



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 NOVEMBER 6, 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 was County Counsel Matt Granger and Clerk of the Board Denise Thome. Chairman De La Cruz presided.

9:00 a.m. CALL TO ORDER:

- a) Pledge of Allegiance to be led by Supervisor Botelho.
A moment of silence was observed in honor of veterans and long time resident Beverly Tobias.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

The Board adjourned into Closed Session at 9:06 a.m. and reconvened into regular session at 9:10 a.m.

CLOSED SESSION:

- 1) **Public Employee Appointment**
Title: Interim County Administrative Officer
Authority: California Government Code 54957
County Counsel Granger reported that a decision had been made. *File #235.6*

REGULAR AGENDA:

COUNTY COUNSEL'S OFFICE – M. Granger:

- 4) **Appoint Public Employee (Interim County Administrative Officer), effective November 6, 2012, at a salary and upon such terms and conditions as may be specified by the Board of Supervisors.**
Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Muenzer, appointed, effective immediately, Ray Espinosa as Interim County Administrative Officer at his current salary plus a stipend of \$384.62 per pay period (equivalent to \$10,000.00 per year) based on the following terms; (1) employee has retreat rights to his current position upon conclusion of his service as Interim CAO, and (2) employee may be immediately removed from the

position of Interim CAO with or without cause upon written notice from the Board of Supervisors. (Unanimous) *File #235.6*

CLOSED SESSION:

- 2) **Conference with Legal Counsel-Anticipated Litigation.**
Initiation of litigation pursuant to subdivision (c) of Section 54956.9
Number of cases: (1)
No reportable action was taken. File #235.6
- 3) **Conference with Legal Counsel-Anticipated Litigation**
Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9: Number of cases: (1)
No reportable action was taken. File #235.6

REGULAR AGENDA:

c) **PRESENTATIONS AND RECOGNITIONS:**

HUMAN RESOURCES:

Present Certificate of Recognition to Patricia Estrada, CalWorks Supervisor, Health and Human Services Agency, for over 32 years of service.

Upon motion duly made by Supervisor Rivas and seconded by Supervisor Muenzer, approved the certificate of recognition to Patricia Estrada. (Unanimous)

Chairman De La Cruz presented the certificate to Ms. Estrada and thanked her.

Ms. Estrada expressed her gratitude to the County and Health and Human Services Agency. *File #630*

d) **Public Comment:**

Marty Richman stated that he was running for office and publicly wanted to thank City Clerk Geri Johnson for being so helpful. He also wanted to thank the Elections Department, volunteers at polls and the security forces there so that you can vote.

Rachel Di Franco, Energy Upgrade California Program Manager of Ecology Action explained what their group does. She stated that there would be a homeowner's workshop at the Vets Building on Tuesday, November 13, 2012 from 6:30 to 8:30 p.m. She explained that they would talk about rebates available and start the presentation at 7:00 p.m.

e) **Department Head Announcements:**

Interim CAO Espinosa thanked the Board of Supervisors for the opportunity to serve as Interim CAO. He noted that there were many challenges and items to be addressed. He added that the past weekend Information Technology (IT) held a Get Connected Program and there was a good turnout.

Clerk-Auditor-Recorder Joe Paul Gonzalez noted that it was Election Day and stated that it had been an especially difficult election to prepare for. He commended his staff of Angela Curro, Jennifer Schultz and Francisco Diaz for a great job. He added that they couldn't have done it without the temporary help of

Kim Hawk, Lupe Maldonado and the poll workers. He added that election results would be on the department website at www.sbc.us.

f) **Board Announcements, Introductions and Presentations:**

Supervisor Botelho thanked the poll workers as well and expressed appreciation to the volunteers. He further expressed gratitude to the veterans that have served and those that were serving.

Supervisor Barrios thanked the Elections Department and apologized for missing the November 1, 2012 evening meeting. She explained that she had attended the Community Corrections Partnership meeting in Sacramento regarding AB-109. She stated that they were making it work in San Benito County and the challenge now was documenting the data. She noted that the Gang Prevention Committee was making progress.

