



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 AGENDA NOVEMBER 8, 2005

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session. Supervisors De La Cruz; Botelho; Loe and Monaco were all present. Supervisor Marcus was absent. 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:

9:30 a.m. CALL TO ORDER:

- a) Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged the Certificate of Posting.*
- c) **Public Comment:** Joe Thompson, Tres Pinos resident came forward. Mr. Thompson noted the Council of Governments would be having a special meeting tomorrow night and he felt it important before that meeting occurs this Board give the COG delegation some instructions. Mr. Thompson felt it had something to do with COG's delegates from this body and have alertly identified and are attempting to redress regarding the financial results from the County Transit. A whitewash or a band-aid isn't going to affect the malignant tumor that is growing underneath and Mr. Thompson encouraged the Board to send instructions to the COG delegates and tell them we don't need a whitewash, we don't want a band-aid, we want a true solution, reducing fixed route transit services' hours 15% is not the solution. We need a true solution and not something that is going to miss the target. Mr. Thompson thanked the Board for the opportunity to address the Board.

Web Winans, Lovers Lane resident came forward. Mr. Winans wanted to discuss the fact that hasn't been any action on the noise issue. Mr. Winans also wanted to mention the fact that there was the usual slip in the tax papers referencing what we can and cannot do in the rural areas.

Mr. Winans explained the problem was it isn't affective enough for people to open up the envelope, view the tax bill and until the small green paper fell onto the floor, he hadn't noticed it before. Mr. Winans felt there has to be something more dramatic to catch the readers' attention so they know what is being talked about. The paper was so small that unless you have excellent eyesight, the reader won't see it. Mr. Winans thought that a lot of people, when reading this, are good at Spanish and felt the notice should also be put out on a Spanish basis also. Mr. Winans hoped the next go around, something better would be included so that people know what they are allowed to do in the rural areas and would like to see some action taken on that.

- d) **Department Head Announcements:** CAO Thompson indicated she would be a judge in the upcoming Veteran's Day Parade.

Supervisor De La Cruz asked for a tally of monies that have come from an approved Block Grant earmarked for YMCA Youth Services.

CAO Thompson asked if Supervisor De La Cruz meant something to the affect of a quarterly report?

H&HSA Director Kathryn Flores stated to Supervisor De La Cruz that she prepares a quarterly report and would make that information available to the Supervisors.

Supervisor De La Cruz noted at the last First 5 San Benito meeting, an audit of the Commission was discussed and he noticed the same auditor had been used several times. Supervisor De La Cruz stated he would like to see CAO Thompson develop a policy that all departments of San Benito County have new auditors every two to three years as this allows new, fresh eyes to look at the numbers because sometimes when you have the same auditor, there is a tendency to overlook certain small details that can become big issues down the road, and cited COG as an example. Supervisor De La Cruz wanted a policy developed and that brought back before the Board to adopt as a countywide policy.

Supervisor Monaco stated Supervisor De La Cruz should meet with CAO Thompson to find a solution and preferred the matter be handled that way.

Supervisor De La Cruz stated right now there was no set policy and didn't want to see problems down the road.

Chairman Monaco stated procedurally, he would prefer if the matter be handled between himself and the CAO and then brought to the attention of the Chair.

Supervisor Loe stated she would like to have staff provide an update on the Housing Element brought back before the Board. Supervisor Loe noted the update the Board received in July mentioned many goals that are date specific and she didn't think those things had come before the Board yet and because of what Supervisor De La Cruz cited, the grant, we have to have the Housing Element updated and adopted by the end of this year.

e) **Board Announcements, Introductions and Presentations:** Supervisor De La Cruz noted the Hollister Police Department was working hard and had identified the shooters in recent incidents and that was good. Supervisor De La Cruz stated he heard that the County continues to spend taxpayers dollars in outside legal representation. Supervisor De La Cruz stated he has spoken with Counsel Biddle about the matter, but he still hasn't received a satisfactory answer. Supervisor De La Cruz stated he accepted the answer given that the office of the District Attorney can use as much dollars as he wants to pursue non-criminal cases but at the same time he is getting ourselves into a real gray area because we are getting ourselves into a real malicious prosecution lawsuit down the road. Supervisor De La Cruz stated people will start suing the county for malicious prosecution and he wanted it noted in the record that, and bring it out before the public, that the Board needs to take care of that issue sometime in the near future before it gets out of hand.

