



# SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios  
District No. 1  
Chair

Anthony Botelho  
District No. 2

Robert Rivas  
District No. 3

Jerry Muenzer  
District No. 4

Jaime De La Cruz  
District No. 5  
Vice-Chair

County Administration Building – Board of Supervisors Chambers, 481 Fourth Street, Hollister, California

## REGULAR MEETING JANUARY 17, 2012 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in *regular session*. Supervisors Barrios, Botelho, Rivas, Muenzer and De La Cruz were present. Also present were County Administrative Officer Rich Inman, County Counsel Matthew Granger, and Clerk of the Board Denise Thome. Chair Barrios presided for the beginning of the meeting and Chairman De La Cruz presided for the remainder of the meeting after the Board re-organization.

### 9:00 a.m. CALL TO ORDER:

- a) Supervisor Rivas led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

### BOARD RE-ORGANIZATION:

Chair Barrios opened nominations for Chair of the Board of Supervisors for 2012.

#### c) **Open nominations and conduct election for Chair of the Board of Supervisors.**

*Upon motion made by Supervisor Botelho and seconded by Supervisor Rivas, nominated and elected Supervisor Jaime De La Cruz for Chairman of the Board of Supervisors for 2012. (Unanimous) File #156*

Newly elected Chairman De La Cruz presented a plaque to out-going 2011 Chair Margie Barrios in appreciation for her dedicated service.

Supervisor Barrios accepted the plaque and thanked her fellow Board members for their respect and diligence.

Chairman De La Cruz thanked the Board for choosing him as Chairman. He further thanked the San Benito County employees and the citizens of San Benito County.

#### **Open nominations and conduct election for Vice-Chair of the Board of Supervisors.**

*Upon motion made by Supervisor De La Cruz and seconded by Supervisor Muenzer, nominated and elected Supervisor Anthony Botelho for Vice Chairman of the Board of Supervisors for 2012. (Unanimous) File #156*

d) **Receive Committee appointments from the newly elected Chair of the Board of Supervisors.**

*Newly elected Chairman De La Cruz announced the committee assignments for 2012 and a list was provided to Board members and the public. He indicated that he had added a new committee which would be the Fire Protection Service Committee. Chairman De La Cruz noted appointments to two ad hoc committees which were the Mobility Partnership with Supervisors Barrios and Muenzer and General Plan Update with Supervisors Rivas and De La Cruz. File #156*

e) **PRESENTATIONS AND RECOGNITIONS:**

**BOARD OF SUPERVISORS:**

**Present Proclamation to American Red Cross declaring January 2012 as “National Blood Donor Month” in San Benito County.**

Supervisor Rivas read the proclamation aloud. There was no one there to accept the proclamation. *File #430*

f) **Public Comment:**

Kellie Mancino, President of the local Future Farmers of America (FFA) along with FFA Vice President Brian Snyder and FFA Treasurer Matt Hawk, presented the Board of Supervisors with a San Benito County flag.

John Sitton spoke in regards to the Grand Jury.

Chairman De La Cruz informed Mr. Sitton that the Grand Jury was an item on the agenda.

Felicitas Corona and Natasha Wist both spoke in support of In Home Supportive Services (IHSS) and urged the Board to support them.

Marvin Jones congratulated Chair Barrios on the good job she had done and spoke in regards to several other items.

Elizabeth Garcia spoke in support of In Home Supportive Services.

Richard Bettencourt spoke in regards to the deterioration of Fairview Road.

g) **Department Head Announcements:**

Public Works Director Steve Wittry announced that construction on the San Juan Highway Bike Lane Project would be delayed until May 1, 2012.

Clerk Auditor Recorder Joe Paul Gonzalez stated that the redistricting data had been installed. He added that respective voters in new precincts would be going from analog to a digitized system.

h) **Board Announcements:**

Supervisor Muenzer wished all a Happy New Year and congratulated the new Chairman and offered him his full support. He reported on the Economic Development Corporation meeting and spoke of the potential loss of funds from the redevelopment agency and the possible exploration of using a professional fundraising company.

Supervisor Rivas wished everyone a Happy New Year and indicated that he was looking forward to working with the new Chairman and thanked the past Chair.

Supervisor Barrios congratulated Chairman De La Cruz and offered her support for his efforts. She thanked staff and the Board for their support and compassion in the loss of her mother on New Year's Eve. She reported that she attended the Martin Luther King Jr. Day of Service event put on by Community Media Access Partnership (CMAP) and thanked them for a job well done.