Supervisor Muenzer thanked Joe Paul and staff noting that he had voted early. He indicated that he had received an email from Monterey Bay Unified Air Pollution Control District (MBUAPCD) stating that Cal Fire would be doing a prescribed burn near Crazy Horse and Old Stage Road starting at 10:00 a.m. He reported that he and Supervisor Botelho had met with County Counsel and Planning Director Gary Armstrong to start crafting an ad hoc committee for oil and gas. He noted that the ad hoc committee would contact interested parties and asked anyone with concerns to call either himself or Supervisor Botelho.

Discussion was had regarding the agenda for the retreat and what was to be included.

CONSENT AGENDA:

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **approved** Consent Agenda items with the exception of Items 5, 9, 17, 19, 20, 23, 24, 25 and 27 which were pulled for discussion. (Unanimous)*

AGRICULTURAL COMMISSIONER – R. Ross:

5) Item pulled for discussion.

Recommend that the Wildlife Services contract with the U.S. Department of Agriculture not be extended for the rest of the Fiscal Year unless other funding is found.

Supervisor Muenzer understood that there was no money but wanted to make the point that it was an important service. He suggested directing staff to seek the \$8,000 needed to bring it back.

Agricultural Commissioner Ross stated that the Farm Bureau and Cattlemen's Association were able to raise the \$8,000 but it was not enough to sustain. He added that they would keep looking at grants and that the program had ended October 30th, but they would continue to pursue.

Supervisor Botelho agreed that the program was important but did not see any alternative.

Ag. Commissioner Ross explained that private companies do it for a fee and that he would develop a list to be available.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Muenzer moved to **not extend** the Wildlife Services contract with the U.S. Department of Agriculture for the rest of the fiscal year unless funding is found. (Unanimous) File #1.1*

AGRICULTURAL COMMISSIONER – R. Ross:

- 6) **Approved** contract with the Department of Food & Agriculture to provide Statewide Exotic Pest Detection Trapping services for the period of July 1, 2012 through June 30, 2013, for a total of \$46,321. *File #1.1*

BOARD OF SUPERVISORS:

- 7) **Approved** Proclamation proclaiming Thursday, November 15, 2012 as National Philanthropy Day in San Benito County for presentation at a later date. *File #430*

BOARD OF SUPERVISORS:

- 8) **Approved** Certificate of Recognition for the 2012 LULAC Veteran of the Year Honorees Nazhat Parveen Sharma, MD and Ron Sanchez for presentation at the Veteran's Day Breakfast on November 11, 2012. *File #156*

CLERK OF THE BOARD – D. Thome:

- 9) Item pulled for discussion.
Approve the action minutes of the September 11, 2012, September 25, 2012 and October 2, 2012 regular meetings and October 11, 2012 and October 23, 2012 special meetings.
Supervisor Barrios indicated that corrections to the minutes for September 25, 2012 had been made.
Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, approved the action minutes of the September 11, 2012, September 25, 2012 and October 2, 2012 regular meetings and October 11, 2012 and October 23, 2012 special meetings. (Unanimous)

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

- 10) **Authorized** the treatment of this Property Tax Analyst appointment exactly like a reemployment to the particular classification that the laid-off employee held prior to layoff. *File #608*

COUNTY ADMINISTRATIVE OFFICE – M. Riopel:

- 11) **Adopted Resolution No. 2012-66 authorizing** purchasing authority to the CalFire Fire Chief for fire operation (Schedule C) expenses except for Fixed Assets as per the County Code. *File #60*

COUNTY COUNSEL – M. Granger:

- 12) **Approved** Settlement Agreement and Release of Claims for County Administrative Officer. *File #160*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 13) **Appointed** Mr. Robert J. Rodriguez to Workforce Investment Board to represent the private sector for a three year term effective November 6, 2012 through November 6, 2015. (CSWD) *File #939*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 14) **Appointed** Ms. Marie Slater to the Workforce Investment Board to represent the public sector for a three year term effective November 6, 2012 through November 6, 2015. (CSWD) *File #939*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 15) **Appointed** Ms. Abby Ortiz-Baldwin to the Workforce Investment Board to represent the public sector for a three year term effective November 6, 2012 through November 6, 2015. (CSWD) *File #939*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 16) **Re-appointed** Kylie Sullivan to the Youth Employment Program (YEP) Council to represent an in school youth member for a term effective August 25, 2012 through August 25, 2015. *File #939*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 17) Item pulled for discussion.
Appoint Rita Lucas to the Youth Employment Program (YEP) Council to represent the optional category for a term effective November 6, 2012 through November 6, 2015.

