



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 22, 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:** Amanda Hernandez, Hollister resident, came forward. Ms. Hernandez expressed her concern about a newspaper article that was published over the weekend indicating that the Board of Supervisors had undertaken an investigation into who released the report regarding District Attorney John Sarsfield's misconduct in office. Ms. Hernandez stated that while she believed as a citizen that an investigation is necessary that this Board has limited it unnecessarily to solely who was responsible for releasing the report and it appears that this Board has conducted this investigation only to appease and placate Mr. Sarsfield. Ms. Hernandez stated she believed that the Board should conduct an investigation on a much broader scope into the four attorneys who are involved in most of the litigation that is encumbering this county namely John Sarsfield; Nancy Miller of Miller, Owen & Trost; County Counsel Karen Forcum and Mike Pekin. Ms. Hernandez handed out a letter from Mike Pekin regarding this proposed investigation.

Patrick Pekin from the Law Offices of Michael Pekin and a Hollister resident came forward. Mr. Pekin stated he would like to talk about the network of lawyers who are supposed to be protecting this county, specifically Miller, Sarsfield and Forcum. Mr. Pekin stated that he felt that these attorneys and the firms they represent aren't protecting this county at all. They are misleading this county. Mr. Pekin stated that the Board of Supervisors should be protecting the public.

Mr. Pekin stated that everyone involved should be investigated and not just an investigation purely for the benefit of John Sarsfield. Mr. Pekin stated that Rob Mendiola, Richard Scagliotti, and John Sarsfield should be investigated and indicated that he even asked the Attorney General's Office to investigate his own firm.

Mr. Pekin referred to a letter dated February 17th in which his office made a Public Records Request requesting a copy of a letter between Robert Cain and Richard Scagliotti. Mr. Pekin stated it was actually a contract and not a letter as characterized by County Counsel

Karen Forcum. Mr. Pekin felt that there was a conflict of interest going on noting that Miller, Owen and Trost represents both the County and Scagliotti.

Mr. Pekin ended by stating that he thinks that the County needs to look into the conflict of interest and that the County needs to think about investigations that are going on right now and he felt that neutral outside parties such as the Attorney General's office would be well advised to come in and take a look at the situation.

Richard Burgess, Hollister resident, came forward. Mr. Burgess commented with regards to slumlords stating that he thought the Board of Supervisors had recently passed an ordinance that a slumlord could be anonymously turned in. Mr. Burgess stated that he went to the County with a problem and Ray Stevenson of Environmental Health told him that he would have to give his name. Mr. Burgess stated that he did not like the idea but he didn't like the living conditions that were being forced at this place. Mr. Burgess said that this bothers him because why is the Board of Supervisors saying at one point that the name could be turned in anonymously and the county official says you can't do that. Mr. Burgess asked that this issue be addressed at some point.

d) **Department Head Announcements:** Megan Booth, Interim Human Resources Director reported on the progress of the County Administrative Officer (CAO) recruitment. The final filing date has been extended from February 15th to March 28th to provide a more extensive outreach for the position. Ms. Booth reported that as of Friday, February 18th we have received 27 applicants for this position and we are formalizing the screening process

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

Supervisor Botelho announced that the Friends of the Library informed him that they had achieved their goal of raising \$5000 from book sales. Supervisor Botelho stated that the Friends of the Library are a very dedicated group of volunteers and he encouraged public support.

Supervisor Botelho wanted to make the public aware of West Nile Virus, which is a very serious disease now in California, affecting numerous animals and humans and we need to set up a program to deal with this very serious issue. Supervisor Botelho noted that February through November is mosquito season and he urged the public to look for mosquito habitat in their yards and deal with it appropriately.

CONSENT AGENDA:

(These matters shall be considered as a whole and without discussion unless a particular item is removed from the consent agenda. A member of the public should seek recognition by the Chair if comment is desired. Approval of a consent item means approval of recommended action as specified on the Agenda Item Transmittal.)

Chairman Monaco noted for the record that Supervisor Loe wished to abstain from voting on Item #12 and Supervisor De La Cruz wished to abstain from voting on Item #10.

County Counsel requested a continuation of Item #9 to the March 1, 2005 agenda.

Supervisor Marcus asked to pull Item #7 for discussion.

Upon motion made by Supervisor Botelho and seconded by Supervisor De La Cruz approved Consent Items 1 through 17 with the exception of Item 9 and noting the abstentions by Supervisor Loe on Item #12 and Supervisor De La Cruz on Item #10.

