

**SAN BENITO COUNTY
BOARD OF SUPERVISORS
REGULAR MEETING
JUNE 8, 2004**

ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session at 9:30 a.m. Supervisors Loe; Scagliotti; Monaco, Kesler and Cruz were all present. Also present was Acting County Administrative Officer Daniel Vrtis, County Counsel Karen R. Forcum and Assistant Clerk Sally Navarez. Chairman Bob Cruz presiding when the following was had to wit:

CALL TO ORDER:

a) **Pledge of Allegiance.**

Chairman Cruz asked the audience to join him in a moment of silence honoring the memory of President Ronald Reagan who passed away over the weekend.

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 during the Public Comment Period.

d) **Department Head Announcements:** Agricultural Commissioner Paul Matulich came forward and presented the Board with the 2003 San Benito County Crop Report.

Upon inquiry from the Board, Mr. Matulich indicated that the highest grossing crop for San Benito County during the year 2003 was lettuce.

e) **Board Announcements, Introductions and Presentations:** There were no Board announcements.

CONSENT AGENDA:

Chairman Cruz asked that Item #3 be pulled and discussed further.

Chairman Cruz requested that County Counsel review the proposed agreement further and continue the item to the next Board meeting of June 22, 2004.

Supervisor Scagliotti made the motion to approved the Consent Agenda Item #1, #2 and #4 through Item #9 and continued Item #3 to the meeting of June 22, 2004. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, approved Consent Agenda Item #1, #2, #4 through #9 and continued Item #3 to the meeting of June 22, 2004. Motion passed unanimously 5-0.

AUDITOR - D. Vrtis:

1) **Approved** Departmental Claims.

HEALTH & HUMAN SERVICES AGENCY - M. Coppola:

2) **Approved** agreement with Dr. Elizabeth Lee to provide psychological services for children and families in the Child Welfare System for the period of July 1, 2004 through June 30, 2005. (file #130)

MENTAL HEALTH - A. Yamamoto:

3) Approve amendment to FY 2003-2004 agreement with Gary Ernst for administrative consulting services, increasing hours and compensation by \$15,250. **Continued to the meeting of June 22, 2004.**

PROBATION - D. Botts:

4) **Authorized** Chief Probation Officer to apply for a SAMHSA/CSAT Young Offender Reentry Program Grant and sign related documents. (file #510)

5) **Adopted Resolution No. 2004 - 75 Approving The Comprehensive Multi-Agency Juvenile Justice Plan As Modified**, authorized Chair to sign said Resolution and authorized the Probation Department to Submit said Plan to the Board of Corrections to expend funds provided by the federal Title II, Part E (Challenge) funds. (file #510)

PUBLIC WORKS - A. Nazemi / P. Corn:

6) **Approved** agreement with the National Park Service to designate Old Stagecoach Road as a portion of the Juan Bautista de Anza National Historic Trail. (file #93)

7) **Approved** receipt of \$150,000 from the State Department of Parks and Recreation for expansion of Hollister Hills SVRA to mitigate impact of park improvements on County roads and deposit the funds in the Cienega Road Realignment Trust Fund. (file #93)

SHERIFF - C. Hill:

8) **Approved and authorized** the *Chair* to sign agreement with the City of Hollister to provide law enforcement services and cost reimbursement in connection with the 2004 Motorcycle Rally. (file #110)

SUBSTANCE ABUSE PROGRAM - M. Narasaki:

9) **Approved** agreement with Camp Recovery Center (CRC) Health Corporation for short-term (28 days) residential treatment services for clients with co-occurring mental health and substance abuse issues, with a contract term of July 1, 2004 through June 30, 2005 at a cost of \$14,280. (file #1053)

REGULAR AGENDA:

SHERIFF - C. Hill:

10) **Accept and approve proposal from California Forensic Medical Group (CFMG) to provide comprehensive health care services for adult jail inmates and juvenile detainees and direct staff to negotiate a two (2) year contract at a base price of \$622,345 annually for Board approval.**

Sheriff Hill came forward and provided background information relative to this matter.

