

**SAN BENITO COUNTY
BOARD OF SUPERVISORS
REGULAR MEETING
OCTOBER 26, 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 and Kesler were present. Supervisor Cruz and Supervisor Scagliotti were absent. Also present was Interim County Administrative Officer Gil Solorio, County Counsel Karen R. Forcum and Senior Board Clerk Linda Churchill. Vice-Chair Kesler 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 Certificate of Posting.*
- c) **Public Comment.** Robert Brians came forward stating several anomalies were noted in the presentation by Cingular Wireless for approval of a third cell phone tower on Lovers Lane so a community study group has been formed to investigate these irregularities and they will keep the Board informed as to what they discover.

Henry Sumaya, Hollister resident, came forward stating that his presentation was directed to Chairman Cruz who was not present. Mr. Sumaya expressed his concerns with a meeting attended by Supervisor Cruz, Supervisor Loe, LULAC President Mickie Luna and Hollister City Councilman Brian Conroy regarding the local chapter of the Mexican-American Political Association (MAPA). Mr. Sumaya said that he felt the reason for the proposed investigation into whether or not the local MAPA is an official organization is due to an attempt to steal the District 5 election and noted that Mr. Nativo Lopez, State President of MAPA cannot eliminate an official charter just because they would like to steal that election.

- d) **Department Heads' Announcements.** There were none.
- e) **Board Announcements, Introductions and Presentations.** Supervisor Monaco thanked all of those people who came to participate in the Indian Gaming Public Information Meeting held at the Veteran's Memorial Building on October 21st stating that the event was successful and people left with a lot of information. The Board will take the steps to organize and keep the community informed of all of the implications of having the potential for having Indian Gaming coming into our county.

Supervisor Monaco expressed appreciation to Supervisor Valerie Brown of Sonoma County and others from the California State Association of Counties (CSAC) who came to the meeting to provide information. Supervisor Monaco thanked the City of Hollister for providing us the facility and thanked County staff for the planning of this forum.

Supervisor Loe thanked everyone that participated stating it was well received in the community. Supervisor Loe especially thanked the Administrative staff for the excellent job in

putting this together. Supervisor Loe stated that she would be attending the meeting in Gilroy this coming week regarding Indian Gaming and she will report back.

CONSENT AGENDA:

Upon motion duly made by Supervisor Loe and seconded by Supervisor Monaco approved Consent Agenda Items 1 through 23. (3-0 vote. Cruz & Scagliotti absent)

ADMINISTRATION:

- 1) **Approved** Memorandum of Understanding with San Benito County Employees Association/SEIU Local 817 for the period of October 1, 2004 through September 30, 2007. (Interim CAO) *File #38*
- 2) **Approved** cancellation of the November 23, 2004 and December 21, 2004 Board of Supervisors meetings. (Interim CAO) *File #156*

AUDITOR:

- 3) **Approved** Departmental Claims.

BOARD OF SUPERVISORS:

- 4) **Approved** employment agreement with Gil Solorio re: Interim County Administrative Officer services. (Supervisor Loe and Supervisor Monaco) *File #630*

CLERK OF THE BOARD:

- 5) **Approved** Proofs of Publications.
- 6) **Approved** the action minutes of the meetings of October 5, 2004 and October 12, 2004.

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT - K. Flores:

- 7) **Approved** the following re: rehabilitation work at the Unaccompanied Adult Farm Labor Camp - Joe Serna Jr. Farm Worker Housing Grant (FWHG):
 - a) **Accepted** all responsive bids and award construction contract to Regency General Contractors as the lowest responsive/responsible bidder; and
 - b) **Authorized** the CSWD Director to sign agreement with Regency General Contractors in the amount of \$910,614 with a contract term of October 26, 2004 through May 31, 2005, with authority to grant extensions to provide allowances for weather delays or other unforeseen events; and
 - c) **Authorized** the CSWD Director to sign change orders on behalf of the County that are within the project budget. *File #750*
- 8) **Approved** Joe Serna Jr. Farm Worker Housing Grant (FWHG) Lien and Regulatory Agreement, Promissory Note and Deed of Trust and authorized the CSWD Director to execute and sign said documents and any amendments thereto. *File #750*

COUNTY COUNSEL:

- 9) **Rejected** claim of Dimitri Grant and Tara Larkin filed with the clerk of the board on September 14, 2004 and **directed** clerk of the board to notify claimants. *File #235*

