

**SAN BENITO COUNTY
BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
APRIL 27, 2004**

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session. Supervisors Loe; Scagliotti; Monaco, Kesler and Cruz were all present. Also present was County Administrative Officer Terrence A. May, County Counsel Karen R. Forcum and Assistant Clerk Sally Navarez. Chairman Bob Cruz 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:** There was no one wishing to address the Board under the Public Comment Period.

d) **Department Head Announcements:** Administrative Officer Terrence May noted the only announcement he wanted to make was that Management Analyst Robin Scattini had a health baby girl and we were happy about that.

Sheriff Curtis Hill came forward. Sheriff Hill stated there was an article in the media but, in his opinion, didn't get the magnitude of the event out clearly.

Sheriff Hill indicated we had a gentleman in Aromas who worked for a wholesale nursery that that intimated to some folks that he was going to go to his place of business and kill fellow employees. This was two weeks ago.

Sheriff noted one of his deputies, Jack Smiley, really got involved in that case and he drove over the next morning to the nursery, made contact with the people there and hid his car behind the facility. The persons there had no anticipations that the guy was going to show up at all, there was no indications that the guy would show up there. However, Deputy Smiley wanted to get a lay of the land just in the event there was an active shooter called in at that location. While Deputy Smiley was there, the subject drove up. The subject was pointed out to Deputy Smiley who went out and made contact with the subject and the subject was obviously shocked to see a Deputy Sheriff in uniform on the site. The subject ended reaching for something from his front pants pocket, Deputy Smiley drew his gun, had the subject prone and handcuffed the subject. The subject had a fully loaded automatic pistol in one pocket, extra magazines in the other pocket as well as several hundreds of dollars in travel money. The subject had bags packed and had told his family that he wouldn't be coming back that day and was leaving.

Sheriff Hill noted the subject had every intention of going to that place of business that morning with the intent to kill as many of his fellow employees that he could. Sheriff Hill noted this was in the newspaper but he wanted to commend an outstanding job by the Deputy Sheriffs in the county. The story, however, didn't quite give the impact as to what exactly happened and what the magnitude was because that could have been an event that would have been very, very big, and could see the implications that could have potentially been for this community, Aromas and for the people.

Sheriff Hill noted he was working on doing some recognition for Deputy Smiley in that regard and would keep the Board posted as that transpired.

Chairman Cruz asked Sheriff Hill to please let the Board know.

e) **Board Announcements, Introductions and Presentations:** Supervisor Loe stated she thought after the last public hearing and the items that were discussed, that if she would bring the Board an old family recipe for "sticky bones" because she thought this might be a good use for all

of the bones being thrown at the Board right now. Supervisor Loe passed out a recipe to the Board members.

Supervisor Monaco noted he had the privilege last Saturday evening, of attending the dinner, but didn't go on the trail ride, in support of Tres Pinos School. Supervisor Monaco noted he was impressed by the number of citizens that came out and the amount of money raised at this event that will go directly to Tres Pinos School. This demonstrated that there is a lot of community support out there for our schools. Supervisor Monaco indicated he thought that with the auction alone, \$25,000 was raised for the School and was attended very, very well. This was an outstanding event.

Supervisor Monaco stated the event was held at the Santa Anita Ranch, there was a trail ride in the afternoon and a dinner in the evening.

CONSENT AGENDA:

Supervisor Scagliotti made the motion to approve the Consent Agenda. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, approved Consent Agenda Item #1 through Item #19. Motion passed unanimously 5-0.

ADMINISTRATION:

1) **Approved** amendment to agreement with North County Joint Union School District reflecting new contract term of February 11, 2003 through June 30, 2005 and authorized Chair to sign. *(file #870)*

AGRICULTURAL COMMISSIONER:

2) **Approved** agreement with the California Department of Food and Agriculture re: Organic Inspection Services with a contract term of July 1, 2004 through June 30, 2005 and authorized Chair to sign. *(file #1.1)*

CLERK OF THE BOARD:

3) **Approved** the minutes of the meeting of April 6, 2004.

