



## 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 De La Cruz  
District No. 5

County Administration Building – Board of Supervisors Chambers, 481 Fourth Street, Hollister, California

### REGULAR MEETING ACTION MINUTES APRIL 5, 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, Assistant Clerk Sally Navarez for the morning session and Senior Board Clerk Linda Churchill for the afternoon session. Chairman Reb Monaco presiding when the following was had to wit:

#### 9:30 a.m. CALL TO ORDER:

a) Pledge of Allegiance.

Following Pledge, Chairman Monaco asked for a moment of silence in remembrance of the late Pope John Paul II.

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

c) **Public Comment:** Cheryl Tyler of the Assessor's office invited the Board and public to a reception for new appointed County Assessor Tom Slavich to be held at the Assessor's Office on Wednesday, April 13, 2005 between the hours of 3:00 – 5:00 p.m.

Carol Lenoir, local resident came forward. Ms. Lenoir noted a recent article in *The Pinnacle News* relative the County General Plan Update, noted with no disrespect, that the document is not a political one as is being made out in the paper. Ms. Lenoir noted Planning Director Rob Mendiola serves this Board, which was elected to protect the public interests, and closed with noting the Board needs to give Mr. Mendiola the opportunity to follow their direction.

d) **Department Head Announcements:** Sheriff Curtis Hill stated April 4<sup>th</sup> marked the kick off drive for organ donor registration on line. Sheriff indicated organ donors are sorely needed in the State with more than 18,000 on waiting lists in the Central Coast. Sheriff noted the local YMCA offers access to the online registry.

Sheriff Hill also noted that as a member of the California Sheriff's Association, spoke with the Governor about two weeks ago on pension reform issues. Sheriff stated the Governor is close to restoring the \$18.5-million to the Rural County Crime Prevention

Act; thereby restoring approximately \$500,000 to the Sheriff's budget and looked forward to the Governor's May revisions.

Management Analyst Robin Scattini noted to the Board that Budget packets for FY2005/2006 are due to the Administration Office on Friday and then the budget process will begin.

Supervisor Marcus noted the budget sub-committee met with Ms. Scattini and Finance Director Dan Vrtis but indicated the budget will be a precarious one as monies will be very tight. Supervisor Marcus noted once preliminary numbers are available, the Sub-Committee will make a presentation before the whole Board.

e) **Board Announcements, Introductions and Presentations:** Supervisor Marcus gave an overview of an Regional Council of Rural Counties (RCRC) meeting he attended March 23th and topics dicussed included support of AB 943 – Aid to Indigents, AB 164 – In Home Supportive Services, but noted there many, many bills working their way through the system at this time. While San Benito County is not a voting member at this time, Supervisor Marcus indicated it was beneficial to attend the meeting.

#### **CONSENT AGENDA:**

*Upon motion duly made by Supervisor Loe and seconded by Supervisor Marcus, approved Consent Agenda Items #1 through #25, withdrawing Item #12 completely, and pulled Item #11 for further discussion. Motion passed unanimously.*

#### ADMINISTRATIVE BUSINESS:

- 1) **Approved** and accepted report regarding the Marshal's Office. *(file #265)*

#### AGRICULTURAL COMMISSIONER – P. Matulich:

- 2) **Approved** agreement with the State Department of Food and Agriculture for Petroleum Products Services for FY2005/2006. *(file #1.1)*

- 3) **Approved** agreement with the State Department of Food and Agriculture for Weighmaster Services for FY2005/2006. *(cont. from 3/22/05 mtg.) (file #1.1)*

- 4) **Approved** the reappointment of Ken Range, Ed Strohn and Robert Frusetta to the Taylor Act Grazing Advisory Board each for three-year terms effective July 1, 2005 through June 30, 2008. *(file #1.1)*

#### AUDITING – J. Hodges:

- 5) **Approved** Departmental Claims.