It was noted that the agenda item transmittal called for the appointment of Rita Lucas when in fact it should be for the appointment of Michelle Rodarte.

Upon motion made by Supervisor De La Cruz and seconded by Supervisor Rivas, appointed Michelle Rodarte to the Youth Employment Program (YEP) Council to represent the optional category for a term effective November 6, 2012 through November 6, 2015. (Unanimous) File #939

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 18) **Appointed** Mr. John Mortensen as the private sector representative for District #2 to the Community Action Board for a three-year term effective November 6, 2012 through November 6, 2015. *File #130*

HUMAN RESOURCES – J. Credico:

- 19) Item pulled for discussion.
Approve (2) Resolutions for 2012 Employer Contributions for CalPERS Health Insurance Premiums for Retirees of San Benito County.

Supervisor Botelho asked if they did not do this they would save \$90,000.

Management Analyst Jacki Credico explained that it was a formality and the commitment had been made in 1993 in regards to health benefits for retirees.

Supervisor Botelho felt this was what was breaking the back of government.

Ms. Credico stated that the actual monthly contribution to be made on behalf of retirees increased by 5% a year until 100%.

Supervisor Botelho asked if there were any other options.

Ms. Credico stated that there would be an opportunity to do so when contracts opened up with the bargaining units. She indicated that there was an obligation to retirees to provide comparable health benefits.

Supervisor Botelho asked if they could narrow their insurance choices.

Ms. Credico explained that the county took part in Cal PERS health plan and currently in Hollister they could only choose three plus PORAC for peace officers. She added that based on PERS Choice that is the amount they get.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer **adopted Resolutions 2012-67 and 2012-68** for 2013 Employer Contributions for CalPERS Health Insurance Premiums for Retirees of San Benito County. (Unanimous) File #630*

INTEGRATED WASTE MANAGEMENT – M. Rose:

20) Item pulled for discussion.

Approve contract with Ruby Canyon Engineering for green house verification services, on behalf of the Regional Agency, for the period of November 6, 2012 through March 31, 2013, at a cost not to exceed \$13,000.

Supervisor Barrios stated that there were changes to the scope of service, spelling changes, and Integrated Waste Manager Mandy Rose had addressed those changes and provided a copy.

The Board asked questions of Ms. Rose.

*Upon motion made by Supervisor Barrios and seconded by Supervisor Muenzer **approved** the contract with Ruby Canyon Engineering for green house verification services, on behalf of the Regional Agency, for the period of November 6, 2012 through March 31, 2013, at a cost not to exceed \$13,000. (Unanimous) File #142*

LOCAL TRANSPORTATION AUTHORITY – L. Rheinheimer:

21) **Approved** Memorandum of Understanding with the San Benito County Local Transportation Authority for a radio tower infrastructure project. *File #1035*

PROBATION DEPARTMENT – B. Cardall:

22) **Approved** contract with the San Benito County Office of Education to provide funding in the amount of \$163.00 per week for nine hours of weekly services to continue the Truancy Reduction Program for the FY 2012-13. *File #510*

PUBLIC WORKS DEPARTMENT – S. Wittry:

23) Item pulled for discussion.

Approve contract with HMC Group for professional services for the AB900 Jail Expansion project for the period of November 6, 2012 to December 31, 2013, in the amount of \$41,733.

Supervisor Botelho asked if it was general fund monies.

Public Works Director Steve Wittry explained that no it was actually county contributions towards the match, AB 109 funding.

Supervisor Botelho asked why we couldn't do it in house.

