

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

ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session. Supervisors Loe, Monaco, Kesler and Cruz were present. Supervisor Scagliotti was absent. Also present was County Administrative Officer Dan Vrtis, County Counsel Karen Forcum and Senior Board Clerk Linda Churchill. Chairman Cruz presided.

9:30 a.m. CALL TO ORDER:

- a) Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment.** Deputy Sheriff Jeff Godwin came forward and announced that the Voluntary Mounted Search and Rescue Unit was going to be sworn in on Saturday, July 31, 2004 at 1:00 p.m. The ceremony will take place at Bolado Park and Deputy Goodwin extended an invitation to the Board of Supervisors.
- d) **Department Head Announcements:** There were none.
- e) **Board Announcements, Introductions and Presentations:** There were none.

CONSENT AGENDA:

County Counsel Karen Forcum announced that pursuant to the request of Supervisor Kesler she would like Consent Item #5 withdrawn from the agenda.

Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, Consent Item #5 was withdrawn from the agenda. (4-0 vote. Scagliotti absent.)

Upon motion made by Supervisor Kesler and seconded by Supervisor Monaco approved Consent Agenda Items 1 through 23 with the exception of Item #5. (4-0 vote. Scagliotti absent.)

ADMINISTRATION:

- 1) **Approved** agreement with Public Resource Management Group (PRM) to provide cost claimings erVICES to the County for federal reimbursement under the Southwest Border Prosecution Initiative. (Mgmt. Analyst) *File #156.1*
- 2) **Approved** publication of summary ordinances where applicable and **designated** preparation of summary ordinances for publication to County Counsel. (Mgmt. Analyst) *File #156*

ASSESSOR - A. Fontes:

- 3) **Approved** Assessment Roll Corrections. *File #7.2*

AUDITOR:

- 4) **Approved** Departmental Claims.

BOARD OF SUPERVISORS:

- 5) Consider termination of District 2 Planning Commissioner's Term. (Supervisor Kesler)
This item was withdrawn from the agenda. File #790.2

CLERK OF THE BOARD:

- 6) **Approved** the action minutes of the meeting of July 6, 2004 and special meeting of July 13, 2004.
7) **Approved** Proof of Publication.

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT - K. Flores:

- 8) **Approved** acceptance of donations, monetary and non-monetary, for the benefit of the agency's program operation for low-income County residents. ***File #939***
9) **Approved** the reappointment of Al Martinez, economic development representative, to the Workforce Investment Board for a three-year term effective August 1, 2004 through July 31, 2007. ***File #939***
10) **Approved** rental agreement with Pitney Bowes in the amount of \$1,056 for a DM200 Digital Mailing System for a thirty-nine month period. ***File #939***
11) **Approved** amendment #1 to agreement with Central Coast Energy Services, Inc. increasing the current contract by \$6,800 to incorporate Department of Energy funding received and **authorized** CSWD Director to sign said amendment on behalf of the County. ***File #939***

COUNCIL OF GOVERNMENTS - T. Quigley:

- 12) a) **Approved** Human Resources recommendation of the Council of Governments Transportation Manager job description;
b) **Authorized** Human Resources to begin recruitment for the Transportation Manager position immediately;
c) **Authorized** Human Resources to establish the Council of Governments Transportation Manager Salary Range at 25.1 of the San Benito County Class Title and Pay Plan. ***File #1035***

COUNTY COUNSEL - K. Forcum:

- 13) **Allowed** the claim of Josefina Garcia filed with the clerk of the board on June 17, 2004, as submitted, and **directed** clerk to notify claimant. ***File #235***

FIRST FIVE SAN BENITO (FORMERLY KNOWN AS CHILDREN & FAMILIES)- K. Castillo:

- 14) **Approved** agreement with Harder+Company Community Research in the amount of \$75,000 for over-all evaluation of the Commission with a contract term of September 1, 2004 through October 31, 2005. ***File #155***

HEALTH & HUMAN SERVICES AGENCY - M. Coppola:

- 15) **Approved** agreement with the San Benito County Office of Education in the amount of \$9,995.04 for the provision of school nursing services with a contract term of July 1, 2004 through June 30, 2005. ***File #420***