ADMINISTRATION:

1) **Approved** 39-month lease with Simplified Office Systems for a copier for the Victim/Witness Assistance Program effective February 22, 2005 and authorize the County Administrative Officer to sign said lease. (Management Analyst) **File #165**

AUDITOR – J. Hodges:

- 2) **Approved** Departmental Claims.

CHILDCARE LOCAL PLANNING COUNCIL – (Council Chair)

- 3) **Approved** certification of composition of the membership for the San Benito County Childcare Local Planning Council. *File #1055*

CLERK OF THE BOARD:

- 4) **Approved** the action minutes of the meetings of February 1, 2005 and February 8, 2005 and the Special Meeting of February 15, 2005.
- 5) **Approved** Proof of Publication.

DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

- 6) **Approved** application for Prevention 2010 Block Grant and authorize the Director of Emergency Services to sign as the authorized applicant agent and submit said application to the State EMS Authority.

ELECTIONS – J. Hodges:

- 7) **Consider proposed resolution authorizing the Registrar of Voters to perform all necessary election services in conjunction with a special election to be held on May 3, 2005 for the San Benito Health Care District. (Res. No. 2005-9)**

Supervisor Marcus asked questions regarding what a General Obligation Bond does and what the County's options are. Supervisor Marcus asked if only property owners would be taxed and why not all persons who would be using the services noting he was not questioning the election method but the means of receiving the taxes.

Supervisor Botelho asked if the scope of the project was identified.

Mark Robinson, Chief Financial Officer of the San Benito Health Care District, came forward to answer questions. Mr. Robinson stated that this was asking to go to a vote of the people and it had been done before. Further, the scope of the project would be identified to the public very soon.

Supervisor Loe asked County Clerk John Hodges if we had ever done an all-mail ballot.

Mr. Hodges answered no never before but this is an absentee ballot method and there would be no polling places except for the Clerk's Office.

BOARD ACTION: *Adopted **Resolution No. 2005-9** authorizing the Registrar of Voters to perform all necessary election services in conjunction with a special election to be held on May 3, 2005 for the San Benito Health Care District. File #285*

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 8) **Approved** agreement with Transitions: A Rehabilitation Group, Inc. in the amount of \$39,900 for occupational and physical therapy services with a contract term of February 22, 2005 through June 30, 2005. *File #130*

HUMAN RESOURCES – M. Booth:

- 9) Consider agreement with Liebert, Cassidy & Whitmore re: consortium training and consulting services with a contract term of January 1, 2005 through December 31, 2005.
This item was continued to the March 1, 2005 meeting.

MENTAL HEALTH – A. Yamamoto:

- 10) **Approved** Memorandum of Understanding (MOU) with the San Benito County Office of Education accepting \$49,869 for the reimbursement of mental health services for FY2004/2005. *(4-0 Vote. Supervisor De La Cruz abstained.) File #810*
- 11) Regarding renewal of an agreement with the Department of Mental Health, **approved** the following:

- a) **Adopted Resolution No. 2005-10** accepting agreement as provided by the Department of Mental Health and authorize Chair to sign said agreement; and
- b) **Authorized** the County Mental Health Director to sign said agreement with the Department of Mental Health for FY2004/2005; and
- c) **Authorized** the County Mental Health Director to sign the Contractor Certification Clauses Form (CCC-304). *File #810*

PLANNING DEPARTMENT – R. Mendiola:

- 12) Regarding FY2004/2005 Preliminary Allocations, **approved** the following:
 - a) **Adopted Resolution No. 2005-11** Upholding The Planning Commission’s Approval Of The FY2004/2005 Preliminary Allocation Pursuant To The County Growth Management System And Denying The Appeals Of D. Lindseth And W. Pack ; and
 - b) **Adopted Resolution No. 2005-12** Overturning The Planning Commission’s Approval Of The FY2004/2005 Preliminary Allocation Pursuant To The County Growth Management System And Granting The Appeal By Everett Grabeel (PA 05-13). *(4-0 Vote. Supervisor Loe abstained.) File #790.2*

PUBLIC WORKS:

