

SAN BENITO COUNTY  
BOARD OF SUPERVISORS  
REGULAR MEETING ACTION MINUTES  
DECEMBER 7, 2004

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 all present. Supervisor Scagliotti was absent. Also present was Interim County Administrative Officer Gil Solorio, County Counsel Karen R. Forcum and Assistant Clerk Sally Navarez for the morning session and Senior Clerk Linda Churchill for the afternoon session. Chairman Bob Cruz 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 the Certificate of Posting.*
- c) **Public Comment:** There was no public comment
- d) **Department Head Announcements:** Human Resources Director Elizabeth Brown updated the Board on the status of the CAO recruitment noting she was working with Dave Harris for this executive position recruitment and hopes that the new Board will have qualified candidates to interview and hopefully make an appointment by May of 2005.
- e) **Board Announcements, Introductions and Presentations:** Chair Cruz indicated there was an Urgency Item to be added to the agenda and turned the matter over to Counsel. Counsel Forcum stated the item qualified as an urgency item due to two factors:
  - 1) The matter needed immediate Board action; and
  - 2) The matter arose subsequent to the posting of the agenda.Counsel asked that the Board add this matter as Item #34.a and said item will be hear following Closed Session this morning.  
*Upon motion duly made by Supervisor Kesler and seconded by Supervisor Monaco, added Item #34.a - Proposed resolution re: remedy for Weights and Measures review of John Smith Road Landfill Settlement procedures. Motion passed 4-0 with Supervisor Scagliotti being absent for the vote.*

**9:30 a.m. PRESENTATIONS/RECOGNITIONS:**

**Presentations to outgoing Supervisors from the offices of Congressman Sam Farr and Assemblymember Simon Salinas.**

Supervisor Monaco indicated that there was a last minute change regarding the presentations. Supervisor Monaco indicated that the representative from Congressman Farr's office was unable to attend the meeting. Supervisor Monaco asked that Ms. Darlene Denham from Assemblymember Salinas' office come forward.

Ms. Denham presented plaques to out-going Supervisors Bob Cruz, Ruth Kesler and left a plaque for Richard Scagliotti with the clerk of the board.

**CONSENT AGENDA:**

Upon motion duly made by Supervisor Kesler and seconded by Supervisor Monaco, approved Consent Agenda Items #1 through #22. Motion passed 4-0 with Supervisor Scagliotti being absent for the vote.

ASSESSOR - A. Fontes:

- 1) **Approved** Assessment Roll Corrections. (file #7.2)
- 2) **Approved** contract renewal with the State Department of Finance re: property tax administration loan program through June 30, 2005. (file #7)

CLERK OF THE BOARD:

- 3) **Approved** the action minutes of the meetings of October 26, 2004, November 2, 2004 and November 9, 2004.
- 4) **Approved** Proofs of Publications.
- 5) **Approved** amended Conflict of Interest Codes for 2004 for the San Benito County Office of Education and the San Benito High School District.

COMMUNITY SERVICES & WORKFORCE DEVELOPMENT – K. Flores:

- 6) **Approved** Fiscal Year 2004/2005 budget augmentation re: receipt of additional Workforce Investment Act (WIA) Training Assistance Funds. (file #939)

COUNTY COUNSEL- K Forcum:

- 7) **Rejected** claim of Phaeth Holapatiphone filed with the clerk of the board on November 8, 2004 and **directed** clerk to notify claimant. (file #235)
- 8) **Accepted** claim of Julie Vigna, as submitted, filed with the clerk of the board on November 15, 2004 and **directed** clerk to notify claimant. (file #236)
- 9) **Received** letter from the Department of Justice re: November 2, 2004 Election observations. (file #285)

DEPARTMENT OF EMERGENCY SERVICES - M. Riopel:

- 10) **Approved** contract with the American Red Cross re: development and management of the Community Emergency Response Teams (CERTS) and the Citizen Corps Council with a contract term of November 1, 2004 through December 31, 2005. (file #75.5)
- 11) **Approved** amendment to the Emergency Medical Care Commission (EMCC) Bylaws. (file #1068)

HUMAN RESOURCES - E. Brown:

- 12) **Approved** contract with Liebert, Cassidy & Whitmore re: personnel legal services and **authorized** Chair to sign. (file #630)
- 13) **Approved** special services contract with Liebert, Cassidy & Whitmore re: consortium training and consulting services and **authorized** Chair to sign. (file #630)

