



## SAN BENITO COUNTY BOARD OF SUPERVISORS

Don Marcus  
District No. 1

Anthony Botelho  
District No. 2

Pat Loe  
District No. 3  
Vice-Chair

Reb Monaco  
District No. 4  
Chair

Jaime DeLaCruz  
District No. 5

### REGULAR MEETING ACTION MINUTES FEBRUARY 8, 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 Acting County Administrative Officer Susan Lyons, County Counsel Karen R. Forcum and Senior Board Clerk Linda Churchill. Chairman Monaco called the meeting to 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:** There was no public comment.
- d) **Department Head Announcements:** There were none.

e) **Board Announcements, Introductions and Presentations:**

Supervisor De La Cruz announced that he had received a very disturbing call last evening from an individual expressing their concern on how the Criminal Grand Jury is being conducted and the individual was at a point of feeling intimidated if they don't want to cooperate and certain individuals in the District Attorney's office asking questions to the public. Supervisor De La Cruz stated that he was concerned and wanted to have this on record.

Chairman Monaco announced that he had attended the California State Association of Counties (CSAC) Board meeting on February 3<sup>rd</sup>. Chairman Monaco noted that this was a very interesting meeting concerning issues around the state budget. CSAC which serves as the lobbying group for the counties of California indicated that their major concerns are to protect the county interest during the state budget process to prevent loss of local revenues, cost shifts to local governments and reduction to county programs without corresponding change in service responsibilities. Also the issue of pension reform was a major concern.

Chairman Monaco recognized Elizabeth Brown, Human Resources Director who is leaving the county at the end of the week. Chairman Monaco stated that Ms. Brown has done an outstanding job for the county and she will be greatly missed.

#### CONSENT AGENDA:

*Chairman Monaco noted that there was a request by Supervisor Marcus to pull Consent Item #6 and a request by Supervisor Botelho to abstain from Consent Item #4.*

*Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho approved Consent Items 1 through 7 with the exception of Items 4 and 6. (Unanimous Vote)*

BOARD OF SUPERVISORS:

- 1) **Approved** proclamation honoring San Juan Bautista Parlor No. 179, Native Daughters of the Golden West 95<sup>th</sup> Anniversary for presentation on February 12, 2005. (Supervisor Botelho) *File #156*

CLERK OF THE BOARD:

- 2) **Approved** the action minutes of the meetings of January 11, 2005 and January 25, 2005.
- 3) **Approved** Proofs of Publications.

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT – K. Flores:

- 4) **Consider agreement with Gutierrez/Associates re: architectural services related to rehabilitation of the Southside Road Unaccompanied Adult Farm Labor Camp for \$29,000 with a contract term of February 8, 2005 through December 31, 2005 and authorize CSWD Director to sign agreement on behalf of the County.**

**BOARD ACTION:** *Upon motion made by Supervisor Loe and seconded by Supervisor De La Cruz, approved agreement with Gutierrez/Associates as requested. (Vote. 4-0). Supervisor Botelho abstained. File #750*

DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

- 5) **Approved** amendment to agreement with Monterey Information Technologies to include maintenance on workstations connected to the network. *File #75.5*

HUMAN RESOURCES - E. Brown:

- 6) **Consider agreement with Liebert, Cassidy & Whitmore re: consortium training and consulting services with a contract term of January 1, 2005 through December 31, 2005.**

**BOARD ACTION:** *Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho postponed this item to the meeting of February 22, 2005 pending further review. (Unanimous vote.)*

MENTAL HEALTH – A. Yamamoto:

- 7) **Approved appointment** of Sonny Flores as a public interest member to the Mental Health Board for the term of February 1, 2005 through January 31, 2008. *File #810*

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

PRESENTATIONS / RECOGNITIONS:

- 8) **Consider Certificate of Recognition honoring Judie Turpin, Deputy Director of CSWD for 30 years of outstanding dedication and service to the County of San Benito.**

*Chairman Monaco presented a plaque to Judie Turpin, Deputy Director of Community Services and Workforce Development (CSWD) who is retiring after 30 years of service to the County.*

*Ms. Turpin accepted the plaque and thanked the county and the Board for the recognition. File #939*

The Board adjourned as the Board of Supervisors and reconvened as the Board of Directors of CSA 31 (Stonegate).

## Sitting as the Board of Directors of CSA 31-Stonegate

### PUBLIC WORKS:

- 9) **Regarding repairs and coating of 150,000 gallon welded steel non-potable water tank, consider the following:**
  - a) **Accept bid; and**
  - b) **Award contract to Quality Painting & Maintenance Company as the lowest responsive, responsible bidder and waive immaterial defects for an amount not to exceed \$55,000 with a contract term of February 1, 2005 through June 30, 2005; and**
  - c) **Authorize Chair to sign said contract.**

Pete Corn, Assistant Director of Public Works Operations, provided background information stating that only one bid was received by the deadline.

