



## 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

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

### REGULAR MEETING AGENDA OCTOBER 4, 2005 ACTION MINUTES

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 County Administrative Officer Susan Thompson, Interim County Counsel Claude Biddle and Assistant Clerk Sally Navarez. Chairman Reb Monaco presiding when the following was had to wit:

<b>9:30 a.m. CALL TO ORDER:</b>
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- a) Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged the Certificate of Posting.*
- c) **Public Comment:** Joe Thompson, Citizens Railroad Advisory Committee, came forward. Mr. Thompson noted that the Valley Transit Authority (VTA) will not reimburse the County for expenses associated with the proposed Hwy 156 flyover. Mr. Thompson suggested the Board direct COT and the Technical Advisory Board of COG to pursue efforts in increasing railroad economic movements.

Linda Nolan of 772 Riverside Road came forward. Ms. Nolan brought to the attention of the Board of a problems with a neighbor holding rodeos on the weekend. Ms. Nolan stated she wasn't against her neighbor holding such events. At first, the event was once a week, but have increased to three times a week and she is concerned about the large crowds and alcohol on the premises. Ms. Nolan indicated law enforcement had been to the site just this weekend.

Ms. Nolan said she spoke to the property owner, a Mr. Vasquez, and he indicated to her he has a permit for such events, but with the increased activity, this disturbs the neighborhood and asked the Board to help remedy the problem.

Sheriff Curtis Hill came forward and confirmed that law enforcement had indeed been to the residence mentioned this past weekend regarding a noise complaint. Sheriff Hill noted he has discussed the matter with Interim Planning Director Michael Bethke and they will be discussing the enforcement matter with the Alcohol Beverage Control (ABC) on how to best address this matter.

Supervisor Botelho requested this matter be agendized in order to review event permits and would like to discuss this matter in more detail.

CAO Thompson stated we must let law enforcement conduct their review first and after that is completed, bring the matter back before this Board.

d) **Department Head Announcements:** CAO Thompson noted public input for the positions of Planning Director and Public Works Director have been completed and expects results from the consultants in two to three weeks. Upon receipt of that information, Ms. Thompson stated recruitment flyers will be developed and released.

Ms. Thompson publicly thanked all those who participated in the profiling sessions.

e) **Board Announcements, Introductions and Presentations:** Chairman Monaco noted he attended a conference last week sponsored by AMBAG and CSUMB regarding high speed internet access to our area. Chairman Monaco noted Superintendent of Schools, Tim Foley, also attended the conference and encouraged the County to continue to work with AMBAG on this matter.

#### **CONSENT AGENDA:**

**BOARD ACTION:** *Upon motion duly made by Supervisor Botelho and seconded by Supervisor De La Cruz, approved Consent Agenda Items #1 through #11. Motion passed unanimously.*

#### **ASSESSOR – T. Slavich**

1) **Approved Resolution No. 2005-101** authorizing filing of an application for state payment under the Open Space Subvention Act and **designated** Assessor Tom J. Slavich as authorized representative. (file #7)

#### **AUDITING DEPT. – J. Hodges:**

2) **Approved** departmental claims.

#### **COUNTY COUNSEL: C. Biddle**

3) **Approved** authorizing County Counsel, in lieu of the District Attorney, to file petitions to remove or destroy neglected or abandoned plants or crops under Chapter 7 of Part 1 of Division 5, commencing with Section 5551 of the Food and Agricultural Code. (Res. No. 2005-102)

#### **ELECTIONS DEPT: J. Hodges**

4) **Approved** agreement with Michael Hodges re: election services for the November 8, 2005 Special Statewide Election in an amount not to exceed \$10,000 with a contract term of October 4, 2005 to November 30, 2005. (file #285)

5) **Approved** agreement with Sequoia Pacific Systems re: printing services for the November 8, 2005 Special Statewide Election in an amount not to exceed \$45,000 with a contract term of October 4, 2005 to December 31, 2005. (file #285)

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

6) **Approved** purchase of vehicle utilizing the State of California Department of General Services Procurement Division in an amount not to exceed \$14,637. (file #130)