LAW LIBRARY – J. Zlotkin

- 14) **Approved** the following:
  - a) **Accepted** San Benito County Law Library Trustees Annual Report; and
  - b) **Approved Resolution #2004-122 - Increasing fees collected by the San Benito County Superior Court for Law Library Services and authorized Chair to sign.** (file #595)

PUBLIC WORKS – P.Corn:

- 15) **Approved** contract with Bengal Engineering, LP in an amount not to exceed \$419,885.30 re: engineering and environmental services for the Hospital Road Bridge project with a contract term of December 7, 2004 through June 30, 2006 and **authorized** Chair to sign. (file #105)
- 16) **Approved** approval of a Request For Proposal re: architectural services for the remodel of the Bertha Briggs Building and **authorized** Chair to sign. (file #105)
- 17) **Approved** request to declare Health Department equipment as surplus and remove equipment from inventory. (file #105)
- 18) **Approved** request to declare Office of Emergency Services equipment as surplus and remove equipment from inventory. (file #105)

SHERIFF - C. Hill:

- 19) **Approved** the following:
  - a) **Approved** agreement with Sirron Software re: records management for the civil function; and
  - b) **Approved** budget augmentation from Trust Account to Sheriff's Budget Unit 1001210. (file #110)
- 20) **Approved** application for lease/purchase re: acquisition of five (5) new patrol cars through Ford Motor Credit and **authorized** the Sheriff to sign on behalf of the county. (file #110)
- 21) **Approved** budget augmentation re: marijuana eradication efforts with DEA funds to be transferred from Trust Account 4243107. (file #110)

SUBSTANCE ABUSE PROGRAM – M. Narasaki:

- 22) **Approved** authorization to hire a Substance Abuse Counselor up to Step F of Salary Range (16.8). (file #1053)

**9:30 PUBLIC HEARINGS (or as soon thereafter as the matters may be heard):**

PLANNING DEPARTMENT - R. Mendiola:

- 23) **Hold a public hearing to consider a proposed resolution and ordinance re: Zone Change 04-138, a request to rezone a 4.8 acre parcel, located within the City of Hollister Sphere of Influence, from the RR (Rural Residential) zoning district to the C-1 (Commercial Thoroughfare) and CM (Controlled Manufacturing) zoning districts (2.99 and 1.8 acres). Location: 581 McCray Street, Hollister. Applicant: Premiere Cinemas, Inc./Ted Intravia. (cont. from 11/2/04 mtg.)**

Senior Planner Susan Heiser provided background and information on this continued item. Ms. Heiser urged the Board to adopt the ordinance and resolution as presented in their packet.

This being the duly noted time and place, Chair Cruz opened the Public Hearing; however, hearing no one wishing to address the Board, Chair Cruz closed said Hearing.

**BOARD ACTION: Upon motion duly made by Supervisor Kesler and seconded by Supervisor Loe, approved Resolution 2004-123 - **Approving Zone Change 04-138 and Adopting the Mitigated Negative Declaration for Premier Cinemas, Inc. and Ordinance 780 - Approving Zone Change 04-138 to Rezone 4.8 Acres From The Rural Residential Zone To The Commercial Thoroughfare (2.99 Ac.) And The Controlled Manufacturing****

**(1.8 Ac.) Zoning Districts - For Premier Cinemas.** Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (Appeal File)

24) Hold a public hearing to consider an appeal of the November 3, 2004 Planning Commission decision regarding a request by Premier Cinemas for C-District Review 54-04 to construct a 10-screen cinema, and M-District Review 78-04 to construct a mini-storage facility. Appellant: Mary Zanger. Applicant: Premier Cinemas/Ted Intravia. Location: 581 McCray Street, Hollister. Zoning: Rural Residential (RR) proposed to be Commercial Thoroughfare (C-1) and Controlled Manufacturing (CM). Environmental Document: Mitigated Negative Declaration.

Senior Planner Susan Heiser indicated this was an appeal noting the appellant felt the Planning Commission had erred in their decision rendered at their meeting of November 3, 2004.

This being the duly noted time and place, Chair Cruz opened the public hearing.

Mary Zanger, appellant, came forward. Mrs. Zanger stated the appeal was based on the fact that there wasn't enough nor adequate parking spaces allocated for this project. The existing facility already compromised the parking of the other tenants on the site and more screens would mean more and more vehicles that would take up client and employee parking. Mrs. Zanger was also concerned that oversized Sport Utility Vehicles wouldn't be able to fit in the spaces either.