#### BOARD OF SUPERVISORS:

- 6) Regarding Fish and Game Commission appointments representing Supervisorial District #1, **approved** the following:

- a) **Accepted** the nomination of Jim Hawkins and Jim Lanning to the San Benito County Fish and Game Advisory Commission; and

- b) **Appointed** Jim Hawkins and Jim Lanning to the San Benito County Fish and Game Advisory Commission representing Supervisorial District #1 with terms effective April 1, 2005 through March 31, 2009. *(file #24)*

7) Regarding Fish and Game Commission appointments representing Supervisorial District #2, **approved** the following:

- a) **Accepted** the nomination of James W. D. Ingram and Robert Vaccarezza to the San Benito County Fish and Game Advisory Commission; and
- b) **Appointed** James W. D. Ingram and Robert Vaccarezza to the San Benito County Fish and Game Advisory Commission representing Supervisorial District #2 with terms effective April 1, 2005 through March 31, 2009. *(file #24)*

8) Regarding Fish and Game Commission appointment representing Supervisorial District #5, **approved** the following:

- a) **Accepted** the nomination of Michael Smith to the San Benito County Fish and Game Advisory Commission; and
- b) **Appointed** Michael Smith to the San Benito County Fish and Game Advisory Commission to fill one of two vacancies representing Supervisorial District #5 with term effective April 1, 2005 through March 31, 2009. *(file #24)*

CLERK OF THE BOARD:

9) **Approved** the action minutes of the meeting of March 22, 2005 and special meeting of March 29, 2005.

DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

10) **Reaffirmed** 14-Day Proclamation of Local Emergency – Thomas Road. *(file #104)*

DISTRICT ATTORNEY – J. Sarsfield:

11) Consider proposed resolution recognizing April 10-16, 2005 as “National Crime Victims’ Rights Week” in San Benito County. (Res. No. 2005-22)

Chairman Monaco noted this matter was pulled for further discussion.

Ms. Ruiz, representing Community Solutions, came forward. Ms. Ruiz gave an overview of services made available to the residents of San Benito County through Community Solutions made available to the victims of crime including suicide prevention, child abuse prevention, etc.

***BOARD ACTION:*** Upon motion duly made by Supervisor and seconded by Supervisor, adopted Resolution No. 2005-22 Recognizing April 10-16, 2005 as “National Crime Victims’ Rights Week” in San Benito County and authorized chair to sign said resolution. Motion passed unanimously. *(file #430)*

12) Regarding agreement with Hard Times Café for the provision of coffee service and authorization to transfer funds from Asset Forfeiture Trust Account, consider the following:

- a) Approve contract with Hard Times Café for coffee service and authorize Chair to sign said contract; and

- b) Approve transfer of funds in the amount of \$4,200 from the Asset Forfeiture account to Household Expense in the District Attorney's budget.

***This matter was withdrawn entirely from agenda. (file #205)***

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

13) **Adopted** Proclamation declaring April as "Child Abuse Prevention Month" in San Benito County. (file #430)

14) **Adopted** Proclamation declaring April 4-10, 2005 as "Public Health Week" in San Benito County. (file #430)

HUMAN RESOURCES – M. Booth:

15) **Approved** job description for the classification of Sustainability Coordinator for the First 5 San Benito Commission. (file #630)

INTEGRATED WASTE MANAGEMENT – M. Rose:

16) **Approved** agreement with Disaster Kleenup Specialists to remove the asbestos containing material identified in the asbestos survey for the County owned property located at 2733 John Smith Road with a contract term of April 5, 2005 through July 2, 2005. (file #142)

MENTAL HEALTH – A. Yamamoto:

17) Regarding 2004/2005 service agreement renewal for Monterey County Mental Health clients, **approved** the following:

- a) **Approved** agreement renewal for the term of FY2004/2005; and
- b) **Authorized** the Board Chair to sign said agreement; and
- c) **Authorized** the County Mental Health Director to sign contract Exhibit C (confidentiality of patient information), Exhibit D (assurance of compliance with Section 504 of the rehabilitation act) and the Business Associate Agreement. (file #810)

18) Regarding amendment to Mental Health MediCal Managed Care Specialty Mental Health Services Contract with the State Department of Mental Health for FY2004/2005, **approved** the following:

