

**SAN BENITO COUNTY
BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
MAY 11, 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 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:** Per CAO Terrence May, there were no Department Head Announcements.
- e) **Board Announcements, Introductions and Presentations:** There were no Board Announcements.

CONSENT AGENDA:

Supervisor Scagliotti made the motion to approve the Consent Agenda, Item #1 through Item #12. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, approved the Consent Agenda, Item #1 through Item #12. Motion passed unanimously 5-0.

AGRICULTURAL COMMISSIONER:

- 1) **Approved** agreement with the Department of Food and Agriculture re: Weigh master Services with a contract term of July 1, 2004 through June 30, 2005 and authorized the Chair to sign. *(file #1.1)*
- 2) **Approved** agreement with the Department of Food and Agriculture re: petroleum products inspection services with a contract term of July 1, 2004 through June 30, 2005 and authorized Chair to sign. *(file #1.1)*

AUDITING:

- 3) **Approved** Departmental Claims.

CHILDREN & FAMILIES COMMISSION:

- 4) **Approved** approval of job description for the classification of School Readiness Coordinator, First 5 San Benito Children & Families Commission and set compensation rate at Range 20.3. *(file #155)*

CLERK OF THE BOARD:

- 5) **Approved** Proof of Publication.
- 6) **Approved** Proclamation honoring the National Association of Letter Carriers for their continued efforts locally in their annual food drive and authorized Chair to sign. *(file #430)*

MENTAL HEALTH:

- 7) **Approved** out of state travel re: group home placement visitation in Loa, Utah for the period of May 26 & 27, 2004. *(file #810)*

PUBLIC WORKS:

- 8) **Approved Resolution No. 2004-31 Accepting Grant Deed For Purchase Of Real Property For Right Of Way And Grant Of Associated Easements For The Sunnyslope / Fairview Road Signalization** Project and authorize Chair to sign resolution and related documents. *(file #645)*

9) **Approved** plans and bid documents re: Fairview Road / Sunnyslope Road traffic signal and authorize staff to solicit construction bids. *(file #105)*

SHERIFF:

10) **Approved** Letter Of Agreement (LOA) with the Drug Enforcement Administration (DEA) to obtain cannabis eradication and suppression monies and authorized Sheriff to sign said letter on behalf of the County. *(file #110)*

SUBSTANCE ABUSE PROGRAM:

11) **Approved Resolution No. 2004-32 Approval Of The County Plan For The Substance Abuse Crime Prevention Act Of 2000 (Proposition 36) Funding Request For Fiscal Year 2004/2005** and authorized Chair to sign. *(file #1053)*

12) **Approved** application for SAMHSA/CSAT Targeted Capacity Expansion Grant for FFY 2004-2007 and authorized Substance Abuse Program Administrator to sign related documents on behalf of the County. *(file #1053)*

9:40 a.m. REGULAR AGENDA:

PRESENTATIONS / RECOGNITIONS

13) **Consider Proclamations thanking, honoring and commending the contributors to the San Benito County Medallion Project. (Chairman Cruz)**

Chairman Cruz presented Proclamations honoring contributions to the San Benito County Medallion Project to Jim West and Jim Prizant of Granite Rock; Carlos Alvernaz and Dave Alvernaz of Alvernaz Concrete; Mr. Goodrich Scatina of Central Coast Concrete Pumping; a representative of Associated Rebar, Inc.; Dan Weatherly of San Benito Engineering & Surveying and Pete Corn of San Benito County Public Works on behalf of staff who assisted on the project as well.

Chairman Cruz noted that construction materials, time and labor had all been donated by those being honored today and wished to publicly recognize all participants. Chairman Cruz invited the public go to the Courthouse Building and view the medallion in its new setting. *(file #430)*

CHILDREN & FAMILIES COMMISSION - K. Castillo:

14) **Consider ordinance to amend Chapter 5E of the County Code reflecting name change to First 5 California; introduce ordinance, waive reading of said ordinance and continue matter to the meeting of May 25, 2004 for adoption.**

Kathleena Castillo, Executive Director, came forward. Ms. Castillo stated the Children and Families Commission was organized in 1998. We organized as the Children and Families Commission; however, since that time, there has been a name change. There is a Children and Families Commission in every county in the State of California and there is also a State Children and Families Commission. They have changed their name to First 5 California and we changed our local name to First 5 San Benito County and we are asking for a formal change of that name.

Ms. Castillo noted we changed the name because it now really gives a better picture of what we do. We fund programs for children from birth up to age five to try to get them ready to go to school. Ms. Castillo noted asking for a name change is the first part, and along with that, we have seven Commissioners and the Commissioners give us our guidance. Ms. Castillo noted she was very fortunate to have seven great Commissioners to work with. All bring unique skills and are very unique individuals who have been very helpful to her. In a recent Committee meeting, we asked and the Commission voted that we move up to nine members. Ms. Castillo explained we currently have seven as the law states you can have from five to nine members. We currently have seven and would like to increase that up to nine members so that we can have more input and sometimes, members have to recuse themselves when we make a vote.

Chairman Cruz asked for clarification in what the Board was doing here was changing from Children and Families Commission to First 5 San Benito to which Ms. Castillo indicated that was correct.

Chairman Cruz asked if all the counties in the State were also making similar name changes.

Ms. Castillo noted there may be one or two who haven't, but most counties in the State are doing so.

Chairman Cruz asked how the motion should be done.

Counsel Forcum indicated the recommended action was to introduce the attached ordinance; waive the reading and continue the adoption of the ordinance to the meeting of May 25, 2004.

