

**SAN BENITO COUNTY  
BOARD OF SUPERVISORS  
REGULAR MEETING  
SEPTEMBER 28, 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, Scagliotti, Monaco, Kesler and Cruz were all present. Also present was County Counsel Karen Forcum, Management Analyst Susan Lyons 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.** Richard Saxe, Aromas resident, provided an update of the Santa Cruz County Waste Management Task Force meeting held on September 2, 2004. Mr. Saxe expressed his concern that the newspapers gave the impression that everything was all handled and that the Task Force has quit looking to site a landfill and they directed staff to consider alternatives. Mr. Saxe stated that they have closed the public hearing process and are going behind closed doors to continue with the process and Mr. Saxe, on behalf of the community of Aromas, requested that the Board of Supervisors ask the County of Santa Cruz for a seat at the table of these behind closed door deliberations. Mr. Saxe suggested that Patrick Matthews reporting to Mandy Rose periodically is by no means representation for the community of Aromas and the County of San Benito in this process.

Chairman Cruz said the County would have a seat noting that Mandy Rose, Integrated Waste Management Director for San Benito County, was appointed as our representative. Chairman Cruz also referred to a letter received from Santa Cruz County Supervisor Wormhoudt which indicated that this site was out.

Mr. Saxe said at the end of the September 2<sup>nd</sup> meeting they motioned to take all of the sites off of the list and start looking at alternatives but he felt that we should be represented at these deliberations.

County Counsel Forcum stated that the Board is limited to directing staff to look into this further as this is not agendaized for discussion at this time.

***Chairman Cruz directed staff to work with Mandy Rose and bring back the information that addresses Mr. Saxe's concerns.***

A woman who did not identify herself came forward with regards to an outline she had submitted at the Board meeting two weeks ago with regards to a complaint she has with the County involving court cases. She would like this placed on the agenda.

Management Analyst Susan Lyons stated the Administrative Office had reviewed this matter and unfortunately there was nothing that the Administrative Office or the Board of Supervisors could do as this is a court issue. Ms Lyons offered to meet with the woman to discuss the matter that afternoon.

- d) **Department Head Announcements:** There were none.
- e) **Board Announcements, Introductions and Presentations:** There were none.

## CONSENT AGENDA:

*Upon motion made by Supervisor Kesler and seconded by Supervisor Monaco, approved Consent Agenda Items 2 through 31 pulling Item 1 for discussion.*

Senior Board Clerk Linda Churchill noted that the resolution number for Item 31 should be corrected to read 2004-107.

*Supervisor Kesler amended her motion to include the correction and Supervisor Monaco concurred.*

### ADMINISTRATION:

- 1) **Consider proposed resolution adopting FY2004/2005 Final Budget. (Management Analyst) (Res. No. 2004-97)**

Supervisor Loe stated that she still has a few questions with regards to the budget and wanted to clarify that it could be brought back for amendments if it were adopted today.

Management Analyst Susan Lyons said the budget could be amended throughout the year so if the Final Budget were adopted today the Board has the authority to make any amendments in the future.

**BOARD ACTION:** *Supervisor Loe made a motion to adopt **Resolution No. 2004-97** adopting the Final Budget for the County of San Benito for the Fiscal Year July 1, 2004 to June 30, 2005. Supervisor Scagliotti seconded the motion. The motion passed unanimously. File #865*

### AGRICULTURAL COMMISSIONER - P. Matulich:

- 2) **Approved** agreement with the Department of Food and Agriculture in the amount of \$9,760 for the provision of Sudden Oak Death (SOD) Inspection Services with a contract term of March 1, 2004 through February 28, 2005. **File #1.1**

### ASSESSOR - A. Fontes:

- 3) **Approved** Assessment Roll Correction.

### AUDITOR:

- 4) **Adopted Resolution No. 2004-98** levying taxes and direct assessments for fiscal year 2004/2005. **File #608**
- 5) **Approved** budget transfers as part of the June 30, 2004 Year-End Closing Adjustments in the amount of \$176,000 from FY2003/2004 General Fund Appropriation for Contingencies. **File #865**
- 6) **Approved** agreement with Maximus in the amount of \$18,200 for the provision of state mandated cost services (SB90) with a contract term of July 1, 2004 through September 30, 2005 and **authorized** Finance Director to sign on behalf of the County. **File #608**
- 7) **Adopted Resolution No. 2004-99** establishing the Proposition 4 appropriation limit for fiscal year 2004/2005 at \$21,682,884. **File #608**
- 8) **Approved** Departmental Claims.

