

**SAN BENITO COUNTY
BOARD OF SUPERVISORS
SPECIAL MEETING AGENDA
DECEMBER 1, 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 Interim County Administrative Officer Gil Solorio, County Counsel Karen R. Forcum and Senior Board Clerk Linda Churchill. Chairman Cruz presided.

1:30 p.m. CALL TO ORDER:

- a) Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** There was none.

CONSENT AGENDA:

Upon motion duly made, seconded and carried, approved Consent Agenda Items 1 through 5.

ADMINISTRATIVE BUSINESS:

- 1) **Approved** contract with Advanced Information Management re: employment services of an Interim County Librarian and **authorized** the County Administrative Officer to sign said contract. (Mgmt. Analyst III) *File #80*
- 2) **Approved** letter of support to the Central Coast Regional Water Quality Control Board re: City of Hollister's use of holding tanks as an interim solution for commercial and industrial development. (Supervisor Scagliotti) *File #695*
- 3) **Approved** letter of support to the State Department of Water Resources on behalf of the San Benito County Water District re: Local Groundwater Assistance Act of 2000. (Supervisor Scagliotti) *File #695*

AUDITING:

- 4) **Approved** Departmental Claims.

OFFICE OF EMERGENCY SERVICES: - M. Riopel

- 5) **Approved** the following:
 - a) Direct staff to develop a procedure re: implementation of a Live Scan Fingerprint Analysis process; and
 - b) **Resolution No. 2004-119** to require a Live Scan Criminal Background Check for EMT-1 Certification / Re-certification. *File #75.5*

REGULAR AGENDA:

PRESENTATIONS / RECOGNITIONS:

- 6) Presentation Of Plaque To Murrill Conley for 16-years of service representing Supervisorial District #1 on the San Benito County Planning Commission. (Supervisor Scagliotti)

Supervisor Scagliotti presented Mr. Conley with a plaque and thanked him for his many years of dedicated service on the Planning Commission.

Mr. Conley accepted the plaque stating it was a pleasure serving the Board of Supervisors. File #790.2

Item #15 was moved and heard at this time.

INTEGRATED WASTE MANAGEMENT – M. Rose:

- 15) Hold public hearing to consider an ordinance amending Chapter 25 of the San Benito County Code, Solid Waste Regulations.**

Mandy Rose, Director of Integrated Waste Management, provided staff report and explained the amendments to the proposed ordinance.

Chairman Cruz opened the public hearing.

Robert J. Rodriguez, South County Garbage, came forward and asked if he could have an exclusive right in South County. Mr. Rodriguez stated that NorCal, who also services South County, picks and chooses their customers and he would service all of the customers if they choose to use the garbage company.

Ms. Rose explained that Mr. Rodriguez was asking the Board of Supervisors to consider making the discretionary area exclusive and he also has comments about items later on the agenda regarding the actual Non-Exclusive Franchise Agreement for consideration.

BOARD ACTION: *Upon motion made by Supervisor Scagliotti and seconded by Supervisor Loe, adopted **Ordinance No. 776** adding clarified language as follows: Page 3 – Sec. 25-13 (2) (a) (iii) – The County will include a \$50.00 charge for each delinquent account to reimburse County for the cost of processing the lien. File #142*

INTEGRATED WASTE MANAGEMENT – M. Rose

- 7) Consider proposed resolution re: amendments to the John Smith Road Landfill Rate Schedule.**

Mandy Rose, Director of Integrated Waste Management, provided staff report.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Scagliotti, adopted **Resolution No. 2004-120** approving amendments to the rate schedule for the disposal of solid waste at John Smith Road Landfill. (Vote 5-0) File #75.4*

- 8) Consider Non-Exclusive Franchise Agreement re: Solid Waste Collection and Disposal in the Discretionary Area.**

Mandy Rose, Director of Integrated Waste Management, provided staff report.

BOARD ACTION: *Upon motion made by Supervisor Scagliotti and seconded by Supervisor Kesler approved agreement amending Sec. 22 to read: Either party may terminate this Agreement, with cause, at any time. In order to terminate this agreement*

with cause, the terminating party shall give 30 days advance written notice to the other party. In addition, either party may terminate this agreement without cause, at any time. In order to terminate this agreement without cause, the terminating party shall give 120 days advance written notice to the other party. (Vote 5-0) File #142

9) Consider request for direction re: disposition of County owned property located at 2733 John Smith Road.

Mandy Rose, Director of Integrated Waste Management, provided background information stating that the County became aware of problems with this property when it was reported to us that there were some septic problems. Over a period of time she worked with Environmental Health and came to the determination that a mound system would have to be installed for the house to remain habitable. Ms. Rose stated that the further they checked into the problems at the property the more liability issues were exposed. The evaluation of the property is included in the BOS packet.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Scagliotti directed staff to demolish the structure utilizing CDF for burn procedure and to evaluate what structures are salvageable, such as the pole bar and other structures, and directed staff to give the renter at the property a property a 30-day notice. (Vote 5-0)) File #645*

ADMINISTRATIVE BUSINESS:

10) Consider proposed resolution in support of the Soap Lake Floodplain Preservation Project. (Supervisor Scagliotti)

Supervisor Scagliotti asked the Board of Supervisors to adopt this resolution stating that this Board supports, and will continue to support, the preservation of the floodplain area and not allow any large developments in the middle of that area.