LIBRARY - J. Wahdan:

- 16) **Approved** agreement with Southwestern Bell Company for pay phone service to patrons and public. ***File #80***

PUBLIC WORKS:

- 17) **Accepted** bid from Thyssen Krupp Elevator Corporation, as the lowest responsive bidder, in an amount not to exceed \$9,999 and **waived** immaterial defects for elevator services with a contract term of July 1, 2004 through June 20, 2005. ***File #105***

REGIONAL DEPARTMENT OF CHILD SUPPORT SERVICES - L. Miller:

- 18) **Approved** proclamation declaring August as "Child Support Awareness Month" in San Benito County. *File #430*

SUBSTANCE ABUSE PROGRAM - M. Narasaki:

- 19) **Approved** agreement with Santa Cruz Community Counseling Center, Inc. in the amount of \$56,160 for residential treatment services with a contract term of July 1, 2004 through June 30, 2005. *File #1053*
- 20) **Approved** renewal of agreement with Lifestyle Management & Associates in the amount of \$1,750 for Drinking Drivers Program and the Penal Code 1000 Drug Diversion Program with a contract term of July 1, 2004 through June 30, 2005. *File #1053*
- 21) **Approved** agreement with Community Human Services in the amount of \$4,750 for the provision of methadone treatment with a contract term of July 1, 2004 through June 30, 2005. *File #1053*
- 22) **Authorized** application for the State Incentive Grant to Reduce Binge Drinking Among Youth and Young Adults and **authorized** Substance Abuse Program Administrator to sign related document. *File #1053*
- 23) **Accepted** grant funds in the amount of \$5,000 from the California Highway Patrol for the "Every 15 Minutes" program regarding discouraging youth from drinking and driving. *File #1053*

9:30 a.m. PUBLIC HEARINGS (OR AS SOON THEREAFTER AS THE MATTERS MAY BE HEARD):

PLANNING DEPARTMENT - R. Mendiola:

- 24) **Held public hearing to consider a proposed resolution re: Vesting Tentative Map 02-67 - San Juan Oaks Golf Club. Request: A vesting tentative subdivision map to subdivide approximately 2,000 acres for the development of 154 single family detached homes, 2 ranch estates, 30 affordable town homes, a 9,400 square foot commercial center, a private championship 18-hole golf course and a public 9-hole golf course, clubhouse, driving range, a 200 room resort hotel, a regional park, and agricultural/habitat conservation areas. Applicant: Rancho San Justo Company (San Juan Oaks Golf Club). Location: San Juan Oaks Drive at Union Road. Zoning: Agricultural Rangeland (RR), Rural Transitional/Planned Unit Development (RT/PUD), and Thoroughfare Commercial (C-1). Environmental Review: Environmental Impact Report.**

Planning Director Rob Mendiola provided background information and staff report. Mr. Mendiola indicated that the issue relating to the secondary access had not been completely resolved.

Scott Fuller, representing San Juan Oaks, came forward. Mr. Fuller stated that they were willing to work with the County so as not to further delay the project and he did not want to lose the allocations because of not meeting timelines.

Arman Nazemi, Assistant Director of Public Works, explained the bonding process that was discussed as a method that could be used if the building of the secondary access road was to be deferred to a later date.

The following members of the public came forward.

Rebecca McGovern, San Juan Bautista resident, expressed her concern that the Vesting Tentative Map could not be changed and also she has a serious concern about water usage and where the water will come from.

Joe Tonascia, Hollister resident, stated that he believed the access road should stay as an emergency road and that a set of gates should be placed at the entrance giving it the impression that it was private which would keep out some of the through traffic.

The Chair closed the public hearing.

