

REGULAR MEETING ACTION MINUTES JANUARY 25, 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 Senior Board Clerk Linda Churchill. Chairman Monaco called the meeting order.

9:30 a.m. CALL TO ORDER:

- a) Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Paul Wattis, Panoche Road resident, came forward. Mr. Wattis thanked and recognized Assistant Public Works Director Pete Corn and the Public Works Department crew for the work they have done to keep Panoche Road open after the landslide at the Jones Ranch due to the recent heavy rains.
- d) **Department Head Announcements:** There were none.
- e) **Board Announcements, Introductions and Presentations:** Supervisor De La Cruz commended the Public Works Department for the good work they did after the recent storms. Supervisor Marcus reported that he and Supervisor Botelho attended an Assessment Appeals Training Workshop in Oakland on January 13th and found it to be very informative.

CONSENT AGENDA:

Upon motion made by Supervisor De La Cruz and seconded by Supervisor Marcus, approved Consent Agenda Items 1 through 15.

ADMINISTRATION / BOARD OF SUPERVISORS:

- 1) **Acknowledged** the appointment of Paul Wattis by Supervisor Monaco to the Agricultural Preserve Advisory Committee representing Supervisorial District #4. (Supervisor Monaco) *File #7*
- 2) **Approved** Certificates of Recognition honoring the Chamber of Commerce Businesses of the Year for 2004. (Supervisor Botelho) *File #7*

AUDITING:

- 3) **Approved** Departmental Claims.

CLERK OF THE BOARD:

- 4) **Approved** the Action Minutes for the meeting of January 4, 2005.

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT – K. Flores:

- 5) **Approved** the appointment of Steve Lujan as the District #5 Board of Supervisors representative for a three-year term effective February 1, 2005 through January 31, 2008. *File #939*
- 6) **Adopted Resolution No. 2005-5** Authorizing Execution of a Grant Agreement and Signing Authority for the 2005 Community Services Block Grant (CSBG) #05F-4635. *File #939*
- 7) **Adopted Resolution No. 2005-6** Authorizing Signing Authority for Low Income Home Energy Assistance Program (LIHEAP) Grant #05B-5334. *File #939*

DISTRICT ATTORNEY – J. Sarsfield:

- 8) **Approved** agreement with Hollister Mini-Storage re: off-site storage unit services with a contract term of November 1, 2004 through November 1, 2006. *File #205*

FIRST FIVE SAN BENITO – K. Castillo:

- 9) **Approved** agreement with Kim Stemler & Associates re: strategic planning process services with a contract term of January 1, 2005 through June 30, 2005. *File #155*

IN HOME SUPPORTIVE SERVICES – G. Swanson:

- 10) Regarding In Home Supportive Services (IHSS) Advisory Committee:
 - a) **Accepted** the resignation of Cynthia Abrams from the IHSS Advisory Committee; and
 - b) **Appointed** Angelina Rojas to the IHSS Advisory Committee for the term of June 30, 2004 through October 31, 2005. *File #130.1*

PUBLIC WORKS:

- 11) **Approved** agreement with Roger Ernst & Associates re: collection and sale of surplus property with a contract term of February 8, 2005 through June 30, 2006. *File #105*
- 12) **Declared** County Library equipment as surplus and remove from inventory. *File #105*
- 13) **Declared** Administration equipment as surplus and remove from inventory. *File #105*

SUBSTANCE ABUSE PROGRAM – M. Narasaki:

- 14) **Approved** agreement with Changing Echoes re: residential treatment services with a contract term of July 1, 2004 through June 30, 2005. *File #1053*
- 15) **Authorized** the Substance Abuse Program Administrator to apply for an augmentation of Safe and Drug Free Schools and Communities Grant. *File #1053*

9:40 a.m. REGULAR AGENDA:

PRESENTATIONS / RECOGNITIONS:

- 16) **Presentation of Certificate of Recognition to Arnold Fontes, retiring County Assessor, for over 34-years of outstanding dedication and service to the County of San Benito. (Supervisor Monaco)**

Chairman Monaco presented a plaque to Assessor Arnold Fontes who is retiring from office effective January 31, 2005.

Mr. Fontes accepted the plaque and thanked the Board of Supervisors and the public for his many great years serving as the Assessor for San Benito County. Mr. Fontes received a standing ovation. *File #7*

ASSESSOR – A. Fontes:

17) **Consider adoption of proposed ordinance providing for the reassessment of property damaged or destroyed by misfortune or calamity.** *(cont. from 1/11/05 mtg.)*

Assessor Arnold Fontes provided background information stating that this proposed ordinance was agendized on January 11, 2005 at which time the reading of the ordinance was waived.

