



SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios
District No. 1

Anthony Botelho
District No. 2
Vice-Chair

Robert Rivas
District No. 3

Jerry Muenzer
District No. 4

Jaime De La Cruz
District No. 5
Chair

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

SPECIAL MEETING JUNE 27, 2012 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in *special session*. Supervisors Botelho, Rivas, Muenzer and De La Cruz were present. Supervisor Barrios was absent. Also present was Management Analyst Margie Riopel filling in for County Administrative Officer, County Counsel Matt Granger, and Clerk of the Board Denise Thome. Chairman De La Cruz presided.

9:00 a.m. CALL TO ORDER:

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

Chairman De La Cruz announced that Supervisor Barrios was in Sacramento lobbying for ERAF funds.

Supervisor Botelho asked for a moment of silence in honor of Bruce Woolpert who passed away the previous week.

CONSENT AGENDA:

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor Muenzer, **approved** Consent Agenda with the exception of items three and four which were pulled for discussion. (Motion passed 4-0-1)*

ADMINISTRATION OFFICE – R. Inman:

- 1) **Approved** Year End Budget Clean-up for the following departments: Dept. of Child Support Services, Public Health and Non-Dept. Expenses. (4/5 vote) **File #865**

CLERK/AUDITOR/RECORDER – J. P. Gonzalez:

- 2) **Approved** acceptance of \$20,000 grant from the Secretary of State for the HAVA Polling Place Accessibility Training Program to improve voter equality of opportunity and access; and **authorized** the County Clerk, Auditor, Recorder, Registrar the authority to sign Vote Grant Program contract agreement. **File #285**

INTERNAL SERVICES DEPARTMENT – M. Riopel:

- 3) **Approve the maintenance agreement with Megabyte Systems Inc. for the Megabyte Property Tax System at a cost not to exceed \$123,341 with a term from July 1, 2012 through June 30, 2013.**

Item pulled for discussion.

Management Analyst Margie Riopel gave a staff report noting that the maintenance agreement had gone up quite a bit this year.

Supervisor Botelho noted that other counties were having the same problem and asked if there was a way to defer some of the costs over a period of time.

Ms. Riopel stated that it was the yearly maintenance and there was no way to split it over the years.

Supervisor Botelho asked about Information Technology (IT) doing it.

Ms. Riopel stated that IT was unable to do the work especially with the cuts in their department.

Supervisor Botelho asked if there were any competitors.

Ms. Riopel replied no and explained that it was a system they purchased in 2007 for the property tax system. She added that there are about thirty other counties with them. She noted that the RFP went out in 2007 and the other systems were more expensive.

Chairman De La Cruz opened public comment.

Marty Richman spoke under public comment stating that it was typical of proprietary software, public or private. He suggested they get together with the other 30 counties and negotiate together.

Chairman De La Cruz closed public comment.

Supervisor Botelho felt the speaker made a good point and indicated that he would speak with Regional Council of Rural Counties (RCRC).

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Muenzer, **approved** the maintenance agreement with Megabyte Systems Inc. for the Megabyte Property Tax System at a cost not to exceed \$123,341 with a term from July 1, 2012 through June 30, 2013. (Motion passed 4-0-1) File #119.2*

PLANNING DEPARTMENT – G. Armstrong:

- 4) **Rescind layoff notice issued to Building Inspector II (50%).**

Supervisor Botelho explained that he pulled the item because they rescinded public safety layoffs and now they were rescinding this one. He hoped that thought was given to having this person assist in code enforcement as well to help pay for the position.

Planning Department Director Gary Armstrong stated that the position already assists in code enforcement as back up. He added that Human Resources had determined that they could not do this particular layoff and four of his other employees would be going to 80% to meet the change.

Supervisor Botelho stated that the only way he could support it was if they had some kind of offset. He added that during budget hearings he would be asking how this position was earning revenue through code enforcement.