7) **Approved** agreement with Santa Clara County Office of Education re: specified school nursing services with a contract term of October 4, 2005 through June 30, 2006 in the amount of \$3,062.51. (file #420)

8) **Approved** the appointment of Sue Rocha to the Workforce Investment Board (WIB) representing the private sector for a three-year term effective October 4, 2005 through September 30, 2008. (CSWD – file #939)

9) **Approved** the reappointment of Sally French to the Workforce Investment Board (WIB) representing the private sector for a three-year term effective October 4, 2005 through September 30, 2008. (CSWD – file #939)

10) **Approved** appointment of Sergio L. Garcia to the Community Action Board as the Board of Supervisors District #5 representative for a 3-year term effective October 4, 2005 through September 30, 2008. (CSWD – file #939)

**SUBSTANCE ABUSE PROGRAM: M. Narasaki:**

11) **Approved** proclamation declaring October 23 – 31, 2005 as Red Ribbon Week in San Benito County. (file #1053)

<b>REGULAR AGENDA:</b>
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**PRESENTATIONS / RECOGNITIONS:**

12) **Presentation of Trindel Safety Incentive Award to San Benito County employees Denise Quintana, Victoria Fernquist, Muree Reafs, Ron Ross and Lupe Eclarin.**

Chairman Monaco asked the employees to come forward. Chairman Monaco presented a Safety Recognition Certificate to Denise Quintana of the Department of Child Support Services; Victoria Fernquist of the Human Services Division; Muree Reafs and Lupe Eclarin, both of the Health Department.

Chairman Monaco thanked each of the employees and noted that these employees were nominated by their respective Department Heads.

13) **Consider proclamation declaring Friday, October 7, 2005 as “California Arts Day” in San Benito County and authorize Chair to sign said proclamation.**

Chairman Monaco asked local artist Shannon Grissom to come forward and Ms. Grissom read the proclamation aloud.

**BOARD ACTION:** *Upon duly made by Supervisor Marcus and seconded by Supervisor De La Cruz, **adopted** proclamation declaring Friday, October 7, 2005 as “California Arts Day” in San Benito County and **authorized** Chair to sign said proclamation. Motion passed unanimously. (file #430)*

**AGRICULTURAL COMMISSIONER – P. Matulich:**

14) **Consider letter to Governor Schwarzenegger requesting his veto on Senate Bill 455 that affects the compliance issues of the current pesticide laws and authorize the Chairman to sign said letter.**

Ag Commissioner Paul Matulich urged the Board to forward said letter to the Governor due to SB455 taking away discretion from all Ag Commissioners on the pursuing violations and imposing fines with no cost recovery. Mr. Matulich urged the Board to oppose this Legislation and gave the example of enforcing a \$50.00 fine, without cost recovery, included investigation time, mileage, etc. and theoretically, could cost up to \$300 to enforce said fine without reimbursement for the additional expenses.

Supervisor Botelho thanked Mr. Matulich and his staff on providing pesticide training annually out in the field for the benefit of the business owners and their staff and urged the Board to oppose SB455.

Supervisor Marcus noted that while RCRC took no stance in opposing this legislation, it was watching the matter closely. Supervisor Marcus echoed Supervisor Botelho's concerns and stated the Board needed to support the Ag Commissioner and his staff.

Chairman Monaco indicated his constituents were in opposition to this legislation. Chairman Monaco commended Mr. Matulich and his staff as well and agreed the Board needed to support the Ag Commissioner's office.

**BOARD ACTION:** *Upon motion duly made by Supervisor Botelho and seconded by Supervisor Marcus, approved letter of support in opposing Senate Bill 455 and directed said letter be forwarded to the Governor's office. Motion passed unanimously. (file #1.1)*

#### **PLANNING & BUILDING DEPARTMENT – M. Bethke:**

15) **Report from County Counsel pertaining to the condition of approval regarding the re-routing of secondary access to Tract Map 03-69 (Bertuccio) and direct staff accordingly. (Cont. from 9/13/05 mtg)**

Planner Byron Turner noted this matter was continued from the September 13, 2005 Board of Supervisors meeting in order to allow County Counsel time to review the matter in more depth.