- a) **Authorized** the County's Mental Health Director to sign the amended agreement between the State Department of Mental Health and the County; and
- b) **Approved Resolution No. 2005-23 To Accept The Department of Mental Health Funds**; authorized the Chair to sign said resolution and contract between the State Department of Mental Health and San Benito County Mental Health Services. (file #810)

PROBATION – D. Botts:

19) **Approved Resolution No. 2005-24 Requesting Appointment And Authorization Of The Chief Probation Officer To Submit And Sign Application For Approval Of The Multi-**

**Agency Juvenile Justice Plan Modification And Related Contracts, Amendments Or Extensions With The State Of California. (file #510)**

**PUBLIC WORKS:**

20) **Approved Resolution 2005-25 To Accept A Dedication Grant Deed** re: dedication of road right of way for Santa Ana Road and Prater Way (for COC 04-46). (file #645)

21) **Approved** agreement with Moss, Levy & Hartzheim to perform final audits for State Transportation Improvement Program (STIP) with a contract term of April 5, 2005 through June 30, 2005. (file #105)

22) **Approved** declaring Planning Department vehicle as surplus equipment and remove from inventory. (file #105)

**SAN BENITO COUNTY WATER DISTRICT:**

23) **Approved** proclamation declaring May 2005 as "Water Awareness Month" in San Benito County. (file #430)

**SHERIFF – C. Hill:**

24) Regarding amendment to the Sheriff's FY2004/2005 budget and the purchase of equipment for the High Risk Team using Sheriff's Asset Forfeiture and Public Donations Trust funds, **approved** the following:

- a) **Augmented** Patrol Budget to reflect increased Revenue in the amount of \$23,500; and
- b) **Augmented** Patrol Budget to reflect increased Services and Supplies – Clothing and Safety in the amount of \$23,500. (file #110)

25) Regarding amendment to the Sheriff's FY2004/2005 budget and the use of Asset Forfeiture proceeds from UNET to cover Overtime costs, **approved** the following:

- a) **Increased** Revenues (Other Revenue) in the amount of \$16,500; and
- b) **Increased** Expenses (Professional Services) in the amount of \$16,500. (file #110)

<b>9:30 PUBLIC HEARING (or as soon thereafter as the matter may be heard):</b>
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**COMMUNITY SERVICES & WORKFORCE DEVELOPMENT – K. Flores:**

26) **Hold public hearing to consider a proposed resolution authorizing submission of a Community Development Block Grant 2005 application and consider the following:**

- a) **Authorize the Acting County Administrative Officer to sign Assurances pertaining to said grant; and**
- b) **Authorize signing authority for the CSWD Director to submit said grant.**

Director Kathryn Flores presented the Board with background information. Ms. Flores noted for the record that the purpose of this hearing is to inform the public and the Board of Supervisors of activities being recommended for a 2005 Community Development Block Grant application from the General and Native American allocation; and to ask the Board of Supervisors to approve submittal of this application for funding to the State Department of Housing and Community Development.

Ms. Flores indicated there was a sign-in log in the back of the room for those wishing to sign in, but persons were not required to do so. There was also a Spanish-language translator available for those requiring translation and the translator was Deputy Director Maria Fehl.

Ms. Flores explained after the presentation, there would be an opportunity for public comment. The public may also submit written comments. It was noted there was a public information file at the Community Services and Workforce Development office available for on-site public viewing.

Ms. Flores explained this was the second of two required public hearings conducted to inform the public about the opportunity for the County to apply for Community Development Block Grant (CDBG) funds available through the California Department of Housing and Community Development for 2005, and for the County to receive public input. The first public hearing was held July 8, 2004. Ms. Flores noted a description of the CDBG program, eligible activities, and maximum funding available were stated in the Public Notices informing the public about the meetings.

Ms. Flores then gave detailed information relative to the requirements of the grant.

This being the duly noted time and place, Chairman Monaco opened the public hearing.

