



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

REGULAR MEETING SEPTEMBER 25, 2012 ACTION MINUTES

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

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.*
- c) **PRESENTATIONS AND RECOGNITIONS:**
*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Barrios, **approved** proclamation declaring October 1-14, 2012 as Bi-National Health Week in San Benito County. (Unanimous) File #430*
Supervisor Barrios presented the proclamation to the San Benito Health Foundation and the San Benito County Behavioral Health Department.
- d) **Public Comment:** There was no public comment.
- e) **Department Head Announcements:** County Administrative Officer Rich Inman spoke of the pension matters that the Governor was signing and what changes that would represent.
Public Works Administrator Steve Wittry announced that they would be doing road work on Fairview Road between Hillcrest and Fallon Roads and there would be delays. He asked the public to take alternate routes and to watch out for the workers.
- f) **Board Announcements, Introductions and Presentations:** Supervisor Muenzer reported on the Monterey Bay Unified Air Pollution Control District (MBUAPCD) meeting he attended.
Supervisor Botelho spoke in regards to the ad hoc budget and felt they needed to have the full participation of the Board. He added that he felt they would not get any relief with the budget until 2013 or 2014 and any ideas to meet

the deficit was on the table. He noted that S.E.I.U. continued to not come to the table and they were creating a hardship which was unacceptable.

County Administrative Officer Rich Inman recommended a Board retreat dedicated solely to budget and that it could be put on the agenda to discuss.

Supervisor Barrios reported on the Regional Council of Rural Counties (RCRC) meeting she attended that Supervisor Botelho couldn't make.

CONSENT AGENDA:

*Upon motion made by Supervisor Muenzer and seconded by Supervisor Rivas, **approved** Consent Agenda items with the exception of item 7 which was pulled for discussion. (Unanimous)*

BOARD OF SUPERVISORS:

- 1) **Approved** contract with Jovenes de Antano for the period of October 1, 2012 through June 30, 2013, in the amount of \$35,706. *File #119*

CLERK OF THE BOARD – D. Thome:

- 2) **Approved** the action minutes of the July 23, 24, 25, 26 and 27, 2012 budget hearings and September 6, 2012 special meeting.

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

- 3) **Approved** the contract Amendment & Extension for the two Professional Services contracts with Janet Norris, CPA for an additional 31 days. *File #608*

COUNTY ADMINISTRATION OFFICE – M Riopel:

- 4) **Approved** Communications Agreement to provide 911 services for the EMS Agency with a term to begin retroactively from July 1, 2012 through June 30, 2017 at an annual cost to the EMS Agency of \$80,867 and a CPI adjustment in subsequent years. *File #116*

COUNTY ADMINISTRATION OFFICE – M. Riopel:

- 5) **Approved** Communications Agreement to provide services to the City of San Juan Bautista with a term to begin retroactively from July 1, 2012 through June 30, 2017 at an annual cost to the City of San Juan Bautista of \$50,470 and a CPI adjustment in subsequent years. *File #116*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 6) **Approved** temporary Registered Environmental Health Specialist to participate in the 24/7 on-call rotation without counting the stand-by time as worked hours. *File #130*

HUMAN RESOURCES – J. Credico:

- 7) **Approve Class Specifications for Public Authority Employment Coordinator and set salary at range 16.9; add 1.0 FTE Public Authority Employment Coordinator to the schedule of authorized positions for the Public Authority budget for FY 2012/2013; and delete 1.0 FTE Office Assistant II from the schedule of authorized positions for Public Authority budget effective no later than January 1, 2013.**

This item was pulled for discussion.

Management Analyst Jacki Credico gave a staff report.

Supervisor Botelho asked what the fiscal ramifications were. Management Analyst Credico replied that it was addressed in the next item. She noted that the layoff that was occurring was of the employee with the institution of knowledge.

Gifford Swanson, former Public Authority Coordinator, stated that the matter should have been done three to four months ago. He explained that he had spent six months training his assistant to take his place upon his retirement. He added that a huge number of their clientele speak Spanish. He stated that when she was gone there would be no custodian of records and went on to explain the process with the Department of Justice to become a custodian of records.