Supervisor Scagliotti made the motion to accept and approve said proposal and directed Sheriff's Office staff negotiate a contract with CFMG re: comprehensive health care for adult and juvenile detainees as outlined by Sheriff Hill. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried:

- a) *Accepted the proposal for comprehensive health care services for adult inmates and juvenile detainees that was received from CFMG; and*
- b) *Approved the proposal received from CFMG for comprehensive health care for adult inmates and juvenile detainees in the amount of \$622,345; and*
- c) *Directed the Sheriff's Office / Corrections Bureau and Probation / Juvenile Hall to negotiate a contract with CFMG for comprehensive health care for adult and juvenile detainees.*

Motion passed unanimously 5-0. (file #110)

COUNTY COUNSEL - K. Forcum:

11) **Discussion regarding required procedure for Department Heads to request the assistance of outside legal counsel, accept report and provide direction as appropriate.**

Chairman Cruz explained that this matter was placed on the agenda to reiterate what the required procedure for Department Heads were to follow and stress that such matters must have the permission of the Board of Supervisors before pursuing outside counsel. Chairman Cruz noted that procedure had not been followed by a Department Head and stated the Board wanted the required procedure reiterated to all Department Heads.

Counsel Forcum indicated there was an established overall procedure based on County Counsel as lead advisor to the Board of Supervisors per the Government Code which required two-thirds vote of the Board to allow such requests. Counsel Forcum stated there was a current policy in place that Department Heads need to follow in requesting the assistance of outside legal counsel as cited by the Government Code.

District Attorney John Sarsfield spoke in favor of this matter and agreed with the Board of Supervisors and Counsel Forcum.

Supervisor Loe indicated she would like to see a notice sent to all Department Heads outlining the appropriate steps to take of what has to be done in these circumstances so this doesn't occur again.

County Counsel Forcum agreed with Supervisor Loe and stated she would forward a copy of the Board memo to all Department Heads. Counsel Forcum noted it was also noted in the staff report that the County Code - Purchasing Section, also notes that the Department Heads are required to request of the Board of Supervisors the negotiation of contract for contractual services including attorney services. That can also be added as advisement to the Department Heads.

Chairman Cruz so directed Counsel Forcum to provide a copy of the appropriate procedures and steps of what has to be done should Department Head request the assistance of outside legal counsel. (file #156)

CLOSED SESSION AGENDA:

Following Closed Session, Counsel Forcum indicated, for clarification purposes, that Item #8 should indicate that the Chair is authorized to sign said agreement between San Benito County and the City of Hollister re: services in conjunction with the July 2004 Motorcycle Event.

12) 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 items 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, there were two cases to hear and one item was withdrawn.

Upon exiting Closed Session, Counsel Forcum indicated that on the two remaining cases, there was no reportable action taken. (file #235.6)

13) Conference with Legal Counsel - Existing Litigation

a) Sandman vs. County of San Benito

Upon exiting Closed Session, Counsel Forcum indicated that there was no reportable action on this item. (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 there was no reportable action on this item. (file #235.6)

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

Upon exiting Closed Session, Counsel Forcum indicated that there was no reportable action on this item. (file #235.6)

d) United States of America v. San Benito County, John R. Hodges, et al.

Upon exiting Closed Session, Counsel Forcum indicated that there was no reportable action on this item. (file #235.6)

14) 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 there was no reportable action on this item. (file #235.6)

15) Public Employee Discipline/Dismissal/Release

Upon exiting Closed Session, Counsel Forcum indicated that there was no reportable action on this item. (file #235.6)

16) Public Employment

Title: County Administrative Officer

Upon exiting Closed Session, Counsel Forcum stated the Board of Supervisors appointed Dan Vrtis as the County Administrative Officer effectively immediately with an employment agreement to be agendized for Board of Supervisors' approval within the next few weeks. (file #235.6)

PUBLIC HEARINGS (or as soon thereafter as the matters may be heard):

For the record, Supervisor Cruz was absent for the afternoon session. Vice-Chair Ruth Kesler presided over the after public hearings session.