Chairman Monaco thanked Supervisor De La Cruz for his comments and stated Supervisor De La Cruz should again take those issues up with County Counsel and CAO. Chairman Monaco stated if need be, those issues could be brought to the attention of the Board as agendized items.

Chairman Monaco stated for the record that Item #14.1 was a part of the Consent Agenda. Chairman Monaco noted there was a request to pull Item #12 from the Consent Agenda for further discussion. Supervisor De La Cruz noted for the record he was abstaining from Item #8.

BOARD ACTION: *Upon motion duly made by Supervisor Botelho, noting Supervisor De La Cruz was abstaining from Item #8, and seconded by Supervisor De La Cruz, **approved** the Consent Agenda, noting Item #12 was pulled for discussion. Motion passed 4-0 with Supervisor Marcus being absent for the vote.*

CONSENT AGENDA:

AGRICULTURAL COMMISSIONER – P. Matulich:

1) **Approved Resolution No. 2005-106** authorizing department request to proceed with grant process for noxious weed control and **authorized** Chair to sign said Resolution. (file #1.1)

BOARD OF SUPERVISORS:

2) **Proclamation** recognizing Tuesday, November 15, 2005 as National Philanthropy Day in San Benito County. (Supervisor Monaco) *(file #430)*

3) **Acknowledged** Certificate of Recognition Honoring the retirement of Bob Davies from the California Highway Patrol. *(file #156)*

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT - K. Flores:

4) **Reappointed** Celia Sepulveda to the Community Action Board to represent Supervisorial District #1, low income representative effective November 8, 2005 through November 30, 2008. *(file #939)*

5) Regarding proposed resolution to submit an application for a 2005 Joe Serna, Jr., Farm Worker Housing Grant, consider the following:

- a) **Approved Resolution No. 2005-107** authorizing submission of said grant for up to \$2,000,000 for reconstruction of non-conforming facilities to new facilities at the unaccompanied section of the County's Labor Camp located at 3229 Southside Road; and
- b) **Authorized** the CSWD Executive Director or the Chief Administrative Officer to execute and sign standard agreement and related documents. *(file #750)*

COUNTY ADMINISTRATIVE OFFICE:

6) **Approved** agreement with Cooperative Personnel Services for use of Board of Corrections examinations with a contract term of November 8, 2005 through June 30, 2006 and authorize CAO to sign said contract on behalf of the County. *(file #630)*

DEPARTMENT OF EMERGENCY SERVICES – M. Riopel:

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

FIRST FIVE SAN BENITO – K. Castillo:

8) **Approved** amendment to agreement with the Appolonia Foundation's Children's Oral Health Program reflecting a cost increase of \$44,331 due to the addition of a Dental Care Manager. *(file #155)*

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

9) **Approved** Challenge Grant Memorandum of Understanding (MOU) with Planned Parenthood Mar Monte in the amount of \$54,400 for the provision of teen pregnancy prevention services with a term of July 1, 2005 through June 30, 2006 and **authorized** H&HSA Director or Chair to sign said agreement. *(file #130)*

10) Regarding the Public Health Division, consider revisions to the Schedule of Authorized Positions for FY2005/2006 as follows:

- a) **Approved** the addition of a 1.0FTE Emergency Services Specialist position; and
- b) **Approved** the increase of .30FTE Office Assistant position; and
- c) **Approved** the de-funding of 1.50FTE Public Health Nurse (PHN) position; and
- d) **Directed** staff to begin the recruitment process for the Emergency Services Specialist position. *(file #130)*

11) **Authorized** the submission of the Public Health Emergency Preparedness Plan/Agreement in the amount of \$157,583 with a contract term of August 31, 2005 through August 30, 2006 and **authorized** the H&HSA Director or Chairman to sign on behalf of the County. *(file #420)*

INTEGRATED WASTE MANAGEMENT – M. Rose:

12) **Consider agreement with Brigantino Irrigation, Inc. in the amount of \$4,140 for installation of a water line and wharf hydrant for expanded fire suppression capability at the John Smith Road Landfill with a contract term of November 8, 2005 through January 14, 2006.**

Supervisor Botelho noted he asked for this item to be pulled. Supervisor Botelho stated he had spoken with Ms. Rose on the 7th on this matter and felt there were still questions he had indicated he would like a CDF representative to address the need as a fire issue.