Supervisor Botelho asked the Health and Human Services Agency Director to address the concerns.

Interim HHS Director Maria Corona stated that they had a certified custodian of records at HHS. She added that they had someone cross training with the person to be laid off. She indicated that they were working on getting Enrique Arreola certified as a custodian of records.

Supervisor Botelho asked if they were getting background checks for the program or not.

Interim Director Corona replied yes.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **approved** Class Specifications for Public Authority Employment Coordinator and set salary at range 16.9; **added** 1.0 FTE Public Authority Employment Coordinator to the schedule of authorized positions for the Public Authority budget for FY 2012/2013; and **deleted** 1.0 FTE Office Assistant II from the schedule of authorized positions for Public Authority budget effective no later than January 1, 2013. (Unanimous) File #630*

HUMAN RESOURCES – J. Credico:

- 8) **Approved** Class Specification for Property Tax and Special Accounting Analyst and set salary range at 23.6 (\$55,752-\$71,172 annually). *File #630*

SITTING AS THE PUBLIC AUTHORITY FOR IN- HOME SUPPORTIVE SERVICES:

The Board adjourned as the Board of Supervisors and reconvened as the IHSS Public Authority re:

HUMAN RESOURCES – J. Credico:

- 9) **Approve Reorganization in the Public Authority Office and approve budget augmentation related to reorganization. (4/5 vote)**

Management Analyst Jacki Credico gave a staff report.

Gifford Swanson, former Public Authority Coordinator, explained that the Public Authority has a contract with San Benito County. He added that the Executive Director of Health and Human Services Agency is a liaison by resolution and that Public Authority employees cannot be County employees. He stated that to get around it, they contract with the County. He expressed concern if Vicki Fernquist of HHS filling in as custodian of records, would have time to do it. He didn't know if she could legally do it because she was not a Public Authority employee.

Supervisor Barrios asked if there would be any savings.

Administrative Services Manager Nadine Da Roza stated that they would be adding \$13,000 to cover the position and would be using realignment money.

Supervisor Barrios indicated that it would not be a reflection of savings and they would be covering additional expenditure from realignment funds.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **approved** the reorganization in the Public Authority Office and **approved** the budget augmentation related to reorganization. (Unanimous) File #160*

The Board adjourned as the IHSS Public Authority and reconvened as the Board of Supervisors re:

PUBLIC HEARINGS – 9:00 A.M. (Or as soon thereafter as the matter may be heard)

COUNTY COUNSEL – M. Granger:

- 10) **Hold a public hearing to adopt an ordinance adopting a fee schedule pertaining to property tax assessment appeals; review and consider the proposed fee schedule, supportive fee study, and the proposed Notice of Exemption pursuant to CEQA sections and CEQA guidelines; adopt Notice of Exemption; adopt Ordinance adopting a Property Tax Assessment Appeal Fee Schedule, to add a new fee for filing an application for changes assessment and to increase an existing fee for preparation of written findings of fact. (Ord. No.906)**

Deputy County Counsel Shirley Murphy gave a staff report. She noted that the ordinance had two typos to be corrected and listed the typos.

The Chair opened the public hearing.

There being no public comment, the Chair closed the public hearing.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Barrios, **reviewed** and **considered** the proposed fee schedule, supportive fee study and the proposed Notice of Exemption pursuant to CEQA sections and CEQA guidelines, **adopted** the Notice of Exemption, **adopted Ordinance No. 906**, with corrections, **adopting** a Property Tax Assessment Appeal Fee Schedule, to add a new fee for filing an application for changes assessment and to increase an existing fee for preparation of written findings of fact. (Unanimous) File #160*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 11) **Hold a public hearing for refund of County Service Area Fees in the amount of approximately \$32,593 – (CSA #33-Torrano Estates).**

County Service Area (CSA) Coordinator Lynette Redman gave a staff report.

Supervisor Barrios asked if it had to go through the 218 process before being dissolved.

CSA Coordinator Redman stated that it was her understanding that the CSA can be inactivated without the 218 process.

Deputy County Counsel Barbara Thompson gave a report.

