



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 MARCH 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 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. *San Benito High School student Alli Denby, a participant in Youth in Government Day, led the pledge of allegiance.*

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

c) **Introduction of participants of "Youth In Government Day"**

San Benito High School students participating in "Youth In Government Day" were Sarita Sosa, Kanyon Sayers-Roods, Alli Denby, Samantha Patton, Yadira Orozco and Megan Cascio.

d) **Public Comment:** Amanda Hernandez, Hollister resident, came forward on behalf of Ken Speciale. Ms. Hernandez handed out a letter to the Board of Supervisors dated March 8, 2005 regarding Ken Speciale and a copy of Mr. Speciale's *Johnson letter*. Ms. Hernandez stated that she had come before the Board on February 22, 2005 to ask them to broaden the proposed investigation into who released the investigation chronicling District Attorney John Sarsfield's misconduct in his office and to expand the investigation into what exactly is going wrong with the legal system in this County.

Ms. Hernandez stated that she and County employee Ken Speciale were both served with a *Johnson letter* that same day. Mr. Speciale was served within hours of finishing his testimony before the San Benito County Criminal Grand Jury with regards to his sworn statement about the corruption that he was witness to in the Planning Department. Ms. Hernandez stated that Mr. Speciale is a whistleblower within the boundaries of the law and he is entitled to whistleblower protection. Ms. Hernandez further stated that he is also a loyal county employee and under Government Code Section 995 this county must defend him in any proceeding due to whatever personal or in his capacity as an official of this county that he is entitled to representation and a defense by this county. Ms. Hernandez, on behalf of Mr. Speciale, asked the Board if they would provide him with a defense, as is his right, and the Board's duty as his employer and as his governing body.

Ms. Hernandez stated that she was informing the Board that one of its loyal county employees is being illegally retaliated against for his honesty and for stepping up to identify corruption and it is the Board's duty to defend him and provide him representation.

e) **Department Head Announcements:** Assistant Public Works Director Pete Corn reported that the Jones Slide on Panoche Road had begun moving again across the road during a violent rain storm that occurred in south county on Friday, March 4th. There were other problems caused by the storm that were taken care of Friday evening and Saturday morning by Public Works Department employees.

Mr. Corn reported that the slide continued across the road reaching the southerly shoulder of the road on Saturday morning. This morning the Public Works Department, along with a contract excavator began clearing the road and debris. Mr. Corn stated that during the original clean up they removed over 10,000 cubic yards of material and the cost of the original was \$46,646.00 (referring to his handout to the Board). Mr. Corn indicated that this was not considered to be a permanent fix. It was just to clear the road. When the weather allows for the site to dry up the engineering staff will come back to the Board of Supervisors for approval of funding for a more permanent fix.

Discussion ensued regarding funding for this project. Acting County Administrative Officer Susan Lyons noted that if an augmentation was needed the Public Works Department would have to come back to the Board for approval.

f) **Board Announcements, Introductions and Presentations:** Chairman Monaco reported that he, along with Supervisors Botelho and De La Cruz, attended a retirement dinner for retired Assessor Arnold Fontes on Saturday evening, March 5th, noting that it was a nice affair with a great turnout which was a testimony to Mr. Fontes' outstanding career in our County. Chairman Monaco further reported that he judged the Science Fair at Gavilan Hills Elementary School for 4th and 5th graders over the weekend, which was enjoyable.

Supervisor Loe reported that she attended a meeting last week at City Hall with regards to the homeless issue in our area. Supervisor Loe invited everyone to a meeting to be held in the Board Chambers on Friday, March 11, 2005 at 2:00 p.m. This is a joint meeting with the City of Hollister, County of San Benito, different faith groups and Fishes & Loaves. Supervisor Loe indicated that she believed by next winter we can have some kind of an evening shelter and encouraged participation from the general public.

Supervisor Marcus reported that he and Supervisor Loe attended an Inter-Governmental Committee Meeting along with representatives from the San Benito County Water District and Hollister City Council. Supervisor Marcus reported that the Committee decided to hire Harry Blohm who is a civil engineer and Water Resource and Program Manager who has history in our County and also has vast experience in solving water and sewage problems in many areas of the world. Supervisor Marcus stated he was excited about the hiring of this individual who will be a valuable resource to the Inter-Governmental Committee and the Water District and they will be working towards a Master Plan.

Supervisor De La Cruz thanked Management Analyst Robin Scattini for providing him with excellent information in terms of fiscal questions that he had asked her noting that she provided him with a quick and thorough response.

CONSENT AGENDA:

Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus approved Consent Agenda Items 1 through 9 with the exception of Items 2 and 7 that were pulled for discussion.

AUDITOR – J. Hodges:

- 1) **Approved** Departmental Claims.

COUNTY COUNSEL – K. Forcum:

- 2) **Reject claim of Jason Lee Gallardo filed with the Clerk of the Board on January 25, 2005 and direct Clerk to notify claimant.**

Supervisor Marcus questioned why the request was to reject this claim.

County Counsel Karen Forcum explained that Sheriff Curtis Hill indicated that this is a claim that should be paid or accepted by the County.

BOARD ACTION: Upon motion made by Supervisor Marcus and seconded by Supervisor Loe, accepted claim by Jason Lee Gallardo in the amount of \$210.00 as submitted on January 25, 2005 and directed Clerk to notify claimant. (Unanimous vote.) File #235

CLERK OF THE BOARD:

- 3) **Approved** the action minutes of the meeting of February 22, 2005.

