

**REGULAR MEETING  
ACTION MINUTES  
JANUARY 11, 2005**

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session. Supervisors Marcus, De La Cruz; Botelho; Loe and Monaco were all present. Also present was Interim County Administrative Officer Gil Solorio, County Counsel Karen R. Forcum and Assistant Clerk Sally Navarez. Chairman Reb Monaco presiding when the following was had to wit:

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

a) Pledge of Allegiance.

Chairman Monaco asked for a moment of silence out of respect for the Indonesian tsunami victims.

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

c) **Public Comment:** Danielle Escover of the Union 4-H Club came forward and indicated she was an All Star Candidate for 2005/2006. Miss Escover thanked the Board for their continued support for the 4-H Program. Miss Escover noted her community project was making quilts and donating them to the Shriners Children's Hospital.

Patrick Pekin, son of attorney Michael Pekin, came forward. Mr. Pekin referenced material he had for the Board's review relative to the request of an investigation of District Attorney Sarsfield due to a civil suit being brought against him, his father and assistant Amanda Hernandez.

Counsel Forcum interjected that this matter was beyond the scope of the Public Comment period and also noted that this Board had no jurisdiction of an elected official.

Chairman Monaco noted the Board was not in a position to hear this matter.

Discussion ensued with Chairman Monaco taking a poll of the Board as to whether or not to continue hearing the matter to which the poll was 4-1 with Supervisor De La Cruz voting no on the matter, in favor of not continuing the discussion.

Mr. Pekin again began to cite laws concerning this matter and Counsel Forcum again indicated this matter was beyond the scope of the Public Comment period.

Chairman Monaco indicated to Mr. Pekin his allotted time had expired and suggested Mr. Pekin discuss his concerns with County Counsel.

Amanda Hernandez, assistant to Mr. Pekin, came forward and indicated she had a packet of information relative to the civil suit she has been named in that she would like to distribute to the Board.

Chairman Monaco indicated to Ms. Hernandez that her comments were also beyond the scope of the Public Comment period but advised her to hand the packet to the Clerk. Chairman Monaco then deferred to Counsel.

Counsel Forcum again indicated this matter was beyond the scope of the Public Comment period.

Ms. Hernandez gave packets to Clerk and returned to her seat.

Dennis Madigan, local resident, came forward. Mr. Madigan expressed his concern of the Board paying so much money to outside law firms for litigation issues. Mr. Madigan suggested this Board step up and settle the matters before more money is spent.

Don Kelley, resident and local businessman, came forward. Mr. Kelley also suggested that the Board look into all open ended lawsuits, open access to all records and end the matters once and for all as it was costing quite a bit of money for lawsuits.

Chairman Monaco indicated that the Board was aware of the amount of monies being spent on outside counsel; however information cannot be released as long as the case(s) remain in litigation.

d) **Department Head Announcements:** Human Resources Director Elizabeth Brown gave an update/status report on the recruitment for the position of County Administrative Officer. Ms. Brown noted the final filing date has been extended to February 16, 2005. Ms. Brown explained the Board Sub-Committee comprising of Supervisors Monaco, Marcus and herself, anticipate following the interview process, of possibly having an Administrator on board sometime in May, 2005.

Direction was given to Ms. Brown to place this matter on the January 25, 2005 Board meeting for an additional update/status report from herself and the Sub Committee.

e) **Board Announcements, Introductions and Presentations:** There were no Department Head Announcements per Interim CAO Solorio.

#### **CONSENT AGENDA:**

Supervisor De La Cruz asked that Item #10 be pulled from the Consent Agenda for clarification purposes. Chairman Monaco also indicated that Item #1 would be pulled for further clarification as well.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Marcus, approved Consent Agenda Item #2 through 13, excluding Items #1 and #10 which were pulled for further discussion/clarification purposes.*

#### **ADMINISTRATIVE BUSINESS:**

1) **Consider agreement with Lucille Ueltzen re: study session facilitation services with a contract term of January 4, 2005 through June 30, 2005. (Supervisor Monaco)**

Supervisor De La Cruz asked that this matter be pulled. Supervisor De La Cruz recommended that the term of the agreement be amended to reflect effective January 11, 2005 through June 30, 2005.