BOARD ACTION: *Supervisor Monaco made a motion to adopt Resolution No. 2004-85 approving the vesting tentative map based on findings and subject to those conditions contained therein, and subject to it being no later than the applicant obtaining the building permit for the 87th lot to look at improving the secondary access road and defer it with a requirement of bonding. Supervisor Cruz seconded the motion.*

ROLL CALL VOTE:

<i>Supervisor Loe</i>	<i>No</i>	
<i>Supervisor Scagliotti</i>		<i>Absent</i>
<i>Supervisor Monaco</i>	<i>Yes</i>	
<i>Supervisor Kesler</i>	<i>No</i>	
<i>Supervisor Cruz</i>	<i>Yes</i>	

*The vote was 2-2.
No action.*

BOARD ACTION: *Supervisor Loe made a motion that the Board of Supervisors agree with staff's recommendations and uphold the recommendations of the Planning Commission by adopting Resolution No. 2004-85 noting that the secondary access road must go in now. Supervisor Monaco seconded the motion.*

Under the question: County Counsel Karen Forcum asked if the Board still wished to direct the Public Works Department on the issue of bonding for this new motion?

Supervisor Loe said she believed that everyone agreed that the bonding issue was already addressed in the resolution.

The Chair called for the question.

ROLL CALL VOTE:

<i>Supervisor Loe</i>	<i>Yes</i>	
<i>Supervisor Scagliotti</i>		<i>Absent</i>
<i>Supervisor Monaco</i>	<i>Yes</i>	
<i>Supervisor Kesler</i>	<i>No</i>	
<i>Supervisor Cruz</i>	<i>Yes</i>	

The motion passed 3-1. File #790

PUBLIC WORKS:

25) Held public hearing to consider a proposed resolution confirming the annual report, as per Government Code Section 25210.77a, on the following 29 County Service Areas in San Benito County:

CSA #4 (Santa Rosa Acres);	CSA #5 (Hillcrest);
CSA #8 (Bonnie View);	CSA #9 (Ridgemark);
CSA #11 (Barnes Lane);	CSA #16 (Santa Ana/Holiday Ranch Estates);
CSA #19 (Springwood Estates);	CSA #21 (Long Acres);
CSA #22 (Cielo Vista);	CSA #23 (Rancho San Joaquin/Tevis Trails);
CSA #24 (Santa Ana Acres);	CSA #25 (Vineyard Estates);
CSA #28 (Heatherwood);	CSA #29 (Magladry);
CSA #30 (McCloskey Acres);	CSA #31 (Stonegate);
CSA #33 (Torrano);	CSA #34 (Ausaymas);
CSA #35 (Union Heights);	CSA #42 (Lemmon Acres);
CSA #45 (Rancho Larios);	CSA #46 (Quail Hollow);
CSA #47 (Oak Creek);	CSA #48 (Dry Creek);
CSA #49 (Hollister Ranch Estates);	CSA #50 (Dunneville Estates);

**CSA #51 (Comstock Estates);
CSA #54 (Pacheco Creek Estates).**

CSA #53 (Riverview Estates);

Pete Corn, Assistant Public Works Director, provided background information stating that in accordance with San Benito County Code Section 5C-3.2(a) and as required by Government Code Section 25210.77a, the Board of Supervisors is required to hold a public hearing to consider the report detailing the amount of the charges for extended services in each County Service Area (CSA). Mr. Corn noted that on July 9, 2004 all CSA parcel owners were notified by mail of their assessment for FY 2004-05. Mr. Corn asked that any questions or concerns other than directly related to the budget be deferred to the Public Works Department.

The Chair opened the public hearing.

The following members of the public came forward:

Richard Barberi, resident of Hollister Ranch Estates (CSA 49), pointed out that that he hadn't seen much activity by the County going on and wanted to know if the rate increases would continue without any work being done.

Kim DuPont, resident of Hollister Ranch Estates (CSA 49), handed out a memorandum to the Board of Supervisors explaining that when LAFCO approved the formation of CSA 49 it did so based upon three sub zones. Ms. DuPont stated that the proposed assessment for FY 2004-05 of \$689.00 per parcel is in error and should be broken down into the three sub zones.

Chris Trytten, resident of Hollister Ranch Estates (CSA 49), stated that he was shocked to see the statement that his taxes were going to go up significantly. Mr. Trytten noted that under Proposition 13 and Proposition 218 it states there is a right to vote on taxes. Mr. Trytten said he was not allowed to vote on this increase or to evaluate it and he was never provided a ballot as required under Proposition 218.