Supervisor Monaco made the motion to introduce ordinance, waive reading and continue for consideration to the meeting of May 25, 2004. Supervisor Kesler was second on the matter.

Upon motion duly made, seconded and carried, introduced ordinance, waived reading of said ordinance and continued the matter for consideration of adoption to the meeting of May 25, 2004. Motion passed unanimously 5-0. (file #155)

DEPARTMENT OF EMERGENCY SERVICES:

15) Consider proposed resolution authorizing OES Director and authorized positions to submit all required application documents for the FY04 Homeland Security Grant Program.

OES Director Margie Riopel came forward. Ms. Riopel stated indicated this was for Board consideration for FY04 Homeland Security Grant. Ms. Riopel explained this actually combined three different grants: State Homeland Security Grant, Law Enforcement / Terrorism Prevention Grant and the Citizen Corps Program, into one application this year. There was a total of \$359,248 to be spent.

Ms. Riopel explained as with previous grants of this nature within the last four years, there is the approval authority that the State is designated to come up with priorities for our county. Those five people include the Public Health Officer, the Sheriff, the Chief of Police and City / County Fire Chiefs to be on approval authority for the priorities that we have come up with.

Ms. Riopel noted the five categories that are outlined for this grant include training, exercise planning, equipment, management and administration. She explained in the past we have bought equipment for fire and law enforcement in regards to personal protection equipment, detection, communications equipment and in this years' grant proposal, the priorities were to continue to expand the inner operability's to expand infrastructure that we started in previous grants. In order to share data and applications to support public safety, some of the equipment on this list, specifically the first four listed, really will provide integration of City and County networks and provide the links that we need between law enforcement, fire, dispatch and the Jail to share data and to receive the information they need on a "live - real time" status.

Ms. Riopel noted in addition, there are some equipment monies that are earmarked for personal protection and detection, communications equipment for fire, Ag Commissioner, EMS, OES and the CERT Program. Ms. Riopel noted there were monies also identified for training. 30% of the monies received have been allocated towards training. This year in this grant, Ms. Riopel explained not only were there going to monies to provide for training, but they are also going to be providing monies for backfill and overtime. Ms. Riopel explained this is a little different than other grants received in the past, so she felt we should take advantage of this and put in 30% of the allocation there. Ms. Riopel stated 19% was spent between exercise, planning and 3% into administration and oversight.

Ms. Riopel stated this proposal, she felt, was the best use of the monies from this grant for this cycle, but Board approval is needed before being submitted to the State. Also, there needs to be approval of a resolution designating someone to be the applicant agent to submit this grant. Ms. Riopel asked that the Board approve the grant and to approve the resolution authorizing an applicant agent.

Chairman Cruz asked Ms. Riopel if this grant would be something that the Sheriff and Chief of Police would work together, train together and include fire?

Ms. Riopel stated that was correct. All of the training would be for County and City fire, the whole operational area.

Chairman Cruz asked if the County had received the grant yet, and if not, what was the possibility of getting it?

Ms. Riopel stated the County hasn't received the grant yet and the possibility of getting it looked very good.

Supervisor Monaco made the motion to authorize the OES Director to submit for the FY04 Homeland Security Grant Program on behalf of the County Operations Area and also approve the Applicant Agent resolution and authorize positions named to execute documents for and on behalf of the county for making application. Supervisor Kesler was second on the matter.

Chairman Cruz, under the question, asked the Clerk what the Resolution number would be.

Clerk Navarez responded 2004-33.

Chairman Cruz asked the maker of the motion if the motion would include Resolution Number 2004-33 to which Supervisor Monaco indicated that was correct. Chairman Cruz asked if the second concurred to which Supervisor Kesler indicated that was correct.

Upon motion duly made, seconded and carried:

a) *Authorized the applicant agent (OES Director) to submit the FY04 Homeland Security Grant Program on behalf of the County Operational Area; and*

b) *Approved Applicant Agent **Resolution No. 2004-33 Authorizing Positions Named To Execute Documents For And On Behalf Of The County For Making Application, Filing And Obtaining State And Federal Assistance and funding under the State Homeland Security Grant Program. Motion passed unanimously 5-0. (file #75.5)***

CITY OF HOLLISTER - C. Quilter:

16) **Consider and review Final Hydrogeologic Report re: Hollister Wastewater Treatment Facilities by Geomatrix Consultants.**

Planning Director Rob Mendiola came forward. Mr. Mendiola noted he was a part of this item as the transmittal actually comes from the City of Hollister. Mr. Mendiola explained this was a report that was done to analyze groundwater and geohydrologic issues in the San Juan Valley. He explained this was done with the cooperation of the County, the County Water District and the City of Hollister. Mr. Mendiola noted Clint Quilter of the City of Hollister would address the Board at this point.

Interim City Manager Clint Quilter came forward. Mr. Quilter noted when the City was being fined by the State, the County and the Water Districts suggested a Supplemental Environmental Project of doing a hydro-geologic study of the conditions in the vicinity of the wastewater treatment facility. He explained all sat down and worked through what that might look like. The Board of Supervisors, the County Water District and the City of Hollister City Council entered into a Memorandum of Understanding about how that would work. The way it was set up was to have a project management group which consisted of the General Manager Engineer of the Water District, the Planning Director from the County and the Public Works Director from the City of Hollister. We jointly directed the project through a Project Manager, Bill Little, from Harris and Associates and directed the work of GeoMatrix which is the firm that was hired to do that. Mr. Quilter noted Clay Rogers was present to make a brief presentation on the content of the report.