Supervisor De La Cruz asked, and discussion ensued, as to whether or not the Planning Commission would be able to utilize these services as well.

Interim CAO Solorio explained that the Planning Commission would have to enter into a specific agreement relative specifically to matters/regulations that pertain to the Planning Commission. Mr. Solorio also recommended, as requested by Supervisor De La Cruz, to have the term of the contract effectively begin with January 11, 2005.

**BOARD ACTION:** *Upon motion duly made by and seconded by, approved agreement with Lucille Ueltzen for the provision of study session facilitation services, amending the contract term effective January 11, 2005 through June 30, 2005. Motion passed unanimously. (file #156)*

2) **Approved** Certificates of Recognition honoring Chamber of Commerce Man and Woman of the Year for 2004 for presentation at the Chamber of Commerce Dinner Dance to be held on January 15, 2005. *(file #156)*

AUDITOR – J. Hodges:

- 3) **Approved** Departmental Claims.

CLERK OF THE BOARD:

- 4) **Approved** Proof of Publication.

COUNTY COUNSEL - K. Forcum:

- 5) **Rejected** claim of Juanita Vargas filed with the clerk of the board on December 6, 2004 and **directed** clerk to notify claimant. (file #235)  
6) **Accepted** claim of Michelle Roan, as submitted, filed with the clerk of the board on December 9, 2004 and **directed** clerk to notify claimant. (file #236)  
7) **Rejected** claim of Tara Larkin filed with the clerk of the board on December 3, 2004 and **directed** clerk to notify claimant. (file #235)

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 8) **Approved** amendment to FY2004/2005 Fixed Asset Schedule;  
a) **Reflecting** the purchase of a telephone system at \$17,611; and  
b) **Reflecting** the purchase of a vehicle at \$12,399. (file #130)  
9) **Approved** agreement with Patricia Leary re: occupational therapist services with a contract term of January 11, 2005 through June 30, 2005 and authorized Chair to sign. (file #420)  
10) **Consider agreement with Chamberlain’s Children’s Center re: provision of shelter respite services and family worker services with a contract term of July 1, 2004 through June 30, 2005.**

Item was pulled by Supervisor De La Cruz for questions.

Supervisor De La Cruz questioned Interim Director Kathryn Flores if any proposals had been received from other providers and where was the funding coming from.

Ms. Flores indicated a Request For Proposal had been distributed; however, this entity was the only agency to respond. Regarding the funding, Ms. Flores indicated that was received from the State.

**BOARD ACTION:** *Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Marcus, approved agreement with Chamberlain’s Children Center for the provision of shelter respite services and family worker services with a contract term of July 1, 2004 through June 30, 2005. Motion passed unanimously 5-0. (file #130)*

- 11) **Approved** agreement with Chamberlain’s Children’s Center mental health services re: provision of parent education classes with a contract term of July 1, 2004 through June 30, 2005 and authorized Chair to sign. (file #130)

SHERIFF – C. Hill:

- 12) a) **Approved** purchase of new van to be used by the Sheriff’s Coroner’s Division. (file #110)  
13) **Approved Resolution No. 2005-4 Authorizing Temporary Road Closure Of a County Roadway For A Special Event Sponsored By The Hollister Rotary Club** in the San Juan Bautista area for the 22<sup>nd</sup> Annual Mission 10, 10-mile, 5-K Run on February 5, 2005 and **authorized** Chair to sign. (file #110)

**9:40 a.m. REGULAR AGENDA:**

ASSESSOR – A. Fontes:

- 14) Consider proposed ordinance providing for the reassessment of property damaged or destroyed by misfortune or calamity and
- a) Introduce Ordinance; and
  - b) Waive the reading of said Ordinance; and
  - c) Allow for Board discussion and public input regarding said Ordinance; and
  - d) Continue consideration of the Ordinance to the January 25, 2005 Board meeting.

**BOARD ACTION:** *Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Botelho, introduced Ordinance; waived the reading of said Ordinance, allowed for Board discussion and continued consideration of said Ordinance to the meeting of January 25, 2005. Motion passed unanimously. (file #7)*

- 15) Consider and accept resignation of Arnold R. Fontes, San Benito County Assessor, effective January 31, 2005.