Those addressing the Board of Supervisors during the public hearing period were: Emily Young, representing *Fishes and Loaves*; Rev. David Rodriguez, Chairman of the Board of Directors of the *Emmaus House* (Women's Shelter); P. Kingman, representing *Fishes and Loaves*; Doug Emerson, *Councilmember, City of Hollister*; Curtis J. Hill, *San Benito County Sheriff*; Henry P. Solorio, representing *Fishes and Loaves*.

Hearing no one further wishing to address the Board, Chairman Monaco closed the public hearing and brought the matter back to Board level.

Discussion and questions ensued among the Board members with questions being addressed and answered by Ms. Flores.

**BOARD ACTION:** *Upon motion duly made by Supervisor Marcus and seconded by Supervisor De La Cruz, approved and authorized Chairperson to sign Resolution No. 2005-26 authorizing submission of the Community Development Block Grant 2005 application and signing authority for the CSWD Director and authorized the County Administrative Officer to sign the "Assurances" pertaining to the grant. Motion passed unanimously 5-0. (file #939)*

Supervisor Loe thanked Ms. Flores and staff for an excellent job on this matter. Supervisor Loe noted these were programs that are well needed by our community.

## **9:30 a.m. REGULAR AGENDA:**

### **ADMINISTRATIVE BUSINESS:**

27) **Regarding Second Harvest Food Bank, consider the following:**

- a) **Receive a presentation from representatives of Second Harvest Food Bank; and**
- b) **Endorse the Holiday 2005 San Benito County Employees Food Drive; and**
- c) **Direct the County Administrative Office to designate a Holiday 2005 San Benito County Employees food drive coordinator. (Management Analyst)**

Management Analyst Robin Scattini introduced persons who wished to address the Board on this matter.

Mr. Willie Elliott McCray, Director of the Second Harvest Food Bank noted to the Board that this was a worthwhile endeavor to assist families during the Holidays. Mr. McCray indicated everything collected in San Benito County stays in San Benito County whether it is donated foods or monies.

Mr. Lynn Miller, Director of the Regional Department of Child Support Services for Santa Cruz and San Benito County came forward and explained how Santa Cruz County has participated in prior food drives which help unmet needs in the community.

Mr. Joel Hill, Service Employees International Union #817, came forward and stated this was a worthy cause and all benefit from such a drive.

**BOARD ACTION:** *Received presentation from representatives of the Second Harvest Food Bank. Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Loe, endorsed the Holiday 2005 San Benito County Employees Food Drive and directed the County Administrative Office to designate a Holiday 2005 San Benito County Employees food drive coordinator. Motion passed unanimously. (file #156)*

#### HEALTH & HUMAN SERVICES AGENCY K. Flores:

28) **Regarding West Nile Virus Task Force, consider the following:**

- a) **Accept the West Nile Virus Task Force report; and**
- b) **Provide direction with regard to implementing a mosquito abatement program.**

Information and statistics were received from the following staff:

Kathryn Flores – Director of Health and Human Services Agency

Bob Shingai – Environmental Health Services Specialist

Elizabeth Falade, M.D. – San Benito County Health Officer

Chairman Monaco **directed** staff to continue to pursue an agreement with Monterey County via the North Salinas Valley Mosquito Abatement District (NSVMAD) and to continue to look at all options available.

Supervisor Loe also noted the County needs to move forward on this matter. Supervisor Loe **directed** the Interim Administrative Officer to look into options of the use of fees through CSA's in order to pass fees onto users, partnerships with the Cities of Hollister and San Juan Bautista or possibly a vote of CSA members to institute such a fee.

Supervisor De La Cruz felt this was something the County needs to fun at this time and recommended the matter be referred to a Board Sub-Committee for further discussion. Supervisor De La Cruz agreed the County needs to work with the respective Cities.

Supervisor Marcus agreed there is a need to certify staff in Environmental Health as well as the Ag Commissioner's office and to educate the public. Supervisor Marcus stated areas need to be identified and designates whether it be county property, private property, CSA's, ponds, streams, etc. and costs associated for abatement services.