The Chair opened the public hearing. There being no public comment, the Chair closed the public hearing.

CSA Coordinator Redman reported that she received an e-mail the previous night from a property owner requesting a continuance.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **continued** the public hearing for the refund of County Service Area Fees in the amount of approximately \$32,593.00 (CSA #33-Torrano Estates) to October 16, 2012 at 9:00 a.m. (Unanimous) File CSA #33*

REGULAR AGENDA:

BOARD OF SUPERVISORS:

- 12) **Approve letter to the U.S. Fish & Wildlife Service regarding the proposed California Foothill Legacy Area Program; and adopt Resolution asserting legal standing and requesting coordination with all Federal and State agencies maintaining jurisdiction over lands and/or resources within the County.**

Assistant County Counsel Barbara Thompson gave a staff report.

The Chair opened the matter for public comment.

Chief of Refuge Planning for the U.S. Fish & Wildlife Service Mark Pelz explained the program and requested that the Board not take any action that day and give them a chance to finish the draft plan to look at.

San Benito Resource Conservation District (RCD) Director Michael Halperin felt that perhaps they should have gotten some input from the RCD. He wondered if it would alienate Fish & Wildlife if they told them they didn't want them in our county and thought that it probably would. He expressed concern with the county getting involved in conservation easements.

RCD Board Member Lara Pangburn stated that the RCD was for the Legacy program and the minority was against it because they didn't understand it. She noted that it was an individual process. She felt it was inappropriate that the RCD was not consulted.

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

Supervisor Muenzer felt it was in the scope of their issues and it could affect the tax base. He further questioned how it would affect their ability to zone their land. He expressed concern with the program and the many unknowns. He added that once you give them your rights, they have them forever and not just 10 years.

Supervisor Rivas indicated that he was not opposed to the program, noting that it was voluntary but they just needed to know all the impacts. He noted impacts to our local revenues and the tax base.

Supervisor Botelho stated that red flags go up whenever you give up control to the State or Federal government. He noted that folks there wanted fire and police protection, but as they devalue the land, it makes it difficult.

Supervisor Barrios stated that her only regret was that they didn't include RCD noting that they could revisit the matter in the future.

Assistant County Counsel Thompson stated that she would insert the resolution number in the letter. She added that if Fish & Game were going to revisit the matter, they would ask Mr. Pelz about reimbursement.

*Upon motion made by Supervisor Muenzer and seconded by Supervisor Barrios, **approved** letter to the U.S. Fish & Wildlife Service regarding the proposed California Foothill Legacy Area Program; and **adopted Resolution No. 2012-59** asserting legal standing and requesting coordination with all Federal and State agencies maintaining jurisdiction over lands and/or resources within the County. (Unanimous) File #156*

COUNTY ADMINISTRATION OFFICE – M. Riopel:

- 13) **Approve Auto Aid Agreement between the County of San Benito and the City of San Juan Bautista to provide fire service and emergency response**

in the unincorporated areas; and approve the Operational Plan for Auto Aid Response.

Management Analyst Margie Riopel gave a staff report.

Supervisor Botelho thanked the City of San Juan Bautista for their willingness to lend a helping hand. He further thanked Cal Fire for working to improve communications level and also thanked staff.

Supervisor Muenzer thanked staff. He hoped it was the first step in creating a county-wide fire plan.

Supervisor Barrios thanked the ad hoc fire committee.

The Chair opened the matter up for public comment.

There being no public comment, the Chair closed the public comment section.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Muenzer, **approved** Auto Aid Agreement between the County of San Benito and the City of San Juan Bautista to provide fire service and emergency response in the unincorporated areas; and **approved** the Operational Plan for Auto Aid Response. (Unanimous) File #60*

COUNTY ADMINISTRATION OFFICE – M. Riopel:

- 14) **Approve contract between County of San Benito and the City of San Juan Bautista for fire service and emergency response in the unincorporated areas as designated, with a term to begin retroactively from July 1, 2012 through June 30, 2013 at a cost of \$10,000 and includes a fire engine and maintenance and insurance as specified.**