Mr. Wittry stated that Adam Goldstone was an architect but was not a specialist in jails. He added that there would be a substantial change order coming forward in about ten months.

There was no public comment.

*Upon motion made by Supervisor Muenzer and seconded by Supervisor Botelho, **approved** the contract with HMC Group for professional services for the AB900 Jail Expansion project for the period of November 6, 2012 to December 31, 2013, in the amount of \$41,733. (motion passed 4-0-1 with Supervisor De La Cruz absent for the vote) File #105*

PUBLIC WORKS DEPARTMENT – S. Wittry:

24) Item pulled for discussion.

Approve Change Orders #8, 9 and 10 with Wattis Construction Company for a total amount of \$158,478.75 for the San Juan Hwy Bike Lane project; authorize Public Works Administrator to sign change orders; and restore Public Works change order authority to \$100,000 for the remaining work on the project.

Supervisor Botelho asked if this was the final phase of the project.

Public Works Director Steve Wittry stated that within the fund balance they were close to depleting the amount.

Further discussion ensued.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Barrios **approved** change orders #8, 9 and 10 with Wattis Construction Company for a total amount of \$158,478.75 for the San Juan Hwy Bike Lane project; **authorized** Public Works Administrator to sign change orders; and restore Public Works change order authority to \$63,630 for the remaining work on the project. (Unanimous) File #105*

PUBLIC WORKS DEPARTMENT – S. Wittry:

25) Item pulled for discussion.

Approve the 100% grant agreement with Monterey Air Pollution Control District for one electric vehicle and charging station in the amount of \$55,595, identify and add to the schedule of fixed assets and approve budget appropriation; and authorize the Public Works Administrator to sign grant agreement. (4/5 vote)

Supervisor Barrios asked if the charging station would be accessible to the general public and if accessibility would be 24/7.

Public Works Director Wittry stated that it would be at Technology Parkway and would sit in the furthest no parking stalls of the first building main parking lot and would be in the front, outside of the fencing.

Supervisor Barrios asked if they sought local bidding.

Mr. Wittry stated that the consortium pricing of \$4,000 was less than local.

Further discussion ensued.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Rivas, **approved** the 100% grant agreement with Monterey Air Pollution Control District for one electric vehicle and charging station in the amount of \$55,595, **identified** and **added** to the schedule of fixed assets and approve budget appropriation; and **authorized** the Public Works Administrator to sign grant agreement. (4/5 vote) (The motion passed 5-0) File #105*

PUBLIC WORKS DEPARTMENT – S. Wittry:

26) **Accepted** all responsive bids in the bid summary report for the Park Hill Fiber Optic Cabling project; **approved** the contract with Daleo, Inc. as the lowest responsive, responsible bidder, in the amount of \$52,448; **authorized** the Public Works Administrator to execute the contract upon receipt of documents as required per the project specifications; and **authorized** the Public Works Administrator to issue change orders, in an amount not to exceed \$5,244.80. *File #105*

PUBLIC WORKS DEPARTMENT – S. Wittry:

27) Item pulled for discussion.

Adopt the Final Mitigated Negative Declaration in compliance with California Environmental Quality Act (CEQA) for the Union Road Bridge project; and adopt Resolution for the Union Road Bridge project, adopting the required CEQA Findings and mitigation measures.

Supervisor Barrios stated that she pulled the item because the resolution stated that they were to hear and receive all testimony orally.

There was no public comment.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho **adopted** the Final Mitigated Negative Declaration in compliance with California Environmental Quality Act (CEQA) for the Union Road Bridge project; and **adopted Resolution No. 2012-69** for the Union Road Bridge project, adopting the required CEQA Findings and mitigation measures. (Unanimous) File #105*

SAN BENITO RESOURCE CONSERVATION DISTRICT:

28) **Approved** re-appointments of Paul Hain, Michael Halpern and Tim Foley to the San Benito County Resource Conservation District Board for a four year term to expire on the last Friday of November 2016. *File #1059*

SHERIFF'S OFFICE – D. Thompson:

29) **Rescinded** layoffs of 1.8 FTE within the Sheriff's Operations Division. (Continued from October 16, 2012 meeting) *File #110*

REQUEST FOR AN URGENCY ITEM – M. Granger

Approval of letter to Bureau of Land Management regarding the Notice of Intent (NOI) to prepare a Resource Management Plan Amendment for the Southern Diablo Mountain Range and Central Coast of California and Associated Environmental Assessment:

Assistant County Counsel Barbara Thompson explained that there was an urgency item and it would require a 2/3 vote to add it to the agenda.