**BOARD ACTION:** *Upon motion by Director Botelho and seconded by Director Marcus accepted bid and awarded contract to Quality Painting & Maintenance Company as the lowest responsive, responsible bidder and waived immaterial defects for an amount not to exceed \$51,000 and authorized Chair to sign said contract. CSA 31 File*

The Board adjourned as the Board of Directors of CSA 31 (Stonegate) and reconvened as the Board of Supervisors.

### INTEGRATED WASTE MANAGEMENT – M. Rose:

- 10) **Consider request for consent to transfer the membership interests (ownership) of Waste Solutions Group of San Benito, LLC to Waste Connections, Inc. transferring the Operating Agreement at the John Smith Road Landfill to Waste Connections, Inc.**

Mandy Rose, Director of Integrated Waste Management Department, provided background information reporting that this item is a request from our current landfill operator, Waste Solutions Group LLC.. They have been in the process of searching for a partner to help them implement the next phase of landfill operation and development and have come to the decision to transfer their membership interest to another company called Waste Connections, Inc. This transfer requires consent from the Board of Supervisors.

Discussion ensued regarding the concerns of some members of the Board about taking over a contract that they have issues with, especially concerning the current rate schedules.

Jim Little, Vice President of Engineering for Waste Connections and Mike Mahoney, Senior Vice President for Waste Solutions Group both addressed the Board regarding the reasons for the transfer noting that Waste Connections, Inc. has a stellar reputation.

**BOARD ACTION:** *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho, delayed any action by the Board of Supervisors for two weeks (February 22, 2005 meeting) and to create a sub-committee to meet with Waste Connections, Inc. to discuss various concerns including the rate schedule. (Unanimous vote)*

*Chairman Monaco appointed Supervisors Botelho and De La Cruz to meet with Director of Integrated Waste Management Department Mandy Rose and Waste Connections, Inc. File #75.4*

### DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

- 11)
  - a) **Consider amendment to Resolution 2005-7 proclaiming the existence of a local emergency; and**
  - b) **Reaffirm the proclamation of the existence of a local emergency**
  - c) **Receive update on Thomas Road.**

Emergency Services Director Margie Riopel provided background information stating that on February 1, 2005 the Board adopted a resolution confirming the existence of a Local Emergency which was a washout on Thomas Road. Ms. Riopel reported that this road will require a more permanent fix and she is requesting an amendment to Resolution 2005-7 to request assistance for a permanent repair.

Arman Nazemi, Assistant Public Works Director, presented two alternatives for the repair of Thomas Road.

Frank Silva, owner of the property across from the washout, expressed his concerns and hoped the Board would consider putting in something to stop it permanently.

Discussion ensued with regards to how this project will be funded.

**BOARD ACTION:** *Upon motion made by Supervisor Marcus and seconded by Supervisor De La Cruz adopted **Resolution No. 2005-8** amending Resolution No. 2005-7 to request concurrence from the Director of the Governor's Office of the Emergency Services for assistance with permanent road repair and proclaiming the existence of a local emergency; and to focus on Alternative #2 as presented by the Public Works Department for a permanent repair of the washout on Thomas Road. (Unanimous vote) File #104*

12) **Regarding purchase of an emergency backup generator from Quinn Engine Systems; consider the following:**

- a) **Make a determination that it would not be in the best interest of the public to go out for a competitive bid and that purchase of the generator with Quinn Engine Systems can be considered under Section 13-4, Chapter 13 of the County Code; and**
- b) **Make a determination that an exception can be considered for a maintenance agreement with Quinn Engine Systems under Section 5 of Ordinance No. 782; and**
- c) **Authorize the Director of Emergency Services to purchase the generator for the Public Health Office from Quinn Engine Systems, and bring back the maintenance agreement for Board approval at a later date.**

Emergency Services Director Margie Riopel provided background information noting that the county has done business with this company since 1992. This company provides standardized generator maintenance service to various county buildings and is considered a sole source and for this reason the Board is being asked to consider making a determination that it would not be in the best interest of the public to go out for a competitive bid.

**BOARD ACTION:** *Upon motion made by Supervisor Botelho and seconded by Supervisor Loe waived the competitive bid process with findings as noted and authorized the purchase of the generator with Quinn Engine Systems under Section 13-4, Chapter 13 of the County Code; and made a determination that an exception can be considered for a maintenance agreement with Quinn Engine Systems under Section 5 of Ordinance No. 782; and authorized the Director of Emergency Services to purchase the generator for the Public Health Office from Quinn Engine Systems, and bring back the maintenance agreement for approval by the Board of Supervisors at a later date. (Unanimous vote) File #75.5*

**PUBLIC WORKS:**

- 13) **Consider agreement with San Benito Engineering & Surveying, Inc. for the preparation of plans, specifications and bid documents for the Old Hernandez Road low water crossing at San Benito River with a contract term of February 1, 2005 through June 30, 2005.**

Arman Nazemi, Assistant Public Works Director, provided background information reporting that the San Benito River low water crossing at Old Hernandez Road, which was damaged in the 1998 flood, has been approved to be replaced with an arch culvert and installation of an 18' roadway width. This project is funded through the Disaster Relief Program Federal Emergency Management Agency (FEMA).