Clay Rogers, of GeoMatrix Consultants, came forward. Mr. Rogers thanked the Board for the opportunity to make this brief presentation about the hydro-geologic work done. Mr. Rogers indicated the study was done within the vicinity of the wastewater treatment plants from Hospital Road to the southeast and Bixby Road in the west. Study extended to Wright Road in the north and the hills of the south side of the San Benito River.

Mr. Rogers noted they attempted to do this project with the input from the public. They involved stakeholders, held several public meetings where comments were taken from stakeholders and presentations were made. In addition, Mr. Rogers indicated they prepared a work plan and three technical memorandums that were available for stakeholder review and they responded to comments. They then prepared the final report which the Board had a copy of, that had been reviewed by the Project Manager group and has been available for review by the Stakeholders. Mr. Rogers indicated they were due to receive comments from Stakeholders as of yesterday afternoon, but to his knowledge, none had been received as of this date.

Mr. Rogers stated they completed this study in six separate tasks. They started with an initial task to identify data gaps where additional information was needed about the area. They started by sampling a number of wells in the region, analyzed them for a fairly wide range of constituents;

reviewed all of the available information and then prepared a work plan for a review by Stakeholders and the Regional Water Quality Control Board to fill those data gaps.

Mr. Rogers indicated during Task Two, they went out with wells that they had previously identified. Drilled borings at six different locations; installed a total of nine wells and also did some aquifer testing where they could learn a little bit more about the aquifer and how it produces water to give us some information to help them to identify such things as how fast does groundwater move, which direction is it moving, how readily the aquifer produced water, etc.

Mr. Rogers indicated in Task Three, they went out and included, a fairly large program and included thirty seven wells in the region and collected more data, more chemistry so they could identify the geochemistry of the groundwater; which constituents where perhaps the concentration that might pose some problems and also sampled some wastewater; looked at historical wastewater information so that they could start to assess the impacts to groundwater and find the sources of those impacts.

Mr. Rogers stated they did a second sampling event. The first one was done in November, 2003 and the second one, they came back in January, 2004 and sampled some more. We used a few less wells, refined their constituents a bit more and added a few more constituents that might help them identify that a little bit more. Mr. Rogers noted he wanted to make clear that this project was completed in a relatively short time and this is really a snapshot of what has occurred. We started this project in June of last year. We completed the field work in February, wrote the report and are now in the review phase and this report needs to be submitted to the Regional Water Quality Control Board by the 20th of May which is nine days from now.

Mr. Rogers indicated Task Four where they went through and evaluated the data. They also used the historical data that had been collected to devise a number of conclusions. They also came up with some recommendations and prepared the final report. Some of the significant findings they had was the groundwater in the study area which was about the eastern half of the San Juan basin and a good portion of the Hollister west basin, is really marginal for domestic water quality. A number of constituents are present at concentrations that exceed drinking water standards established by the State of California. Some of those constituents are naturally occurring and some of them are contributed by other activities. Groundwater basically flows from the southeast to the northwest. It flows basically parallel to the river. From Hospital Road, it flows from the Hollister west basin into the San Juan sub-basin and flows to the west from the San Juan basin towards San Juan Bautista. A little bit of water probably flows to the north toward Wright Road, although they drilled a hole out there, the water is very deep near Wright Road compared to other parts of their study area. It would appear that there is perhaps some type of structure that is restricting the flow in that direction.

Mr. Rogers noted they estimated groundwater velocities based upon the slope of the water table and the hydraulic conductivity measured during an aquifer testing. In groundwater, they calculated flows at varying rates depending upon material in the gradient or the slope of that water table from about thirty-three feet per year to eight hundred and eighty feet per year. Of course, the clays and silts flow much slower and the sands and very coarse grains of material that are in the river channel have a much greater groundwater velocities.

Mr. Rogers noted it was discovered that there is significant vertical gradients, where groundwater is basically moving from the surface to depth as caused by the fact that a lot of water is being recharged at the surface. There is water being recharged at the wastewater treatment plant from percolation. We have infiltration of agricultural water; some activities by the Water District to recharge groundwater and then a lot of the agricultural pumping and domestic pumping is pumped from a greater depth and so that water that is put at the surface tries to move to a deeper depth and doesn't stay right at the surface.

Mr. Rogers indicated they identified percolation of wastewater at the wastewater treatment plants has impacted the groundwater. We have significant mounds, groundwater is shallower beneath the wastewater treatment plant than in the surrounding areas from the percolation of the groundwater. We also found that there are three constituents, specifically, that have impacted waste, have impacted groundwater around the wastewater treatment plants and those are sodium, chloride and potassium. We believe the primary sources of those constituents in the wastewater are probably

come from the use of water softeners and the tomato canning process that uses sodium hydroxide and potassium hydroxide during peeling of the tomatoes.

Mr. Rogers noted they could identify wastewater impacts about 2500 feet to the southwest of the domestic wastewater treatment plant and about 1500 feet to the northeast of the industrial wastewater treatment plant. He noted they didn't know the exact extents of other areas because they didn't have that information available to them. Based, upon this information, they found that they came up with a number of recommendations that they included in their report. Those recommendations are to expand the monitoring programs at the wastewater treatment plant, in review of the monitoring or reporting program that has been prepared by the Regional Water Quality Control Board. They asked for a couple of more constituents primarily manganese and potassium being included in those lists of constituents. They also recommended that a few additional wells be included in the program, primarily water supply wells that are out, away from the wastewater treatment plant. Those wells are a little bit deeper and the it appears that the water doesn't move strictly laterally, it has a little bit of a downward vector because of the vertical gradient. Mr. Rogers explained they also need to determine what the vertical extent of the wastewater impacts are as they were not able to do that with the information that they had.