There was no public comment.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Muenzer, **rescinded** the layoff notice issued to the Building Inspector II (50%). (Motion passed 4-0-1) File #790*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 5) ***Approved*** Budget Adjustment to the County Service Area Internal Service Fund in the amount of \$14,133. (4/5 vote)

REGULAR AGENDA:

HUMAN RESOURCES – J. Credico:

- 6) **Approve Side Letter of Agreement between San Benito County and the Management Employees' Group; and adopt resolution regarding Employer Paid Member Contributions.**

Management Analyst Jacki Credico gave a staff report noting that MEG agreed to 15 furlough days, a moratorium on step advances and pay 4% of their PERS effective August 5, 2012. She added that there was no agreement on vacation caps and that would be continued to the fall when their contract expires on September 30, 2012. She stated that the resolution is a requirement of CalPERS.

Supervisor Rivas asked what the total savings with MEG was.

Ms. Credico stated that she had calculated a savings of \$235,000 but that MEG president Nadine DaRoza had a different figure.

Supervisor Rivas noted that employees still accrued sick and vacation while on furlough and that had to be addressed if they wanted to change it.

Chairman De La Cruz asked about the two different savings amounts.

Ms. DaRoza stated that she had worked with the budget analyst the previous day and came up with the \$196,000 general fund savings amount. She added that they did not have all the information before.

Chairman De La Cruz requested a spread sheet with all concessions and the dollar amounts as they needed to know which group has given what. He indicated that they needed the information from the budget analyst ASAP.

Ms. DaRoza stated that non-general fund employees had given \$181,000 in concessions.

Chairman De La Cruz indicated that was wonderful but the problem was that they did not have a crisis in the non-general fund and they did have a crisis in the general fund.

Supervisor Muenzer expressed appreciation to MEG for stepping up to the table and hoped when doing the new MOU vacation caps would be addressed.

Ms. DaRoza indicated that they would be coming back with options as they realized the liability of vacation.

Chairman De La Cruz made a general statement to entire department of the County and a plea to his fellow supervisors whatever method, terminology or system that they were going to create on vacation, they needed to be consistent and make it very simple. I want a very simple plan that the public can understand. He opened the matter up for public comment.

Deputy District Attorney III Patrick Palacios stated that he was not as happy with non-general funds as the Board was. He read his letter that he sent to MEG on behalf of himself, Karen Forcum and Peter Leroy-Munoz. He indicated that, in a nutshell, they found it unfair to allow a majority of non-general fund employees of a group to decide upon those who are affected. He added that with furlough they may be entitled to overtime and warned that they should all be aware and that they would be opening themselves up to overtime pay.

Hollister resident Marty Richman stated that on behalf of the San Benito County residents they appreciated any employee who gives up anything. He spoke of Stockton filing Chapter 9 because the income isn't there. He added that the State of California is broke because the single biggest revenue is personal income tax and our unemployment rate is the 2nd highest in the nation after Nevada.

There being no further public comment, the Chairman closed public comment.

Supervisor Botelho stated that if there was a discrepancy between MEG that was for MEG to figure out. He added that the reason they had exempt groups was that the money came from a different pot. He stated it was their job to provide services. He expressed disappointment in MEG as there should be caps with vacation and done now. He added that there should be one policy county wide. He indicated that he was not happy with furloughs and they needed to come up with another way to save money. He stated that there will be more negotiations when this contract expires but in the meanwhile they would have to balance the budget and it may cost jobs. He expressed that he wanted to know from staff the cost of vacations. He further stated that if you're off from furlough you should not accrue time.

Supervisor Muenzer asked if MEG was a recognized bargaining group.

County Counsel Matt Granger answered that they were an association and not a union and they do recognize them as an association that the County has historically negotiated with.

Supervisor Muenzer asked if all members were subject to vote on the contract.

County Counsel Granger replied presumably. He advised that the County should not be involved in telling the association members how to vote or resolve any internal disputes within their association.

Supervisor Muenzer stated that he felt like he was being threatened by one of their members. He stated that if they voted as a group and the County recognizes them as a bargaining group, then all the members would be subject to the way the vote went.

County Counsel Granger stated that he thought that was a logical conclusion.

Supervisor Muenzer said thank you and that was all he needed to hear.

Patrick Palacios asked to respond.

Chairman De La Cruz replied that the public comment section had been closed.

Supervisor Rivas stated that there were some interesting points brought up by the previous speaker, especially in regards to overtime. He asked County Counsel if they could get some clarification by the next meeting.