Ted Intravia, Premier Cinema owner, came forward. Mr. Intravia indicated he was willing to work with Mrs. Zanger in identifying specific parking spaces for her facility for both employees and clients.

**BOARD ACTION:** Upon motion duly made by Supervisor Kesler and seconded by Supervisor Loe, adopted **Resolution 2004-124 Upholding The Planning Commission Approval Of C-District Review 54-04 And M-District Review 78-04 For Premier Cinemas By Denying The Appeal Of Mary Zanger.** Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (appeal file)

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

### INTEGRATED WASTE MANAGEMENT - M. Rose:

25) Consider amendment #4 to agreement with Norcal Waste Systems of San Benito County.

Director Mandy Rose noted this item was a followup to amend Chapter 25 of the County Code to allow a lien procedure for cost recovery of delinquent accounts from collection and disposal of solid waste for clarification purposes.

**BOARD ACTION:** Upon motion duly made by Supervisor Monaco and seconded by Supervisor Kesler, approved Amendment #4 to the Agreement with Norcal Waste Systems of San Benito County. Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (file #142)

Chairman Cruz adjourned as the San Benito County Board of Supervisors and reconvened as the Board of Directors of CSA 31-Stonegate.

## **SITTING AS THE BOARD OF DIRECTORS OF CSA 31 - STONEGATE**

26) Consider Request For Proposal re: repairs and coating of a 150,000 gallon welded steel non-potable water tank.

Pete Corn of Public Works asked the Board to approve a Request For Proposal for repairs and coating of a welded steel non-potable water tank located at CSA 31 - Stonegate.

*Upon motion duly made by Supervisor Kesler and seconded by Supervisor Monaco, approved a Request For Proposal to clean and re-coat a 150,000 gallon welded steel non-potable water tank. Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (file - CSA 31)*

Chairman Cruz adjourned as the Board of Directors of CSA 31-Stonegate and reconvened as the San Benito County Board of Supervisors.

PLANNING - R. Mendiola:

**27) Proposed resolution granting an appeal of Use Permit No. 888-04 (Cingular Wireless - Jeff Hawk) overturning the Planning Commission's action.**

Deputy Planning Director Fred Goodrich noted the Board directed him to return before this Board with a resolution granting said appeal and overturn the decision of the Planning Commission.

**BOARD ACTION:** *Upon motion duly made by Supervisor Kesler and seconded by Supervisor Monaco, approved Resolution No. 2004-125 Granting The Appeal Of The Planning Commission's Approval Of Use Permit #888-04 (Cingular/Hawk). Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (appeal file)*

ADMINISTRATIVE BUSINESS:

**28) Consider responses to the 2003-2004 San Benito County Grand Jury Final Report. (Interim CAO)**

Interim CAO Gil Solorio indicated the County responses to the 2003/2004 Final Grand Jury Report were contained in the report which was before the Board for consideration.

**BOARD ACTION:** *Upon motion duly made by Supervisor Monaco and seconded by Supervisor Kesler, approved and accepted the County responses to the 2003/2004 Final Grand Jury Report and directed staff to forward said responses to Presiding Court Judge, Harry J. Tobias, in accordance with P.C.933 Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (file #605)*

**29) Consider Memorandum Of Understanding to develop the Hollister Urban Area Water and Wastewater Master Plan between the San Benito County Water District, the City of Hollister and the County of San Benito. (Supervisor Loe)**

Supervisor Loe urged the Board to approve said MOU between the entities and noted this had been a work in progress for over four (4) months.

**BOARD ACTION:** *Upon motion duly made by Supervisor Loe and seconded by Supervisor Kesler, approved MOU between San Benito County Water District, the City of Hollister and San Benito County to develop the Hollister Urban Area Water and Wastewater Master Plan; and approved augmentation of the Planning Department Budget in the amount of \$40,000 with funds coming from General Fund Contingencies/Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (file #695)*

**30) Consider proposed resolution in Support Of A Regional Planning Forum For Indian Gaming In And Around The Counties of Monterey, Santa Clara and San Benito County. (Supervisor Loe)**

Comments were received from:

Steve Merrill, representing Casinos Represent A Poor Solution (CRAPS) who was against a casino in the County.

Marilyn Hill, also from Casinos Represent A Poor Solution (CRAPS) who was against a casino in the County.

Ruth Nordstrom, Ridgemark resident, who was against a casino in the County.