FIRST 5 SAN BENITO /CHILDREN AND FAMILIES COMMISSION - K. Castillo:

- 10) **Approved** the appointment of Kendra Bobsin and Ricki Mazzullo to the First 5 San Benito Children and Families Commission each for the term of November 1, 2004 through October 31, 2007. *File #155*
- 11) **Approved** agreement with Appolonia Foundation's "Children's Oral Health Program" services in the amount of \$94,201 re: treatment services to children ages 0 to 5 with a contract term of November 1, 2004 through June 30, 2005. *File #155*
- 12) **Approved** agreement with the San Benito County Health and Human Services Agency in the amount of \$29,539 re: Children's Dental Project with a contract term of November 1, 2004 through June 30, 2005. *File #155*

HUMAN SERVICES AGENCY - M. Coppola:

- 13) **Approved** agreement renewal with the State Department of Health Services in the amount of \$39,802 per year re: the Ryan White Care Act with a contract term of April 1, 2004 through March 31, 2007. *File #420*
- 14) **Approved** agreement renewal with the State Department of Health Services in the amount of \$63,611 per year re: HIV Education and Prevention Program services with a contract term of July 1, 2004 through June 30, 2007. *File #420*

MENTAL HEALTH - A. Yamamoto:

- 15) **Approved** agreement renewal with Adventist Health Northern CA (California Specialty) in the amount of \$45,000 re: inpatient, acute psychiatric hospital services with a contract term of July 1, 2004 through June 30, 2005. *File #810*
- 16) **Approved** agreement renewal with John Muir/Mt. Diablo Health System in the amount of \$45,000 re: inpatient, acute psychiatric hospital services with a contract term of July 1, 2004 through June 30, 2005. *File #810*
- 17) **Approved** agreement renewal with Natividad Medical Center in the amount of \$50,000 re: inpatient, acute hospital psychiatric services with a contract term of July 1, 2004 through June 30, 2005. *File #810*
- 18) **Approved** agreement renewal with Chamberlain's Children Center, Inc. in the amount of \$125,000 re: the provision of Therapeutic Behavioral Services (TBS) with a contract term of July 1, 2004 through June 30, 2005. *File #810*

PUBLIC WORKS:

- 19) **Adopted Resolution No. 2004-113** and grant deed in compliance with Use Permit 591-91R along Churchill Road and authorized the Chair to sign said resolution and grant deed. *File #105*

REGIONAL DEPARTMENT OF CHILD SUPPORT SERVICES - L. Miller:

- 20) **Approved** addendum to commercial lease agreement with Kenneth D. Gimelli and Nancy J. Gimelli re: office space for the Department of Child Support Services with a lease term of October 1, 2004 through June 30, 2006. *File #22*

SHERIFF - C. Hill:

- 21) **Approved** approval to hire Deputy Sheriff at Range 21.1, Step F. *File #110*

SUBSTANCE ABUSE PROGRAM - M. Narasaki:

- 22) **Approved** proclamation declaring October 23, 2004 through October 31, 2004 as "Red Ribbon Week" in San Benito County. *File #430*

TREASURER / TAX COLLECTOR - M. Andrade:

23) **Approved** investment report for month ending June 30, 2004. *File #685.2*

9:40 a.m. REGULAR AGENDA:

SHERIFF - C. Hill:

24) **Consider approval of Request For Proposals (RFP) re: space needs assessment and Master Plan for County Criminal Justice agencies.**

Sheriff Curtis Hill provided background information stating that this item was already approved for funding during the budget process. The funds came from the Rural County Crime Prevention Act 2004 (RCCPA) money.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved the Request for Proposal (RFP) and authorized its distribution so as to solicit bids from firms to provide a 20-year space and facility needs assessment and master plan for County criminal justice agencies including: Sheriff's Office, Jail, Juvenile Hall, Courts, District Attorney, Probation and other court related agencies. (3-0 vote. Cruz and Scagliotti absent). File #110*

PLANNING DEPARTMENT - R. Mendiola:

25) **Consider recommendation of the Transfer of Development Credits (TDC) Advisory Group to the Board of Supervisors to amend the San Benito County Growth Control Ordinance.**

Planning Director Rob Mendiola provided background information stating that the discussion at the TDC Advisory Group has focused around the possible bonus of ½% and the recommendation from the group is that this would be a good incentive. Mr. Mendiola noted that the current 1% growth limitation limits market rate housing. It does not limit affordable housing. What we are seeing is the requests for the full 1%, which includes roughly 60 to 61 units. The additional ½% would allow an additional 30. Mr. Mendiola stated that the TDC group would like to explore this option and would like the Board of Supervisor's acceptance of this proposed incentive.

