

**REGULAR MEETING
ACTION MINUTES
FEBRUARY 1, 2005**

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session at its usual location of 481 Fourth Street, Hollister, CA. 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.
- b) *Upon motion duly made, seconded and carried, acknowledged the Certificate of Posting.*
- c) **Public Comment:** There was no one wishing to address the Board under Public Comment.
- d) **Department Head Announcements:** Per Interim CAO Solorio, there were no Department Head announcements.
- e) **Board Announcements, Introductions and Presentations:** Chairman Monaco indicated the Board was planning a retreat and would like to know what dates worked best for all Board members: February 14th, February 25th or February 28th. All Supervisors indicated February 28th was the best date.
Supervisor Loe noted that she worked with and was a member of Fishes and Loaves. Supervisor Loe noted there will be a meeting on February 4th at 2:00 p.m. for a discussion on the homeless and the need for a winter shelter. Supervisor Loe invited the public to attend and bring their ideas and suggestions.
Supervisor Botelho took the opportunity to thank Mr. Solorio for his dedication to the Board and for his assistance as the Interim County Administrative Officer.
Supervisor Botelho's sentiments were echoed by each of the Board members and Mr. Solorio was met with a round of applause of the Board and audience.

CONSENT AGENDA:

Chairman Monaco indicated a request was made to pull Consent Item #2 for further discussion.

Upon motion duly made by Supervisor De La Cruz and seconded Supervisor Marcus by Supervisor De La Cruz, approved the Consent Agenda, Item #1, #3 through 5 and pulled Item #2 for further discussion. Motion passed unanimously 5-0.

ADMINISTRATION / BOARD OF SUPERVISORS:

1) **Acknowledged** the appointment of Sergio Garcia by Supervisor De La Cruz to the Agricultural Preserve Advisory Committee representing Supervisorial District #5. (file #7.1)

2) **Consider augmentation of Marshal's FY2004/2005 budget re: Deputy Marshal services.** This item was pulled for further discussion and clarification by the Interim CAO.

Discussion ensued explaining that the augmentation is due to Marshal's office providing court security prior to those duties being assigned to the Sheriff's Department.

BOARD ACTION: Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Botelho, **authorized** an augmentation in the amount of \$29,133 to the Marshal's FY04/05 Salaries & Benefits budget #1001-211. Motion passed unanimously.

BOARD ACTION: Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Botelho, **authorized** an augmentation in the amount of \$18,861 to the Marshal's FY04/05 Court Trial Revenue budget #1001-211. Motion passed unanimously.

BOARD ACTION: Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Botelho, **authorized** the use of \$10,272 in General Fund Contingencies for the balance of expended costs related to Deputy Marshal services. Motion passed unanimously. (file #865/265)

AUDITOR – J. Hodges:

3) **Approved** Departmental Claims.

COUNTY COUNSEL – K. Forcum:

4) **Approved** agreement with the San Juan Cemetery District re: the provision of legal services with a contract term of July 1, 2004 through June 30, 2009 and authorized Chair to sign. (file #156)

HUMAN RESOURCES – E. Brown:

5) **Approved** agreement with the California State Association of Counties (CSAC) Human Resources Advisory Services re: recruitment services for the position of County Administrative Officer with a contract term of November 9, 2004 through June 30, 2005 and **authorized** Chair to sign. (file #630)

9:40 a.m. REGULAR AGENDA:

DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

6) **Proposed resolution confirming the County Administrative Officer's resolution proclaiming the existence of a local emergency on Thomas Road.**

Director Margie Riopel informed the Board of the circumstances arising of the problem at Thomas Road in the need to acquire Fish and Game authority to enter the stream/river to fix the road.

Assistant Director of Public Works – Engineering, Arman Nazemi, came forward. Mr. Nazemi indicated work needed to be done required entering the stream/river and as a result, Fish and Game permission was necessary.