BOARD ACTION: *Upon motion made by Supervisor Scagliotti and seconded by Supervisor Kesler adopted Resolution No. 2004-121 supporting the Soap Lake Floodplain Preservation Project. File #695.2*

1:30 p.m. PUBLIC HEARINGS (or as soon thereafter as the matters may be heard)
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PLANNING DEPARTMENT - R. Mendiola:

11) Hold public hearing to consider an appeal of the San Benito County Planning Commission's approval of a Use Permit to install an unmanned wireless communication facility consisting of a 100 ft. high monopole and a 10 x 12 ft. equipment shelter on a 16 ft. by 25 ½ ft. pad surrounded by a 6 ft. high chain link fence. Appellants: Web & Birgit Winans, etal. Applicant: Cingular Wireless/Jeff Hawk. Location: 6620 Lovers Lane. Zoning: Agricultural Productive (AP). Environmental Review: Categorically Exempt (CEQA Guidelines Section 6503).

Supervisor Scagliotti excused himself during this item.

Fred Goodrich, Assistant Director of Planning, provided staff report and outlined the alleged errors. Mr. Goodrich stated that staff recommended that the Board deny the appeal and uphold the granting of the instrument by the Planning Commission.

Chairman Cruz opened the public hearing.

Appellants speaking in opposition to the Cingular Wireless communication facility and monopole were: Robert Brians who provided a handout from GSMWorld.com showing AT&T Wireless PCS LLC Interactive Coverage Map; Carlos Azcona; Alberta Burrows who handed out a petition signed by neighbors opposing the Cingular Wireless monopole at this location; Robert Burrows who handed out a letter from Community West Mortgage and a letter from Coldwell Banker re: antenna towers and property values in North San Benito County; and, Web Winans,

Luke Stamos representing the applicant, Cingular Wireless, gave testimony in favor of the permit to erect and operate a wireless communication facility including a 100 foot high monopole at 6220 Lovers Lane. Also speaking on behalf of Cingular Wireless was Phil Dale a Frequency Data Engineer for Cingular Wireless Company.

The Chairman closed the public hearing.

Discussion was held by the Board regarding their concerns to this particular site.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor Kesler, directed staff to prepare a resolution for the December 7, 2004 Board of Supervisor's meeting granting the appeal and overturning the Planning Commission action including findings re: visual impacts, concentration of too many facilities upon one area, decrease in property values and possible alternative sites. (Vote 4-0. Supervisor Scagliotti absent during this item) (Appeal File)*

AGRICULTURAL COMMISSIONER - P. Matulich:

- 12) Hold public hearing to consider an ordinance amending Chapters 2 and 10 of the San Benito County Code Establishing the Registration and Inspection of Automated Point-of-Sale Stations (Scanners) and the Fees and Penalties Related thereto.**

Paul Matulich, Agricultural Commissioner, provided background information and asked the Board to consider this ordinance.

Chairman Cruz opened the public hearing. There was no one wishing to address the Board. The Chairman closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Kesler adopted **Ordinance No. 777** amending Chapters 2 and 10 of the San Benito County Code establishing the registration and inspection of Automated Point-Of-Sale Stations (scanners) and the fees and penalties related thereto. (Vote 5-0) File #1.1*

BOARD OF SUPERVISORS:

- 13) Hold public hearing to consider an ordinance amending Chapter 7C of the San Benito County Code pertaining to Groundwater and Aquifer Protections. (Supervisor Scagliotti & Supervisor Loe)**

Karen Forcum, County Counsel, provided an overview and summary of the proposed amendments

Jeff Cattaneo, Deputy District Engineer of the San Benito County Water District came forward stating that the Water District was willing to take over the authority relating to both Item 13 and Item 14 of this agenda.

Chairman Cruz opened the public hearing.

Janet Brians, local resident, came forward, noting that there are some parts of the County not covered by the San Benito County Water District and asked how that would be handled.

Supervisor Scagliotti answered that this has nothing to do with Zone 6, which is the area that Mrs. Brians lives in.

Chairman Cruz closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Kesler, adopted **Ordinance No. 778** amending Chapter 7C of the San Benito County Code pertaining to Groundwater and Aquifer Protection and directed the Administrative Staff to coordinate bringing this matter back to the Board of Supervisors for a review in February 2006. (Vote 5-0) File #1005.1*

14) Hold public hearing to consider an ordinance amending Chapter 17C of the San Benito County Code pertaining to Well Standards. (Supervisor Scagliotti & Supervisor Loe)

Karen Forcum, County Counsel, provided an overview stating that the difference here is that the Health Department now regulates Well Standards and this would be changed to the San Benito County Water District.

Chairman Cruz opened the public hearing.

Jeff Cattaneo, Deputy District Engineer of the San Benito County Water District stated that the Water District is willing and capable to take over this authority and this is the logical consolidation of efforts.

Chairman Cruz closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Kesler adopted **Ordinance No. 779** amending Chapter 17C of the San Benito County Code pertaining to Well Standards and directed the Administrative Staff to coordinate bringing this matter back to the Board of Supervisors for a review in February 2006. (Vote 5-0) File #1005.1*

3:00 p.m. CLOSED SESSION AGENDA:

16) 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

All 3 cases withdrawn by County Counsel.

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

All 3 cases withdrawn by County Counsel. File #235.6

17) 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 et al.

No reportable action.

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

No reportable action.

d) Martinez v. County of San Benito, Tom Quigley, et al.

The Board authorized the retention of Liebert, Cassidy, Whitmore to represent the County and Tom Quigley in this case.

e) County of San Benito vs. Doodlebug LLC

The Board authorized the payment of \$123,000 from Contingency Funds with regard to the settlement of that matter and delegated signature authority for the settlement agreement to County Counsel.

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

The Board authorized legal fees in an amount of up to \$3000 from General Fund Contingencies with the goal that this matter be finally resolved by Friday, December 3, 2004 at 5:00 p.m. 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 and
B. Cruz

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to its next regularly scheduled meeting on December 7, 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