cruz suggested an amendment to the motion to move to table it indefinitely which means it is still on the table and staff can bring it back at a future date.

Supervisor Monaco agreed to the amendment.

**BOARD ACTION:** *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz moved to table the items (b, c, and d) to an indefinite date. (Unanimous) File #205*

**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.)*

**2) Conference with Legal Counsel – Existing Litigation**

Authority: California Government Code Section 54956.9(a)

a) County v. Picone (Fee Arbitration)

**BOARD ACTION:** *The Board of Supervisors retained Lance Burrows to assist with the fee arbitration in this case. 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. to its regular meeting on Tuesday, April 11, 2006 at 9:30 a.m.

PAT LOE, CHAIR

San Benito County Board of Supervisors

ATTEST:

Linda Churchill

Clerk of the Board