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT:

4) **Approved** authorization to accept donation from Milgard Manufacturing, Inc. for Youth Employment and Career Fair. *(file #939)*

5) **Approved Resolution No. 2004-25 - Authorizing Signature Authority For Department Of Energy (DOE) Low-Income Weatherization Assistance Program Grant** and authorized Chair to sign said Resolution. *(file #939)*

HEALTH & HUMAN SERVICES AGENCY:

6) **Approved** agreement with David Hurley re: assessment of child welfare services with a contract term of April 1, 2004 through September 30, 2004 and authorized Chair to sign. *(file #130)*

7) **Approved** appointment of extra help Public Health Nurse II at Step E of Range 22.1 effective April 28, 2004. *(file #630)*

INTEGRATED WASTE MANAGEMENT:

8) **Approved Resolution No. 2004-26 Authorizing Application For 10th Cycle Used Oil Block Grant Funds From The California Integrated Waste Management Board** and authorized Chair to sign said Resolution. *(file #142)*

MENTAL HEALTH:

9) **Approved** proclamation declaring May, 2004 as "Mental Health Month" in San Benito County. *(file #430)*

PROBATION:

10) **Approved** agreement with the San Benito County Office of Education re: Truancy Reduction Program services with a contract term of July 1, 2004 through June 30, 2005 and authorized Chair to sign. *(file #510)*

PUBLIC WORKS:

- 11) **Approved** request to declare District Attorney equipment as surplus. (file #105)
- 12) **Approved** Request For Proposal (RFP) for electrical maintenance services for County facilities. (file #105)
- 13) **Approved** Request For Proposal (RFP) for plumbing and irrigation repair services for County facilities. (file #105)
- 14) **Approved** Request For Proposal (RFP) for elevator maintenance services for County elevators. (file #105)
- 15) **Approved** agreement with San Benito Engineering re: civil engineering services with a contract term of May 1, 2004 through June 30, 2005 and authorized Chair to sign. (file #105)
- 16) **Approved** agreement with Lewis Engineering and Land Surveying re: development plan review and surveying services with a contract term of May 1, 2004 through June 30, 2005 and authorized Chair to sign. (file #105)
- 17) **Approved Resolution No. 2004-27 Accepting Right Of Way Acquisition re: Historical Park Bridge** and authorized Chair to sign. (file #645)

SHERIFF:

- 18) **Approved Resolution No. 2004-28 Authorizing Submission Of Grant Proposal To The California State Parks Off-Highway Motor Vehicle Recreation Division Re: Continuing Enforcement Efforts** and authorized Chair to sign. (file #110)

SUBSTANCE ABUSE PROGRAM:

- 19) **Approved** agreement with the League of Latin American Citizens (LULAC) re: implementation of youth development program services with a contract term of January 1, 2004 through December 31, 2004 and authorized Chair to sign. (file #1053)

9:30 a.m. PUBLIC HEARING:

20) **Hold public hearing to consider a resolution and an ordinance re: Amendment to Zone Change 90-80A to reconfigure and expand the existing Pacheco Creek Estates Planned Unit Development (PUD), in order to create four more 2-acre residential parcels, and to increase the size of the agricultural preserve parcel (Parcel A) from 23 acres to 38 acres. The project involves three parcels containing 47 acres and would require subsequent approval of a Lot Line Adjustment (LLA 03-435) and Minor Subdivision (MS 1139-03) to enact the PUD. Location: Pacheco Creek Drive (APNs: 16-06-46; 47; & 48). Applicant: Casa de Fruta Orchards. Zoning: Agricultural Productive/PUD. (cont. from 3/9/04 mtg.) Request for continuance to the meeting of May 25, 2004 has been received.**

Planning Director Rob Mendiola came forward. Mr. Mendiola indicated that the information that he was waiting for relative to this public hearing, he was still waiting for.

Mr. Mendiola explained apparently the expert went to the site, did the site work and has not completed his report. Mr. Mendiola indicated he anticipated that report soon and will be bringing this matter back before the Board on May 25, 2004.

Chairman Cruz asked Mr. Mendiola if he had any objections to the request for continuance to which Mr. Mendiola indicated he did not.

Chairman Cruz asked Counsel if the Board needed a motion to continue?

Counsel Forcum noted to the Chair that that action would be appropriate.

Chairman Cruz asked Counsel since the matter was being continued, did he have to open the public hearing period?

Counsel Forcum noted the Board could address if there was anybody present who wished to comment.

This being the duly noted time and place, Chairman Cruz opened the public hearing period. However, hearing no one wishing to address the Board, Chair closed the public hearing and brought the matter back to Board level.

Supervisor Kesler made the motion to continue to the meeting of May 25, 2004. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, continued the public hear re: Amendment to ZC 90-80A (Pacheco Creek Estates PUD) to the meeting of May 25, 2004 per request for continuance. Motion passed unanimously 5-0.