**BOARD ACTION:** *Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus approved the contract with San Benito Engineering for preparation of Plans and Specifications and bid documents for Old Hernandez Road low water crossing. (Unanimous vote.)*

*The Public Works Department was directed to come back with a status report of all bridges in the county. File #105*

**ADMINISTRATIVE BUSINESS:**

- 14) **Consider nominations for appointment to the Historical Heritage Advisory Committee for Supervisorial District 5. (Supervisor De La Cruz)**

**BOARD ACTION:** *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Loe, reappointed Jim Libby to the Historical Heritage Advisory Committee representing Supervisorial District 5 with a term to be coterminous with that of Supervisor De La Cruz. (Unanimous vote.)*

*Upon motion made by Supervisor De La Cruz and seconded by Supervisor Loe, appointed Marvin L. Jones to the Historical Heritage Advisory Committee representing Supervisorial District 5 with a term to be coterminous with that of Supervisor De La Cruz. (Unanimous vote.) File #93*

- 15) **Consider and accept the 2<sup>nd</sup> Quarter Financial Report. (Management Analyst)**

*Management Analyst Robin Scattini presented the 2<sup>nd</sup> Quarter Financial Report.*

**BOARD ACTION:** *The Board accepted the report. File #865*

- 16) **Regarding Public Defender services;**

- a) **Receive a report on Public Defender services for San Benito County; and**
- b) **Consider the options for providing indigent public defense services; and**
- c) **Consider direction to the County Administrative Officer to issue a Request For Proposals (RFP) for public defender services. (Acting CAO)**

Acting County Administrative Officer Susan Lyons presented a report regarding Public Defender Services in San Benito County. Ms. Lyons outlined the options.

Alex Calvo, Court Administrator and local Attorney Art Cantu addressed the Board. Lengthy discussion ensued.

**BOARD ACTION:** *Chairman Monaco appointed Supervisor Botelho and himself to a sub-committee to work with the Acting CAO in reviewing all proposals for public defender services.*

*Upon motion made by Supervisor Loe and seconded by Supervisor De La Cruz directed the Acting CAO to issue a Request for Proposals (RFP) for public defender services. File #149*

- 17) **Regarding membership in the Regional Council of Rural Counties (RCRC);**
- a) **Approve the augmentation to the Board of Supervisors budget for membership in the Regional Council of Rural Counties (RCRC); and**
  - b) **Confirm membership in the CRMHFA Homebuyers Fund (CHF); and**

**c) Appoint Supervisor Botelho, Delegate and Supervisor Marcus, Alternate to the RCRC Board. (Acting CAO)**

Chairman Monaco stated that there was a concern with joining RCRC at this time and then having to re-join in July and paying the membership fee again.

*Chairman Monaco clarified that his appointment to RCRC was going to be Supervisor Marcus as the delegate and Supervisor Botelho as the alternate.*

Former Supervisor Richard Place addressed the Board regarding the benefits of belonging to RCRC.

*Supervisor De La Cruz suggested that the County join effective July 1, 2005 but to allow Supervisor Marcus to attend the RCRC meeting in March and find out at that time if we are accepted as members.*

**BOARD ACTION:** *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho moved to join RCRC effective July 1, 2005. (Unanimous vote.)*

*Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho moved to confirm membership in the CRHMFA Homebuyers Fund (CHF) effective July 1, 2005. (Unanimous vote.) File #1065*

The Board adjourned as the County Board of Supervisors and reconvened as the San Benito County Financing Corporation. The minutes of the Financing Corporation have been prepared separately.

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

<b>CLOSED SESSION AGENDA:</b>
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The Board adjourned into Closed Session at 1:30 p.m. and reconvened into Regular Session re:

County Counsel Karen Forcum indicated that Item 21, Public Employment: County Counsel has been added to the Closed Session agenda.

**18) 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 were withdrawn by County Counsel.*

*1 case – No reportable action.*

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

*All 3 cases were withdrawn by County Counsel. File #235.6*

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

a) Sandman vs. County of San Benito

*No reportable action.*

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

*No reportable action.*

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

*No reportable action.*

d) De La Cruz and Velazquez vs. County of San Benito, Ruth Kesler, et al.

*No reportable action. File #235.6*

- 20) **Conference with Labor Negotiator**  
Agency Negotiator: Susan Lyons, Acting CAO  
Unrepresented Employees: Department Heads  
*No reportable action. File #235.6*

This item was added to the Closed Session Agenda:

- 21) **Public Employment:**  
County Counsel

**BOARD ACTION:** *The Board rescinded the prior re-appointment action made on August 8, 2004 and has re-appointed Karen Forcum County Counsel for a six-month term effective February 14, 2005 including a waiver of the residence qualification pursuant to Government Code Section 27641.1.*

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 February 15, 2005 at 7:00 p.m. for a workshop re: Indian Gaming in San Benito County to be held at the Veterans Memorial Building, 649 San Benito Street, Hollister, California

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

ATTEST:  
John R. Hodges  
Clerk of the Board  
BY:  
Linda Churchill  
Senior Board Clerk