Ms. Rose indicated she had placed a call to Capt. Dellamonica of CDF and he was enroute and should be arriving shortly.

Supervisor Botelho felt this contract was an unnecessary expense. Should a fire break out at the Landfill, there were bulldozers on site to fight such a fire. Supervisor Botelho stated he was not in support of this matter without demonstrating the need.

Ms. Rose suggested the Board delay discussing the matter until the CDF representative arrived.

Supervisor Botelho questioned Ms. Rose if the matter had gone out to bid.

Ms. Rose indicated no due to the amount of the contract being under the \$5,000 limit.

BOARD ACTION: *Upon motion duly made by Supervisor Loe and seconded by Supervisor Botelho, delayed this matter until a representative from CDF could be present later in the meeting.*

13) **Approved** agreement with Orta & Sons Fence in the amount of \$4,954 to install fencing around the new permanent Household Hazardous Waste Collection Facility at the John Smith Road Landfill with a contract term of November 8, 2005 through January 14, 2006. *(file #142)*

MENTAL HEALTH – A. Yamamoto:

14) **Approved** agreement renewal with Santa Cruz County Mental Health Services to provide services for Santa Cruz County children placed in San Benito County with a contract term of October 1, 2005 through June 30, 2006 and **authorized** Mental Health Director to sign said contract on behalf of San Benito County. *(file #810)*

REGULAR AGENDA:

PRESENTATIONS & RECOGNITIONS:

15) **Present Certificate of Recognition to Mandy Rose, 2005 LULAC Woman of the Year. (Supervisor Loe)**

Chairman Monaco presented Ms. Rose with said Certificate of Recognition.

Ms. Rose thanked the Board for said certificate and noted it was an overwhelming experience as well as an honor to be nominated. *(file #156)*

REGIONAL DEPARTMENT OF CHILD SUPPORT SERVICES: L. Miller:

16) **Accept report regarding Child Support Services Transition to State Disbursement Unit.**

Debbie Ogawa, Assistant Director, came forward. Ms. Ogawa noted the San Benito County Department of Child Support Services will be transferring its child support payment processing function to a centralized location, State Distribution Unit (SDU), on January 3, 2006 as part of a phased in statewide rollout. Ms. Ogawa indicated the location site is in Sacramento County. Ms. Ogawa indicated the State and the Agency have been working together to make a smooth transition and has been providing outreach to all clients.

Ms. Ogawa indicated some clients may experience delays in the processing of payments or crediting payments and the Board may receive some complaints. However, Ms. Ogawa assured the Board that local staff was working diligently in the transition and hoped complaints would be minimal.

Ms. Ogawa introduced Nancy Velho, local branch office Manager and thanked Ms. Velho for her hard work during this transition period.

Supervisor De La Cruz asked if this transition would reduce staff or overhead costs. Also, if there were a reduction in State or Federal costs, how would that affect the local level services.

Ms. Ogawa stated no General Fund monies are utilized for this department. If there were to be funding shortfalls from State or Federal sources, the State Department of Child Support Services would have to address the matter at that point.

CAO Thompson indicated the transition was transpiring throughout the State. These services are mandated statewide. While there may be some glitches, local staff will work to mitigate matters during this transitional period.

Chairman Monaco thanked Ms. Ogawa for her report and noted no formal Board action was required. (file #22)

INTEGRATED WASTE MANAGEMENT – M. Rose:

17) Proposed resolution recognizing rate increase under agreement between NorCal Waste Systems of San Benito County and the County of San Benito effective January 1, 2006.