Ms. Riopel explained that by the Interim CAO declaring a local emergency, the County could enter the streambed under emergency conditions, therefore not requiring Fish & Game approval.

Discussion ensued whereby it was directed that Mr. Nazemi bring back estimates on costs associated with this matter and Ms. Riopel to return to the Board reaffirming said proclamation to continue with this matter.

BOARD ACTION: *Upon motion duly made by Supervisor Marcus and seconded by Supervisor De La Cruz, approved **Resolution No. 2005-7 Confirming the County Administrative Officer's Resolution Proclaiming the Existence Of A Local Emergency On Thomas Road.** Motion passed unanimously 5-0.*

Director Riopel indicated she would continue to agendize this matter for further updates/input from OES as well as Public Works. (file #104)

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 7) Re: purchase of a vehicle:
- a) Approve bid specifications and authorize deviation from the State of California Department of General Services' adopted specifications; and
 - b) Authorize issuance of Invitations For Bids and authorize Chair to sign related documents.

BOARD ACTION: *Upon motion duly made by Supervisor Botelho and seconded by Supervisor De La Cruz, regarding the purchase of a vehicle:*

- a) **Approved** bid specifications and **authorized** deviation from the State of California Department of General Services' adopted specifications; and
- b) **Authorized** the issuance of Invitations For Bids and **authorized** the Chair to sign related documents. Motion passed unanimously 5-0. (file #130)

PROBATION – D. Botts:

- 8) Consider status report of the Probation Department.

BOARD ACTION: *Received informational report from Deborah Botts, Chief Probation Officer. No formal action was taken. (file #510)*

ADMINISTRATIVE BUSINESS:

- 9) Consider appointment of Tom Slavich as Assessor for the unexpired term of Arnold Fontes commencing February 1, 2005. (Supervisor Loe & Supervisor Botelho)

BOARD ACTION: *Upon motion duly made by Supervisor Marcus and seconded by Supervisor De La Cruz, appointed Mr. Tom Slavich as County Assessor for the unexpired term of Arnold Fontes, commencing February 1, 2005. Motion passed unanimously 5-0. (files #7 & #630)*

- 10) Consider agreement with Sally Reed re: administrative consultation services with a contract term of February 1, 2005 through January 31, 2006. (Supervisor Monaco & Supervisor Marcus)

BOARD ACTION: *Upon motion duly made by Supervisor De La Cruz, seconded by Supervisor Loe and carried, approved agreement with Sally Reed for the provision of administrative consultation services with a contract term of February 1, 2005 through January 31, 2006. Motion passed unanimously 5-0. (file #156 & #630)*

- 11) Discussion re: Indian Gaming in San Benito County. (Supervisor Loe & Supervisor Marcus)

Val Lopez, Tribal Chairman of the Amuh Mutsun Tribe, came forward and spoke in opposition to a gaming facility citing the proponents were not an indigenous people.

Natasha Wist, noted while she lives in Morgan Hill, she owns property in San Benito County and was opposed to a gaming facility citing other such facilities have failed to generate the promised revenues and jobs.

David Nicholaysen, CRAPS, spoke in opposition to said facility citing no hard evidence has been presented to support any economic benefits to the area.

Gary Ramos, Project Manager, came forward and urged the Board to look at all information regarding the project before taking a stand on this issue and spoke in favor of said project.

Ruth Nordstrom, local resident, urged the Board to take a position against the facility.

Brad Sullivan, from Lombardo & Gilles, commended Supervisor Loe for taking a stand and spoke in opposition to said facility.

Supervisor Loe noted she would like to see the following points included in a proposed resolution to be brought back before this Board on February 22nd:

- San Benito County is definitely not in favor of “reservation shopping.”
- The land is not contiguous to where the Tribe has its current reservation.
- The proposal is premature because right now, CSAC is looking at guidelines for this kind of development and believes it is very important to have those guidelines before we proceed.
- There is a dispute among the Tribe itself over leadership.
- There will be a loss of all current control.
- There is overwhelming local opposition.
- There will be negative impacts to local services.
- There will also be negative impacts to local businesses.
- There will be premature loss of agricultural land.
- This will create new traffic problems.