Mr. Rogers also recommended that the City take steps to minimize the amount of potassium, sodium and chloride that is put into the wastewater. He explained they recommended their monitoring program be continued long-term. Again, they weren't able to see a complete seasonal effect so they recommended that it be continued so that you can assess the seasonal effects on groundwater and long-term trends. They also recommended that the Whitaker facility that is across the street from the domestic wastewater treatment plant that those activities that are going on there remediation of their problems that include percolate, be watched a bit closer. Mr. Rogers noted they also recommended that percolate, once a year be analyzed from samples collected in the monitoring wells at the domestic wastewater treatment plant.

Mr. Rogers noted he wanted to stress that there is a number of issues and that the wastewater treatment plant isn't the only activity impacting the water. There are other activities that also affect wastewater or groundwater in the study area.

Mr. Rogers noted this concluded his report and asked if there were any questions.

Chairman Cruz asked where did the report recommend to the City what to do about soft water units in the City; what to do and how to get rid of them in order to eliminate those units.

Mr. Rogers noted they didn't make specific recommendations. However, one of the goals would certainly be that with the implementation of the less-salt water treatment plant, better quality water than you have with your groundwater is being put into the City's municipal system. This should lower the overall concentration of manganese and calcium that cause the hard water. Certainly, with the increase use of that, the need for water softeners would decrease. As far as the method that the City would use, if they so chose to try and restrict the use of water softeners, that was beyond the scope of their investigation. That would have to be decided by others about how that would be done. The primary thing would be that with the use of a better quality water, then water softeners are not needed. Probably an educational program to inform people that they don't need the water softeners would be helpful.

Chairman Cruz noted his District was the City of Hollister and in order to get rid of the water softener that they all have and they know why they have them, they need good water to drink. Chairman Cruz noted he didn't see in the report but noted Mr. Rogers answered his question.

Supervisor Kesler noted she tried to read this, but the further she got into it, the deeper she felt. Supervisor Kesler asked how many wells were in the County? Supervisor Kesler noted she thought she could figure that out, but found out she couldn't.

Mr. Rogers noted he didn't know how many were in the County but noted it would be a large number. He stated he didn't have a number but indicated if a member of the Water District was present who was with the Project Management Group could. There was a fairly large number of wells just within their study area. It is only a small portion of the County in total.

Supervisor Kesler asked Mr. Rogers if he felt the biggest part of it, is non-drinkable.

Mr. Rogers noted it wasn't non-drinkable, but was marginal. He explained that the State of California has water standards that they call primary water standards and secondary water standards. Fortunately, most of the standards that are exceeded in the Hollister area are secondary standards that have to deal with constituents such as sulfate and chloride. Sulfate is present in concentrations above the secondary standard and so is chloride. In most of the county, TDS and electrical conductivity, Mr. Rogers thought, were greater than the water standards. In every sample they collected, except for one and that one sample was immediately adjacent to an area where the Water District was recharging San Felipe water, that is better quality water than normal groundwater in the region and so there was some delusion going on there.

Mr. Rogers stated then you have a second set of standards or the primary set of standards which are actually standards that, if you consumed a sufficient amount of water, he believed two liters a day for years, there could perhaps be, but it is a one in million chance for carcinogenic constituents, perhaps some health affect from it. There are some things like nitrates and selenium which they did identify nitrates above the maximum level in quite a bit of the shallow water. That is not unusual at all in agricultural areas. As a matter of fact, probably most agricultural areas with shallow water have nitrate concentrations from a multitude of sources.

Mr. Rogers indicated there was one area that had selenium with concentrations greater than the MCL. It was also located in an agricultural area and thought it could be identified with one specific land use in that area. It's not that it is not usable, it is just marginal - those secondary standards for things like sulfate and chloride are aesthetic things. They affect the taste and odor of the water - not really health impact but some people find it the best water, from a taste standpoint or an odor standpoint.

Supervisor Kesler noted she lived in the country and dug a new well and asked if there was a way to get rid of the iron. Supervisor Kesler stated no where in the report did she find where one could get rid of the iron.

Mr. Rogers noted iron was not identified during their analysis as one of the major constituents. They really concentrated on the study area and its impacts. When you look to the east, boron is a more significant concentration and perhaps has impact on agricultural activities. Mr. Rogers noted they looked at their study area and that was fifteen to twenty square miles and tried to concentrate on what those specific problems were so that they could identify a series of questions that were asked of them in the beginning. Mr. Rogers noted some of the questions included what impacts were going on in that area to impact water quality. Some of the groundwater suitability issues were not specific questions but they were able to answer those in the course of their investigation.

Supervisor Kesler noted if it were not for the soft water tanks where she lived, the water would be awful. This was the only way they could get rid of it is with soft water tanks. If the County, at some time, starts preventing those, it is like giving you a gun but with no bullets.

Mr. Rogers understood what Supervisor Kesler was saying. Mr. Rogers noted their specific comments were how to reduce those constituents that are of concern at the wastewater treatment plant. He wasn't saying that the use of water softeners isn't something that is beneficial to the residents.

Chairman Cruz asked if the report had to be in the 28th?

Mr. Rogers noted it was part of the administrative civil liability that the Regional Board issued - that it needs to be in by the 28th of May.