Director Mandy Rose noted the Board had approved an agreement with NorCal December, 2001. Language contained in that agreement allows for a rate increase following an annual review and recommended the Board approve said resolution to implement new rates effective January 1, 2006.

BOARD ACTION: *Upon motion duly made by Supervisor Botelho and seconded by Supervisor Loe, adopted Resolution No. 2005-108 Recognizing Rate Increase Under Agreement With NorCal Waste Systems of San Benito County and the County of San Benito effective January 1, 2006. Motion passed 3-1 with Supervisor De La Cruz voting no on the matter and Supervisor Marcus absent. (file #142)*

INTEGRATED WASTE MANAGEMENT – M. Rose: REVISITED ITEM

12) Consider agreement with Brigantino Irrigation, Inc. in the amount of \$4,140 for installation of a water line and wharf hydrant for expanded fire suppression capability at the John Smith Road Landfill with a contract term of November 8, 2005 through January 14, 2006.

Integrated Waste Management Director Mandy Rose indicated a representative of CDF was present to address the questions of Supervisor Botelho.

Captain Jim Dellamonica of CDF came forward and indicated while Chief Row handled the matter, Chief Row was currently out of town and he would be able to address any questions of the Board.

Discussion ensued regarding the need for such a water line, exposure to a potential haz mat fire if the Household Hazardous Waste area of the landfill caught fire; equipment to combat a fire is at the landfill, however no driver available to use the truck after regular landfill hours and concluded with CDF staff noting this request was for the health and safety of personnel located at the landfill.

BOARD ACTION: *Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Loe, approved agreement with Brigantino Irrigation, Inc. in the amount of \$4,140 for installation of a water line and wharf hydrant for expanded fire suppression capability at the John Smith Road Landfill with a contract term of November 8, 2005 through January 14, 2006. Motion passed 3-1 with Supervisor Botelho voting no on the matter and Supervisor Marcus being absent for the vote. (file #142)*

PUBLIC WORKS:

18) Proposed resolution accepting dedication of right of way along Crestview Drive and authorize Chair to sign said resolution.

Assistant Director of Public Works, Arman Nazemi, recommend the Board accept said grant deed as part of an irrevocable offer of dedication of right of way along Crestview Drive.

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

- a) Accepted offer of dedication for right of way on Crestview Drive; and*
- b) Adopted Resolution No. 2005-109 accepting said dedication grant deed; and*
- c) Authorized Chair to sign; and*
- d) Authorized staff to record said grant deed for same.*

Motion passed 4-0 with Supervisor Marcus being absent for the vote. (file #645)

COUNTY COUNSEL – C. Biddle:

19) Regarding proposed ordinance regarding Campaign Finance Reform, consider the following:

- a) Waive reading of the ordinance; and**

- b) **Introduce Ordinance by title only; An ordinance of the Board of Supervisors of the County of San Benito repealing Chapter 36 of the San Benito County Code pertaining to Campaign Finance Reform; and**
- c) **Schedule for adoption November 22, 2005.**

Counsel Biddle provided background information noting this was in response to concerns of the Elections Department as various persons are anticipated to run for office in the up-coming election. Staff reviewed Chapter 36, the campaign finance election reporting ordinance, an opinion was before the Board that was prepared by one of two Deputy County Counsels and concluded the present ordinance was unenforceable and felt it is best that the Board kill the ordinance in its entirety for the year 2006.

Lengthy discussion ensued regarding what has the Elections Department done to enforce the ordinance that was passed in September 2004; election cycle defined for candidates considering pulling candidacy papers and the potential of the existing ordinance subjecting the County to lawsuits due to its vagueness.

Supervisor Loe suggested leaving the ordinance as it was as revisions made to it were due to suggestions received via public comment. Supervisor Loe stated there had been many public hearings and public comments were taken at that time so as to take into consideration for this ordinance.

Supervisor De La Cruz noted he wouldn't support this item and made the motion as recommended by staff.