**BOARD ACTION:** *Accepted West Nile Virus Task Force report. By direction of the Chair, directed staff return before the Board at the meeting of May 3, 2005, understanding that the County certified staff may not yet have received accreditation, but to report back on how the West Nile Virus Task Force is progressing and provide an informational update. (file #420)*

#### PUBLIC WORKS:

**29) Consider direction to staff to prepare reimbursement agreement with the Pride of San Juan to complete required Surface Transportation Assistance Act (STAA) improvements.**

Assistant Director of Public Works – Engineering Staff, Arman Nazemi came forward and provided background information relative to this request.

For the record, Supervisor Botelho abstained from voting on this matter.

**BOARD ACTION:** *Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Monaco, directed staff to pursue a reimbursement agreement with the Pride of San Juan to complete the required Surface Transportation Assistance Act (STAA) improvements. Motion passed unanimously. (file #105)*

Chairman Monaco noted the Board would be breaking for lunch and will reconvene at 1:00 p.m. to enter into Closed Session.

County Counsel reported the items to be discussed in Closed Session as noted on the agenda.

Board adjourned until 1:00 p.m.

<b>10:00 a.m. CLOSED SESSION:</b>
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The Board adjourned into Closed Session and reconvened into Regular Session re:

**30) Conference with Legal Counsel – Anticipation Litigation**

**a) Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9. Number of cases: 3**

*Per Counsel, all three items were withdrawn. (file 235.6)*

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

*Per Counsel, all three items were withdrawn. (file 235.6)*

**31) Conference with Legal Counsel – Existing Litigation**

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

*No reportable action. (file #235.6)*

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

*No reportable action. (file #235.6)*

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

*No reportable action. (file #235.6)*

**d) Fancher and Roybal v. County of San Benito.**

*No reportable action. (file #235.6)*

**32) Public Employment**

**Title: County Counsel**

*No reportable action. (file #235.6)*

**33) Public Employment**



**Title: County Administrative Officer**

*No reportable action. (file #235.6)*

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

PLANNING DEPARTMENT: R. Mendiola

**34) Held public hearing re: consideration of an appeal of a decision made by the Planning Commission on March 2, 2005 re: Use Permit 858-02(A) approving the increase of material to be removed from a quarry site on Limekiln Road. Location: 1781 Limekiln Road, Hollister. Appellant: James Ryan. Applicant: Enz Vineyards. Zoning: Agricultural Rangeland (AR).**

Rob Mendiola, Planning Director, provided background information stating that this appeal was filed on an action that the Planning Commission filed to amend the Use Permit which was issued a little over a year ago and it has been operating for about a year without complaints and in good standing. The applicant came back to the Planning Commission because the initial approval was for 20,000 tons per year and they came back after having proposals that needed a little more than that to make it operate so they petitioned to increase the annual production to 100,000 tons per year. The applicant proposed that they wouldn't run anymore than 20 trucks per day to address any potential traffic impact. The Planning Commission proposed mitigation in the form of requiring the trucks to turn right or south on Cienega Road and required the applicant (Robert Enz) to put signage up on his property because there was no concern about the legality of having it on his own property. The Planning Commission also, in order to minimize the impact, removed one day of production per week (Saturday) and Mr. Enz was granted Monday through Friday. The Planning Commission felt that this matter was mitigated and they authorized the Use Permit with the three additional conditions.

Mr. Mendiola further reported that the question of the Planning Commission's error is that which is appropriately raised in an appeal and the record shows that it was taken into consideration. The standard in our development regulations for requiring an additional review of traffic is when a proposal exceeds an additional 50 trip ends. The request never got to the threshold that the county looks at to require further study.

Supervisor Marcus asked about consulting with CalTrans regarding the proposed changes.

Byron Turner, Planner, stated that CalTrans was notified and to date they received no reply or feedback.

Jim Pleyte, Attorney representing Appellant Jim Ryan, noted that he had submitted photos and a petition concerning the appeal. Mr. Pleyte noted that this was a 3-2 vote at the Planning Commission and there were strong objections made. The two opposing Planning Commissioners were interested in having a traffic study done. Mr. Pleyte stated that the appellant's position is that the Board of Supervisors either overrule the Planning Commission and maintain existing levels of extraction and truck traffic as allowed by the existing Use Permit or to send this back for further study such as a full-blown Environmental Impact Report (EIR) or a traffic study so the neighbors know what is going on.