Supervisor Botelho stated that he looked forward to a productive and yet challenging year. He reported that he attended the Martin Luther King Jr. event held to encourage service. He noted that he truly appreciated staff and thanked them.

Chairman De La Cruz asked former Supervisor Reb Monaco to come to the podium and proceeded to thank him for his long standing blood donations to the community and also giving to the community in many other ways.

Reb Monaco stated that people did not appreciate the tough job of the Supervisor and wished them all the best of luck.

#### **CONSENT AGENDA:**

*Upon motion made by Supervisor Muenzer and seconded by Supervisor Rivas, **approved** Consent Agenda Items. (Unanimous)*

#### **BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:**

- 1) **Authorized** the County's Behavioral Health Director to sign the Multi-Year Negotiated Net Amount Contract with the State Department of Alcohol and Drug Programs for FY 2010-11 through FY 2012-13; and **adopted Resolution No. 2012-1** to accept the ADP Multi-Year Negotiated Net Amount Contract. *File #810*

#### **BOARD OF SUPERVISORS:**

- 2) **Approved** Certificate of Recognition for Chamber of Commerce Man and Woman of the Year and Businesses of the year for 2012, to be presented at a later date. *File #156*

#### **BOARD OF SUPERVISORS – J. De La Cruz:**

- 3) **Appointed** Monica Sandoval to the Area Developmental Disabilities Board VII to represent the general public for a three year term effective January 1, 2012 through January 1, 2015. *File #156*

#### **CLERK OF THE BOARD – D. Thome:**

- 4) **Approved** the action minutes of the December 6, 2011 regular meeting, the December 13, 2011 special meeting and joint special meeting and the December 20, 2011 regular meeting.

#### **COUNTY COUNSEL – M. Granger:**

- 5) **Received** Fish and Game Fees update. *File #24*

**HEALTH & HUMAN SERVICES AGENCY – K. Flores:**

- 6) **Adopted Resolution No. 2012-2 accepting** the 2012 Low Income Heating Energy Assistance Program (LIHEAP) grant, **approving** the grant agreement and **delegating** authority to the HHS Director regarding grant administration.  
*File #130*

**HEALTH & HUMAN SERVICES AGENCY- K. Flores:**

- 7) **Adopted Resolution No. 2012-3 accepting** the 2012 Community Services Block Grant (CSBG), **approving** the Grant Agreement, and **delegating** authority to the HHS Director regarding grant administration. (CSWD) *File #939*

**SHERIFF’S OFFICE – D. Thompson:**

- 8) **Accepted** the Off-Highway Motor Vehicle Grant award in the amount of \$19,090; and **approved** the operating budget adjustment/transfer increasing appropriations and revenue in the amount of \$19,090. (4/5 Vote) *File #110*

**11:00 A.M. – (Or as soon thereafter as the matter may be heard)**  
**County Board of Supervisors**  
**SITTING AS THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY FINANCING CORPORATION**

*The Board will adjourn as the Board of Directors of the San Benito County Financing Corporation and reconvene as the Board of Supervisors. (separate agenda)*

*(At 11:18 a.m. the Board adjourned as the Board of Supervisors and reconvened as the Board of Directors of the San Benito County Finance Corporation)*

*(At 11:23 a.m. the Board adjourned as the Board of Directors of the San Benito County Finance Corporation and reconvened as the Board of Supervisors)*

**REGULAR AGENDA:**

**ADMINISTRATION – R. Inman:**

- 9) **Discussion and/or direction concerning the Grand Jury budget and reimbursements.**

Don Dixon, Grand Jury foreman, spoke of the budget and how it limited and curtailed what the Grand Jury could do. He noted that they received a 25% deduction and not the targeted 20%. He stated that they were not over budget and they were trying to get paid for their time as Grand Jury. He indicated that they were told that if they held meetings on different days they would get paid for each meeting, but if all meetings were held on the same day, they would only get paid for one. Mr. Dixon stated that Management Analyst Catherine Shaw had made reference to Penal Code 888 and said that she could not pay for the second submittal.

County Administrative Officer Rich Inman stated that was not their intent to curtail the Grand Jury’s work and they would pay for the second billing. He reported that he had asked the courts to issue an order to pay and was told that

the authority resides with the Board. He indicated that County Counsel would prepare a resolution.