DISTRICT ATTORNEY – J. Sarsfield:

- 4) **Approved** out of state travel request for a Deputy District Attorney to attend the Cross-Examination course to be held March 29, 2005 through April 1, 2005 in South Carolina. File #205

ELECTIONS – J. Hodges:

- 5) **Approved** agreement with Michael Hodges for provision of election services for the May 3, 2005 Special Election with a contract term of March 15, 2005 through May 31, 2005. File #285
- 6) Regarding an agreement with Sequoia Pacific Systems for the upcoming May 3, 2005 Special Election, consider the following:
 - a) **Approved** said agreement for the printing of ballots and booklets; addresses and mailing services for sample ballot booklets; printing of absentee envelopes; printing of Spanish materials and translations; and **authorized** an exemption from the County Code Chapter 13 quotation requirement (Purchase Ordinance); and
 - b) **Authorized** the Chair to sign said agreement. File #285
- 7) **Consider augmentation to Elections FY2004/2005 Budget in the amount of \$84,000 for costs associated with the May 3, 2005 Special Election with unanticipated revenues as the funding source.**

Supervisor Botelho questioned the \$84,000.

County Clerk John Hodges explained that the \$84,000 is an outside figure and that the obligation of the San Benito Health Care District is to pay only the bills that the Elections Office incurs so the amount could be a lot less noting that the County's responsibility is the Elections Office is putting on the election using an all-mail ballot for the District.

Discussion was held regarding the receipt of the moneys from the Health Care District.

BOARD ACTION: Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho approved the augmentation to the Election Budget Unit #140 by \$84,000 with unanticipated revenue as the funding source. (Unanimous Vote.) File #285

MENTAL HEALTH – A. Yamamoto:

- 8) **Authorized** submittal of a Mental Health Services Act (MHSA) Community Program Planning funding request. File #810

SHERIFF – C. Hill:

- 9) **Approved** agreement with Facility Program Management Group, Inc. regarding 20-year space and facility needs assessment and master plan and **authorized** the Sheriff to sign on behalf of the County. File #110

9:40 a.m. REGULAR AGENDA:

DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

- 10) **Reaffirm 14-Day Proclamation of Local Emergency – Thomas Road.**

Office of Emergency Services Director Margie Riopel reported that at this time she had not received word from State Office of Emergency Services in regards to the determination of the Director's concurrence. The State has requested more information, which has been sent, and Ms. Riopel is still waiting to hear the response.

Chairman Monaco asked if there was any more deterioration at that site.

Assistant Public Works Director Arman Nazemi stated he was not aware of any at this point.

BOARD ACTION: *Upon motion duly made by Supervisor Marcus and seconded by Supervisor De La Cruz accepted update and reaffirmed the resolution proclaiming the existence of a local emergency. (Unanimous Vote) File #104*

ADMINISTRATIVE BUSINESS:

11) **Regarding an agreement with the Santa Clara County Counsel's Office, consider the following:**

- a) **Approve agreement with Santa Clara County Counsel's Office for investigation of the Planning and Building Department policies, procedures and practices for an amount not to exceed \$25,000; and**
- b) **Authorize the Chair to sign said agreement; and**
- c) **Approve the transfer of \$25,000 from General Fund Contingencies to Administrative Office budget. (Acting CAO)**

Acting County Administrative Officer Susan Lyons provided background information stating that she talked with three different investigators looking for government experience in looking at a government department, had at least resources to land use and that it could be done timely in order to put this aside in order to go ahead with other Planning Department projects. Ms. Lyons stated that Santa Clara County has an investigative team within their County Counsel Office made up of attorneys and they are willing to start immediately.

Ms. Lyons requested only the \$10,000 be approved at this time but if the investigation takes more time and she needs to return to the Board for further funding then the agreement would stand and she wouldn't have to bring the agreement back. Ms. Lyons asked the Board to approve an amount not to exceed \$25,000 noting that she did not expect to go over that amount.

Discussion was held regarding the contract amount and it was agreed that we do not exceed the \$25,000.

Also, the confidentiality issue was addressed and Item #16 of the contract was clarified.

Supervisor Botelho stated that he wanted to be sure that we limit the amount to the \$25,000.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Loe approved an agreement with Santa Clara County Counsel's Office for investigation of the Planning and Building Department policies, procedures and practices for an amount not to exceed \$25,000 for attorney services at the rate of \$165 per hour with a term of March 8, 2005 to July 31, 2005. (Unanimous Vote)*

Upon motion made by Supervisor Loe and seconded by Supervisor Botelho authorized the Chair to sign said agreement. (Unanimous Vote)

Upon motion made by Supervisor Botelho and seconded by Supervisor Loe approved transfer of \$10,000 from General Fund Contingencies to Administrative Office Budget. (Unanimous Vote) File #790

10:00 a.m. CLOSED SESSION AGENDA:

The Board adjourned into Closed Session Agenda at 10:45 a.m. and reconvened into Regular Session at 12:15 p.m. re:

12) 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

1 case withdrawn by County Counsel

2 cases – No reportable action.

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

All 3 cases withdrawn by County Counsel. File #235.6

13) 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

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 March 22, 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