9:40 a.m. REGULAR AGENDA:

21) Accept, consider and file Report of FY2004/2005 General Fund Requests (Preliminary Tally). (CAO)

Administrative Officer Terrence May began by noting for the benefit of those present in the audience, he had placed a copy of his report on the back table. Mr. May stated if there were no more packets, he would have more run off.

Mr. May noted this report, which was provided to the Board, is a recap of all of the Fiscal Year 2004/2005 budget requests as submitted by the various county departments. This includes their requested expenditures as well as their estimated revenues. Fiscal Year 2004/2005 begins July 1st, which coincides with the start of the State Fiscal Year.

Mr. May noted to put everything into context and to get right down to the point, based on the requests submitted by county departments, we are facing a shortfall of about \$4.1-million going into Fiscal Year 2004/2005.

Mr. May stated that figure is derived: first of all, on the financing sources side of the equation, which are the income or revenues, the money we have available to finance county operations, we are anticipating a fund balance available as of June 30th of this year of about \$4-million. That represents a carry-over surplus that we have accrued from previous years where due to very frugal spending by department heads and very aggressive cost containment measures by the Board, we have been able to build up some excess funds. Mr. May noted we are projecting to start the year with a fund balance in the General Fund of about \$4-million.

In addition to that, we are estimating revenues for 2004/2005 of \$22.7-million. That gives us a total of \$26.7-million in estimated funds available to finance next fiscal years' budget. But, Mr. May explained, on the spending side is where we run into the problem. He explained that the requested departmental expenditures total \$26.9-million for 2004/2005, plus we have an additional \$2.9-million in General Fund Transfers to other county funds such as Health, Social Services, Mental Health, Public Works, and a few others. Those subsidies are provided to make up the difference between the operating expenses of those departments or funds and revenues that they generate. Some of that \$2.9-million is State mandated Maintenance Of Effort (MOE) over which we have no control. About \$400,000 of it represents a short-fall in the Fire Fund, which is the fund that we use to provide fire protection through a contract with CDF and the use of our Volunteer Firefighters in the unincorporated area of the County.

Mr. May noted the other piece that makes up the spending plan, is a set aside of \$1-million for Contingencies. That is money that is included in the budget for potential spending that isn't committed to any particular project or department. It is what might be called a "rainy day fund" so that during the year, if we have cost over runs or under realize revenue, that \$1-million appropriation would be available to the Board to plug holes in the budget. But, if you added up all of the three expenditure categories, Departmental Expenditures at \$26.9-million; Transfers from the General Fund to Other Funds as subsidies at \$2.9-million and Contingencies of \$1-million which is the minimum level that he would recommend for the Board to deal with unanticipated expenses during the year, that give us expenses or expenditures of \$30.8-million as compared to financing available of \$26.7-million. Mr. May stated that means we are about \$4.1-million short going into next year.

Mr. May noted he didn't mean to suggest that expenditures are the only thing driving the budget difficulties faced by the County. Mr. May noted we are taking some hits on the revenue side as well. Mr. May noted he was sure all were aware that the State was dealing with an

unprecedented budget short-fall in Sacramento and part of the States' solution to their budget difficulties is to raid the coffers of local governments to contribute more of our property taxes to help fund the States' obligation to support K-12 education.

Mr. May noted there were also various other State funding cuts that are being proposed right now that we haven't even factored into these numbers yet. So, the \$4.1-million that Mr. May was estimating the County is short, he thought, would be a moving target over the next several weeks depending upon what happens in Sacramento. Things could get a little better or they could get worse depending on what the Governor and the Legislature agree to as a State spending package and how that impacts funding that is available to Counties.

Mr. May noted we have to keep in mind that we rely on Sacramento for about 3/5 to 2/3 of our total funding, so if the State budget is undergoing a lot of difficulties as it is now during this period of economic uncertainty, that is going to get passed on to the Counties because we are very heavily dependent on the State government.

Mr. May stated the Budget Committee, consisting of Supervisor Loe and Supervisor Scagliotti, have been meeting with him and in fact will be meeting again after this meeting to discuss various options for how we can close the \$4.1-million budget gap. Fortunately, this County is in a relatively good position to deal with the budgetary short-fall because of this Boards' effort to contain costs through the imposition of a hiring freeze and also the defunding of about \$900,000 to \$1-million worth of positions in this current fiscal year. But, we are going to be looking at a large menu of options in closing the budget gap which will include having to make expenditure cuts, having to consider fee increases where we can offset the cost of services in that fashion. Mr. May explained we also have very healthy reserves and one reason why we have amassed healthy reserves is because this Board and past Boards, have said that we want to have a cushion available to be able to use in the future if this County should enter another era of economic difficulties such as the one we experienced in the early 1990's. Mr. May noted one option would be to consider using some of that one-time money as a bridge to help us implement some longer term solutions to the budget short-fall.