Supervisor De La Cruz wanted to see something to the nature that this would destroy family values.

Supervisor Botelho felt it should be pointed out strongly that we have existing traffic problems and there should be more emphasis on that.

Discussion ensued amongst the Board, CAO and Counsel regarding bringing back a resolution before the Board for consideration, indicating the Board of Supervisors' position on this matter and to hold a special Board meeting February 15th at 7:00 p.m. at the Veterans Building in order for those who commute to have an opportunity to comment on this matter.

Further, said input should be included the proposed resolution and brought back before the Board at their meeting scheduled for February 22nd.

BOARD ACTION: *Upon motion duly made by Supervisor Botelho and seconded by Supervisor Loe, directed staff to schedule the Veterans Memorial Building for a special Board of Supervisors meeting, for Tuesday, February 15, 2005 at 7:00 p.m. to hold a public meeting*

to further allow public input on Indian Gaming in San Benito County. Information solicited from said special meeting will be incorporated into a resolution to be considered at the Board of Supervisors meeting of Tuesday, February 22, 2005. Motion passed unanimously. (file #156)

12) Receive presentation from the Regional Council of Rural Counties (RCRC) regarding consideration of membership in the organization. (Supervisor Monaco)

Received report from Brent Harrington of RCRC.

BOARD ACTION: Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Botelho, directed staff bring back before the Board at their meeting of Feb. 8, 2005 a prorated dues amount and budget augmentation for said amount for the FY04/05 Board of Supervisors budget #1001100. Motion passed 4-1 with Supervisor Loe voting no on the matter. (file #1065)

10:00 a.m. CLOSED SESSION AGENDA:

13) **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 noted two cases were withdrawn and one case would be heard.

Regarding remaining case, upon exiting Closed Session, Counsel reported the Board has authorized payment to outside counsel Art Cantu to be retained by Supervisor De La Cruz in an amount not to exceed \$10,000 to be paid from General Fund Contingencies, consistent with similar request of Chairman Monaco, for services to assist Supervisor De La Cruz in a meeting with the District Attorney's office and for future representation by the outside counsel related to the Criminal Grand Jury proceedings involving Michael Pekin. (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 noted two cases were withdrawn and one case would be heard.

Upon exiting Closed Session, Counsel noted there was no action taken on the remaining case. (file #235.6)

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

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

Upon exiting Closed Session, Counsel noted there was no 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 noted there was no action taken. (file #235.6)

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

Upon exiting Closed Session, Counsel noted that all parties have approved a settlement agreement in the Fancher and Roybal vs. County of San Benito litigation with a settlement amount to be paid to the Plaintiff in the total amount of \$35,000. (file #235.6)

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

Upon exiting Closed Session, Counsel noted there was no action taken. (file #235.6)

e) **De La Cruz and Velazquez vs. County of San Benito, Ruth Kesler, et al.**
Upon exiting Closed Session, Counsel noted there was no action taken. (file #235.6)

f) **Fort et al. vs. County of San Benito, et al.**
Upon exiting Closed Session, Counsel noted there was no action taken. (file #235.6)

15) **Conference with Labor Negotiator**
Agency Negotiator: Gil Solorio, Interim County Administrative Officer
Unrepresented Employees: Department Heads
Upon exiting Closed Session, Counsel noted there was no action taken. (file #235.6)

16) **Public Employment**
Title: County Administrative Officer
Upon exiting Closed Session, Counsel noted there was no action taken. (file #235.6)

17) **Public Employment**
Title: Human Resources Director
Upon exiting Closed Session, Counsel noted there was no action taken. (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: 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, February 8, 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