Chairman Cruz noted that Board would then make a final decision. Chairman Cruz asked if Mr. Rogers had any idea which way that would go?

Mr. Rogers noted that the Regional Water Quality Control Board was a stakeholder in this process so they have been involved. Mr. Rogers noted they have had a couple of meetings with the Regional Water Quality Control Board and in February, went and sat down with the Regional Board staff person and his supervisor. They went over a lot of the information that was found and Mr. Rogers was quite hopeful that the Regional Board will find this report totally meeting the requirements that they (Regional Board) put on when they put it on as a condition of suspension of a portion of the ACL.

Mr. Rogers noted the Regional Board certainly will review and have the right to comment and any comments, Mr. Rogers noted he will address.

Received report from Interim City Manager Clint Quilter and accepted Final Hydro-geologic Report re: Hollister Wastewater Treatment Facilities prepared by Geomatrix Consultants. No formal action required. (file #22)

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT - K. Flores:

17) Consider proposed resolution authorizing submission of an application for a Federal Emergency Shelter Grant and authorizing signing authority.

CSWD Director Kathryn Flores came forward. Ms. Flores stated that the resolution before the Board is pretty straight forward in that it is requesting permission from the Board of Supervisors to submit a Federal Emergency Shelter Grant or FESG grant. Ms. Flores noted this grant has allowed them to provide emergency shelter since the early 1990's for families and children up at the Southside facility.

Ms. Flores noted there were currently sixteen units that will house families up to six months at a time. She noted the County had been successful in obtaining this grant every two years. It is a competitive grant. Ms. Flores noted she did want to appraise the Board of some changes to the grant that will impact services here locally. The State has restructured that program. One of the ways they (the State) has restructured it is, for example, two years ago, she could request up to \$340,000 over a two year period for this grant. The State has lowered that to \$256,000 and what that means is that our projected costs over the next two years for the project will have to be reduced to fit within the constraints within the maximum request. That means we were going to have to reduce services by 45%. For example, there were sixteen units so that with these grant funds, they will only be able to operate twelve units because of the cost over a two year period.

Ms. Flores noted that the current grant that the County has expires September 30th and this new grant will be awarded approximately in August. Ms. Flores noted she wanted to share that with the Board. One of the things they have planned on is applying for another CDBG grant in 2005 to bring some bonds in hopefully to bridge that gap that will be felt with the decrease in FESG funds.

Ms. Flores indicated on a positive note, she wanted to say that last week, she received an award letter from State CDBG letting the County know that State CDBG awarded the County a contract for the application that was presented before this Board back in February. In that application, we had requested funds to operate a Winter Shelter for two years. Ms. Flores noted the County would have Winter Shelter funding secured with CDBG funds.

Ms. Flores concluded by asking if there were questions of the Board. However, if there were no questions, Ms. Flores asked the Board to consider approving the referenced resolution.

Chairman Cruz noted his displeasure of having sixteen units but only having funding for twelve with four vacant units. He stated we really need all the units to be made available as has been done in the past. There is a waiting line to get into these units and felt it was a crime to not be able to use the other four units.

Chairman Cruz asked Ms. Flores if the \$256,000 was final and if there was any way the Board could send a letter to someone such as Assemblyman Salinas or Senator Denham to help us out with extra money for this project. Chairman Cruz asked Ms. Flores if the County had done everything it could to be able to use all sixteen units.

Ms. Flores responded by saying we have done everything we can within our control. Of course, it wouldn't hurt if the Chair would like to make a call to the Assemblyman, that would be helpful. The problem is, though as Ms. Flores pointed out, not enough money out there in the system to meet the demands and that is state-wide. In fact, many of the people that applied last year didn't get funded. This was a very competitive application and what they are trying to do is make those limited dollars stretch out further so they will serve as many projects as possible in the State.

Ms. Flores stated what she is going to do is keep her eyes open for any potential funding sources in addition to CDBG as that is only an annual, once a year, that can be applied for. Ms. Flores noted she would pursue any other potential funding sources, but as the Board knew, in this

time, it is very difficult to come across those as everyone is cutting budgets everywhere. Ms. Flores noted she would keep the Board apprised of any new developments.

Chairman Cruz noted it boiled down to this - everybody cuts back, the Governor cuts back and the ones that get hurt are the ones that really need it.

Chairman Cruz noted he was going to try to do everything he could possibly do because we really need this.

Ms. Flores noted she would really like to be able to do that and thanked the Board for the opportunity to address them.

Supervisor Scagliotti made the motion to approve Resolution No. 2004-34. Supervisor Kesler was second on the matter.

Counsel Forcum indicated to the Chair that there was a second part to the action with regard to the recommendation that the CAO sign or initial any related documents required for submission of the application.

Supervisor Scagliotti made the motion to include the second action as outlined by Counsel. Supervisor Kesler was second on the matter.

Upon motion duly made, seconded and carried:

a) **Approved Resolution No. 2004-34 Authorizing Acceptance Of A Department Of Housing And Community Development Grant And Authorizing Signing Authority; authorized Chair to sign said Resolution and related documentation; and**

b) **Authorized the County Administrative Officer (CAO) sign or initial any related documents required for submission of said application.**

Motion passed unanimously 5-0. (file #939)

PLANNING DEPARTMENT - R. Mendiola:

18) **Regarding General Plan Amendment and Zone Change - San Juan Oaks:**

a) **Proposed resolutions certifying EIR, Adopting Mitigation Monitoring Report Program; Adopting Statement of Overriding Considerations and approval of General Plan Amendment; and**

b) **Proposed ordinance approving Zone Change.**

Assistant Planning Director Mr. Goodrich Goodrich came forward. Mr. Goodrich noted this was the continued discussion on the San Juan Oaks project. As you will recall, back on April 13, 2004, the Board directed staff to prepare the appropriate resolutions and ordinances to move forward on this General Plan and Zone Change amendment request by San Juan Oaks.