ASSESSOR:

17) Hold public hearings to consider Land Conservation Act (LCA) Requests:

Consider LCA Requests and take action as appropriate re:

a) Baumgartner 1990 Trust (Compatible Use)

County Assessor Arnold Fontes indicated this was a request to place a temporary mobile home on the site for family members. Mr. Fontes noted the Advisory Committee recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing; however, hearing no one wishing to address the Board on this matter, subsequently closed the public hearing.

Supervisor Loe made the motion to approve said request as outlined by Mr. Fontes. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, approved compatible use request of Baumgartner 1990 Trust to add a temporary mobile home for family members. Motion passed 4-0 with Supervisor Cruz being absent for the vote.

b) Paxton, M. & J. Trust, et al (Compatible Use)

Mr. Fontes indicated this was a request to utilize approximately 100 acres for an ag composting facility with a 152 acre balance being used for the ag production of legume type crops. Mr. Fontes indicated that the Advisory Committee recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing; however, hearing no one wishing to address the Board on this matter, subsequently closed the public hearing.

Supervisor Monaco made the motion to approve said request as outlined by Mr. Fontes. Supervisor Loe was second on the matter.

Upon motion duly made, seconded and carried, approved compatible use request of Paxton, M. & T. Trust, et al. to utilize approximately 100 acres for an ag composting facility with a 152 acre

balance being used for the ag production of legume type crops. Motion passed 4-0 with Supervisor Cruz being absent for the vote.

c) Rever-Ginsurg Trust (Compatible Use)

Mr. Fontes indicated this was a request to add a bed and breakfast operation, guided horseback trail rides and occasional day events such as weddings and other parties. Mr. Fontes indicated that the Advisory Committee recommended approval by a vote of 4-1.

This being the duly noted time and place Vice-Chair Kesler opened the public hearing.

Barbara Rever, property owner came forward. Ms. Rever asked the Board to favorably consider the request as outlined by Mr. Fontes.

Hearing no one further wishing to address the Board, Vice-Chair Kesler closed the public hearing.

Supervisor Loe made the motion to deny this request. Supervisor Scagliotti was second on the matter.

Upon motion duly made, seconded and carried, denied the compatible use request of Rever-Ginsurg Trust to add a bed and breakfast operation, guided horseback trail rides and occasional day events such as weddings and parties. Motion passed 3-1 with Supervisor Monaco voting no and Supervisor Cruz being absent for the vote.

d) Hall, A. Trust, et al (Division)

Mr. Fontes indicated this was a request to divide 395-acres into two contracts of 182 and 213-acres each. Mr. Fontes indicated that the Advisory Committee recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing; however, hearing no one wishing to address this matter, subsequently closed the public hearing.

Supervisor Loe made the motion to approved said request as outlined by Mr. Fontes. Supervisor Loe was second on the matter.

Upon motion duly made, seconded and carried, approved division request of A. Hall Trust, et al. to divide 395-acres into two contracts of 182 and 213-acres each. Motion passed 4-0 with Supervisor Cruz being absent for the vote.

e) Herbert, P. & P. (Division)

Mr. Fontes indicated this was a request to divide a 50-acre contract into four contracts of 12.5, 12.5, 12.5 and 12.5 acres each. Mr. Fontes indicated that the Advisory Committee recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing; however, hearing no one wishing to address this matter, subsequently closed the public hearing.

Supervisor Loe made the motion to approve the request as outlined by Mr. Fontes. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, approved the division request of P. & P. Herbert to divide a 50-acre contract into four contracts of 12.5, 12.5, 12.5 and 12.5-acres each. Motion passed 3-1 with Supervisor Scagliotti voting no on the matter and Supervisor Cruz being absent for the vote.

f) Sans, G. Trust, et al (Division)

Mr. Fontes indicated this was a request to divide a 6228-acre contract into four contracts of 320, 640, 1566 and 3702-acres each. Mr. Fontes indicated that the Advisory Committee recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing; however, hearing no one wishing to address this matter, subsequently closed the public hearing.

Supervisor Monaco made the motion to approve the request as outlined by Mr. Fontes. Supervisor Loe was second on the matter.