Counsel Claude Biddle noted Deputy Counsel Shirley Murphy would provide background information on the matter.

Deputy County Counsel Murphy provided background on the secondary access matter, the environmental document associated with this project, mitigating impacts and the conformance of said project with the County's Subdivision Ordinance.

Deputy Counsel Murphy explained the secondary access was part of long range planning matter and was to be used primarily in emergency situations.

Deputy Director of Public Works Arman Nazemi also provided technical background on the engineering aspects of said long range planning and the secondary access route.

Douglas Marshall, attorney for Tina Bertuccio, came forward. Mr. Marshall noted Mrs. Bertuccio wasn't in opposition of the secondary access route if deemed necessary and required by the County. However, after the application process was started, there was no reason for the road and the matter was discussed with the Damms on dividing or proceeding through the Damm 10-acre parcel.

Bill Damm, affected property owner, noted once his property is divided into two-5 acre parcels, the property couldn't be split any further. Mr. Damm didn't feel it was appropriate for his property to be subjected to having the secondary access divide his property if simply for the sake of long range planning goals and costs associated with the

long range planning goal to be the financial responsibility of either Mrs. Bertuccio or themselves.

Mary Damm, affected property owner, noted the right of way exists but not as a means to use. Mrs. Damm noted when Mrs. Bertuccio put in the PUD, that is what triggered this matter and it should be her responsibility.

Lengthy discussion ensued regarding the proposed secondary access matter; the impact of having an additional access tap into heavy traffic area of Union Road from secondary access route; the potential of future development bringing approximately sixty-five new residences on a 300-acre parcel; the impact of re-routing Cienega Road and the possibility of a deferred improvement agreement for the secondary access.

Lengthy discussion followed regarding the costs of improvements and bonding said improvements via a deferred improvement agreement.

**BOARD ACTION:** *Upon motion duly made by Supervisor Marcus and seconded by Supervisor De La Cruz,*

- a) *Per Book 21, page 10, Parcels 30 & 33, the sixty foot right of way is not a condition of approval for the Bertuccio Subdivision; and*
- b) *The Bertuccio ownership is required to bond a deferred improvement for that particular section of sixty foot property; and*
- c) *The right of way remains the property of San Benito County.*

*Motion passed 4-1 with Supervisor Botelho voting no on the matter. (file #790.2)*

#### **ADMINISTRATIVE BUSINESS:**

16) Announcement of appointments to the Association of Monterey Bay Area Governments. (AMBAG) (Chairman Monaco)

**ACTION OF THE CHAIR:** *Chairman Monaco appointed Supervisor Botelho and Supervisor De La Cruz as Board of Supervisors representatives to AMBAG and appointed Supervisor Marcus as the alternate representative to AMBAG. (file #1111)*

#### **CLOSED SESSION:**

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

- a) **Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9. Number of cases: 1**

*No action taken. (file #235.6)*

- b) **Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9. Number of cases: 1**

*No action taken. (file #235.6)*

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

**Authority: California Government Code Section 54956.9(a)**

- a) **Fancher & Roybal V. County of San Benito**

*No action taken. (file #235.6)*

- b) **De La Cruz v. County of San Benito**

*No action taken. (file #235.6)*

19) **Conference with Labor Negotiator**

**Authority: California Government Code Section 54957.6**

**Agency Designated Representative:** Susan Thompson, CAO  
**Employee Organization:** General Unit – SEIU, Local 817  
Deputy Sheriff's Association (DSA)

*No action taken. (file #235.6)*

- 20) **Conference With Labor Negotiator**  
**Authority:** California Government Code Section 54957.6  
**Agency Designated Representative:** Susan Thompson, CAO & Gifford Swanson, Public Authority Manager (IHSS)  
**Employee Organization:** SEIU, Local 817 – In Home Supportive Services (IHSS)

*No action taken. (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: 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 Tuesday, October 11, 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 Board Clerk