Roxy Montana indicated that she had served 5 terms on the San Benito County Grand Jury, was not currently on the Grand Jury, but was there as a concerned citizen. She explained the duties of the Grand Jury and noted that it was an honorable position. She urged the Board to cooperate with the Grand Jury's budget needs.

John Sitton stated that he had been a member of the Grand Jury for four terms and was currently a member of the State Grand Jury Association. He expressed concern for what he thought was a sense of devaluing the importance of the Grand Jury and felt the Grand Jury was being inhibited in their ability to do their job.

Marty Richman stated that he had served on the Grand Jury several years ago and found it unfulfilling as very little was done out of the responses. He noted that no one served on the Grand Jury for the money and hoped the Board would support the Grand Jury.

Chairman De La Cruz closed the public comment.

Supervisor Botelho did not think anyone on the Board wanted to diminish the scope of work of the Grand Jury as it was important work that needed to be done. He added that there was no extra money in the foreseeable future and that they were looking at cuts. He hoped they could get it straightened out.

Supervisor Barrios stated that they respected the Grand Jury reports that they receive. She suggested having a member of the Grand Jury to sit in when the Budget Committee discusses the Grand Jury budget.

Supervisor Muenzer indicated that he was not aware of any conspiracy against the Grand Jury and that he had received a lot of phone calls.

CAO Inman explained that they had not expended their budget and that funds were still available. He stated there was no conspiracy and they were willing to work with them. He indicated that about 50% of the budget was left and the issue of outstanding claims would be addressed at the next meeting when the resolution is brought forward.

Management Analyst Catherine Shaw explained that there was a little over \$15,000 in the budget and if all claims to date were paid it would leave a balance of \$5,700 for the balance of the year.

Supervisor Muenzer asked if they paid all the claims will they have gone through more than 50%.

Ms. Shaw replied yes.

Supervisor Muenzer asked if they paid all the claims would there be enough left in their budget.

Ms. Shaw replied no and estimated that if they continued at that rate they would need an additional \$7,200.

Supervisor Rivas stated that they did not devalue the Grand Jury and that he was blindsided by the matter. He suggested working with the Budget Committee and expressed a desire to bring it to an appropriate resolution.

Chairman De La Cruz directed that the matter be referred to the Budget Committee and to report back to the Board.

The Board adjourned at 10:10 a.m. for a short break and reconvened at 10:15 a.m.

## **ADMINISTRATION – R. Inman:**

- 10) **Provide direction concerning development of a contract between City of Hollister and San Benito County for fire protection services to be brought back to the Board of Supervisors for approval.**

County Administrative Officer Rich Inman gave a staff report and noted that the Chairman had created a Fire Protection Service Committee. He asked the Board if they would like him to proceed with further analysis.

Supervisor Muenzer stated that his son was a captain for Cal Fire and that as long as he didn't live under his roof, it was not a conflict of interest. He stated that it was his understanding that the contract was not to end this fiscal year. He felt Cal Fire needed to be at the table. He made reference to the letter left by Marty Richman in which he stated that no study had been done as to what fire service would work best. Supervisor Muenzer felt that much more study had to be done first.

Supervisor Botelho viewed it as an opportunity to enhance fire protection for the county. He stated that the CAO noted that they would have more local control working with the City of Hollister, which they did not have now. He added that they should take serious consideration in regards to partnering with the City of Hollister for fire protection. He indicated that South County is a state response area and they needed to respond regardless. He suggested that they certainly should include Cal Fire and encourage all agencies to work together.

Supervisor Rivas stated that his number one priority was that our community was safe. He felt the proposal deserved a comprehensive analysis. He noted that his problem was his mistrust of the City of Hollister and spoke of the Measure T history. He indicated that he would want a measure of commitment from the City of Hollister and it could be a win win situation.

Supervisor Barrios asked about the \$104,000 budgeted for the Amador Plan and if the money would go back to the General Fund.

CAO Inman explained that the money was budgeted and if the money was not spent it becomes part of the fund balance.

Supervisor Barrios suggested an independent study and did not think the county would have complete control if the City of Hollister took over. She expressed concern with being trapped in the City's higher costs. She felt they needed a couple town hall meetings.

Supervisor Botelho expressed hesitation in hiring an outside consultant to do the study. He stated that Cal Fire said they would no longer offer a contract after the end of the year. He felt the county needed to move forward with analysis.

Supervisor Rivas concurred with Supervisor Botelho about moving forward with an outside analysis.