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Muenzer **approved** contract between County of San Benito and the City of San Juan Bautista for fire service and emergency response in the unincorporated areas as designated, with a term to begin retroactively from July 1, 2012 through June 30, 2013 at a cost of \$10,000 and includes a fire engine and maintenance and insurance as specified. (Unanimous) File #60*

COUNTY ADMINISTRATION OFFICE – M. Riopel:

- 15) **Receive staff report regarding the status of the FY 2012/2013 CalFire budget.**

Management Analyst Margie Riopel gave a staff report noting that the State had agreed to extend the contract 1 year when it was usually for 3 years. She explained that the total for the contract including schedules A and C was \$1,069,763 and the budget was set not to exceed \$1,047,000. She added that they had not made a change to the budget because history has shown that Cal Fire always comes in at less and she believed they would meet the budget. She thanked Gary Armstrong for looking into the fire protection position and how costs would be passed on to the developer at no cost to the County. Ms. Riopel indicated that she intended to bring back the contract when she had it in hand.

Supervisor Muenzer stated that it was not an ideal contract but was the only one they could do with the budget amount they had. He thanked Margie Riopel and Cal Fire.

Further discussion ensued between Board members and staff.

There was no public comment. *File #60*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 16) **Introduce an ordinance adding Chapter 11.12 (“Standards for Body Art and Piercing”) to Title 11 of the San Benito County Code; waive the reading of said ordinance and continue to October 2, 2012 for adoption of said ordinance.**

Health and Human Services Agency Interim Director Maria Corona gave a staff report.

Discussion ensued between Board members and staff.

There was no public comment.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **introduced** an ordinance adding Chapter 11.12 (“Standards for Body Art and Piercing”) to Title 11 of the San Benito County Code; **waived** the reading of said ordinance and **continued** to October 2, 2012 for adoption of said ordinance. (Unanimous) File #130*

HUMAN RESOURCES – J. Credico:

- 17) **Consider options regarding two employees’ excess vacation hours after budget reductions.**

Management Analyst Jacki Credico gave a staff report and that they were providing 3 options for the Board to choose from.

Discussion ensued between Board members and staff.

There was no public comment.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Botelho, **directed** staff to utilize Option 2 with some kind of dollar cap to the frozen bank amount at present dollar amount for a permanent amount. (Unanimous) File #630*

PLANNING DEPARTMENT – G. Armstrong:

- 18) **Further discussion regarding Level of Service C vs. D for purposes of the General Plan and direct staff accordingly.**

Chairman De La Cruz explained that one of the supervisors had asked him to reconsider the matter and he had found another supervisor that agreed. Chairman De La Cruz explained that the Board needed to find a simple majority to reconsider the matter. He noted that Supervisor Rivas had contacted him. He continued to poll Board members as to whether they wanted to reconsider the matter.

Supervisor Rivas replied yes

Supervisor Botelho replied yes.

Supervisor Muenzer explained that he had given it a lot of thought and spoke of talk that the community needed to grow. He did not think developer was a bad word. He indicated that if the developer met their needs, then they should throw out the welcome mat. He added that if they did not meet their needs, the project could take a very long time. Supervisor Muenzer stated that they made a decision at the last meeting and they needed to live by it. He replied no on the matter of reconsideration.

Supervisor Barrios commented well said. She indicated that the majority had already voted and her reply was no.

Supervisor De La Cruz replied no.

Supervisor Rivas wanted the record to state that he was encouraging the right thing for the County and asked for his 5 minutes to speak as Supervisor Muenzer was allowed.

Supervisor Botelho expressed dissatisfaction. He noted that they had all afternoon for the future of the County and all supervisors should have the opportunity to speak. He commented that it was not the chair's role to censor.

Chair De La Cruz stated that the majority of the Board did not want to discuss.

Supervisor Botelho moved to open the discussion for all the Board to discuss.

Chair De La Cruz would not accept the motion and stated that he would allow time for the supervisors to speak.

Further discussion ensued between Board members and County Counsel Matt Granger.

The consensus of the Board was to allow the other supervisors to speak.