Mr. Goodrich indicated in the Board packet were resolutions and ordinances which will reflect the Board's direction which was provided at the close of the public hearing on April 13, 2004. Mr. Goodrich stated the Board would need to adopt the ordinance and resolutions to allow the project to move forward to its next phase which would be consideration of the Vesting Tentative Subdivision Map by the Planning Commission. Mr. Goodrich noted the resolutions address the environmental portions of the project, the certification of the Environmental Impact Report (EIR), the adoption of the Mitigation Monitoring Reporting Program and the adoption of the Statement of Overriding Considerations. This needed to be adopted as a package as you cannot move forward on the General Plan and Zone Change without first certifying the environmental document.

Mr. Goodrich noted the ordinance before the Board is for the General Plan Amendment and the Zone Change. It contains Conditions of Approval that address some of the concerns, especially those regarding fire suppression, Benefit Assessment Areas, on-site fire station, secondary access and the completion of the proposed resort facility. Mr. Goodrich noted staff was recommending at this time that the Board review this ordinance and if there were any other additional issues or concerns that the Board might have and want included as Conditions of Approval, when the Vesting Tentative Map goes to the Planning Commission, let Mr. Goodrich know now. Mr. Goodrich explained staff did not include a condition in the ordinance that we return the map back to the Board from the Planning Commission after their action as there really wasn't a mechanism to do that. Mr. Goodrich stated he must note that after the resolution and ordinance is adopted, the Vesting Tentative Map has to be

reviewed and final action taken within fifty (50) days of the approval of the Resolution Certifying the EIR.

Mr. Goodrich noted this concluded his report. Staff recommendation would be to first consider the resolution and ordinance to adopt the resolutions Certifying the EIR, approving the Mitigation Monitoring and Reporting Program and adopting the Statement of Overriding Considerations and to pass, adopt and approve the General Plan Amendment and Zone Change and then also direct staff as to any other issues that the Board may have a concern with about the Vesting Tentative Map.

Chairman Cruz stated he had a question - his standard one and asked Mr. Goodrich if he could work with Mr. Fuller as this project moves forward towards approval of the final map, senior affordable housing. Chairman Cruz realized it wasn't on here because it wasn't in the EIR, but was there any way between now and building the project, could this be worked in putting affordable senior housing somewhere in this project? Chairman Cruz noted he didn't know how and didn't want to get into that today because it wasn't before the Board today, but was something he would like to see for future if it is possible to have senior housing and possible to work into this project.

Chairman Cruz stated he knew there might be those who felt that if the affordable senior housing issue went through, this would make the project even bigger. Possibly, but is something that is needed and need to look into.

Scott Fuller, representing San Juan Oaks, came forward. Mr. Fuller stated he had only one comment, and he had spoken with Mr. Goodrich about this earlier, if the Board moves forward and adopts the Mitigation Monitoring Plan, he suggested that part of that be that after the Conditions of Approval are finalized in the future, that the Mitigation Monitoring Report be made to be consistent with those final Conditions of Approval. Mr. Fuller stated so this way, the Mitigation Monitoring Report is consistent with the final Conditions of Approval. It could, in some cases, be different than the current Mitigation Monitoring Plan. Mr. Fuller stated just in adopting it the Board might want to include that they be made consistent after the final Conditions of Approval.

Mr. Fuller indicated he was available to address any questions that the Board may have at this time while considering this.

Chairman Cruz asked for clarification by asking if there were even 100 items on the Conditions of Approval, at the final map stage, there should still be 100 items?

Mr. Goodrich noted for clarification, what Mr. Fuller was saying was there was a Mitigation Monitoring Program, those are taken from the environmental documents. The Board is adopting those saying you have to certain things. There could be 200 of those and still throw another 300 conditions on the map, above that. This only addresses just the EIR and there could be other standards, County requirements, Subdivision Ordinance requirements, etc. that are not part of the environmental document, so there could be some over and above. However, what Mr. Fuller is saying is that where we have similar conditions that they need to be consistent and that the environmental Mitigation Monitoring program conditions need to be consistent with the overall Subdivision Map conditions that the Planning Commission will.

Chairman Cruz asked if there were members of the public present who wished to address the Board on this matter; however, hearing none, Chair brought the matter back to the Board level.

Supervisor Monaco made the motion, for clarification:

- a) adopt the resolution certifying the EIR and approving the Mitigation Monitoring Reporting Program and adopting the Statement of Overriding Consideration. In addition to that, Supervisor Monaco included the aspect that the Mitigation Plan is consistent with the Final Conditions of Approval that was just addressed; and
- b) pass and adopt the ordinance approving the General Plan Amendment and Zone Changes; and
- c) direct staff regarding issues of concerns for the Vesting Tentative Subdivision Map, and direct the Planning Director to file an appeal should these issues not be adequately addressed by the Planning Commission in the Conditions of Approval.

Chairman Cruz asked the clerk for the ordinance and resolution numbers.

Clerk Navarez responded Ordinance #767 plus two resolutions. One Certifying the EIR and the Mitigation Monitoring Program as Resolution #2004-35 and for the Statement of Overriding Considerations as Resolution #2004-36.