Supervisor Barrios stated that she would like to hear it.

Supervisor Botelho stated that he had heard a report last month and it was not an urgency item that needed to be heard.

Supervisor Rivas voted no.

Supervisor Muenzer voted no.

Chairman De La Cruz stated that the request to hear the urgency item failed.

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

PLANNING DEPARTMENT – G. Armstrong:

30) **Hold a public hearing to review the General Plan Housing Element 2011 progress report; and direct staff to submit the report to the State Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research (OPR).**

Planning Director Gary Armstrong gave a staff report.

Chairman De La Cruz opened the public hearing.

There being no public comment, Chairman De La Cruz closed the public hearing.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Barrios **directed** staff to submit the General Plan Housing Element 2011 progress report to the State Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research (OPR). (Unanimous) File #790*

REGULAR AGENDA (Continued):

BOARD OF SUPERVISORS:

31) Discussion and direction concerning the use of the Board Chambers by other entities.

County Counsel Matt Granger discussed the different policies. He explained that if the Board room was opened up it would be a public forum and they could not decide who could use. He stated that the Clerk of the Board agreed with the Board not adopting policy to open chambers up to anyone and everyone. He indicated that a prudent policy would be to allow local governmental agencies to use the chambers and not allow private access because once you allowed one; you've pretty much allowed every group.

Supervisor Barrios pointed out that previously chambers were used for FPPC training and federal and state town hall meetings.

Mr. Granger explained that the board chambers would remain open to official state and local governmental agencies, but the problem was private issues.

Supervisor Barrios asked what if a supervisor was at the meeting.

Mr. Granger replied that it would not pass muster legally and that they would be open to the public forums and the public has the first amendment rights. He added that elected officials acting in a public capacity would not be a problem.

Supervisor Botelho agreed with County Counsel adding that others can use the library and the Board had to be careful how they use the chambers.

There was no public comment.

Mr. Granger felt it would be prudent to set up a policy with the Clerk of the Board of Supervisors.

Direction was given to County Counsel and Clerk of the Board to create a policy concerning the use of the Board chambers to be brought back to the Board. *File #197*

CLERK OF THE BOARD – D. Thome:

32) Approve the 2013 Board of Supervisors Meeting Calendar and Agenda Item Submittal Deadline Listing.

Clerk of the Board Denise Thome gave a staff report.

Discussion ensued amongst Board members.

Direction was given to agendize the Board retreat for November 13, 2012 and then bring back the calendar after discussion to the November 20, 2012 or December 4, 2012 Board meeting for approval. *File #156*

INTERNAL SERVICES DEPARTMENT – M. Riopel:

33) Receive Annual Impact Fee Report for fiscal year 2011/2012. (Continued from October 16, 2012 meeting)

Management Analyst Margie Riopel gave a staff report.

Supervisor Barrios asked about refunds and why there was a refund on drainage impact fees.

Ms. Riopel explained that the project did not go forward and they had to pay funds back to the development.

Supervisor Barrios asked about the \$200,000 fuel system.

Ms. Riopel stated that it was proposed in the budget.

Public Works Administrator Steve Wittry stated that it was in the capital improvement project and they would replace the fuel island at Public Works which would provide better tracking.

Supervisor Barrios asked about interest earnings.

Ms. Riopel indicated that they had not been posted in 2010/11 but were posted in 2011/12.

Supervisor Barrios asked about the 49 million dollar jail expansion.

Ms. Riopel explained that was the number at the beginning of the process and that funds had come from different sources and were not all put out by the County. She added that the grant was for 15 million.

Mr. Wittry stated that the total budget for the expansion is 15 million.