Mike Walters, also from Casinos Represent A Poor Solution (CRAPS) who was against a casino in the County.

Mark Frelier, local resident, who supported Supervisor Loe' resolution to have the entities work together on this very important matter.

Gary Ramos, Project Manager of the California Valley Miwok Tribe, came forward and asked that the Board listen to all proposals before making a decision on this very important issue.

**BOARD ACTION:** *Upon motion duly made, seconded by Supervisor Loe and seconded by Supervisor Monaco, adopted **Resolution No. 2004-126 In Support Of A Regional Planning Forum For Indian Gaming In Or Around The Counties Of Monterey, Santa Clara And San Benito.** Further, direction given to clerk to provide copies of said resolution to the Federal and State Government, surrounding counties, and the Cities of Salinas, Monterey, Gilroy, San Juan Bautista and Hollister. Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (file #156)*

#### **10:00 a.m. CLOSED SESSION AGENDA:**

##### **31) 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**

*Prior to entering Closed Session, Counsel indicated that 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**

*Prior to entering Closed Session, Counsel indicated there were two cases to hear and one was withdrawn.*

*Upon exiting Closed Session, Counsel stated there was no action taken on the remaining two cases. (file #235.6)*

##### **32) Conference with Legal Counsel - Existing Litigation**

##### **a) Sandman vs. County of San Benito**

*Upon exiting Closed Session, Counsel stated there was no action taken. (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 stated there was no action taken. (file #235.6)*

##### **c) Fancher and Roybal v. County of San Benito, John Sarsfield, et al.**

*Upon exiting Closed Session, Counsel stated there was no action taken. (file #235.6)*

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

*Upon exiting Closed Session, Counsel stated there was no action taken. (file #235.6)*

e) **County of San Benito vs. John Anderson, et al.**

*Upon exiting Closed Session, Counsel stated there was no action taken. (file #235.6)*

33) **Conference with Labor Negotiator**

**Agency Negotiator: Gil Solorio, County Administrative Officer**

**Unrepresented Employees: Department Heads**

*Upon exiting Closed Session, Counsel stated there was no action taken. (file #235.6)*

34) **Conference with Labor Negotiator**

**Agency Designated Representative: Elizabeth Brown, Human Resources Director**

**Unrepresented Employees: Confidentials**

*Upon exiting Closed Session, Interim CAO Gil Solorio stated, for the record and per Board direction, Confidentials shall receive in Year 1 - 3% retroactive to October 1<sup>st</sup> and will receive one (1) extra Floating Holiday; Year 2 - 1% and one (1) extra Floating Holiday and the re-opener questions will be triggered by SEIU's process; and Year 3 - 1% with one (1) extra Floating Holiday and again, a reopener triggered by the SEIU process. Also, the Compensation Study was not agreed upon, this for clarification purposes. (file #235.6)*

INTEGRATED WASTE MANAGEMENT - M. Rose:

34.a) **Urgency Item - Proposed resolution re: remedy for Weights and Measures review of John Smith Road Landfill Settlement procedures.**

Director Mandy Rose indicated as Counsel pointed out, this was an urgency item due to the matter requiring immediate Board action and that the matter arose subsequent to the posting of the agenda.

**BOARD ACTION:** *Upon motion duly made by Supervisor Monaco and seconded by Supervisor Loe, approved Resolution 2004-127 Approving Language Modifications To The Rate Schedule For Disposal Of Solid Waste At The John Smith Road Landfill. Motion passed 4-0 with Supervisor Scagliotti being absent for the vote. (file #142)*

**1:30 p.m. PUBLIC HEARINGS (or as soon thereafter as the matter(s) may be heard):**

ASSESSOR – A. Fontes:

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

**Consider LCA Requests and take action as appropriate re:**

- a) **Brookhollow Ranch L.P. Etal (Compatible Use)**
- b) **Daugherty, P. Trust (Division Request)**
- c) **Signal Hill Family LTD Part. Etal (Division Request)**
- d) **Falsey, J. (Lot Line Adjustment)**
- e) **Wolf, R. Trust (Lot Line Adjustment)**

Assessor Arnold Fontes provided staff report for each request indicating that the Agricultural Preserve Advisory Committee recommended approval of each request listed above.

Chairman Cruz duly opened a public hearing for each request. There was no one from the public wishing to speak on any of the items. Chairman Cruz closed each public hearing.