Chairman Cruz asked Counsel if both of those items can be included as a part of Supervisor Monaco's motion?

Counsel Forcum indicated there were two resolutions and both were addressed by Supervisor Monaco in the language that he read. Counsel explained Supervisor Monaco recommended that the ordinance portion be separated out as a separate number, but he did refer to that in his motion.

Supervisor Scagliotti was second on the matter.

Chairman Cruz asked for a roll call vote.

Under the question, Supervisor Loe noted she was not happy with the ordinance as it stands and wanted to discuss it a bit.

Chairman Cruz noted under the question, with a motion and second made, he would listen to the concerns of Supervisor Loe.

Supervisor Loe noted she was concerned about the Planning Director having to bring this back if there are some problems with the Planning Commission. Supervisor Loe asked if there was any way at all to add something to this ordinance so that it comes back before this Board automatically so that we, the Board, can go over the final adoption of the Vesting Tentative Map and what the conditions are.

Mr. Goodrich deferred the question to Counsel Forcum.

Counsel Forcum stated that we recognized that the Board had been interested in such a condition and County Counsel had concerns regarding imposing such a condition on the Applicant due to jurisdictional concerns. Further research addressed some of those concerns and Counsel Forcum stated she had some recommended language, if the Board was interested in adding a condition regarding the Board reviewing the map. Said recommended condition would be Condition #8 to read "The Planning Commission decision regarding the Vesting Tentative Subdivision Map shall be advisory and shall be submitted to the Board of Supervisors for review and a final decision within fifty (50) days of certification of the Environmental Impact Report."

Supervisor Loe stated she would like that added to the ordinance.

Chairman Cruz asked the maker of the motion if that was acceptable.

Supervisor Monaco noted he didn't have a problem with that.

Supervisor Scagliotti, as second on the motion, concurred as well.

Chairman Cruz noted there was a motion and second and asked for a roll call vote with the results of said roll call vote as follows:

Supervisor Loe - yes
Supervisor Scagliotti - yes
Supervisor Monaco - yes
Supervisor Kesler - no
Supervisor Cruz - yes

Upon motion duly made, seconded and carried:

a) **Approved Resolution No. 2004-35 Certifying An Environmental Impact Report And Adopting A Mitigation Monitoring And Reporting Program For The San Juan Oaks Golf Club Project; and**

b) **Approved Resolution No. 2004-36 Stating The Ability To Make Overriding Considerations For The Significant, Unavoidable Negative Impacts Of The San Juan Oaks General Plan Amendment And Zone Change (Gpa 02-24 / Zc 02-132); and**

c) **Adopted Ordinance #767 Amending The General Plan Land Use And Zone District Designation From Agricultural Productive And Agricultural Rangeland To Rural Transitional With A Planned Unit Development Overlay And Commercial Thoroughfare; reflecting the addition of Condition #8 with language as outlined by Counsel.**

Motion passed 4-1 with Supervisor Kesler voting no on the matter. (file #790)

ADMINISTRATIVE BUSINESS:

19) **Consider Budget Committee's Recommendation for Balancing the FY2004/2005 Budget; Revisit Policies for Balancing the FY2004/2005 Budget. (CAO)**

Administrative Officer Terrence May noted as the Board was aware, we have all talked about at previous meetings, the state of the County's requested budget for FY2004/2005 which begins this upcoming July 1st. Mr. May noted the County was facing some very significant funding reductions from Sacramento as a result of the States' horrific financial mess. Mr. May noted we were still waiting to see how that is going to shake out as the Legislature and the Governor have not yet come to an agreement on the framework for a FY2004/2005 budget. However, Mr. May stated it was worth noting, that this week, the Governor's office will be releasing what is known as the "May Revise" of his 2004/2005 budget.

Mr. May explained the significance of that for us, it that will contain the Governor's latest revisions to the budget that he submitted earlier this year and reviewing that May Revise will give us a better idea of how State funding cuts will impact this County and whether, relatively speaking, we are better off now than when we were with the original budget or worse off. Mr. May felt there was a glimmer of hope, particularly with regard to the proposed ERAF II Property Tax shift that the Governor had proposed earlier this year. Mr. May noted he would have more on that later, but wanted to get a chance to review the May Revise thoroughly before commenting further on how that will impact the County.

Mr. May stated his office has been meeting with the Board's Budget Committee. They will be having more meetings in the days and weeks ahead. Mr. May stated at the previous meeting, the Board's Budget Committee presented, in a preliminary proposal, a series of proposed Budget Policies to help guide the CAO and the Board in balancing the FY2004/2005 budget. Mr. May thought those policies provide a very solid and constructive framework for us to use to work toward a balanced budget. This Friday, Mr. May indicated he had scheduled a meeting between his office and the County Department Heads so that he could review with them in a group setting, the nature and extent of the budget difficulties that we here at the County face. He wanted to seek, in a very meaningful and constructive way, the Department Heads' advice and their suggestions on how we can close the budget gap.

Mr. May thought to a great extent, much depends upon the willingness of the Department Heads to work with the Board and Administration to find ways in which we can contain costs and develop new revenue sources.

Mr. May noted we face a series of tough challenges and painful choices in the weeks and months ahead as we grapple with the very difficult problem of balancing the budget. As noted before, with an expected fund balance available of about \$4-millions this July 1st, the total of the Requested Expenditures is still \$4-million over the fund balance plus the estimated revenues for next year. That is the extent of the problem that we are looking at right now.

