



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 MAY 3, 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, Interim County Counsel Claude Biddle and Senior Board Clerk Linda Churchill (morning session) and Assistant Board Clerk Sally Navarez (afternoon session). 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:** Joe Thompson, Hollister resident, came forward. Mr. Thompson stated that since last week he has learned even more reason to endorse and support Senate Constitutional Amendment No. 2 and why he felt the Board should support this benefit for local government and that is the ability to resist unfunded State mandates from the legislature. AB 765 has passed committee and if it becomes law there will be more transit and more movement of passengers will be performed by local government without any further funding to do the inter-county transit as it calls for. Mr. Thompson urged the Board of Supervisors to not only oppose Senate Constitutional Amendment No. 2 but to oppose AB 765.

Mr. Thompson further commented that he had been requesting information for some time now from Council of Governments (COG) and today he was submitting a formal request to the Clerk, pursuant to the Public Records Act, for the information that he has been requesting from COG since last June.

Frank Valenzuela, long-time county resident, came forward. Mr. Valenzuela addressed the Board with concerns about the Sheriff's Department and the District Attorney's office. Mr. Valenzuela felt there were things that should not be happening in those departments. Recently a friend had called him that her son had been arrested and charged with crimes. Mr. Valenzuela said he appeared in court and the D.A. charged this young man without any evidence and the judge had to dismiss the case due to no evidence. Another matter recently was the Orabuena case and another recent case is a

little girl who was almost killed doing some dumb things and as a victim she is being charged as a criminal. Mr. Valenzuela stated that these are things that shouldn't be going on and he felt the Board of Supervisors should be upset about it and be doing something about it. Mr. Valenzuela stated that the respect for law enforcement in this county is not very high.

Paul Grannis came forward stating that the Free Lance editorial wrote in part that the Board of Supervisors made a short-sighted decision and an Ethics Committee set up in the proper fashion to remove fears of political payback would go a long way in restoring dignity and fairness to our political process. Mr. Grannis stated that the supervisors turned their back on that and what the Free Lance avoided mentioning was the vote to form a Campaign Ethics Committee was soundly defeated by a 4-1 margin. Mr. Grannis commended Supervisor Loe for her courageous stand against political corruption with the only yes vote. Mr. Grannis stated that Supervisor Loe's moral values to do the right thing outshine any excuses made by the Board members explanation of their no vote. Mr. Grannis said that to be sure voting no on the establishment of an Ethics Committee would be a dead weight hanging on the shoulders of each supervisor come election time.

d) **Department Head Announcements:** There were none.

e) **Board Announcements, Introductions and Presentations:** Supervisor Marcus assured everyone that he did not know Mr. Grannis would be speaking today. Supervisor Marcus stated that he had met with the Acting County Administrative Officer yesterday because last week he came away dissatisfied with the conclusion that he had made with possibly not enough thought. Supervisor Marcus said that he voted in opposition to the formation of the Ethics Committee basically for two reasons that he still felt strongly about. One is the fact that he feels we have too much bureaucracy in our system and too much government intervention in the system and secondly he was still highly concerned about the liability the County could experience.

Supervisor Marcus stated that he would like to move to a date certain in June to possibly re-establish the same sub-committee, but, not through the government process only in a search mission through the Farm Bureau, Chamber of Commerce, Rotary Club and outside sources within the community that possibly the Board of Supervisors could endorse but remain at arm's length from the object of liability and if that sounds reasonable to his fellow Board members he would like to bring this back with that mission and that is only way he would support it is if the government and the county is at arm's length for those reasons.

Acting County Administrative Officer Susan Lyons stated that this item would be brought back as an agenda item at the June 7, 2005 Board meeting.

Supervisor Botelho said that he wholeheartedly agreed with Supervisor Marcus and that he had talked with Supervisor Loe about the same things. Supervisor Botelho stated that he did not think it was a bad idea to have an Ethics Committee in this county but he didn't feel that the Board of Supervisors, as a government entity, ought to be the body that formulates the committee. Supervisor Botelho stated that he would like to see a credible citizen's group such as the Leadership San Benito, Farm Bureau, Chamber of Commerce or LULAC being the lead in this effort with hopefully the City and County supporting it and he would support this at a future date.

Supervisor Loe stated that she felt it was very important that the Board of Supervisors take a leadership role in this and she would like to see it back on the agenda for further discussion.

Supervisor De La Cruz announced that the Free Lance Newspaper was losing a very valuable reporter and he wanted to commend Jessica Quandt and thank her for the quality service she has provided for the City of Hollister and San Benito County.