Upon motion duly made, seconded and carried, approved the division request of G. Sans Trust, et al. to divide a 6228-acre contract into four contracts of 320, 640, 1566 and 3701-acres each. Motion passed 4-0 with Supervisor Cruz being absent for the vote.

g) TMV Lands (Division)

Mr. Fontes indicated this was a request to divide a 1350-acre contract into two contracts of 434 and 916-acres each. Mr. Fontes indicated that the Advisory Committee recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing; however, hearing no one wishing to address this matter, subsequently closed the public hearing.

Supervisor Loe made the motion to approve the request as outlined by Mr. Fontes. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, approved the division request of TMV Lands to divide a 1350-acre contract into two contracts of 434 and 916-acres each. Motion passed 4-0 with Supervisor Cruz being absent for the vote.

h) Tully, S. Trust (Division)

Mr. Fontes indicated this was a request to divide a 466-acre contract into two contracts of 165 and 301-acres each. Mr. Fontes indicated that the Advisory Committee recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing; however, hearing no one wishing to address this matter, subsequently closed the public hearing.

Supervisor Loe made the motion to approve the request as outlined by Mr. Fontes. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, approved division request of S. Tully Trust to divide a 466-acre contract into two contracts of 165 and 301-acres each. Motion passed 4-0 with Supervisor Cruz being absent for the vote.

i) Falsey, J. (Lot Line Adjustment)

Mr. Fontes indicated this was a request to exchange 13 acres under contract for 162-acres not currently under contract and will increase the total contract acres from 1612 to 1761. Mr. Fontes indicated the location of this site is Airline Hwy. near the Pinnacles National Monument and stated the Advisory Committee recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing.

David Daniels, 29711 Airline Highway, came forward. Mr. Daniels spoke in opposition to this request.

Rob Edwards, 29401 Airline Highway, came forward. Mr. Edwards also spoke in opposition to this request.

Hearing no one further wishing to address the Board on this matter, Vice-Chair Kesler closed the public hearing.

Supervisor Scagliotti made the motion to deny this request. Supervisor Loe was second on the matter.

Upon motion duly made, seconded and carried, denied the lot line adjustment request of J. Falsey. Motion passed 4-0 with Supervisor Cruz being absent for the vote.

j) Williams, A. Trust (Notice of Non-Renewal)

Mr. Fontes indicated this was a request to non-renew a portion of a contract comprising of 142-acres from a 240-acre contract. Mr. Fontes indicated the Advisory Board recommended approval of this matter.

This being the duly noted time and place, Vice-Chair Kesler opened the public hearing; however, hearing no one wishing to address this matter, subsequently closed the public hearing.

Supervisor Scagliotti made the motion to approve the request as outlined by Mr. Fontes. Supervisor Loe was second on the matter.

Upon motion duly made, seconded and carried, approved notice of non-renewal request of A. Williams Trust removing 142-acres from a 240-acre contract. Motion passed 4-0 with Supervisor Cruz being absent for the vote.

Discussion regarding National and State Day of Mourning. This matter was added to the agenda by the Board at the request of Counsel Forcum because there was a need to take immediate action and the need for action came to the attention of the County subsequent to the agenda being posted.

Counsel Forcum advised the Board that CSAC had distributed a memorandum that referred to the Governor's issuance of a press release in which he referred to a Day of Mourning in the State of California in memory of President Reagan. Counsel Forcum advised the Board that CSAC states that they are going to wait and review the language of the actual Executive Order to see if the language meets the definition of holiday pursuant to the Government Code.

Counsel Forcum referred to the County Code which requires that the offices of the County be kept open continuously for the transaction of business with the exception of holidays.

Supervisor Scagliotti moved that the day is not currently designated as a holiday so it will not be recognized as such until subsequent meet and confer.

The Board then discussed whether the flags would be flown at half-mast.

Upon motion duly made, seconded and carried, it was determined that San Benito County would not acknowledge Friday, June 11, 2004 as a "holiday" as currently defined in the Personnel Ordinance and further consideration of such would be subject to the meet and confer process. Motion passed 4-0 with Supervisor Cruz 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, June 22, 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