Mr. Pleyte summarized the seven (7) categories that are of concern as follows: 1) Noise; 2) Incompatibility with predominant existing and long established uses; 3) Traffic Safety; 4) Road conditions; 5) Substantial opposition from the neighbors; 6) Lack of an EIR or comprehensive traffic study; and, 7) Adverse affect on neighboring property values.

Mr. Pleyte summarized by stating they would either like the full-blown EIR or to have the project remain at its existing level.

Robert Enz, Applicant, stated that there seemed to have been a misunderstanding on who would be operating his quarry and he said that it would be Enz Vineyards.

The following people spoke on behalf of the applicant, Robert Enz:

Al Martinez, Executive Director of the San Benito County Economic Development Corporation (EDC) supported the project stating that he believes it is a legitimate business that would bring jobs to the county.

Keith Higgins, Traffic Engineer of Higgins Associates in Gilroy provided background information stating that he felt there was no reason to do a traffic study because there is only one curve close to the entrance to the Enz property where the sight distance should be improved but beyond that there is plenty of capacity for this project.

Steve Grace, Resources Manager, Granite Construction in Watsonville, provided input with regards to monthly tonnage reports.

Chairman Monaco asked for clarification of the legality of the \$6800 road maintenance fees to be paid by Enz Vineyards.

County Counsel Karen Forcum explained that the distinction between what may have been imposed in the past, which was considered a tax, is that this is a Condition of Approval on a project and the applicant does not dispute this particular Condition of Approval. So as long as it is a mitigation measure that is proportional to the proposed or anticipated impact it is not deemed to be illegal.

Mr. Enz stated that the Planning Commission did not err and asked the Board to please give him a positive vote and submitted a handout showing signage pertaining to instructions for truck drivers.

The Chair opened the hearing for anyone from the public who wished to address the Board.

The following persons spoke in opposition to the increased truck traffic: Mike Cullinan, Cienega Road resident; Bob Zaucha, Limekiln Road resident; Josh Jensen, Cienega Road resident and owner of Calera Wine Company; Russ Alridge, Airline Highway; Steve Bryans, Cienega Road; Robert Levy, Limekiln Road resident and Allen Barker, Limekiln Road resident.

Dave Grimsley, operator of a quarry on Cienega Road came forward stating he had no problem with the mining but was concerned about trucks tangling with his trucks and he did not want it to jeopardize his business by having to revise his own Use Permit.

Steve Grace, Granite Construction, came forward speaking on behalf of his business stating that there was a need for this product.

Chairman Monaco called for rebuttals.

Mr. Pleyte came forward stating that the appellant would like a public interest based study at a minimum, or preservation of existing levels, to see that these impacts do not get out of hand.

Mike Cullinan stated that it was ridiculous for the out of town engineer to compare Highway 129 with Limekiln Road.

Jim Ryan stated that the road is only 18 feet wide and you can't put two trucks on it and it should be a two-lane road.

Mr. Mendiola addressed the question about the legal notice for notification of the public hearing. Mr. Mendiola stated that the legal requirement is to notice property owners within 300 feet and the county exceeded that and it was published in the newspaper therefore the hearing was properly noticed in the eyes of the law.

The Chairman closed the public hearing.

Lengthy discussion ensued amongst supervisors, Planning Department and Public Works Department regarding traffic safety, road conditions, bridge replacements, signage, noise, potential litigation, county road standards and the possibility of widening the road.

Supervisor Loe felt that rather than a traffic study the money should be spent on widening the roads.

Supervisor Botelho was not willing to have a traffic study done and felt that they should modify the application to improve roads to two lanes, place signage and to modify permit to 15 loads.