CONSENT AGENDA:

Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho, approved Consent Items 2 through 7 and pulling Item 1 for discussion. (Unanimous)

ADMINISTRATION:

- 1) **Consider amendment to agreement with Sally Reed re: administrative consultation services. (Acting CAO)**

Supervisor Loe expressed concern that staff had been instructed to answer three questions on this subject and those questions had not been answered. Also, the certifications of insurance in our packet do not have the proper business liability coverage and Supervisor Loe stated she would like to have copies of those before we leave today so we are sure that the coverage is correct. Supervisor Loe stated that until she knows that this coverage will not affect the citizens of San Benito County she could not support this change.

Acting CAO Susan Lyons stated that she did have the certifications and it would be made available before the end of the day.

Interim County Counsel Claude Biddle stated that Trindel Insurance Company has assured us that with this language change Ms. Reed would be covered under the policy for a defense in the event she was named as a party to an action.

Lengthy discussed ensued regarding independent contractors and their indemnification coverage, the potential cost of litigation to the county, and whether this would be setting a precedent.

Supervisor Loe made a motion that the insurance not be placed and the binder canceled.

The motion died for lack of a second.

Supervisor Botelho made a motion to table this item in order to get more information about the necessity of adding insurance or coverage or doing something different with this particular consultant.

Supervisor Botelho withdrew his motion.

BOARD ACTION: *Upon motion made by Supervisor Marcus and seconded by Supervisor Botelho approved the amendment to the contract with Sally Reed for consulting services and authorized the Chair to sign said amendment.*

Under the question. Supervisor Loe asked if it wouldn't be more prudent to re-write the contract.

County Counsel Claude Biddell said that could be done and make Ms. Reed's function as an officer more specific.

Supervisor Marcus asked if that meant re-negotiating the entire contract?

Supervisor Loe answered yes it would mean re-negotiating the entire contract.
Supervisor De La Cruz stated that motion on the floor is to amend the contract and the original contract is the same so that would be a different motion.
The Chair called for the question.
The motion passed 4-1 with Supervisor Loe voting no. File #156

AUDITING – J. Hodges:

- 2) **Approved** Departmental Claims.

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT – K. Flores:

- 3) **Authorized** CSWD Director to issue an Invitation For Bid (IFB) for replacement mattresses for beds at the Southside Road Family Migrant Center. *File #939*

PLANNING DEPARTMENT – R. Mendiola:

- 4) **Adopted Ordinance No. 785** re: Zone Change 04-139, changing the zone designation on 17.3 acres from Agricultural Productive (AP) to Rural Residential (RR) and **approved** Mitigated Negative Declaration. (Lico/Greco Partnership) *(cont from 4/26/05 mtg) File #790*

PUBLIC WORKS:

- 5) Regarding air duct cleaning of County owned buildings; consider the following:
- a) **Accepted** all bids;
 - b) **Awarded** contract to Ductmuckers Air Conveyance System Services as the lowest responsive, responsible bidder and **waived** immaterial defects for an amount not to exceed \$25,475 with a term commencing on May 4, 2005 through June 30, 2005; and
 - c) **Authorized** the Chair to sign agreement. *File #105*
- 6) **Declared** Agricultural Commissioner vehicle surplus equipment and have it removed from inventory. *File #105*

SHERIFF – C. Hill:

- 7) Regarding lease/purchase of Jail transportation bus, consider the following:
- a) **Authorized** the Sheriff to enter into contract discussions re: lease/purchase of transportation bus; and
 - b) **Amended** the FY2004/2005 Fixed Asset Schedule to reflect the lease increase; and
 - c) **Amended** the Patrol and Jail budgets to reflect an interdepartmental transfer of \$8,225. *File #110*

REGULAR AGENDA:

PRESENTATIONS / RECOGNITIONS / PROCLAMATIONS:

- 8) **Consider proposed proclamation declaring the week of May 15-21, 2005 as "Public Works Week" in San Benito County. (Public Works Dept.)**

Chairman Monaco stated that there were 40 dedicated and enthusiastic employees in Public Works and they are the dedicated employees that make sure that

we, as citizens, can move about our county unencumbered by hazardous conditions. Chairman Monaco read the proclamation.

BOARD ACTION: *Upon motion duly made, seconded and carried, proclaimed May 15-21, 2005 as Public Works Week. File #430*

9) **Presentation of Certificate of Recognition honoring the retirement of Vern Simmons from the California Department of Forestry for thirty years of service. (Supervisor Monaco)**

BOARD ACTION: *Chairman Monaco presented a Certification of Recognition to Vern Simmons who is retiring from the California Department of Forestry and Fire Protection after thirty years of service. File #60*

HEALTH & HUMAN SERVICES AGENCY K. Flores:

10) **Receive update regarding West Nile Virus Task Force and provide direction with regard to future Task Force efforts.**

Health & Human Services Agency Director Kathy Flores provided a follow-up report on local West Nile Virus (WNV) Task Force efforts and handed out a spread sheet titled Estimated West Nile Abatement Budget (6 months).