Supervisor Rivas explained that he had voted to reduce the level of service from C to D which was not an easy decision. He added that it did not sit well with him when he voted and that he struggled with the flexibility. He further explained that he had it re-agendized as it was a major decision and he sought out local residents' opinions. He added that what was in the best interest of the County was important to him. Supervisor Rivas stated that if they went with Supervisor Muenzer's recommendation to go with Option 1, policy would encourage a case by case system and would give the Board leverage. He felt it made sense to revisit as he did not feel the same way now as he voted before.

Supervisor Botelho stated that he did not disagree with anything Supervisor Muenzer said. He explained that he had a different comprehension today than at the September 11th meeting after talking to staff. He added that since he had been on the Board, he had worked diligently with the Planning Department to streamline and they had done that. He indicated that they had waived and deferred road improvements. Supervisor Botelho indicated that staff says it will only take \$2,500 to go from C to D, but he did not buy that. He noted that they were not adding trust to the process. He posed the question if supervisors were doing level D for one special interest or not and could they not achieve the same goal with level C. He noted that it would cost everyone in the county if they lowered it from C to D. Supervisor Botelho asked about those that had complied with level C and paid the impact fees. Was it just bad luck? A refund? *File #790*

PLANNING DEPARTMENT – G. Armstrong:

- 19) **Re-introduce an Ordinance amending Section 23.15.008 (Parkland Dedication); accept the new introduction, waive further reading of the revised ordinance and continue to October 2, 2012 for adoption.**

Planning Director Gary Armstrong gave a staff report.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor Barrios, **re-introduced** an Ordinance amending Section 23.15.008 (Parkland Dedication); **accepted** the new introduction, **waived** further reading of the revised ordinance and **continued** to October 2, 2012 for adoption. (Unanimous)
*File #790**

PLANNING DEPARTMENT – G. Armstrong:

- 20) **Discussion in regards to Oil and Gas well drilling and provide direction to staff.**

Supervisor Botelho indicated that oil and gas well drilling was previously done through use permits. He noted there was concern from Aromas and statewide regarding hydraulic fracking in San Benito County and that the process for oil and gas well permitting did not cover environmental effects for quality of life. He

suggested considering a partial moratorium on gas and oil permits until all is considered.

Assistant Planning Director Byron Turner gave a staff report and explained the permit process in place now. He detailed the complete process.

Discussion ensued between Board members and staff.

Supervisor Botelho stated that there would be no effect on existing oil wells and that new applications in the future may be delayed. He indicated that he did not want to do away with oil drilling because if it was done responsibly in appropriate areas, it was a good thing.

Supervisor Barrios did not know if she could support a moratorium adding that an application could be put on hold even if they were not doing any fracking. She felt that instead they should move quickly and forward.

Supervisor Rivas did not want oil drilled in San Benito County and felt like they were taking a step backward. He added that it was a significant issue and that environmental issues from hydraulic fracking had not been studied. He stated that there could be significant impacts to the ground water and air quality. Supervisor Rivas stated that if fracking goes bad, it hurts San Benito County agriculture. He indicated that he would do his best to protect public health safety and would support a moratorium, like Santa Barbara's policy. He felt they needed to make sure it was done correctly and safely.

Those speaking under public comment were:

Aromas Cares for the Environment volunteer Maureen Cain stated that she was in favor of the 180 day moratorium. She warned that fracking can also be termed as enhanced recovery methods and many communities were unprepared for enhanced recovery methods. She further spoke of environmental concerns. She presented a petition with over 500 signatures of those with concerns and proceeded to read a portion of the petition.

Robert Scoles spoke of unemployment and noted that there were not many jobs in the oil and gas field. He added that where there is enhanced recovery, there is evidence of problems.

Director of Public Affairs for the California Independent Petroleum Association Blair Knox stated that he represented 170 companies operating in California. He explained that it was a public process to look at each permit and they did not have the discretion to pre-empt state law. He felt they probably couldn't legally put a moratorium into place. He noted that hydraulic fracking had been in California since the 1950's. He added that he would like to be a part of any process they have. Mr. Knox answered Board members questions.