### CLERK OF THE BOARD:

- 9) **Approved** the minutes of the meetings of August 24, 2004; September 7, 2004 and September 14, 2004 and the special meeting of September 10, 2004

### COMMUNITY SERVICES & WORKFORCE DEVELOPMENT - K. Flores:

- 10) **Approved** amendment to agreement with First Alarm Security and Patrol, Inc. in an amount not to exceed \$22,200 to continue the patrol services for the emergency winter shelter and mobile home shelter at the County Migrant Center extending said agreement through March 31, 2005 and **authorized** CSWD Director to sign on behalf of the County. **File #750**
- 11) **Approved** authorization for submission of a Workforce Investment Act (WIA) Rapid Response Special Projects Funding application. **File #939**

COUNTY COUNSEL - K. Forcum:

- 12) **Rejected** claim of Jennifer Bachman filed with the clerk of the board on August 16, 2004 and **directed** clerk to notify claimant. *File #235*

DISTRICT ATTORNEY - J. Sarsfield:

- 13) **Approved** reimbursement for Deputy District Attorney expenses for out of state travel for attending a Trial Advocacy Conference held in South Carolina, June 7-11, 2004. *File #205*
- 14) **Approved** out of state travel request for a Deputy District Attorney to attend a Trial Advocacy Conference to be held October 4-8, 2004 in South Carolina. *File #205*
- 15) **Approved** out of state travel request for a Deputy District Attorney to attend the DNA Forensic Evidence Conference to be held December 6-10, 2004 in South Carolina. *File #205*

ELECTIONS - J. Hodges:

- 16) **Adopted Resolution No. 2004-100** requesting approval and authorization to sign an agreement with the California Secretary of State to accept the sum of \$18,000 from the Help America Vote Act (HAVA) grant funds. *File #285*
- 17) **Adopted Resolution No. 2004-101** consolidating the City of Hollister election with the November 2, 2004 General Election. *File #285*
- 18) **Adopted Resolution No. 2004-102** consolidating the City of San Juan Bautista election with the November 2, 2004 General Election. *File #285*
- 19) **Adopted Resolution No. 2004-103** consolidating the San Benito Health Care District election with the November 2, 2004 General Election. *File #285*
- 20) **Adopted Resolution No. 2004-104** consolidating the special district elections with the November 2, 2004 General Election. *File #285*
- 21) **Adopted Resolution No. 2004-105** consolidating the Aromas Tri-County Fire Protection District election with the November 2, 2004 General Election. *File #285*
- 22) **Adopted Resolution No. 2004-106** consolidating the school district elections with the November 2, 2004 General Election. *File #285*

MENTAL HEALTH - A. Yamamoto:

- 23) **Approved** agreement renewal with Merced Manor Skilled Nursing Facility in the amount of \$89,000 for the provision of inpatient, sub-acute level skilled nursing services with a contract term of July 1, 2004 through June 30, 2005. *File #810*
- 24) **Approved** agreement with 7<sup>th</sup> Avenue Skilled Nursing Facility in the amount of \$89,000 for the provision of inpatient, sub-acute level skilled nursing services with a contract term of July 1, 2004 through June 30, 2005. *File #810*

PUBLIC WORKS:

- 25) **Approved** amendment #2 to agreement with Mark Thomas Engineering in the amount of \$405,395 reflecting an increase of \$55,764, for additional design work for the Nash Road Bridge project. *File #105*
- 26) **Approved:** a) Authorization to expend funds for countywide CSA slurry seal project from CSA Road Reserves; and b) **Approved** Invitation For Bid (IFB) for same; and c) **Authorized** Chair to sign Invitation For Bid. *File #105*
- 27) **Declared** Substance Abuse Program equipment as surplus property. *File #105*
- 28) **Declared** Community Services and Workforce Development equipment as surplus property. *File #105*
- 29) **Acknowledged** traffic impact fee fund annual status report. *File #105*

SUBSTANCE ABUSE PROGRAM - M. Narasaki:

- 30) **Approved** authorization to hire a Secretary 1 up to Step F of Salary Range 10.5. *File #1053*

UC COOPERATIVE EXTENSION (FARM ADVISOR / 4-H) - P. Johns:

- 31) **Adopted Resolution No. 2004-107** authorizing the UC Cooperative Extension (UCCE) Program Director to accept cash donations for the UCCE (Farm Advisor/4-H) Program.  
*File #3*

**9:30 a.m. PUBLIC HEARING** (or as soon thereafter as the matter may be heard):

COUNTY COUNSEL - K. Forcum:

- 32) **Hold public hearing to consider the establishment of an Ethics Commission in San Benito County.**

County Counsel Karen Forcum provided background information stating that at the August 24, 2004 the Board conducted a discussion on the formation of an ethics commission. At that time the Board indicated that the Commission should be established by ordinance and composed of nine volunteer members with one member being appointed by the Judges of the Superior Court, one member appointed by the Grand Jury, one member appointed by each City Council and five members appointed by the Board of Supervisors and the term of the commissioners should be for one year and the Commission would be responsible for enforcing campaign ethics.