Supervisor Botelho stated he didn't like this ordinance back in September of 2004. He thought there were ample reporting mechanisms required of candidates by state law and anything that is difficult to understand and raises so many questions amongst the Board who should know, is obviously a very tough ordinance to comprehend. Supervisor Botelho seconded Supervisor De La Cruz's motion.

Chairman Monaco stated he did not support this originally when it was adopted primarily because he thought it was vague and it did favor incumbents and he made statements to that at that time. Chairman Monaco noted he has not changed his position. He wanted to take the opportunity to thank Counsel and staff member Tara Chafee for doing an outstanding job on this report. He found it very helpful and without reiterating what has already been said, his concern was that this ordinance was very vague, it has criminal penalties attached to it. It goes on to explain things that it does favor incumbents as well as a variety of things already stated. Having said that, Chairman Monaco called for the question.

BOARD ACTIONS:

- Motion 1) Upon duly made by Supervisor De La Cruz and seconded by Supervisor Botelho, **waived** the reading of said Ordinance. Motion passed 3-1 with Supervisor Loe voting no on the matter and Supervisor Marcus being absent for the vote.*
- Motion 2) Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Monaco, **introduced Ordinance** by title only: An Ordinance of the Board of Supervisors of the County of San Benito repealing Chapter 36 of the San Benito County Code pertaining to Campaign Finance Reform. Motion passed 3-1 with Supervisor Loe voting no on the matter and Supervisor Marcus being absent for the vote.*
- Motion 3) Upon motion duly made by Supervisor Monaco and seconded by Supervisor De La Cruz, **scheduled and continued** matter for adoption to the November 22, 2005 meeting. Motion passed 3-1 with Supervisor Loe voting no on the matter and Supervisor Marcus being absent for the vote. (file #156)*

Supervisor Loe asked staff that from now on when there is staff that has made reports, that they be present so that they can answer questions.

20) **Regarding Adding Article XVI to Chapter 2 of the San Benito County Code establishing the appointive position of the Clerk of the Board of Supervisors, consider the following:**

- a) **Waive the reading of the ordinance in its entirety; and**
- b) **Introduce the ordinance by title only; An ordinance of the Board of Supervisors of the County of San Benito adding Article XVI to Chapter 2 of the San Benito County Code establishing the appointive position of Clerk of the Board of Supervisors.**
- c) **Schedule for adoption November 22, 2005.**

Counsel Biddle noted this matter, upon passage, would remove the County Clerk as the ex officio Clerk of the Board and make the position an appointive one.

BOARD ACTION: Upon motion duly made by Supervisor Monaco and seconded by Supervisor De La Cruz

- a) **Waived** the reading of the ordinance in its entirety; and
- b) **Introduced** the ordinance by title only; An ordinance of the Board of Supervisors of the County of San Benito adding Article XVI to Chapter 2 of the San Benito County Code establishing the appointive position of Clerk of the Board of Supervisors.
- c) **Scheduled** for adoption November 22, 2005.

CLOSED SESSION:

- 21) **Conference with Legal Counsel – Existing Litigation**
Authority: California Government Code Section 54956.9(a)
a) **Martinez v. County of San Benito, et al.**
No action taken. (file #235.6)
- 22) **Conference with Labor Negotiator**
Authority: California Government Code Section 54957.6
Agency Designated Representative: Susan Thompson, Co. Admin. Officer
Employee Organization: Confidential Employees (Unrepresented)
No action taken. (file #235.6)
- 23) **Conference With Labor Negotiator**
Authority: California Government Code Section 54957.6
Agency Designated Representative: Susan Thompson, Co. Admin. Officer & Gifford Swanson, Public Authority Manager (IHSS)
Employee Organization: SEIU, Local 817 – In Home Supportive Services (IHSS)
No action taken. (file #235.6)

1:30 P.M. ASSESSMENT APPEAL HEARINGS:

Sitting as the County Board of Equalization the Board of Supervisors will hold scheduled Assessment Appeal Hearings. (Separate minutes have been prepared)

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: De La Cruz; Botelho; Loe & Monaco
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: Marcus

There being no further business the Board adjourned to its next regularly scheduled meeting on Tuesday, November 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:
Sally Navarez
Assistant Board Clerk