**BOARD ACTION:** *Accepted resignation of Arnold R. Fontes, San Benito County Assessor, effective January 31, 2005; appointed Supervisor Loe and Supervisor Botelho to work with Mr. Fontes and staff to seek a replacement and directed this matter be agendized on the January 25, 2005 meeting for consideration of an interim replacement. Motion passed unanimously. (file #7 & 630)*

DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

- 16) Consider FY04 State Homeland Security Grant fixed asset expenditures.

**BOARD ACTION #1:** *Upon motion duly made by Supervisor Marcus; seconded by Supervisor De La Cruz and carried, **approved** requested Fixed Assets, adjusted budget unit 1001263 Object Code #6503 to \$190,500 and amended the FY04/05 Fixed Asset Schedule as per the fixed asset list. Motion passed unanimously 5-0.*

**BOARD ACTION #2:** *Upon motion duly made by Supervisor De La Cruz; seconded by Supervisor Marcus and carried, **amended** Spec Dept Expense budget unit 1001653 Object Code #6263 to reflect decrease in the expense line item in the amount of \$190,500 and an increase in Fixed Asset line item in the amount of \$190,500 and authorize signature to budget adjustment/transfer form. Motion passed unanimously 5-0.*

**BOARD ACTION #3:** *Upon motion duly made by Supervisor Marcus; seconded by Supervisor De La Cruz and carried, **authorized** Director of OES to make expenditures with the FY04 Homeland Security Grant funding on behalf of the County Operational Area. Motion passed unanimously. (file #75.5)*

SHERIFF – C. Hill:

- 17) Consider approval of Needs Assessment and Master Plan proposal by Facility Program Management Group, Inc. for \$30,008 and authorize the Sheriff to enter into contract negotiations on behalf of the County of San Benito.

**BOARD ACTION:** *Upon motion duly made by Supervisor Botelho, seconded by Supervisor De La Cruz and carried, **approved** the submitted proposal of Facility Program Management Group, Inc. in the amount of \$30,008 and **authorized** the Sheriff to enter into contract negotiations on behalf of the County of San Benito. Motion passed unanimously. (file #110)*

ADMINISTRATIVE BUSINESS /BOARD OF SUPERVISORS:

18) Consider nominations for appointment to the Historical Heritage Advisory Committee for Supervisorial Districts #1, #2 and #5. (Interim CAO)

For the record, prior to discussing this matter, Supervisor De La Cruz officially withdrew both nominations for appointment for District 5.

**BOARD ACTION #1:** *Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Botelho, **approved** Janet Brians and Jack O'Donnell for appointment to the Historical Heritage Advisory Committee for Supervisorial District #1. Motion passed unanimously.*

**BOARD ACTION #2:** *Upon motion duly made by Supervisor Botelho and seconded by Supervisor Loe, **approved** Georgana Gularte and Ted Thoeny for appointment to the Historical Heritage Advisory Committee for Supervisorial District #2. Motion passed unanimously.*

**10:00 a.m. CLOSED SESSION AGENDA:**

19) **Conference with Legal Counsel - Anticipated Litigation**

a) **Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9. Number of cases: 3**

Prior to entering Closed Session, Counsel indicated there were two (2) cases to discuss and one (1) case was withdrawn.

b) **Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9. Number of cases: 3**

Prior to entering Closed Session, Counsel indicated that all three (3) cases had been withdrawn. (*file #235.6*)

20) **Conference with Legal Counsel - Existing Litigation**

a) **Sandman vs. County of San Benito**

b) **Monteon vs. Richard Scagliotti, San Benito County Board of Supervisors, San Benito County Financing Corporation, et al.**

c) **Fancher and Roybal vs. County of San Benito, John Sarsfield, et al.**

d) **Martinez vs. County of San Benito, Tom Quigley, et al.**

e) **County of San Benito vs. John Anderson, et al.**

f) **Casarez vs. County of San Benito and Sheriff Curtis Hill**

g) **De La Cruz and Velasquez vs. County of San Benito, Ruth Kesler, et al.**

h) **Densmore vs. County of San Benito, et al.**

i) **Fort et al. vs. County of San Benito, et al.**

j) **Jimenez vs. County of San Benito, et al.**

k) **Lucero vs. County of San Benito, et al.**

l) **Stafford-Pelt vs. State of California, County of San Benito, City of Hollister, et al.**

m) **Torres vs. County of San Benito, et al.**

21) **Public Employment**

**Title: County Administrative Officer**

By order of the Chair, Board broke for lunch and will reconvene at 1:30 p.m. and begin with Item #22 then continue with the Closed Session matters.