Vice-Chair Kesler felt that a full Board should be present when making such a big decision.

Supervisor Monaco asked for clarification that this request is to receive the blessings of the Board of Supervisors to proceed down a path to explore the possibilities of using this as an incentive.

Mr. Mendiola said that was correct noting that this was conceptual at this point.

Scott Fuller, San Juan Oaks Golf Club, came forward stating that he felt this was good direction to go in. Mr. Fuller stated that Mr. Mendiola made a good point as to why you need incentives such as this if you are going to make the program work. Affordable housing is completely exempt from your Growth Management Ordinance but it is not getting built because there is no incentive from the private sector to build something that you lose money on so generally affordable housing is built as part of the larger project. Mr. Fuller felt that these types of incentives are needed.

Tom Tobias, TDC Advisory Committee, came forward stating that the committee is moving very well. Mr. Tobias stated that they all have an idea of what they want and it is the avenues we are taking to get there. Mr. Tobias felt that the proposed Hillside Ordinance is starting to tie the hands of the TDC Committee. Mr. Tobias said he highly approved of what the TDC Committee is doing.

BOARD ACTION: Directed staff to continue this item to the meeting of November 2, 2004 when a full Board is present. File #790

COUNTY COUNSEL - K. Forcum:

26) **Consider the establishment of an ad hoc Campaign Ethics Advisory Committee/Study Group.**

Deputy County Counsel Daren Bogie reported that it was the feeling of the Board of Supervisors sub-committee that an ad hoc committee be formed to carefully consider various issues and write a comprehensive ethics ordinance with provisions for enforcement and the establishment of a full ethics committee.

BOARD ACTION: Upon motion by Supervisor Monaco and seconded by Supervisor Loe, directed staff to continue this item to the November 2, 2004 meeting when a full Board is present. (3-0 vote. Cruz & Scagliotti absent) File #285

10:00 a.m. CLOSED SESSION AGENDA:

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

27) **Conference with Legal Counsel - Anticipated Litigation**

a) Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9. *Number of cases: 4*

1 case – Withdrawn by County Counsel

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

28) **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) Lawrence Family LLC vs. County of San Benito, et al.

No reportable action.

f) County of San Benito vs. Doodlebug LLC

No reportable action. File #235.6

1:30 p.m. PUBLIC HEARING:

ENVIRONMENTAL HEALTH:

29) **Hold public hearing re: application for a revised Solid Waste Facilities Permit, John Smith Road Landfill Class III Area, Solid Waste Information System No. 35-AA-0001.**

Matt Fore, Environmental Health Department, provided staff report stating that the County Integrated Waste Management Department is applying for a revision to the permit issued for the John Smith Road Landfill. Also, earlier this year the State Legislature passed Assembly Bill 1497 which requires local enforcement agencies acting on behalf of the State, in this case, the County Health Department, to conduct a public hearing for revisions to Solid Waste Facility permits. Mr. Fore stated that this hearing has been set to comply with the requirements of AB 1497 and to accept comments on the permit application.

Mr. Fore reported that the permit application proposes two changes to the current operating permit and associated documents. First, it would change the language to allow for the installation of a permanent household hazardous waste facility at the landfill; and, secondly the application proposes to change the calculation of average tonnage from a monthly to an annual basis. Mr. Fore emphasized that the application does not change the average daily tonnage of 250 tons per day or the peak daily tonnage of 500 tons per day. It merely changes the calculation of average tonnage from a monthly to an annual basis.

The Vice-Chair opened the public hearing.

There being no comment by the public the Vice-Chair closed the public hearing.

BOARD ACTION: *Upon made by Supervisor Monaco and seconded by Supervisor Loe, accepted public comment as appropriate and directed staff to pass comments on to the California Integrated Waste Management Board. (3-0 vote. Cruz & Scagliotti absent)*
File #142.9.

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
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: Richard Scagliotti, Bob Cruz

There being no further business the Board adjourned to its next regularly scheduled meeting on November 2, 2004 at 9:30 a.m.

RUTH E. KESLER, VICE-CHAIR
San Benito County Board of Supervisors

ATTEST:
John R. Hodges
Clerk of the Board
By:
Linda Churchill
Senior Board Clerk