Supervisor Barrios asked since there was another project on hold could they change the 49 million.

Ms. Riopel stated that she was not at liberty to say but that she would follow up.

Supervisor Botelho felt they should include the number for the Sheriff's Administration Building and that the number needed to be adjusted downward.

The Chairman opened the matter up to public comment.

Marty Richman spoke of the tax collected on the internet and that Amazon was building distribution centers in California. He stated that they should use impact fees to get the economic activity they needed. He felt they needed an alternate to impact fees to benefit now, not in 30 years. He thought the gas island was a great system and they should see if they can get the City to buy into the same system and share the cost.

Supervisor Barrios spoke of impact fees for mobile homes and felt they should have it as a future item.

Ms. Riopel indicated that she would check into it when bringing back the report on December 4, 2012.

Supervisor Botelho indicated that the fees were reviewed on a frequent basis to make sure they were not over.

Chairman De La Cruz continued the matter to December 4, 2012. *File #119.2*

INTEGRATED WASTE MANAGEMENT – M. Rose:

34) Review the draft John Smith Road Landfill Landscape Entrance and Ridgeline Barrier Plan and direct staff as appropriate.

Integrated Waste Manager Mandy Rose gave a PowerPoint presentation.

Supervisor Botelho felt it was a tremendous waste of money. He added that it is a landfill and was not in favor of it.

Chairman De La Cruz opened the matter up for public comment. There being none, the Chair closed public comment.

Supervisor Botelho moved to reject any additional costs of landscaping.

The motion died for lack of a second.

Supervisor Muenzer spoke of the ridgeline and that they were looking for a more continuous visual barrier.

Public Works Administrator Steve Wittry explained that a continuous line looks unnatural.

Supervisor Barrios spoke of being a good neighbor there.

Supervisor Muenzer concurred.

Upon motion duly made, seconded and carried, directed staff to come back with a dollar amount for the John Smith Road Landfill Landscape Entrance and Ridgeline Barrier Plan. (the motion passed 4-1 with Supervisor Botelho voting no) File #75.4

PLANNING DEPARTMENT – G. Armstrong:

35) Discuss and direction regarding General Plan Update options.

Planning Director Gary Armstrong stated that staff recommended option 3 and that staff would come back with a general plan fee ordinance to help recoup costs.

Chairman De La Cruz opened the matter up for public comment. There being none the chairman closed the public hearing.

Supervisor Botelho commented that he did not need to restate his dissatisfaction and they had to be prepared to accept option 3. He stated that he wanted a date certain for completion and added that in order for him to support he expected some timelines to be adhered to. He asked what the likelihood of that would be.

Mr. Armstrong stated that staff comments and public comments could be on date certain but the response would be a little more difficult to say. He indicated that he could provide monthly updates to the Board.

Supervisor Botelho stated that he would like weekly updates.

Mr. Armstrong stated that it was in their best interest to get it done as soon as possible.

Supervisor Botelho suggested withholding a significant portion of the payment until the end product is produced.

Supervisor Muenzer indicated that he had looked to shelve it but did not have support. He added that number 3 was the best option.

Supervisor Rivas indicated his vote was for option 3 and agreed with Supervisor Botelho that they needed to hold the consultant accountable. He added that it would be nice to have updates which would give them a sense of when it would be completed.

Chairman De La Cruz noted that there was a consensus to go with option 3 and directed staff to come back with a final payment, final product document.

Supervisor Barrios spoke of excluding small builders and developers. She added that they should withhold payment for anything that exceeds the original or amended contract. *File #790*

PLANNING DEPARTMENT – G. Armstrong:

36) Discuss and direct staff accordingly to potentially release to the public the GPU draft EIR document.

Planning Director Gary Armstrong stated that he could put the policy document on the website within one week of direction by the Board of Supervisors. He indicated that staff did not recommend putting the draft EIR on the website yet. He added that they should have it out within a reasonable time for public review, end of the year.

Supervisor Rivas asked, based on option 3, what type of time frame they were looking at for the release of the EIR.

Mr. Armstrong indicated that the first of the year was much more defensible and the EIR the first week in January.