**BOARD ACTION:** *Upon motion duly made, seconded and carried, approved all Land Conservation Act requests as recommended. (4-0 vote on each request. Scagliotti absent.)*  
*File #7*

PLANNING DEPARTMENT - R. Mendiola:

**36) Hold public hearing to consider adding Section 34.50 to Ordinance No. 479 (Zoning Ordinance) establishing standards and guidelines for residential development within ridgeline and hillside areas of the county and to consider the Negative Declaration prepared for the proposed ordinance.**

Fred Goodrich, Assistant Director of Planning, provided background information stating, after several public workshops were held, on November 3, 2004 the Planning Commission adopted a resolution recommending that the Board of Supervisors not adopt the Hillside Development Regulations.

Mr. Goodrich outlined the proposed amendments to Ordinance 479 stressing that the proposed regulations would apply only to development building structures and building additions within major subdivisions that would be located on ridgelines or hillside areas with slopes greater than 15%. The recommendations by the Planning Department staff were to conduct a public hearing; review and consider all project related documents, staff reports, meeting minutes, Planning Commission resolution and all written and oral testimony and then to consider hillside regulation options as follows: (a) Table discussion of regulations and refer to incoming Board of Supervisors; (b) Deny zoning ordinance amendment; (c) Adopt Hillside Development Guidelines only; or, (d) Adopt Zoning Ordinance amendment (hillside regulations and guidelines).

Chairman Cruz opened the public hearing.

Those speaking in opposition to the proposed ordinance in its present form were Joe Zanger, Sr.; Roxy Montana; Dennis Bosworth; Tom Manning representing the Cattlemen's Association and the Farm Bureau (read a letter from Paul Hain, Chairman of the Farm Bureau); Glen Ginechio; Alex Schmidt; Paul Wattis; Steve Hudner; Dave Brigantino; Brad Sullivan; and, John Appel.

Those speaking in favor of the proposed ordinance were David Busch; Richard Saxe; Ruben Lopez; Peggy Kingman; Rebecca McGovern; Grant Brians; and, Janet Brians.

Chairman Cruz closed the public hearing.

Mr. Goodrich answered questions asked by the public.

Discussion was held by Board members.

**BOARD ACTION:** Supervisor Kesler made a motion to adopt **Ordinance No. 781** ADDING SECTION 34.50 TO ORDINANCE NO. 479 RELATING TO THE REGULATION OF HILLSIDE DEVELOPMENT. Supervisor Loe seconded the motion.

*Roll Call Vote:*

Supervisor Loe	-	Yes
Supervisor Scagliotti	-	Absent
Supervisor Monaco	-	No
Supervisor Kesler	-	Yes
Supervisor Cruz	-	Yes

*Motion passed with a 3-1 vote. File #790*

COUNTY COUNSEL - K. Forcum:

**37) Hold public hearing to consider an ordinance to amend the Purchasing Chapter of the San Benito County Code.**

County Counsel Karen Forcum provided background information stating that the Purchasing Chapter of the County Code was last amended by the Board on May 13, 2003 and the proposed ordinance provides further amendments to the chapter.

Chairman Cruz opened the public hearing.



Web Winans, Lovers Lane resident, came forward stating that he would like to make sure that this amendment covers going out to bid for professional services.

Ms. Forcum answered that was correct. The requirement for the competitive quotations applies to the negotiations of contracts for the services of consultants or other individuals or organizations possessing a high degree of technical skills for an amount of \$5000 or greater.

Chairman Cruz closed the public hearing.

**BOARD ACTION:** Upon motion made by Supervisor Kesler and seconded by Supervisor Monaco, adopted **Ordinance No. 782** AMENDING Chapter 13 of the San Benito County Code – Purchasing. (Vote 4-0. Scagliotti absent.) File #156

**The Board adjourned to Closed Session for a continuation of Item 32c and reconvened into regular session.**

32) c) **Fancher and Roybal v. County of San Benito, John Sarsfield, et al.**  
*No reportable action.*

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: Loe, Monaco, Kesler & Cruz  
NOES: SUPERVISORS: None  
ABSENT: SUPERVISORS: Scagliotti

There being no further business the Board adjourned to its next regularly scheduled meeting on January 4, 2005 at 9:30 a.m.

BOB CRUZ, CHAIRMAN  
San Benito County Board of Supervisors

ATTEST:

John R. Hodges  
Clerk of the Board

BY:

Sally Navarez  
Asst. Clerk (am session)

Linda Churchill  
Senior Clerk (pm session)