County Counsel Granger stated that the question had been looked at repeatedly especially when furloughs were first introduced and it was going on the 4th or 5th year of being introduced state wide amongst numerous cities and counties. He spoke of the question of furloughs on exempt employees and indicated that the consensus was, amongst cities and counties, as long as furloughs were true furloughs and the employees were forced to take the time off, not "I'm out on furlough but I'm going to go ahead and come in and work", that the overtime provisions did not apply. He referred to a memo issued by Liebert and Cassidy, one of the top employment law firms in the state, in which that was

their conclusion. He added that as furloughs go on and on and on, some of the issues may be tested in court, but it was his understanding that exempt employees who are subject to furlough and are actually forced to take the furlough days off are not entitled to overtime.

Chairman De La Cruz asked in regards to MEG, what level of authority does the County have on an ex-employee who is aligned with the MEG group that disagrees with the MEG group position if the County had authority to implement directly to the ex-employee.

Management Analyst Jacki Credico did not believe they did and that she would have to look into that as an individual. She stated that the MEG group was not a union shop and was not an agency shop but was a recognized bargaining group by our county and were not subject to the Meyers Milias Brown Act.

Chairman De La Cruz asked since they were recognized by the County as a bargaining group, do they have inherent, expressed or oral rights.

Ms. Credico replied, by past practice, yes.

Chairman De La Cruz asked County Counsel if it were to go to court, given past practice of recognizing them as a bargaining unit, would that hold up in court under reasonable terms.

County Counsel Granger stated that he believed so. He did not think the County could just wake up the next day and say that MEG is just a bargaining group and association and not a union, so we're not going to deal with them anymore and we're just going to impose whatever we want on them. He believed MEG would take them to court and win.

Ms. Credico stated that there were alternatives for furlough which were straight pay decreases or layoffs. She noted that would be pay decreases with no exchange for extra days off.

Supervisor Rivas stated that in moving forward they needed to do away with furloughs and do straight pay decreases. He felt that would take care of the inequitable situation with general fund and non-general fund employees.

Chairman De La Cruz asked why certain departments such as Behavioral Health, Child Support, COG, Integrated Waste, First Five were not joining in the bleeding this time around.

Ms. Credico said the agreement was to exclude sub vented departments because it didn't affect the general fund.

Chairman De La Cruz indicated that the State was cutting back their departments and commented that they would get there when the State came back with their numbers.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Muenzer, **approved** the side letter of agreement with the Management Employees' Group and **adopted Resolution No. 2012-34** regarding employer paid member contributions. (The motion passed 4-0-1) File #630*

HUMAN RESOURCES – J. Credico:

7) Approve Side Letter of Agreement between San Benito County and the Law Enforcement Managers effective July 1, 2012.

Management Analyst Jacki Credico gave a staff report noting that it was a small group and they had agreed to an additional 2.2% PERS contribution effective July 1, 2012, 5 days of furloughs and giving up half of their administrative leave and vacation accrual of two times the annual limit.

Supervisor Rivas indicated that the AIT stated annual cost of \$11,650 and asked if it was to be interpreted as \$11,650 in savings.

Ms. Credico replied yes.

Supervisor Botelho noted that it was a total of 6% savings and the Board was looking for a total of 10%.

Ms. Credico stated that she didn't add the deletion of a future 5% cost of living allowance (COLA) coming in 2013. She stated that she needed to clarify that because she believed they had a COLA coming before the end of their contract and she thought they either agreed to extend it or possibly delete it.

Supervisor Botelho stated that made a difference to him whether it was 10% or 11% rather than just 6%. He appreciated that there was an agreed upon cap on vacation and hoped that was consistent with the other caps that were in place.

Ms. Credico stated that it would mirror what was implemented with the unrepresented.

Supervisor Botelho asked if they could provide confirmation of percentage before approving.

Ms. Credico replied yes and that she would need a few minutes.

The Board adjourned into a break at 9:47 a.m. and reconvened into special session at 9:52 a.m.

Ms. Credico stated that a proposal to have the COLA deleted was not agreed upon by LEM and that it would be a 6% total savings with a COLA increase of 5% in September of 2013.

Supervisor Botelho stated that it was 6% but at the end of the contract we would give back 5%, so it was just 1%.