Dennis Rose, City of Hollister, came forward stating that he had talked briefly with City Manager Clint Quilter and he is committed to the health and welfare of the community but the problem is there is no monies budgeted and he will be doing some research and it will take at least a couple of weeks to come up with an answer.

Supervisor Botelho stated that this must be a joint effort with the City and County and some sort of budget must be worked out for the program, which is a necessity in this community.

BOARD ACTION: *Directed staff (Acting CAO) to agendize a report for the May 24, 2005 Board of Supervisors meeting after the Inter-Governmental Committee meeting to be held on May 13, 2005. File #130*

ADMINISTRATIVE BUSINESS:

11) **Consider support letter to San Benito Agricultural Land Trust re: Rural Land Stewardship Program. (Acting CAO)**

Acting CAO Susan Lyons provided background information stating that this program was presented to the Board of Supervisors last week and at that time Mr. Len Materman informed the Board that he was applying for a grant to continue the study of the Rural Land Stewardship Program. He requested that the Board approve a letter stating that the Board at least supported the four principles of the program.

Supervisor Marcus stated that the motion should be clear that it is the concept that the Board is approving because we still haven't heard from our TDC (Transfer of Development of Credits) committee and we want to make that the combined efforts are working towards the same direction.

Web Winans, Lovers Lane resident, came forward stating that the TDC meetings have been going on for one year now and the purpose of the TDC's are to stick with what the county is interested in as far as agricultural preserves and as to what can be done with different types of properties. Mr. Winans stated that a report from the TDC Committee will be agendized for the May 24, 2005 Board of Supervisors meeting and he did not want to jeopardize all the work the TDC Committee has done.

BOARD ACTION: Supervisor De La Cruz made a motion to approve a letter supporting the concepts of the San Benito County Stewardship Program. Supervisor Marcus seconded the motion. (Unanimous) File #156

12) **Receive Report on FY2005/2006 General Fund Budget Requests. (Acting CAO)**

Management Analyst Robin Scattini provided background information and stated that the report this morning was a compilation of requests from the budgets and in the Board packet there was a summary of the requests pertaining to the General Fund. Ms. Scattini emphasized that these numbers are simply the requests and haven't been adjusted at all at this point and updates would continue to be brought before the Board after meetings with the Budget Sub-Committee.

Ms. Scattini referred to the report included in the Board's packet noting that the third page reflects the shortage of \$4.87 million. Ms. Scattini stated that although this was a daunting number to work with it was not a surprise and it was anticipated.

Received the report. No action was taken. File #865

CLOSED SESSION:

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

- a) Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9. Number of cases: **2**

No reportable action. File #235.6

14) **Public Employee Discipline/Dismissal/Release**

Authority: California Government Code Section 54957

BOARD ACTION: Interim County Counsel Claude Biddle reported that the Board of Supervisors confirmed the actions of the Acting CAO in terminating employment of the Planning Director with comment that a report will be forthcoming based on the Monteon investigation absolving Mr. Mendiola of all wrongdoing charged in that complaint. File #235.6

14.a) Addendum: **Public Employment**

County Administrative Officer

No reportable action. File #235.6

1:30 p.m. BOARD WORKSHOP

PLANNING DEPARTMENT – R. Mendiola:

15) **Conduct a workshop on the 2001-2009 Housing Element.**

Senior Planner Mary Paxton came forward as did Deputy Planning Director Fred Goodrich.

A lengthy review was presented to the Board by Mr. Goodrich and Ms. Paxton which included the State mandated process of meeting the housing needs in the community but meeting criteria established by the State. Issues discussed included affordable housing, the Preliminary Allocation process, infrastructure needs, density

issues, working with local agencies such as the Cities of Hollister and San Juan Bautista, County Water District, Water Resources Association, etc.

Ms. Paxton indicated the State, in their report, wanted to see 241 units identified and county staff had identified 280 established units.

BOARD ACTION: *Supervisor De La Cruz directed staff to draft a letter to the Water Resources Association to discuss the possibilities of the County joining said Association.*

Received report, no formal action(s) taken. (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 May 10, 2005 at 9:30 a.m.

REB MONACO, CHARIMAN
San Benito County Board of Supervisors

ATTEST:
John R. Hodges
Clerk of the Board

BY:
Linda Churchill (Morning session)
Senior Board Clerk

Sally Navarez (Afternoon session)
Assistant Board Clerk