Supervisor Barrios agreed with not making it public until ready.

Supervisor Botelho asked if they could have a new timeline as to how to get to the end product.

Mr. Armstrong replied sure.

Chairman De La Cruz gave direction to bring back the finished product by the first meeting in January 2013. *File #790*

PLANNING DEPARTMENT - G. Armstrong:

37) Approve Santana Ranch Large Lot Subdivision Final Map.

Planning Director Gary Armstrong gave a staff report.

Chairman De La Cruz opened the matter up for public comment. There being no public comment, the Chairman closed public comment.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor Barrios **approved** Santana Ranch Large Lot subdivision final map. (Unanimous)*
File #790

CLOSED SESSION:

38) Public Employment Recruitment

Title: County Administrative Officer

Authority: California Government Code 54957

County Counsel Matt Granger stated that the matter was continued to November 20, 2012. *File #235.6*

AFTERNOON SESSION
1:30 p.m.

PUBLIC HEARINGS – 1:30 P.M. (Or as soon thereafter as the matter may be heard)

ASSESSOR – T. Slavich:

39) Hold a public hearing to consider authorization to implement AB1265 to establish New Williamson Act contracts including the reduction of property tax benefits and a related reduction of the term of the contracts to nine years, to be effective beginning calendar year 2013.

Supervisor Botelho stated that he had sent a letter to the Fair Political Practices Commission (FPPC) and the response back indicated that he had a financial interest in the issue and that he needed to recuse himself. He added that it was a shame since he had just a small interest.

Supervisor Muenzer stated that he was in the same situation by having financial interest and would be recusing himself as well.

Supervisors Botelho and Muenzer both left Board chambers at this time.

County Counsel Granger stated that there was a quorum of 3 so approval would be by 2.

Assessor Tom Slavich gave a staff report. He explained the 3 options available to the Board.

Those speaking under public comment were; Susan Enz, Robert Frusetta, Paul Hain, Jane Wooster, Janet Brians, Ray Pierce, Jackie O'Connor, Dan Weatherly and A.J. Moly.

There being no further public comment, Chairman De La Cruz closed public comment.

Mr. Slavich noted that the sunset ended January 2016 and everything would revert back to 10 year contracts. He explained that it was basically a 10% reduction for the 9 year contract.

Supervisor Barrios asked clarification that they were not losing 10% each year.

Mr. Slavich stated that no they would not.

Supervisor Rivas stated that unfortunately it was a difficult issue for him and unfortunately they had been challenged with their budget. He added that it came down to the county not having any money and having lost nearly 40% of county staff. He noted that it did not kill the Williamson Act. He indicated that he had opposed Solargen and that preservation of ag land was vital to San Benito County and Solargen represented one of the largest LCA contract cancellations. He stated that he would vote to maintain the Williamson Act as is and that agriculture is the backbone of our county.

Supervisor Barrios noted that she valued agriculture as well and had supported it. She added that 3 million had fallen on the backs of all the departments and there was a domino effect of loss. She stated that they would never eliminate the Williamson Act all together but that she would vote for AB 1265. She noted that public safety was at an all time low. She wanted to preserve agriculture and AB 1265 would preserve 90% of the Williamson Act.

Chairman De La Cruz stated that he supported Supervisor Barrios' position. He noted that agriculture was important but unfortunately they were in a bad budget situation.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor De La Cruz **accepted** the recommendation of the Assessor to **implement** AB 1265. (The motion passed 2 - 1 with Supervisor Rivas voting no) File #7*

Before adjourning the meeting County Counsel Granger prepared to make a statement in regards to item #39 (Authorization to implement AB 1265 to establish new Williamson Act contracts).

Chairman De La Cruz asked Supervisors Botelho and Muenzer to please recuse themselves again.

Supervisors Botelho and Muenzer proceeded to recuse themselves and left the chambers.

County Counsel Granger explained that under common law a 2 to 1 vote is required for a quorum of 3. He referenced Government Code Section 25005 which states that under general law 3 votes are always required and therefore the previous motion failed. He indicated that he could clarify again at the November 20th meeting.