Supervisor Muenzer asked if there was anyone from the City of Hollister there to answer questions.

Supervisor Botelho noted that Captain O'Connor was from the City of Hollister and the City of San Juan Bautista Manager was also present. He commented that he did not like being pushed around as a supervisor and they were being pushed. Supervisor Botelho stated that they had been wrestling with this for quite some time. He noted that they had limited resources and they all needed to work together.

Supervisor Barrios concurred with Supervisor Botelho about doing an in house analysis.

Cal Fire Chief Rick Hutchinson spoke in regards to the statement that the county had no control over salaries and staffing. He said that was both true and not true. He added that they were very competitive and the county determined staffing. He spoke in regards to local response and state response and gave a theoretical example of a fire at the Paicines Store. He explained that Cal Fire would respond to ensure that the fire not spread beyond to the wild lands, but that the county was ultimately responsible for the store.

Supervisor Botelho indicated that there were state taxes in SRA for habitable space and asked what portion of the contract dollars was allocated to SRA responses.

Chief Hutchinson indicated that State SRA fees introduced were for prevention activities and the percentage of the contract to the State mission is none. He added that they bill at actual costs. He further spoke in regards to administrative costs.

Supervisor Muenzer asked about off season.

Chief Hutchinson replied that the County had responsibility in the off season.

Supervisor Barrios asked if CDF would be willing to work with San Benito County beyond June 30, 2012, and if yes, provided what.

Chief Hutchinson stated that they needed to involve the San Juan volunteers as it was a life safety issue. He stated that CDF does not have code enforcement authority and would like to have it. He spoke of incidents at Eagle Recycling and Leal Winery. He stated that they could extend the contract an additional 12 months and that they would need a commitment from the Board to integrate San Juan volunteers into adequate training and have enforcement authority through the fire department.

Supervisor Barrios asked if they wanted a resolution to grant Cal Fire enforcement authority.

Chief Hutchinson replied County Fire, or whoever the County fire department is.

City of San Juan Bautista Councilmember Andy Moore stated that he was a reserve fire fighter. He indicated that the volunteer reserves met the minimum standards. He spoke of past incidents between San Juan and Cal Fire and commented that the way Cal Fire treats the volunteers hurts the men and women of the department. He reiterated that they meet minimum standards and have asked what training they need. He added that they were willing to help the County.

Marvin Jones explained that when they were in the off season, and there was a structure fire in South San Benito County, it is the county's responsibility. He added that Cal Fire would respond if it gets out of hand and becomes a brush fire.

Mike Martin, retired Cal Fire region chief, stated that many plans had been put before the Board in past years and nothing had been done. He felt the County needed to provide a good level of protection for the citizens of the county. He asked the Board not to lower the level of service and if they went with the City of Hollister, get a guaranteed level of service.

Jack Clark, retired Cal Fire, felt they needed to find out what state and county responsibility is. He suggested input from South County residents and the City of Hollister and come up with a plan. He indicated that they pay for a South

County deputy but hardly ever see him. He commented that there was a lot to be discussed and they needed to do it right.

Chairman De La Cruz closed public comment.

Supervisor Botelho stated that nothing had changed with Cal Fire since before. He noted that he was pleased with San Juan Bautista's level of service and was confident in their training. He added that they will stay in place as long as he was on the Board. He felt that Cal Fire should work with San Juan Bautista volunteers on a professional level. He felt that the City of Hollister may be able to provide the same level of service. Supervisor Botelho further felt that they needed to coordinate all agencies and make sure they're confident working together.

Supervisor Barrios suggested directing the CAO to continue with the analysis and give a comparison so the Board could make a decision. She added that they were just as responsible for this not moving forward as anyone.

Supervisor Rivas reiterated that he would like to see a comprehensive analysis done. He indicated that he would also like to involve the newly created Fire Protection Service Committee and Intergovernmental Committee along with the City of Hollister and the City of San Juan Bautista.

Supervisor Muenzer stated that he did not want to see this at staff level only and wanted Board members involved.

Chairman De La Cruz directed the matter to the Fire Protection Service Committee. *File #60*

#### **CLERK, AUDITOR & RECORDER – J. P. Gonzalez:**

- 11) **Receive presentation on the Other Post Employment Benefits (OPEB) Bi-annual actuarial valuation dated April 2011; give direction to staff.**

Clerk Auditor Recorder Joe Paul Gonzalez gave a PowerPoint presentation and staff report.

Discussion ensued between Board members and staff.