BOARD ACTION: *Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho adopted **ORDINANCE NO. 783** PROVIDING FOR THE REASSESSMENT OF PROPERTY DAMAGED OR DESTROYED BY MISFORTUNE OR CALAMITY. (Unanimous vote.) File #7*

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT (CSWD) – K. Flores:

18) **Consider follow-up report re: Status of 2001 Community Development Block Grant (CDBG) for construction of low-income childcare center.** *(cont. from 1/4/05 mtg.)*

CSWD Director Kathy Flores provided a follow-up report after meeting with Supervisors Loe and Marcus as directed at the January 4, 2005 meeting. Because of the information discovered in the follow-up process, Ms. Flores regrettably recommended that the Board of Supervisors disencumber the 2001 Community Development Block Grant (CDBG) for low income child care center construction with the understanding that the County will revisit the issue in one to two years to assess the feasibility of applying for funds for the project at that time.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Loe accepted the CSWD Director's report and moved to disencumber the #01-STBG-1609 Community Development Block Grant. (Unanimous vote.) File #939*

ADMINISTRATIVE BUSINESS:

19) **Consider status report of the position of County Assessor. (Supervisor Loe and Supervisor Botelho)**

Supervisor Botelho reported that he and Supervisor Loe met with the Assessor's staff and found it to be a very cohesive, hardworking office noting that it was one of the best run departments. Supervisor Botelho stated they would like to keep the continuity and felt that Assistant Assessor Tom Slavich would be a welcome replacement for retiring Assessor Arnold Fontes.

BOARD ACTION: *Direction was given to the Human Resources Director to meet with Tom Slavich and to agendize this matter for the February 1, 2005 Board of Supervisors meeting to consider appointment of Mr. Slavich as a replacement for Assessor Arnold Fontes who is retiring effective January 31, 2005. File #7*

20) **Conduct Discussion regarding Ordinance #781 (Hillside Development Regulations) (Supervisor Marcus)**

Supervisor Marcus stated that Ordinance #781 warranted clarity and discussion because of the amount of community interest in the ordinance and such a discussion would provide an opportunity for further public input.

The following members of the public spoke in opposition to the ordinance: John Buchanan, Joseph A. Zanger, Sr., Bill Hawkins, Paul Wattis, Nenette Corotto, Paul Hain and Ray Pierce.

The following members of the public spoke in favor of the ordinance: Peggy Kingman, Rebecca McGovern and Richard Saxe,

Discussion was held.

BOARD ACTION: *Supervisor De La Cruz made a motion to send Ordinance No. 781 (Hillside Development Regulations) back to the Planning Commission for evaluation, with input from the public and to have the Planning Department report back to the Board of Supervisors periodically for an update and to make certain that all legal aspects, such as an environmental review, are followed. Supervisor Botelho seconded the motion. (Unanimous vote)*

21) Consider update on recruitment process for County Administrative Officer. (Supervisor Monaco and Supervisor Marcus)

Accepted report given by Human Resources Director Elizabeth Brown who noted that the process would take approximately three to four months. File #630

CLOSED SESSION AGENDA:

County Counsel Karen Forcum noted that the Board would recess at 12 noon for lunch and if they were not finished in Closed Session they would return to Closed Session after the public hearings scheduled for 1:30 p.m.

Supervisor Loe left at 11:30 a.m. to attend a meeting in Gilroy regarding Indian Gaming and returned at approximately 3:45 p.m. for the remainder of Closed Session.

The Board adjourned into Closed Session until noon, returned to Closed Session at 3:45 p.m. and reconvened into regular session at approximately 5:30 p.m. re:

22) 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**

2 cases – No reportable action.

1 case – Withdrawn by County Counsel.

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

2 cases – No reportable action.

1 case – Withdrawn by County Counsel. File #235.6

23) 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 v. County of San Benito, John Sarsfield, et al.
d) Martinez v. County of San Benito, Tom Quigley, et al.

- e) De La Cruz and Velazquez vs. County of San Benito, Ruth Kesler, et al.
- f) Casarez v. County of San Benito and Sheriff Curtis Hill.
- g) Densmore v. County of San Benito, et al.
- h) Fort et al. vs. County of San Benito, et al.
- i) Jimenez v. County of San Benito, et al.
- j) Lucero vs. County of San Benito, et al.
- k) Stafford-Pelt vs. State of California, County of San Benito, City of Hollister, et al.
- l) Torres vs. County of San Benito, et al.
- m) County of San Benito vs. John Anderson, et al.

No reportable action on any of the above noted items. File #235.6

24) Public Employment

Title: County Administrative Officer

BOARD ACTION: *County Counsel Karen Forcum reported out that Gil Solorio has resigned as Interim County Administrative Officer (CAO) effective January 31, 2005 and the Board of Supervisors has requested Mr. Solorio to remain through February 1, 2005 at 5:00 p.m.*

The Board unanimously appointed Susan Lyons as Acting CAO effective February 2, 2005.