Ms. Credico stated yes, but they would recognize 6% savings this year.

Supervisor Botelho did not see how they came out ahead on this one.

Ms. Credico stated that it was not as much as the other groups but it was 6% we wouldn't have.

Supervisor Botelho stated that if he had the ability he would void every single contract and make them all the same expiration date, same negotiation implementation date and everybody get the same thing. He did not feel it was fair that one group gets one thing and then they're all pointing their fingers and saying you gave it to them, they received a COLA. He concurred with the Chairman's previous statement of needing policy to be straightforward and consistent. He felt that the other groups had come in with reductions and this agreement for 6% with a 5% increase next year was a sweetheart deal which he felt he could not support. He felt that they needed to look at what other groups were putting on the table and at the bare minimum had to waive that COLA for 2013, otherwise they would have to come up with that money next year.

Ms. Credico stated that she understood and noted that it was law enforcement and in the past they had mirrored the type of COLAs the Deputy Sheriffs Association (DSA) had received. She added that SEIU and MEG took their COLAs last October.

Supervisor Botelho recalled that they agreed to the 1% with MEG to close out the negotiations and then SEIU turned around and rammed that down our throats and ended up costing the County a lot of money. He stated that they should never have agreed to that with MEG and he had learned something from

that experience. He stated that they were not just talking 2012/13 but the parameter was for the next four or five years. He stated that he was not happy with it and it was not enough. He felt the group needed to understand they needed real savings to the tune of 10% to 12% and that was the message he wanted to send to MEG and SEIU and everyone in the county as he wanted to be fair and consistent.

Chairman De La Cruz felt they were doing a little at a time and not really solving the big picture. He added that they needed to put every single union in the same calendar year. He understood the benefits of spreading it out as he has heard from Ms. Credico and former CAO Susan Thompson and current CAO Rich Inman, but they were professionals and should be able to handle these types of negotiations in a single year. He commented that taxpayers being held hostage to time considerations was not fair. He stated that the Board needed to decide what they wanted to protect, adding that every day after July 1 without a balanced budget is more of a cut towards the end of the year. He stated that each of them had to decide what their pet project was and that was acceptable. He noted that people would not like them when they made those decisions, but that was acceptable.

Chairman De La Cruz opened up public comment.

Hollister resident Marty Richman disagreed with them and believed they had to look at not only what people were giving up but from where they start. He felt one of their major goals would be to get employees to pay for their share of PERS.

Chairman De La Cruz closed public comment.

Supervisor Botelho agreed that a full 9% PERS payment was a big deal but the report stated 2.2% savings and asked staff to explain.

Ms. Credico indicated that in the last contract they had ratcheted up to paying 6.8% and they had agreed to the increase of 2.2%.

Supervisor Botelho asked if it was a possibility of having provided a higher base salary and set the range higher to offset them paying more of their PERS.

Ms. Credico stated that was exactly what happened.

Supervisor Botelho stated that was exactly why he felt they needed to waive the COLA otherwise they were back to where they started. He added that he still wanted to send the message that they wanted at least 10% in concessions and they were not getting that from this group.

Supervisor Rivas made a motion to approve the side letter of agreement with the Law Enforcement Managers (LEM) effective July 1, 2012. Supervisor De La Cruz seconded the motion. (The motion failed 2-2-1 with Supervisors Muenzer and Botelho voting no and Supervisor Barrios absent).

Supervisor Botelho made a motion to direct staff to go back to the LEM group to negotiate further cost savings measures to be brought back to the full Board of Supervisors at the next meeting. Supervisor Muenzer seconded the motion. (The motion failed 2-2-1 with Supervisors Rivas and De La Cruz voting no and Supervisor Barrios absent).

Ms. Credico stated that she would have to come back with a resolution rescinding the extra 2.2% to Cal PERS because she brought that forward in a resolution about a month ago, so they would not be realizing the savings on July 1.

Chairman De La Cruz called for a special meeting on Friday, June 29, 2012 at 9:00 a.m. for the one item regarding LEM.

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

There being no further business the Board adjourned to June 29, 2012 at 9:00 a.m.

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

ATTEST:
Denise R. Thome, Clerk of the Board