The Chairman opened the public hearing.

Darren Bogie, Deputy County Counsel, came forward on behalf of County Clerk John Hodges who has some concerns about a proposed Ethics Commission that he would like the Board to consider. Mr. Bogie noted that there is no county with a population under 100,000 that has their own Ethics Ordinance or Ethics Commission so there is no small county that we can assess. Secondly, Mr. Hodges is concerned that the Ethics Commission should be limited to just campaign behavior between candidates and not become a body that would look at the Elections process itself.

Discussion was held.

The Chair closed the public hearing.

**BOARD ACTION:** *Chairman Cruz appointed Supervisors Loe and Monaco to a subcommittee to look into the forming of an Ethics Commission and directed staff to work with the subcommittee and come back with a report as soon as possible. File #156*

**9:40 a.m. REGULAR AGENDA:**

PLANNING DEPARTMENT - R. Mendiola:

- 33) **Consider adoption of an ordinance adding Property Relocation Obligations to the County Code.** *(cont. from 9/14/04 mtg.)*

Planning Director Rob Mendiola provided background information noting the recommendations for changes to improve the ordinance that were made at the public hearing held on September 14, 2004 have been included in the proposed ordinance for consideration today.

There were no comments from the public.

**BOARD ACTION:** *Upon motion made by Supervisor Loe and seconded by Supervisor Scagliotti adopted **ORDINANCE NO. 774, AS AMENDED, ADDING CHAPTER 19A TO THE SAN BENITO COUNTY CODE – PROPERTY OWNER RELOCATION OBLIGATIONS.** The motion passed unanimously. File #790*

DISTRICT ATTORNEY - J. Sarsfield:

- 34) **Hold discussion regarding personal security concerns.**

District Attorney John Sarsfield came forward stating that for roughly the last two years he, his office and his family have been subjected to a growing pattern of harassment and most recently there was an assault on one his family members. Mr. Sarsfield said he has complained to the county in the past about this conduct and his complaints have not been acted on. Mr. Sarsfield stated that the

county has the obligation to protect all of its employees, including him, from workplace violence, stalking, threats of violence as well as violence directed at county employees.

Mr. Sarsfield said there was nothing in his budget that addresses these types of issues and he was bringing it before the Board of Supervisors for their assistance and consultation.

Discussion was held with input from Lt. Patrick Turturici of the Sheriff's Office and Hollister Police Chief Jeff Miller.

**BOARD ACTION:** *Chairman Cruz directed Management Analyst Susan Lyons to work with the Sheriff, the Chief of Police and the District Attorney and come back to the Board as soon as possible to see what can be done with regards to personal security for the District Attorney. File #205*

COUNTY COUNSEL - K. Forcum:

**35) Consider adoption of an ordinance Establishing Campaign Finance Reform and Voluntary Campaign Spending Limits for San Benito County Elections. (cont. from 9/14/04 mtg.)**

County Counsel Karen Forcum provided background information noting there were minor amendments made to the ordinance by Board direction and pursuant to public input, primarily, Page 3 of 15 the language was amended to reflect that the chapter shall not apply to committees formed in support of, or in opposition to, a state or local ballot measure or referendum, election for city offices, election for state or federal offices, consolidated primary elections for County Central Committees or school board elections.

Deputy County Counsel Darren Bogie came forward on behalf of County Clerk John Hodges stating that Mr. Hodges is not opposed to the ordinance but he did have some concerns about the cost of the implementation and requested that if the ordinance is passed today that a time study be done as it pertains to the processing for FPPC forms under Section 36.32 and 36.22; and, also in the monitoring of what would be possibly different campaign contributions for different supervisors or different elected official elections. Mr. Bogie stated that question is how many more employees would it take to perform these additional processes and if there are layoffs would this extra required work still be implemented or would it be scaled back and would his staff be exempt from any potential layoffs to insure that these processes can be done.

Mr. Bogie continued stating that Mr. Hodges would like to remind the Board, and the Elections staff in general, that with the implementation of the ordinance all of those elected officials who do have open FPPC filings for their committees will need to close out their filings and re-submit them in a format that can be published on the internet.