**BOARD ACTION:** *Upon motion duly made by Supervisor Botelho and seconded by Supervisor Rivas, **received** the presentation and **directed** the County Auditor to select the 7.1% asset allocation strategy. (Unanimous) *File #608**

#### **COMMUNITY SERVICES & WORKFORCE DEVELOPMENT – E. Arreola:**

- 12) **Adopt Resolution approving the amendment of the Community Action Board (CAB) Bylaws designating the Community Action Board (CAB) as the San Benito County Home Investment Partnerships Program (HOME) Loan Committee.**

**BOARD ACTION:** *Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **continued** the matter to February 21, 2012. (Unanimous) *File #939**

#### **PLANNING DEPARTMENT – G. Armstrong:**

- 13) **Continuation of appeal hearing of denial of Agricultural exemption for structure located at 7800 Lake Road (Cantini Trust/Chambers); approve settlement agreement and grant Applicant's Appeal.**

Planning Director Gary Armstrong gave a staff report.

Supervisor Muenzer stated that he had received phone calls from those having had to pay fees in the past. He asked, if granted, that it could not be used for public use.



Mr. Armstrong replied that various riders will be riding under the structure and there was not a restrictive use of the structure.

Supervisor Muenzer stated that an agriculturally exempt structure is to only have the owner in the structure.

County Counsel Matt Granger stated that the current ordinance did not address that and currently that was not a requirement. He added that activities there are said to be ancillary to agriculture.

Mr. Armstrong reported that a draft ordinance was going to the Planning Commission the next evening.

Supervisor Rivas expressed that he could not support the building being exempt and that it was bad public policy. He stated that we have local laws for a reason and they should be followed. He indicated that he was 100% against this special deal for Mr. Chambers and the developer. Supervisor Rivas added that it sends the wrong message that they cut special deals with developers rather than worry about workers. He noted that County employees were taking cuts, furloughs, etc. He felt Mr. Chambers disregard for the law was shocking and the individual was being rewarded for bad behavior. He commented that if any supervisor voted for this they should call every single worker and explain why it was passed.

Supervisor Barrios stated that it was not a special deal and they had discussed what happened after closed session. She felt Supervisor Rivas was not comparing apples to apples.

Dave Swiegert, attorney for Wendell Chambers, felt it was a reasonable solution.

Chairman De La Cruz closed public comment.

**BOARD ACTION:** *Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho, **approved** the Settlement Agreement, **granted** the applicant's appeal and **found** that the structure is Ag Exempt, which finding is expressly contingent upon applicant's compliance with the terms and conditions of the Settlement Agreement. The motion passed 3 to 2 with Supervisors De La Cruz and Rivas voting no. File #790*

#### **SUPERIOR COURT OF SAN BENITO COUNTY – G. Solorio:**

- 14) **Approve Memorandum of Understanding that authorizes the transfer of \$182,100 from the local courthouse construction fund to the Administrative Office of the Courts and the Superior Court for use in funding a security project at the new courthouse.**

Court Executive Officer Gil Solorio gave a staff report.

There was no public comment.

**BOARD ACTION:** *Upon motion duly made by Supervisor Rivas and seconded by Supervisor Botelho, approve the Memorandum of Understanding authorizing the transfer of \$182,000 from the local courthouse construction fund to the Administrative Office of the Courts and the Superior Court for use in funding a security project at the new courthouse. (Unanimous) File #595*

#### **CLOSED SESSION:**

- 15) Public Employee Performance Evaluation  
Government Code section: 54957  
Title: County Administrative Officer

*Chairman De La Cruz stated that they would be continuing the closed session matter to the February 7, 2012 meeting.*

The Board adjourned into Closed Session at 12:18 p.m. and reconvened into regular session at 12:45 p.m.

- 16) Conference with Legal Counsel – Anticipated Litigation  
Significant Exposure to Litigation pursuant to Government Code Section 54956.9  
(b) (2) & (3) (A) Number of cases: 1  
*No reportable action was taken. File #235.6*

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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: De La Cruz, Botelho, Rivas, Muenzer, Barrios  
NOES: SUPERVISORS: None  
ABSENT: SUPERVISORS: None

There being no further business, the Board adjourned at 12:46 p.m. to February 7, 2012 at 9:00 a.m.

**ATTEST:**  
Denise R. Thome, Clerk of the Board

**JAIME DE LA CRUZ, CHAIRMAN**  
San Benito County Board of Supervisors