Seth Capron, Aromas resident, stated that he was in support of a 180 day moratorium and was looking for something to be put in an ordinance and not just acted on administratively. He added that federal law exempts fracking. He spoke of numerous enhanced recovery methods and a whole range of drilling efforts. He noted that even a plain oil well brings effects and that he would like to see an ordinance to address the disposal of water. He added that oil wells most always come as oil fields.

Jane Rekedal, Aromas resident, stated that oil well drilling was not always compatible and felt that they needed to take time to study the issue. She added that it was not a huge problem for the oil industry to wait 6 months and asked the Board not to be overly influenced by out of town oil. She asked them to look at the current ordinance and ask if it would protect their interest as a landowner if it were next to them and if not, put the brakes on.

Aromas Water District Director Wayne Norton stated that the district was concerned with the potential negative impact. He noted that their Board would be voting that night on a resolution asking the Board of Supervisors to update the permit process. He expressed surprise at the Planning Department's staff report which indicated that they have all the tools they needed. He posed the question "what if they are not adequate?" He stated that they were not asking them to ban oil drilling but instead to take prudent action to make sure the ordinance is current and has appropriate safeguards to protect the quality of life and environment.

San Juan Bautista resident Jim Leap stated that he was in agriculture and that agriculture was vital for our county. He felt it made perfect sense to upgrade the drilling ordinance and have a 180 day moratorium as that would be the only way for changes to be made. He read a letter from organic farmer Phil Foster which urged the Board to vote yes on a 180 day moratorium.

Arman Nahbedian stated that he was a 4th generation driller and that his process did not include fracking. He added that they had a conditional use permit in and the Department of Conservation had a strict set of guidelines for damages that take place. He indicated that as an oil and gas operator, every effort was taken to separate oil from fresh water resources. He opposed the moratorium.

Aromas Water District General Manager Vicki Morris indicated that the Board directed them to follow the issue. She spoke further of the resolution her Board would be considering that night. She explained that Aromas relied almost entirely on ground water. She added that the surety bond of \$1,000 would not go very far to mitigate problems and needed to be increased.

Aromas resident Rob Ryan spoke in favor of the moratorium. He asked as one human being to another family person to protect our environment. He noted that he had seen many failures of concrete casings. He stated that the Board needed at least 6 months to figure it out.

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

Supervisor Botelho stated that he would rather be proactive than reactive. He noted that staff acknowledged that our ordinance needed to be updated and is inadequate at this time.

Supervisor Botelho moved to place a temporary 180 day moratorium with the intent of updating the current ordinance and oil gas inspection.

County Counsel Matt Granger stated that they could not adopt a moratorium that day and that they needed to have a public hearing with certain findings to be adopted by a 4/5 vote and initiate the moratorium at the end of 45 days. He explained further legal issues with respect to the matter.

The motion died for lack of a second.

Supervisor Botelho moved to bring back a moratorium for the Board's consideration for adoption as soon as possible.

Supervisor Rivas seconded the motion.

Supervisor Muenzer stated full disclosure that he was an owner of property outside of Tres Pinos and had sold the oil and gas rights. He explained that seismic testing had been done and they had not drilled, but had sold the rights. He felt they needed to get off dependence of foreign oils and the way to do that would be more drilling here. He did not know if he could support the moratorium and felt they should direct staff to come back on October 16 and tell them how long it would take to do an ordinance and whether they would have a legal right

for a moratorium.

Supervisor Barrios stated that she could support a moratorium if it was specific to fracking. She stated that she would like staff to bring back a timeline.

Chair De La Cruz stated that he supported water quality but did not support a moratorium and would vote no on one.

Supervisor Rivas stated that he was in favor of a moratorium and would accept one with exemptions and that they also needed to update the ordinance.

Chair De La Cruz called for a roll call vote on the motion on the floor.

Supervisor Rivas voted yes.

Supervisor Botelho voted yes.

Supervisor Muenzer voted no.

Supervisor Barrios voted no.

Supervisor De La Cruz voted no.

The motion failed 2 to 3 with Supervisors Muenzer, Barrios and De La Cruz voting no.

Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios directed staff to come back on October 16, 2012 with a timeline developing an ordinance for assessing the legality of a moratorium, and if legal, a moratorium on fracking specifically. (The motion passed 4 to 1 with Supervisor De La Cruz voting no.) File #790

PLANNING DEPARTMENT - G. Armstrong:

21) Update on the Comprehensive General Plan budget status by consultant (Mintierharnish); provide direction to staff.

Jim Harnish of Mintierharnish gave an update report on the Comprehensive General Plan and requested the Board consider augmenting their budget.

Supervisor Botelho stated that he could not express how angry he was and doubted that he would vote in favor of any augmentation. He noted that the greenhouse gas emission was nothing new and should have been incorporated in the scope of work. He held Mr. Harnish and staff responsible.

Mr. Harnish spoke in regards to the greenhouse gas emission and stated that there was agreement at the time the contract was issued that it was explicitly excluded. He added that they thought AMBAG would provide and they could use it. He explained that the traffic consultant was to do some modeling to make the AMBAG model work and that the greenhouse was not part of the scope.

Further discussion ensued between Mr. Harnish and Board members.

The Chair opened the matter up for public comment.

Marvin Jones suggested deleting the city element area as a way to save money noting that the population projections were incorrect.

Parsons Transportation Traffic Engineer Bob Scales spoke in defense of the traffic engineer.

Marty Richman stated that the 40,000 people and 4,000 jobs projection was probably correct.

Pat Loe spoke of the most important issue which was that of losing the public's trust. She further spoke of the super meeting with a special interest developer adding that they needed to get back to a pure document. She felt they should instruct staff and not the consultant to go back and make the document pure. Ms. Loe stated that if they did not, someone could be unhappy and go to a lawyer.

Planning Director Gary Armstrong stated that they brought it to the full Board and the Board instruction was to only incorporate staff comments and not outside. He indicated that the document was still pure.

The Chair closed the public comment section.

Supervisor Rivas asked the staff to look at the budget.

County Administrative Officer Inman suggested that the consultant and Planning get together to get a number and come back on October 16th with an appropriate recommendation to not impact the budget.

Supervisor Rivas suggested incorporating language to address possible future overruns.

Supervisor Botelho agreed that they needed a number to work with and felt that Supervisor Rivas's suggestion made sense.

Supervisor Muenzer asked if they would be told where the money was coming from.

CAO Inman replied absolutely.

Planning Director Armstrong explained that he told the consultant to stop and that they had not spent \$5,000 to date. He added that they updated the number to \$2,500 for direction of level of service D.

Supervisor Barrios felt they should not be paying for private party comments, not on the county's dollar. She expressed surprise at the work stoppage regarding the level of service as the vote was a majority.

Chair De La Cruz noted that all were in agreement with Supervisor Rivas's recommendation.

The Board adjourned to lunch at 12:15 and reconvened into regular session at 1:15 p.m.

CLOSED SESSION:

The Board adjourned into closed session at 2:38 p.m. and reconvened into regular session at 3:19 p.m. Supervisor Barrios was absent at this time.

22) **Conference with Legal Council-Existing Litigation, (Subdivision (a) of Section 54956.9)**

Name of Case: *Robert Raymond v. Joe Paul Gonzalez*, United States District Court for the Northern District of California, Case No. CV-12-04594 HRL.

County Counsel Matt Granger stated that there was no reportable action.

23) **Conference with Legal Council-Existing Litigation, (Subdivision (a) of Section 54956.9)**

Name of Case: *Brett Johnson v. San Benito County, et. al.*, United States District Court for the Northern District of California, Case No. CV-12-3691 HRL.

County Counsel Matt Granger stated that there was no reportable action.

24) **Public Employee Evaluation
Government Code Section 54957
Title: County Administrative Officer**

County Counsel Matt Granger reported that it was continued to no date certain.

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, Barrios, De La Cruz
NOES:	SUPERVISORS:	None
ABSENT:	SUPERVISORS:	None

There being no further business the Board adjourned at 3:22 p.m. to October 2, 2012 at 9:00 a.m.

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

ATTEST:
Denise R. Thome, Clerk of the Board