Supervisor Barrios stated that she would like it as an agenda item.

Chairman De La Cruz directed staff to contact the Attorney General for an opinion.

County Counsel Granger stated that he would double check but it appeared to be conclusive.

In accordance with discovery by County Counsel, the previous motion failed with a 2 -1 vote with Supervisor Rivas voting no.

The Board adjourned for a break at 2:20 p.m. and reconvened into regular session at 2:29 p.m.

PLANNING DEPARTMENT – G. Armstrong:

40) **Hold a public hearing regarding the Environmental Impact Report (EIR), General Plan Amendment No. 08-36, Specific Plan No. 005-10, Zone Change Petition 08- 164, and the proposed Development Agreement for the Fairview Corners project; review the administrative record and the Planning Commission's recommendations set forth in the Planning Commission Resolution No. 2012-13; review and consider the Environmental Impact Report (EIR) General Plan Amendment No. 08-36, Specific Plan No. 005-10 Zone Change 08-164 and the proposed Development Agreement; potentially adopt a Resolution certifying the EIR, adopting findings required by the California Environmental Quality Act (CEQA), adopting mitigation measures to reduce any significant environmental impacts where feasible, as recommended in the EIR, and adopting a Mitigation Monitoring and Reporting Program; potentially adopt a Resolution to amend the San Benito County General Plan Land Use Element to create a Fairview Corners-Specific Plan General Plan designation and to amend the existing General Plan Map to show the project site's designation being changed from rural to Fairview Corners Specific Plan; potentially adopt a Resolution adopting the Fairview corners Specific Plan; potentially adopt an Ordinance adopting County Code Zoning text amendments to create a Fairview Corners-Specific Plan zoning designation and amending the existing zoning map to show the project site rezoned from rural to Fairview Corners-Specific Plan; and potentially adopt an Ordinance approving the Fairview Corners Development Agreement.**

Senior Planner Lissette Knight gave a PowerPoint presentation.

Supervisor Muenzer noted that he had spoken to the applicant and staff and most concerns had been answered. He added that the project was to be conducted in phases and right now the applicant was not committing to a lot size. He noted concern with being phased in.

Supervisor Botelho felt the project should be stand alone and not in conjunction with the college.

Supervisor Barrios stated that she had met with the applicant numerous times and her biggest concern was traffic. She expressed reasons why she was in favor of moving forward.

Supervisor Rivas indicated that he had met several times with the applicant and that he did not like it and thought it was a bad project. He felt it did nothing for the downtown. He further stated that he did not like the density of the project and was worried about phasing in. He added that major improvements to Fairview Road and Airline Highway were needed.

Chairman De La Cruz opened the public hearing.

Richard Oliver, President of Fairview Corners Investors LLC, stated that he had been involved in shepherding two projects for 23 years and noted that they could not control Gavilan College. He felt the project would bring wonderful things to the community and would enhance the downtown by having a satellite portion of Gavilan.

Michael Groves, President of EMC Planning Group, gave a PowerPoint presentation. He thanked the staff for a 3 year interactive process and noted that they had a high quality product in front of them. He explained that Mr. Oliver started the project in 1987 and Gavilan College approached Mr. Oliver about the property, he didn't approach them. He stated that it was a variety of residential lots and he spoke of the on campus high school program.

Supervisor Barrios expressed appreciation that Mr. Groves brought up the Gavilan College thing because she wouldn't even look at the Fairview facility until the downtown Gavilan was expanded and improved. She felt that they had failed by not making it public enough.

Supervisor Muenzer asked at what point do they decide which route will be used for emergency vehicles.

Mr. Groves stated that they would have to decide before they submit a tentative map.

There being no further speakers, Chairman De La Cruz closed the public hearing.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer adopted **Resolutions No. 2012-70, 2012-71, 2012-72** and **adopted Ordinances No. 909 and 910** in regards to approval of the Fairview Corners specific plan project. (the motion passed 4-1 with Supervisor Rivas voting no) File #790*

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

There being no further business, the Board adjourned at 3:44 p.m. to November 13, 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