*Supervisor Marcus made a motion to continue this appeal to a date certain whereby a traffic study is performed on Limekiln Road and the adjacent Cienega Road up to Highway 25 and they specifically address four (4) issues that were brought up by the appellant: Noise, Incompatibility, Traffic Safety and Road Conditions and that we make our decisions based on that particular traffic study and that the traffic study be paid for by the applicant.*

*Supervisor De La Cruz seconded the motion for discussion purposes.*

Under the question:

Supervisor De La Cruz stated that in that traffic report we need to ensure that all factors leading to these 4 items of concerns – not necessarily the Enz property but also the residents that live in that area – that anyone contributing to any of these issues should contribute to mitigation costs.

Chairman Monaco asked for clarification and if the maker of the motion was agreeable.

Supervisor Marcus asked if what Supervisor De La Cruz is saying is that study is based on all aspects of the use of the road.

Supervisor De La Cruz said that was correct.

Supervisor Marcus stated that if the increased use of the road is because of the increased tonnage taken from this mining operation and that is adding to the safety factor – the noise, incompatibility and the road conditions -- that he would have to somewhat argue that the fact that up to now the road is deemed safe and there hasn't been a concern and it would have to be a county maintained road based on wine deliveries or car traffic. Supervisor Marcus stated that the increased impact is what we are discussing and that is all that he cares about to be addressed in the traffic study.

Supervisor De La Cruz stated that for 15 additional trips that was fair.

Chairman Monaco asked Supervisor Marcus to please re-state the motion.

*Supervisor Marcus made a motion to continue this appeal to a date certain when we have received a traffic study from the applicant specific to the four (4) issues brought up by the appellant: Noise, Incompatibility, Traffic Safety and Road Conditions on Limekiln Road and to the south the adjacent Cienega Road up to Highway 25 to confirm that those four (4) issues are discussed and met.*

*Supervisor De La Cruz seconded the motion.*

County Counsel Karen Forcum noted that an actual date must be specified for that continuance to a date certain and alternatively it could be continued to a date uncertain.

*Supervisor Marcus corrected his motion to state continue to a date uncertain.*

Supervisor De La Cruz said he did not agree with Cienega Road because it is a public road.

Supervisor Marcus stated his concern was because of the bridge.

Supervisor De La Cruz stated that was also his concern.

Supervisor Marcus stated he (himself) was not a traffic expert and to let the study address it.

Supervisor De La Cruz stated to move forward then.

Chairman Monaco called for the question.

**BOARD ACTION:** *The motion passed 3-2 to continue this appeal to a date uncertain when the Board of Supervisors has received a traffic study from the applicant (Enz Vineyards) addressing the four (4) issues brought up by the appellant (Jim Ryan) regarding Noise, Incompatibility, Traffic Safety and Road Conditions on Limekiln Road, and to the south the*

*adjacent Cienega Road up to Highway 25, and to confirm that those four (4) issues are discussed and met. (Supervisors Marcus, De La Cruz and Monaco voted yes. Supervisors Botelho and Loe voted no.) Appeal File*

**35) Held public hearing re: consideration of General Plan Amendment 2004-26 amending the Land Use and Housing Elements and Land Use Designation Map.**

Planning Director Rob Mendiola provided background information stating that both this item and the next item were generated as a result of the adoption of our Housing Element that was done July 2004. Mr. Mendiola noted that the State did not see fit to certify it so they have attempted to accelerate some of the programs in there to convince the State that we are serious about our Housing Element.

Mr. Mendiola stated that for the purposes of translation, if needed, we have Yolanda Garcia present as a translator.

Chairman Monaco asked if there was anyone present who needed a translator. No one came forward.

Mary Paxton, Planner, presented the staff report stating that essentially today the Board of Supervisors would be considering amendments to the Land Use Element, the Housing Element and the Land Use Designation Map as outlined in the Board's packet.

Ms. Paxton noted that the Agenda Item Transmittal should be corrected to reflect General Plan Amendment No. 2004-26 and not 2005-26.

Ms. Paxton and Mr. Mendiola answered questions from the supervisors.

Chairman Monaco opened the public hearing.