- 13) Regarding the remodel of the Bertha Briggs Youth Center, **approved** the following:
 - a) **Accepted** bid; and
 - b) **Awarded** contract for conceptual design and costs estimates to Christina Perez, Architect, as the lowest, responsive, responsible bidder and waive immaterial defects in the amount of \$2,950 with a contract term of February 22, 2005 through June 30, 2005; and
 - c) **Authorized** Chair to sign said contract. *File #105*
- 14) **Approved** agreements with Hollister Little League, Hollister Babe Ruth, Hollister Heat and Hollister Kiwanis Club for use of fields at Veterans Memorial Park with terms of January 1, 2005 through December 31, 2005. *File #127*
- 15) **Declared** Sheriff vehicle as surplus equipment and remove from inventory. *File #105*

SHERIFF – C. Hill:

- 16) Regarding evidence/property room security system; **approved** the following
 - a) **Accepted** the three quotes obtained and award contract to First Alarm as the lowest quote; and
 - b) **Authorized** the Sheriff to sign contract with First Alarm; and
 - c) **Amended** the FY2004/2005 fixed assets schedule to remove purchase of a heavy-duty pick up in the amount of \$16,509 and add the purchase of the Evidence Room security system in the amount of \$15,681 to be paid by Capital Improvement Fees. *File #110*
- 17) **Adopted Resolution No. 2005-13** authorizing Sheriff to sign lease/purchase application to Ford Municipal Financing for a new Ford Crown Victoria for the City of San Juan Bautista. *File #110*

9:40 a.m. REGULAR AGENDA:

ADMINISTRATION / BOARD OF SUPERVISORS:

- 18) **Consider proposed resolution In opposition to the proposed California Valley Miwok Project In San Benito County. (Supervisor Loe & Supervisor Marcus)**
Chairman Monaco opened the item for comment from the public.

Carlos Vargas, Hollister Soccer League President, came forward. Mr. Vargas supported the project because it would be a source of needed jobs.

David Nicholaysen, Hollister resident, spoke in opposition to the project.

Estevan Guzman, Hollister resident, spoke in support of the project because of the jobs it would bring to the county.

Henry Sumaya, Hollister resident, spoke in favor of the project because it would bring jobs to the county.

Gary Ramos, California Valley Miwok Project Manager, stated he would like only 30 minutes time from the Board of Supervisors to make a presentation regarding the proposed project.

Steve Merrell, Chairman of Casinos Represent a Poor Solution, came forward. Mr. Merrell stated that casino's don't bring jobs to communities they cost jobs and it is not what is needed here.

Anthony Sota, Hollister resident, expressed concern about placing non-Indian land in trust and the using the term compact rather than contract and stated he was against the casino.

Supervisor Loe referred to her handout that reflected unemployment rates in counties with casinos in comparison to San Benito County. Supervisor Loe noted that San Benito County has increased jobs more than any county that has a casino with 1400-2000 slots stating that she does not find the argument valid that this is going to bring in a lot of jobs. Further she spoke with Senator Jeff Denham who stated that the Senate in Sacramento is presently looking at reservation shopping and within the next year the State will have guidelines on the whole issue of casinos and reservation shopping and it is premature for us to go forward without those guidelines. Supervisor Loe felt the Board of Supervisors must take a stand today although she realizes that the Board does not have the final word in this decision.

Supervisors Botelho, De La Cruz, Marcus and Monaco expressed their opinions in opposition to the proposed California Valley Miwok Project in San Benito County.

BOARD ACTIONS: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Marcus adopted **Resolution No. 2005-14** correcting February 14, 2005 in the second paragraph of the resolution to read February 15, 2005 and deleting the last Whereas paragraph which reads "San Benito County is a wholesome community dedicated to the preservation of family values and the proposed gaming is a threat to those values". (Unanimous vote.)*

Upon motion made by Supervisor Marcus and seconded by Supervisor De La Cruz directed staff to forward the resolution to the Governor of California. (Unanimous vote) File #156

- 19) **Regarding appointment to the Historical Heritage Advisory Committee, consider:**
- a) **Acceptance of resignation by Margaret Cheney; and**
 - b) **Consider the District 3 nomination of Mark Rianda to fill the vacancy.**
- (Supervisor Loe)**

Supervisor Loe provided background information asking the Board to accept the resignation of Margaret Cheney who moved out of the county and to consider Mark Rianda to fill the vacancy.