Mr. May noted, as stated before, this is going to be a moving target depending in large part on budget decisions that are taken in Sacramento. However, having said that, Mr. May remained confident that because of the Board's sound financial management in previous year, particularly with regard to building up Reserves, and also, a large measure to the collective efforts of the Department Heads to control costs wherever possible, that this County is well positioned to deal with the impending budget crisis.

Where do we go from here? Mr. May indicated the next step is he is holding a meeting of all the Department Heads on Friday. He wanted it to be an open discussion with different approaches to balancing the budget. Beyond that, Mr. May felt that working with the Board Budget Committee and further with the Department Heads, that the budget policies that were contained in the staff report attached to the transmittal, presented at the last meeting, do provide the basis for his office to proceed with its responsibility to present this Board with a Proposed Budget that is balanced.

Mr. May noted he considered the possibility of requesting a budget workshop for the Board on May 18th, however, he felt that with the Department Head meeting coming up on Friday and by working with the Department Heads and the Budget Committee, he felt he had enough direction to proceed with putting together a balanced budget.

With that, Mr. May noted he would like to turn the floor over to the Board Budget Committee members or any Board member who had questions.

Chairman Cruz wanted clarification that Mr. May didn't want to have the May 18th workshop.

Mr. May indicated Supervisor Loe won't be here and it would be important to have her here as she is one of the two members of the Budget Committee. Mr. May noted we could do this on another day if the Board desired. He stated he would leave that up to the Board, but felt he had enough direction at this point to proceed with putting together a balanced budget.

Mr. May noted that this item will continue to be a standing item on the Board agenda so that he would be able to give the Board a verbal update along with any handouts or staff reports as necessary and also the Board Budget Committee will have this as a standing appointment on the Board agenda up until the time of budget hearings so we can continue to update the Board and discuss important matters in relation to the budget.

Chairman Cruz noted when Mr. May sits down with the Department Heads on Friday, there were approximately fifteen items that the Sub-Committee has been working on and felt it was crucial to sit down and go over these, but how soon would the Board know from Mr. May the results of the Department Heads?

Mr. May replied he would report back to the Board at the next meeting, which was May 25th, with the results of the meeting and the work that he has done with Department Heads and the Board Budget Committee in the mean time.

Supervisor Monaco noted concerning the discussion of having a review meeting. Supervisor Monaco noted he wasn't comfortable ruling that out at this point, but if this is ongoing and on the agenda, we may still deem it necessary. Supervisor Monaco noted he would like to keep that open as a possibility and didn't think there needed to be any action on it.

Mr. May agreed with Supervisor Monaco and highly recommended keeping this item on the Board's agenda as a regular item.

Supervisor Scagliotti noted Supervisor Loe would be available on May 21st and so would he.

Supervisor Monaco noted he would not be available on the 21st.

Supervisor Scagliotti then noted the update would occur on the 25th. Supervisor Scagliotti noted to Mr. May on the 25th the Board will have to make some hard decisions because he thought the Board needs to understand that time is of the essence as the June 30th date is upon us and decisions, as Mr. May pointed out, have to be made - some are very unpleasant. Supervisor Scagliotti noted, but in order for these financial tools to take place, you have to give notice per our employee negotiations that we have with the Union. Supervisor Scagliotti noted for every week we wait, or every month we wait, it throws the budget that much further out and more cuts will have to be made somewhere else because you are just going to have to budget that money into the fiscal year to be able to fund those positions. We know there are going to have to be positions that will need to be cut unless someone can come up with alternate funding for those positions.

Supervisor Scagliotti suggested that the 25th will be either do or die day.

Chairman Cruz noted it was crucial what was going to happen with the Department Heads on Friday. Also, bringing forth what the Sub-Committee has recommended very strongly, why, how come, etc.

Supervisor Scagliotti asked Mr. May when he would be presenting the Board with a temporary budget.

Mr. May responded either the first meeting in July or the last meeting in June.

Supervisor Scagliotti noted that is why they need to know what numbers to plug in and may even need to know that now and start planning for it because there will be, at this point, there already will be temporary funding that has to be provided in the temporary budget.

Mr. May indicated Supervisor Scagliotti was correct.

Supervisor Kesler noted at this time, the Governor has not made a decision on all the cuts to his budget. Hopefully, by waiting a few days, we might get a report that looks better.

Received update from CAO Terrence May and comments from Budget Sub-Committee comprising of Supervisor Loe and Supervisor Scagliotti. No formal action was taken. (file #865)

10:00 a.m. CLOSED SESSION AGENDA:

- 20) **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**
Prior to entering Closed Session, Counsel noted two cases were withdrawn and there was one case to hear.
Upon exiting Closed Session, Counsel noted no action was taken on remaining matter. (file #235.6)
b) **Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9. Number of cases: 3**
Prior to entering Closed Session, Counsel indicated that all three cases were withdrawn. (file #235.6)
- 21) **Conference with Legal Counsel - Existing Litigation**
a) **Sandman vs. County of San Benito.**
Upon exiting Closed Session, Counsel noted no action was taken on this matter. (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 noted no action was taken on this matter. (file #235.6)
c) **California Farm Bureau, et al. vs. California Department of Forestry and Fire Protection, et al.**
Upon exiting Closed Session, Counsel noted no action was taken on this matter. (file #235.6)
d) **Segura vs. County of San Benito, et al.**
Upon exiting Closed Session, Counsel noted no action was taken on this matter. (file #235.6)
- 22) **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 noted no action was taken on this matter. (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: 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 25, 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