Kathy Flores, Community Services & Workforce Development (CSWD) Director, stated that she had spoken earlier during the morning session about the Housing Element and the Community Development Block Grant (CDBG) application. Ms. Flores stated that in answer to a question as to what could prevent the county from receiving this grant she wanted to again confirm that the status of the Housing Element does affect our jurisdictions ability to attract CDBG funding.

Ms. Flores urged the Board not to delay the adoption of the Housing Element in order to preserve the County's ability to access potential funding sources such as CDBG. Ms. Flores indicated that that there would be a grant application up in Sacramento by the end of the week and the State has told us that if we have an approved Housing Element, which means approved at the local level by the Board of Supervisors and then approved by the California Department of Housing and Community Development (HCD), Policy Division, that we would be considered for a grant award; however, if we do not make HCD's deadline of June 1<sup>st</sup> then the grant application would not be considered.

Susan Heiser, Planning Manager for the City of Hollister, spoke in favor of the proposed General Plan Amendment to implement the County Housing Element. Ms. Heiser stated that staff met with the City while developing this amendment and the City concurred with the change having to do with the re-zoning and the development within the sphere for the specified time period and only for the development of the special needs housing. Ms. Heiser requested that any development under this provision be coordinated with City staff, that the development densities be consistent with the relevant City's General Plan designation for those sites and that the development be required to connect with the City of Hollister's Sewer Treatment Plant at the appropriate time.

Further, Ms. Heiser stated that this policy should not impact the City's ability to meet its portion of the regional housing needs during the current Housing Element planning period; however, it would impact the City if this program were to be expanded to other housing types or be continued into the next planning period.

Ms. Heiser urged the Board to consider the impact of grant application funds and its timeliness.

Ms. Flores noted also that if the County does not move forward with our Housing Element there would be the possibility of putting the Winter Shelter for 30 families with children at risk as well as the Job Training Program and the Rent Assistance Funds.

The Chairman closed the public hearing.

Acting County Administrative Officer Susan Lyons expressed concern that the HCD has informed the CSWD Director that we need to having the Housing Element in place in order to get grant funding.

Supervisor Botelho stated that although he was not comfortable with this zoning he understood the special needs housing needed to be addressed and we certainly could not jeopardize our grant application process.

**BOARD ACTION:** *Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, adopted the Negative Declaration and adopted **Resolution No. 2005-27** approving amendments to the San Benito County General Plan Land Use Element, Land Use Map and Housing Element – GPA 2004-26 and authorized the Chair to sign said resolution.*

Under the question:

Chairman Monaco commented that this is a complex issue and he has some concerns about it but our options don't look very viable and that is we would hang up the possibility of some grant applications. Chairman Monaco stated that he felt it was unfortunate that the Board runs into these situations where we really don't have time to look at this in depth because of impending risk of losing grant applications.

Chairman Monaco called for the question.

*The motion passed unanimously. File #790*

**36) Held public hearing re: consideration of Zone Change 141-04 which proposes to amend the San Benito County Zoning Ordinance No. 479 to implement programs in the 2001-2008 Housing Element Update.**

Mary Paxton, Planner, provided background information stating that this Zoning Ordinance stems from programs in the recently adopted Housing Element. Most of the zone changes implement programs to relax standards in the Zoning Ordinance and they also increase the opportunity for higher density development in residential multiple zoning district, higher density development in the single-family residential zoning district and some of the standards are for handicapped accessible housing.

Ms. Paxton reported that several workshops regarding the Zoning Ordinance amendments were held by the Planning Commission.

The Chairman opened the public hearing.

There was no one from the public wishing to address the Board.

The Chairman closed the public hearing.

Ms. Paxton answered questions from the Board of Supervisors regarding Senior Second Dwelling units.

**BOARD ACTION:** *Upon motion made by Supervisor Marcus and seconded by Supervisor De La Cruz, adopted the Negative Declaration and adopted **Ordinance No. 784** amending Ordinance 479, as previously amended, by adding Zone Change No. 04-141 and authorized the Chairman to sign said ordinance. (Unanimous vote.) File #790*

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 April 12, 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 Clerk (morning session)

Linda Churchill  
Senior Clerk ( afternoon session)