BOARD ACTION: *Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho accepted the resignation of Margaret Cheney from the Historical Heritage Advisory Committee and approved the appointment of Mark Rianda to fill the vacancy. (Unanimous vote.) File #91*

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 20) **Regarding Children's Medical Services (CMS) Plan, consider the following:**
- a) **Approve the CMS Plan and Budget for FY2004/2005; and**
 - b) **Authorize the Chair, Public Health Officer, CCS Administrator and Interim H&HSA Director to sign the Certification Statement; and**

- c) **Approve a county budget adjustment to the Child Health and Disability Prevention (CHDP) Program and CMS budget units to augment said budget units in the amounts of \$11,191 and \$4,000 respectively for a total budget augmentation of \$15,191 of Revenues and Expenditures.**

Kathy Flores, Interim Director of Health & Human Services Agency, reported that the plan for CMS (Children's Medical Services) for Fiscal Year 2004-2005 includes the Child Health and Disability Prevention Program (CHDP), California Children's Services (CCS) and Health Care Services for Children in Foster Care (HCPCFC). The allocations for these programs have already been approved by the State.

BOARD ACTIONS: *Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Marcus, approved the CMS Plan and budget for FY 2004/2005 and authorize the Chair, Public Health Officer, CCS Administrator, and the Interim H & HAS Director to sign the Certification Statement. (Unanimous Vote.)*

Upon motion made by Supervisor De La Cruz and seconded by Supervisor Marcus, approved a County budget adjustment to the CHDP and CMS budget units to augment said budget units in the amounts of \$11,191 and \$4000 respectively for a total budget adjustment of \$15,191. (Unanimous Vote.) File #130

ELECTIONS – J. Hodges:

- 21) **Consider the establishment of an advisory committee to review and recommend to the Board purchase of a new voting system and request Chair appoint member or members of Board to an advisory committee.**

County Clerk/Auditor/Recorder John Hodges provided background information reporting that there has been recent federal and state legislation that has required that California Counties purchase and install compliant voting systems by January 1, 2006.

BOARD ACTION: *Chairman Monaco moved to appoint Supervisor Marcus and himself to this advisory committee as the Board of Supervisor's representatives and to approve the establishment of an advisory committee to review and recommend to the Board the purchase of a new voting system. Supervisor De La Cruz seconded the motion. (Unanimous vote)*

It was noted that Mr. Hodges would head this committee and that Acting County Administrative Officer Susan Lyons would be on the committee also. *File #285*

- 22) **Regarding the Help America Vote (HAVA) Act of 2002 application for funding, consider the following:**
- a) **Proposed resolution approving the Application for Funds Under the Help America Vote Act of 2002; and**
 - b) **Authorize the County Clerk to sign the State of California standard agreement with the Secretary of State.**

County Clerk/Auditor/Recorder John Hodges provided background information reporting that this is a request to approve the application for HAVA for an allocation of the federal government for the County's share in an amount of \$204,302.12.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Loe adopted **Resolution No. 2005-15** Approving the Application for Funds Under the Help America Vote Act (HAVA) of 2002 and authorized the County Clerk to sign the State of California standard agreement. (Unanimous vote) File #285*

DISTRICT ATTORNEY – J. Sarsfield:

- 23) **Regarding request for temporary part time position:**
- a) **Consider the position of a temporary part time attorney with no benefits, effective March 1, 2005 through June 30, 2005; and**

- b) **Approve the transfer of \$9,000 from Citizens Options for Public Safety (COPS) funding to temporary salaries, effective March 1, 2005 through June 30, 2005.**

District Attorney John Sarsfield reported that the District Attorney's office receives approximately \$17,000 per year in COPS money that can be spent on temporary positions, or permanent positions or equipment. Mr. Sarsfield requested the approval of a temporary part-time attorney through the end of the fiscal year and the transfer of \$9000 from COPS funding to temporary salaries.

BOARD ACTION: *Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho postponed this item to the March 22, 2005 meeting for a report by the Acting County Administrative Officer addressing issues as raised regarding a ripple effect through other criminal justice departments and including more information on the process for use of COPS funding. (Unanimous vote.) File #205*

MARSHAL – R. Scattini:

- 24) **Regarding Marshal's budget, consider augmentation from General Fund Contingencies as follows:**
- a) **Increase Salaries and Benefits by \$24,905 to fund a full-time Secretary I; and**
 - b) **Increase Services and Supplies budget by \$2,850 to fully fund operating expenditures; and**
 - c) **Increase Revenues by \$17,245 for the use of Debtor's Fees and Marshal Services Trust Funds; and**
 - d) **Authorize the use of \$10,510 from General Fund Contingencies for the balance of expenditures.**

Marshal Robert Scattini provided background information stating that his requests were summarized in the Board's packet. Marshal Scattini stated that he would like to include in his request the need for having his secretary back at full time.