Mr. May noted this was just an introductory report and felt by getting a copy of the full written report he has prepared, it will give a much more in depth discussion of the various revenue and expenditure components that contribute to the short-fall. Mr. May noted he intended to put the discussion of the 2004/2005 budget on the agenda in the future as a regular, continuing item until such time as we adopt the County Budget for 2004/2005. Mr. May noted he planned to work more closely with the Budget Committee to seek their advice and counsel to get their ideas on how we can best address the budget short-fall. Mr. May indicated he would also be talking to Department Heads about that as well. Mr. May concluded by asking if there were any questions of the Board.

Supervisor Monaco noted he read through the report and appreciated the clear, concise report that was provided. He thought that the Board needed that to better make their decisions and appreciated the way that this was written in clear terms and very understandable.

Mr. May noted one thing he didn't want to do was deluge the Board with everything all at one time and felt we needed to break this budget problem up with some manageable components and look at it in a more systematic way. Mr. May noted he would be coming back to the Board with the assistance of the Budget Committee to suggest some budget balancing principles or strategies that the Board can consider. Mr. May noted he would also be looking more closely at each departmental budget request to see where there is the potential to effect some cuts. Mr. May noted he did have to say that for the most part, the Departments have submitted budgets that are pretty much "hold the line." Mr. May noted he hasn't seen Departments come in and ask for authority to provide for a higher level of service or dramatic funding increases. But, part of the problem that the Departments have, is that some of the expenditure increases that we're projecting into 2004/2005, in fact a good deal of them, are really expenses over which the Department Heads have no control. By that, Mr. May noted he was talking about things like the County's Employer Contribution to the Public Employees Retirement System. That is not something that Department

Heads have any control over and yet, when we project their salaries and benefits costs for employees for the upcoming year, according to PERS, our Employer Contribution rate, that is what the County pays for individual employee pension plan, will be going up from 4% of payroll to 9% of payroll starting July 1st.

Mr. May stated in looking at that factor alone, that adds maybe 3/4 to \$1-million of additional costs to the County and is something over which we really have no control. Mr. May noted he just wanted to emphasize that if our costs are going up, it is not because Department Heads have made unrealistic or irresponsible requests for additional funding.

Supervisor Kesler asked Mr. May if he felt that there is going to be another round of cuts towards the latter part of June by the State?

Mr. May stated he felt anything was possible and that is an eventuality that we need to position ourselves for which is why he felt the \$4-million short-fall we are looking at today, is likely to be a moving target in the weeks and months ahead, depending mainly on what happens in Sacramento. We are going to need to keep the Board fully apprised of developments in Sacramento so that the Board is in a position to act decisively in response to those decisions made in Sacramento. Fortunately, your Board, unlike many of the cities and counties across the State, although you face the very same problems that they do, this Board has some Reserves very wisely put aside which are available to help deal with some of these budget problems to provide maybe a bridge of funding to get us to a point where we can make some cost cutting or find some alternative sources of revenue.

Chairman Cruz asked Mr. May if he was working with all department heads - elected and other.

Mr. May emphasized to the Board and those present in the audience, that generally speaking in comparison to other counties across the State of comparable population size, we already operate with a very lean, bare bones staff here. We actually provide a minimum of what might be called "optional" or "discretionary" services. We will be working with the Department Heads and soliciting their advice and their suggestions for where we can make some meaningful spending reductions or explore the potential for fee increases to help off-set costs.

Chairman Cruz noted it was unfair when we get the same level of funding as Siskiyou, Alpine when we sit right between some of the biggest counties - Monterey, Santa Cruz and Santa Clara counties. That is who we have to be compared with when doing our jobs here and not with Siskiyou, Alpine or Yolo counties. That is unfair to bring us in with those counties.

Mr. May agreed and stated we are in a very high cost area sitting astride the highest cost of living area in the State, Silicon Valley and San Francisco Bay Area, so that means that for us to be reasonably competitive in the labor market, attract and attain employees of high caliber, that we need to pay wages that are reflective of what surrounding counties are paying, that is true.

Chairman Cruz asked if the matter could be opened for public comment to which Counsel Forcum indicated that the matter could be opened for public comment.