PLANNING DEPARTMENT – R. Mendiola:

22) Hold public hearing to consider an appeal of the December 15, 2004 Planning Commission decision reflected in Planning Commission Resolution #2004-28 regarding denial of Preliminary Allocation #05-09. Appellant: Dale Lindseth. Location: 138 Pan Tempo Way, Hollister, CA APN: 17-18-53. Zoning: Agricultural Productive (AP)

***(Appellant has agreed to a continuance of this matter to the January 25, 2005 Board of Supervisor's meeting.)***

Discussion was had between the Board of Supervisors and Planning Director regarding the methodology utilized/implemented in the Preliminary Allocation process.

**BOARD ACTION:** *Upon motion duly made by Supervisor Marcus and seconded by Supervisor Botelho, continued this matter to the meeting of January 25, 2005 to be heard along with the other two appellants of this same issue. Motion passed unanimously 5-0. (Appeal file)*

**CONTINUATION OF CLOSED SESSION FROM MORNING SESSION:**

19) **Conference with Legal Counsel - Anticipated Litigation**

a) **Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9. Number of cases: 3**

Prior to entering Closed Session, Counsel indicated there were two (2) cases to discuss and one (1) case was withdrawn.

*Upon exiting Closed Session, Counsel reported that the Board authorized payment to outside counsel Harry Damkar retained by Chairman Monaco in an amount not to exceed \$10,000 to be paid from General Fund Contingencies for services rendered to assist Supervisor Monaco in a meeting with the District Attorney's office and for potential future representation by the outside counsel related to the Criminal Grand Jury proceedings involving Michael Pekin.*

*Regarding remaining case, Counsel indicated there was no reportable action taken. (file #235.6)*

b) **Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9. Number of cases: 3**

Prior to entering Closed Session, Counsel indicated that all three (3) cases had been withdrawn. *(file #235.6)*

20) **Conference with Legal Counsel - Existing Litigation**

a) **Sandman vs. County of San Benito**

*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*

b) **Monteon vs. Richard Scagliotti, San Benito County Board of Supervisors, San Benito County Financing Corporation, et al.**

*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*

c) **Fancher and Roybal vs. County of San Benito, John Sarsfield, et al.**

*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*

d) **Martinez vs. County of San Benito, Tom Quigley, et al.**

*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*

e) **County of San Benito vs. John Anderson, et al.**

*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*

- f) **Casarez vs. County of San Benito and Sheriff Curtis Hill**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*
  - g) **De La Cruz and Velasquez vs. County of San Benito, Ruth Kesler, et al.**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*
  - h) **Densmore vs. County of San Benito, et al.**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*
  - i) **Fort et al. vs. County of San Benito, et al.**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*
  - j) **Jimenez vs. County of San Benito, et al.**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*
  - k) **Lucero vs. County of San Benito, et al.**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*
  - l) **Stafford-Pelt vs. State of California, County of San Benito, City of Hollister, et al.**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*
  - m) **Torres vs. County of San Benito, et al.**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*
- 21) **Public Employment**  
**Title: County Administrative Officer**  
*Upon exiting Closed Session, Counsel reported no reportable action taken. (file #235.6)*

Adjourned as the San Benito County Board of Supervisors and reconvened as the San Benito County Financing Corporation.

Corporation Minutes are done separately.

Adjourned as the San Benito County Financing Corporation and reconvened as the San Benito County Board of Supervisors.

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

There being no further business the Board adjourned to its next regularly scheduled meeting on Tuesday, January 25, 2005 at 9:30 a.m.

**REB MONACO, CHAIRMAN**  
**San Benito County Board of Supervisors**

ATTEST:  
John R. Hodges  
 Clerk of the Board

BY:  
Sally Navarez  
 Assistant Board Clerk