County Counsel Karen Forcum explained that the CSA process statutorily reflects notice and an opportunity for the property owners to be heard and that is the process we are going through today. In the CSA establishment provisions there are petition requirements so the Proposition 218 requirements are taken into consideration. Ms. Forcum indicated that she was looking into the relationship between Prop 218 and CSA's,

Harold Leister, resident of Rancho Larios (CSA 45) said he had no problem with the CSA budget and that he supported it.

Stuart Howell, Rancho Larios (CSA 45), concurred with Mr. Trytten's opinion of Proposition 218. Mr. Howell contends that the homeowners of Rancho Larios should do their own work noting that he felt the private sector could do their own work better and more cost efficient and there was a need for smaller government.

County Administrative Officer Dan Vrtis noted that there is a law that allows residents to form their own Community Services District if they so desired.

David Crandall, Riverview Estates (CSA 63) resident, wanted to remind the County that they are a moderate and/or low income housing development and even with the increase didn't necessarily get an increase in services and felt that the increase was exorbitant and would like to reach a compromise.

Mark Mooney, Hollister Ranch Estates (CSA 49) stated that his main concern is with the actual budget and that it takes in to account a lot of prior expenses noting that his development has been a nightmare from the beginning. The developer, from out of state, has been very uncooperative and only done the minimum of work. Mr. Mooney felt there was no accountability and that the County should be able to do something about it since they allowed it to happen.

The Chairman closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, adopted **Resolution No. 2004-86** confirming the report setting forth the charges for extended services for all County Services Areas noted, with the exception of CSA 49, and directed Public Works to bring back a resolution addressing CSA 49 on August 3, 2004.*

Under the question: Supervisor Loe asked if also at the meeting of August 3, 2004 could we address the question raised under public testimony with regards to Proposition 218 and have a legal opinion by then?

County Counsel Karen Forcum stated that she would have confirmation at the August 3, 2004 meeting that the CSA's are not subject to Proposition 218.

The Chair called for the question.

(The motion passed 4-0. Scagliotti absent) CSA File

DEPARTMENT OF EMERGENCY SERVICES - M. Riopel:

26) Held public hearing to consider a proposed resolution confirming the annual report, as per Government Code Section 25210.77a (a), on CSA #36 for Emergency Medical Services and Advanced Life Support Services in San Benito County.

Margie Riopel, Director of Emergency Services, provided background information and staff report.

The Chairman opened the public hearing. There were no members of public wishing to address the Board. The Chair closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor Monaco, adopted **Resolution NO. 2004-87** confirming the Annual Report for CSA #36 (Emergency Medical Services and Advanced Life Support) and authorized the Chairman to sign said resolution. (4-0 Vote. Scagliotti absent). CSA File*

REGULAR AGENDA:

ASSESSOR - A. Fontes:

27) Consider and accept Assessor's Annual Report.

Assessor Arnold Fontes presented his annual report.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Kesler, accepted the Assessor's Annual Report. File #7*

CLOSED SESSION AGENDA:

The Board adjourned into Closed Session at 11:40 a.m. and reconvened into Regular Session re:

28) 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**

3 cases – No reportable action.

b) Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9. Number of cases: **3**

3 cases withdrawn by County Counsel. File #235.6

29) Conference with Legal Counsel - Existing Litigation

a) Sandman vs. County of San Benito.

No reportable action.

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

No reportable action.

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

No reportable action.

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

No reportable action.

e) County of San Benito vs. Oliveira, et al.

No reportable action. File #235.6

30) Public Employment

Title: County Administrative Officer

No reportable action. File #235.6

31) Public Employee Performance Evaluation

Title: County Counsel

No reportable action. File #235.6

32) Conference with Labor Negotiators:

Agency Designated Representative: Elizabeth Brown, Human Resources Director

Employee Organization: Management Employees Group (MEG)

No reportable action. 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: Pat Loe, Reb Monaco, Ruth Kesler, Bob Cruz

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: Richard Scagliotti

There being no further business the Board adjourned to Budget Hearings beginning Monday, August 2, 2004 at 9:30 a.m.

BOB CRUZ, CHAIRMAN

San Benito County Board of Supervisors

ATTEST:

John R. Hodges

Clerk of the Board

BY:

Linda Churchill

Senior Board Clerk