Web Winans, Lovers Lane resident, came forward. Mr. Winans felt this was great in giving a preliminary look. Mr. Winans noted this whole situation right now is very scary and didn't think the Board should lose sight of that right now. Mr. Winans noted he was thinking about making a comment before this started, but felt it was appropriate for the Board not to overlook the fact that, whether like it or not, we have an organization here called the City of Hollister and no matter what they (City of Hollister) does, it is going to affect our working here.

Mr. Winans stated he didn't want to put a bad name on it, but we could wind up trying to get some of their chestnuts out of the fire, and while he didn't know how that might happen, we just don't have any reason not to keep our guard up in doing whatever we can on that basis. Mr. Winans noted overall, there is a big shadow and hoped the Board kept that in mind as we go through our thoughts on this budgeting process. This has got to be solved and it has to be good.

Mr. Winans noted one other thing, is we talk about counties surrounding us, high priced counties, if anybody here wants to go to those high priced counties, go to Monterey County - they

are laying people off. Mr. Winans noted he didn't know what that would do, but you might shake their hands as they are walking off their positions while we still have ours.

Hearing no one further wishing to address the Board on this matter, Chairman Cruz brought the matter back to Board level.

Chairman Cruz thanked Mr. May for the report and appreciated the fact that Mr. May will continue to provide the Board with updates on matters in Sacramento and for working with the Department Heads.

10:00 a.m. CLOSED SESSION AGENDA:

22) Conference with Legal Counsel - Anticipated Litigation

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

Per Counsel Forcum, all three cases 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 Forcum, all three cases were withdrawn. (file #235.6)

23) Conference with Legal Counsel - Existing Litigation

a) Sandman vs. County of San Benito.

Upon exiting Closed Session, Counsel Forcum indicated that no action was taken. (file #235.6)

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

Upon exiting Closed Session, Counsel Forcum indicated that no action was taken. (file #235.6)

c) California Farm Bureau, et al. vs. California Department of Forestry and Fire Protection, et al.

Upon exiting Closed Session, Counsel Forcum indicated that no action was taken. (file #235.6)

24) Conference with Labor Negotiators:

Agency Designated Representatives: Elizabeth Brown, Human Resources Director & Daniel Vrtis, Finance Director

Employee Organization: General Unit - SEIU, Local 817

Upon exiting Closed Session, Counsel Forcum indicated that no action was taken. (file #235.6)

Upon exiting Closed Session, Counsel Forcum noted there was a Public Hearing that was agendized for 1:30 p.m. Counsel stated it was noted on the agenda that there has been a request for a continuance to the meeting of May 25, 2004, that said request had been received. Counsel noted the Board may wish to move to actually continue it at this time, if that is the desire of the Board.

Supervisor Monaco made the motion to continue the 1:30 p.m. Public Hearing to the meeting of May 25, 2004 per request for a continuance received and noted. Supervisor Kesler was second on the matter.

Upon motion duly made, seconded and carried, continued the 1:30 Public Hearing appeal of Minor Subdivision 1 1134-03 to the meeting of May 25, 2004 pursuant to request for a continuance received. Motion passed 3-2 with Supervisor Loe and Supervisor Scagliotti being absent for the vote.

1:30 p.m. PUBLIC HEARING:

25) Hold public hearing to consider an appeal of a Planning Commission decision made on March 17, 2004 regarding Minor Subdivision 1134-03; to amend Condition of Approval #28, regarding road improvements. **Location:** 5000 San Juan Canyon Road (APN 21-01-73) San Juan Bautista. **Appellant/Applicant:** Tor R. Johnson and Michael S. Reeves. **Zoning:** Agricultural Productive.

Request for continuance to the meeting of May 25, 2004 has been received.

*** Motion made prior to the end of the a.m. session by the Board: *Upon motion duly made, seconded and carried, continued the 1:30 Public Hearing appeal of Minor Subdivision 1134-03 to the meeting of May 25, 2004 pursuant to request for a continuance received. Motion passed 3-2 with Supervisor Loe and Supervisor Scagliotti being absent for the vote.*

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: P. Loe; R. Scagliotti; R. Monaco, R. Kesler & B. Cruz
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to its next regularly scheduled meeting on Tuesday, May 4, 2004 at 9:30 a.m.

BOB CRUZ, CHAIR
San Benito County, Board of Supervisors

ATTEST:

BY:

John R. Hodges
Clerk of said Board

Sally Navarez
Assistant Clerk of said Board