Direction was given to staff to negotiate a contract with Sally Reed to provide consultant services to assist the Acting CAO. File #235.6

1:30 p.m. PUBLIC HEARINGS: *(Or as soon thereafter as the matters may be heard.)*

PLANNING DEPARTMENT – R. Mendiola:

Planning Director Rob Mendiola explained the point system for receiving preliminary allocations. Mr. Mendiola reported on December 1, 2004 at a regularly scheduled Planning Commission meeting the Commission awarded Preliminary Allocations based on applications submitted for the 2004-2005 fiscal year. At a special Planning Commission meeting held on December 15, 2004, Resolution No. 2004-28 was adopted by a unanimous vote of all Commissioners awarding 26 allocations. Three timely filed appeals of the Commissioner's decision were filed.

It was decided by the Board of Supervisors to hear only the three timely filed appeals and they would hear all three appeals prior to making a decision.

Mr. Mendiola explained the alleged errors submitted by each appellant and the reason behind the Commissioner's decision.

Chairman Monaco opened the first public hearing.

25) Regarding Preliminary Allocations for FY2004/2005, consider and:

- a) **Hold public hearing re: 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) (cont. from 1/11/05 mtg.)**

Appellant Dale Lindseth felt that he met the standards required after he made the requested modifications.

Bruce Tichinin, Attorney for Thomas Grant who owns the 2000 acres surrounding the Lindseth property stated there were safety and noise issues. Mr. Tichinin handed out a FEMA Floodplains map and a California Courts of Appeal Opinion.

Patricia Riley, Real Estate Agent, came forward stating that Mr. Lindseth does not have the property listed anymore because he chose not to sell. Ms. Riley said there were million dollar properties that sit on floodplain.

Roger Grimsley, Engineer, came forward stating that he was hired by Thomas Grant. Mr. Grimsley stated that the FEMA Floodplain map submitted was not officially approved by the Board of Supervisors, but there is potential for floods.

Mr. Mendiola noted at this time that it just came to his attention that due to a mathematical error there should have been 27 allocations rather than 26.

Chairman Monaco closed the public hearing after questions and discussion by the Board.

- b) **Hold public hearing re: an appeal of the December 15, 2004 Planning Commission decision reflected in Planning Commission Resolution #2004-28 regarding denial of Preliminary Allocation #05-13. Appellant: Everett Grabeel. Location: 4661 Fairview Road, Hollister, CA. APN: 17-15-49. Zoning: Agricultural Productive (AP)**

Chairman Monaco opened the public hearing.

Appellant Everett Grabeel felt that the point system wasn't fair noting that he was very high on the ranking and there were allocations given that did not receive as high a ranking as he had.

Roger Grimsely stated that the highest point getter should get the one allocation that is available and that would be Mr. Grabeel.

Bill Young came forward stating that there was lots of jockeying at the Planning Commission meeting and he could have modified his application if he had been aware.

Chairman Monaco closed the public hearing after questions and discussion by the Board.

- c) **Hold public hearing re: an appeal of the December 15, 2004 Planning Commission decision reflected in Planning Commission Resolution #2004-28 regarding denial of Preliminary Allocation #05-20. Appellant: Willis G. Pack. Location: 2191 Buena Vista Road, Hollister, CA. APN 019-100-017-0 & 019-100-015-0. Zoning: Agricultural Productive (AP)**

Chairman Monaco opened the public hearing.

Appellant Willis Pack felt that he did qualify and after a benignly chaotic Planning Commission meeting and based on the process he felt he should have gotten one allocation that others got.

Chairman Monaco closed the public hearing after questions and discussion by the Board.

The Board unanimously decided to grant the one extra allocation today and to send the Preliminary Allocation program back to the Planning Commission to re-evaluate the process.

Based on Mr. Grabeel's high point ranking and suggesting that somehow Mr. Lindseth and Mr. Pack get high consideration next year the Board took the following actions:

BOARD ACTIONS:

- 1) *Supervisor Marcus moved to deny the appeal of Dale Lindseth and to uphold the Planning Commission findings. Supervisor Botelho seconded the motion. (Vote 3-1. De La Cruz voted no. Loe absent.)*
- 2) *Supervisor Marcus moved to deny the appeal of Willis Pack and to uphold the Planning Commission findings. Supervisor Botelho seconded the motion. (Vote. 4-0. Loe absent.)*
- 3) *Supervisor Marcus made a motion to direct the Planning Department to prepare a resolution overturning the Planning Commission decision and reflecting the alleged errors and grant the appeal of Everett Grabeel; and in light of finding an extra allocation due to a mathematical error by the Planning Department, and due to the Planning Commission confirming the high point ranking of Mr. Grabeel, upon review by Counsel, award that one allocation to Mr. Grabeel. Supervisor Botelho seconded the motion. (Vote 4-0. Loe 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: Don Marcus, Jaime De La Cruz, Anthony Botelho,
Pat Loe, Reb Monaco
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to its next regularly scheduled meeting on February 1, 2005 at 9:30 a.m.

REB MONACO, CHAIRMAN
San Benito County Board of Supervisors

ATTEST:
John R. Hodges
Clerk of the Board

BY:
Linda Churchill
Senior Board Clerk