There was no further discussion.

**BOARD ACTION:** *Upon motion made by Supervisor Loe and seconded by Supervisor Scagliotti adopted ORDINANCE NO. 775, AS AMENDED, ESTABLISHING CAMPAIGN FINANCE REFORM AND VOLUNTARY CAMPAIGN SPENDING LIMITS FOR SAN BENITO COUNTY ELECTIONS. (4-1 vote. Supervisor Monaco voted no.) File #285*

ADMINISTRATIVE BUSINESS:

**36) Consider direction to the Planning Commission to forward Ridgeline Development Regulations to the Board for the November 9, 2004 meeting for consideration. (Supervisor Cruz)**

Chairman Cruz said that he was requesting the Board send a letter to the Planning Commission requesting that the Ridgeline Ordinance be forwarded to the Board of Supervisors. This is a request that was made over a year ago.

**BOARD ACTION:** *Upon motion made by Supervisor Kesler and seconded by Supervisor Scagliotti, approved the preparation of a letter directing the Planning Commission to forward Ridgeline Development Regulations to the Board of Supervisors for consideration on November 9, 2004. (4-1 vote. Supervisor Monaco voted no.) File 790*

\* Supervisor Scagliotti was absent for the remainder of the meeting.

**37) Hold discussion regarding the Indian Gaming issue. (Supervisor Loe)**

Supervisor Loe stated that we need to start by sending two letters signed by Chairman Cruz to the Bureau of Indian Affairs and one to the Governor's office to find out where this project is in the process, how the process works, what input that we as the local community can give and the letters need to address the fact that there is vocal opposition in the community that needs to be taken into consideration. We then need to go forward with the public information meeting to be held on October 21, 2004 at the Veteran's Memorial Building and get input from the supervisors that will be coming from CSAC (California State Association of Counties) and take public comments at that time. It will then be brought back to the Board of Supervisors and if it is appropriate at that time, the Board should make a decision for consideration of a resolution regarding the Indian Gaming issue.

**BOARD ACTION:** *Direction was given to prepare the two letters as Supervisor Loe recommended.*

The following members of the public spoke in opposition to the proposed site for an Indian Gaming Casino in San Benito County: Marc Frelie, Gail Diverbeck, Mike Cullinan Gary Cameron, Mary Maggio, Carol Jean Barrett, Kevin Gawelecki, Jonathan Strong, Lisa Nicholayson, Dave Nicholayson, Francine Mandeville, Terry Hill, Brad Sullivan and Jason Stewart.

Supervisor Elect Don Marcus stated that we need to be concerned not just about the 50 acres planned for the casino but what about the other 150 acres. Mr. Marcus encouraged a two-person membership from each of the surrounding counties to be involved with this issue.

There were no further comments by the public.

The Board encouraged the public to attend the meeting on October 21<sup>st</sup>.

**BOARD ACTION:** *Chairman Cruz appointed Supervisor Loe to act as a liaison between the public and the Board of Supervisors with regards to the Indian Gaming Issue in San Benito County. File #156*

<b>10:00 a.m. CLOSED SESSION AGENDA:</b>
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\* Supervisor Scagliotti was absent for the Closed Session Agenda.

The Board adjourned into Closed Session and reconvened into Regular Session re:

**38) 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 withdrawn by County Counsel**

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**

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

**No reportable action.**

d) Fancher and Roybal v. County of San Benito, John Sarsfield, et al.

**No reportable action.**

e) County of San Benito vs. Doodlebug LLC

**No reportable action. File #235.6**

40) Conference with Labor Negotiators:  
Agency Designated Representative: Elizabeth Brown, Human Resources Director  
Employee Organization: General Unit - SEIU, Local 817  
**No reportable action. File #235.6**

41) **Conference with Labor Negotiators:**  
Agency Designated Representative: Elizabeth Brown, Human Resources Director  
Employee Organization: Management Employees Group (MEG)  
**No reportable action. File #235.6**

42) **Public Employee Discipline/Dismissal/Release.**  
**No reportable action. File #235.6**

43) **Public Employment**  
Title: County Administrative Officer

**BOARD ACTION:** *County Counsel Karen Forcum reported that Gil Solorio has accepted the Interim County Administrative Officer (CAO) position and he will start October 1, 2004 pursuant to a month-to-month contract. 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, Richard Scagliotti, Reb Monaco, Ruth Kesler,  
Bob Cruz  
NOES: SUPERVISORS: None  
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to its next regularly scheduled meeting on October 5, 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