Supervisor Loe asked for more specific questions to be answered relating to the operations of the Marshal's office.

Norma Price, Secretary to the Marshal, was present to answer questions. Finance Director Dan Vrtis also answered questions from the Board.

After lengthy discussion Supervisor Loe stated that she was going to ask to continue the matter so they could bring it back at the next meeting with all of the numbers so we know exactly what we are looking at before approval.

Marshal Scattini stated that he would like to get his Secretary on board and by delaying it would affect his office tremendously.

Supervisor Loe stated that she had no problem putting it into her motion that we will allow the money to come out of the two trust funds at this time so the Marshal can continue on before we do anything out of the General Fund that all of the numbers come back so the Board can look at it and know exactly what we're talking about.

Ms. Lyons explained that the issue that is before the Board right now is specific numbers asking to be augmented to the Marshal's budget. If we zero out his trust funds it will change the numbers.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor De La Cruz moved to augment the funding to allow the Marshal to maintain his secretary and to continue this item to March 1, 2005 to receive clarification of all budget issues and all numbers pertaining to Trust Funds, General Funds and etc. (Unanimous vote.) File #265*

DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

- 25) a) **Receive and review updates on the emergency status of Thomas Road; and**
b) **Reaffirm 14-Day Proclamation of Local Emergency – Thomas Road.**

Office of Emergency Services Director Margie Riopel updated the Board regarding the ongoing condition of Thomas Road. Ms. Riopel referred to a report sent to her from Arman Nazemi, Assistant Director of Public Works, and dated February 11, 2005 that indicated that the cost of restoration at Thomas Road was higher than we first anticipated. Ms. Riopel stated that she was awaiting concurrence from State Office of Emergency Services for the work.

Mr. Nazemi was present to answer questions from the Board and discussion regarding possible alternatives if the County doesn't receive the funding.

BOARD ACTION: *Upon motion duly made by Supervisor Botelho and seconded by Supervisor Loe reaffirmed the proclamation of the existence of a local emergency. (Unanimous vote.) File #104*

INTEGRATED WASTE MANAGEMENT – M. Rose:

- 26) **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. (cont. from 2/8/05 mtg.)**

Mandy Rose, Director of Integrated Waste Management Department, provided background information stating that this item was continued from the February 8, 2005 meeting when the approval was delayed in order for a subcommittee to meet with Waste Connections, Inc. to discuss various concerns. Ms. Rose indicated that this sub-committee meeting had taken place with Supervisors Botelho and De La Cruz.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho allowed the membership (ownership) transfer of Waste Solutions Group of San Benito, LLC to Waste Connections, Inc. (Unanimous vote.) File #75.4*

11:00 a.m. CLOSED SESSION AGENDA (or as soon thereafter as the matters may be heard):

The Board adjourned at 12:05 p.m. for lunch and reconvened at 1:30 p.m. for Closed Session re:

- 27) **Conference with Legal Counsel - Anticipated Litigation**
- a) Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9. Number of cases: **4**
*2 cases withdrawn by County Counsel.
1 case – No reportable action.*
BOARD ACTION: *1 case – Authorized an investigation to be focused on county officials and county employees into the unauthorized release of information involving the investigation of the District Attorney's office to the Free Lance in an amount not to exceed \$5000 to be paid from General Fund contingencies.*
 - 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
- 28) **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.

BOARD ACTION: Authorized an investigation into allegations pertaining to the Planning Department in an amount not to exceed \$10,000 to be paid from General Fund contingencies.

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. (Supervisor De La Cruz was absent from Closed Session during this item.

e) Torres vs. County of San Benito, et al.
No reportable action. File #235.6

29) **Conference with Labor Negotiator**

Agency Negotiator: Susan Lyons, Acting CAO

Unrepresented Employees: Department Heads

BOARD ACTION: The Board agreed to increase the Department Head compensation 3% effective December 1, 2004; to conduct a compensation study in-house with no agreement to implement it by July 1, 2005; and to add 40 extra hours of non-paid Administrative Leave to the appointed Department Heads effective, December 1, 2004, which is the end of the agreement. File #235.6

30) **Public Employment**

Title: County Counsel

This item was withdrawn from the Closed Session Agenda. 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: 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 28, 2005 at 10:00 a.m. for a Board of Supervisors Retreat to be held in the Blue Room at Bolado Park, 9000 Airline Highway, 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