



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 DECEMBER 4, 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 Interim County Administrative Officer Ray Espinosa, County Counsel Matthew Granger, and Clerk of the Board Denise Thome. Chairman De La Cruz presided.

9:00 a.m. CALL TO ORDER:

- a) Supervisor Muenzer led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged the Certificate of Posting.*
- c) **Public Comment:** Gang Prevention Coordinator Al De Vos presented certificates of recognition to Supervisors Barrios and Rivas for their work on the Gang Prevention Committee.
- d) **Department Head Announcements:** Public Works Administrator gave an update on the storm situation noting that there was localized flooding and the City and the County were working together to protect the residents of the area.
- e) **Board Announcements, Introductions and Presentations:** Supervisor Muenzer reported that he and Supervisor Barrios attended the Off Highway Vehicle state wide meeting held in the Board Chambers. He gave an update in regards to the Monterey Bay Unified Air Pollution Control District.
Supervisor Barrios thanked Mr. De Vos for the recognition. She reported on the OHV meeting as well.
Supervisor Botelho requested clarification for the public in regards to the direction the Board was going with the Parks and Recreation and Library.
Interim CAO Ray Espinosa stated that Janelle Cox was working on it.
Supervisor Muenzer further reported that he attended the Managed Health Care meeting at the Health and Human Services Agency and that it was well attended.
Chairman De La Cruz thanked Doug Emerson for serving as City Councilman for two terms.

CONSENT AGENDA:

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **approved** Consent Agenda items with the exception of items 1 and 5 which were pulled for discussion. (Unanimous)*

BOARD OF SUPERVISORS – Supervisor De La Cruz:

- 1) Item pulled for discussion.

Confirm Supervisor De La Cruz's nomination of Robert Rodriguez for appointment to the San Benito County Planning Commission representing District 5 effective December 4, 2012.

Supervisor Botelho thanked Mr. Rodriguez for his willingness to serve and felt he would be a fine Planning Commissioner.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Rivas, **confirmed** Supervisor De La Cruz's nomination of Robert Rodriguez for appointment to the San Benito County Planning Commission representing District 5 effective December 4, 2012. (Unanimous) File #790.2*

CLERK OF THE BOARD – D. Thome:

- 2) **Adopted Resolution No. 2012-76 to approve** the 2013 Board of Supervisors Meeting Calendar and Agenda Submittal Deadline Listing. *File #156*

COUNTY ADMINISTRATIVE OFFICE – M. Riopel:

- 3) **Adopted Resolution No. 2012-77 approving** contract for fire protection services with the California Department of Forestry for FY2011-12 and **adopted Resolution No. 2012-78 approving** contract for fire protection services with the California Department of Forestry for FY2012-13. *File #60*

COUNTY COUNSEL – M. Granger:

- 4) **Approved** *First Amendment of Contract with Miller Starr Regalia for Legal Services Regarding Preparation of a Revised Environmental Impact Report to Incorporate a New Zoning Designation of Resource Recovery Park reducing the contract amount to not exceed \$19,500. File #160*

COUNTY CLERK / AUDITOR / RECORDER – JP. Gonzalez:

- 5) Item was pulled for discussion.

Appoint Rod Hughes, Jeanette M. Maroney and Bobby Zaucha as Directors of the Tres Pinos Water District for a four (4) Year Term to Commence December 7, 2012.

Tres Pinos resident Greg Alvarado indicated there was another person that wanted to be on the Water Board but they submitted late. He felt they should look at the attendance record of those currently on the Board, delay appointment and consider other names.

Richard Bettencourt explained that he attended the Tres Pinos Water District board meetings as a planning commissioner because they were out of compliance for fire safety. He stated that one member up for appointment does not attend meetings. He understood that there was a rule that if you missed three meetings you were to be replaced. He felt they should put it off and see if they can get more applicants.

Supervisor Rivas noted that it was before the Board of Supervisors because there was not enough interested.

County Counsel Granger explained that it was his understanding there were concerns with the Elections Department that the late candidate spoken about did not file on time to be on the ballot for November 6th and the Board of Supervisors has the power to appoint. He noted that the term of office ends December 7th. He indicated that staff knew nothing of a fourth candidate and they could not consider the fourth because of the Brown Act. County Counsel Granger further explained that it was not an urgency item so their choices were to appoint the three or continue to another meeting.

Supervisor Muenzer noted that the term ends December 7th and if they didn't take action they would have a non-functioning board after December 7th.

County Counsel Granger concurred and added not until the vacancy was filled.

Supervisor Barrios felt it was their job to appoint and not to decide who's effective. She added that if they were not interested enough to get on the ballot, they should go with the appointees they had.

Supervisor Rivas concurred with Supervisor Barrios that they should move ahead with the appointments.

Supervisor Muenzer felt it was not their position to determine if members were attending and that board needed to police themselves and address it.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor Muenzer, **appointed** Rod Hughes, Jeanette M. Maroney and Bobby Zaucha as Directors of the Tres Pinos Water District for a four (4) Year Term to Commence December 7, 2012. (Unanimous) File #285*

COUNTY CLERK / AUDITOR / RECORDER – JP. Gonzalez:

- 6) **Adopted Resolution No. 2012-79 accepting** the certified Statement of Election Results for the November 6, 2012 Presidential General Election. *File #285*

HEALTH AND HUMAN SERVICES AGENCY – M. Corona:

- 7) **Approved** Contract with National Council on Crime and Delinquency (NCCD) for Internet Access to SafeMeasures for the period of 1/1/13 to 12/31/14 in the amount of \$11,550 and **authorized** the Interim Director of San Benito County H&HSA to sign contract. *File #130*

HEALTH AND HUMAN SERVICES AGENCY – M. Corona:

- 8) **Approved** Contract between California Department of Social Services and the San Benito County Health and Human Services Agency and **authorized** the H&HSA Interim Director to sign contract for the term July 1, 2012 to June 30, 2013 in the amount not to exceed \$44,978. *File # 130*

REGULAR AGENDA:

CLERK OF THE BOARD – D. Thome:

- 9) **Adopt Use Policy for the Board of Supervisors Chambers and Conference Room effective January 1, 2013.**

Interim County Administrative Officer Ray Espinosa gave a staff report. There was no public comment.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Rivas, **adopted** Use Policy for the Board of Supervisors Chambers and Conference Room effective January 1, 2013. (Unanimous) File #156.2*

COUNTY ADMINISTRATIVE OFFICE – M. Riopel:

- 10) **Approve the San Benito County Annual Impact Fee Report for FY 2011-2012.**

Management Analyst Margie Riopel gave a staff report noting that she had replaced page 17.

There was no public comment.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **approved** the San Benito County Annual Impact Fee Report for FY 2011-2012. (Unanimous) File #119.2*

COUNTY CLERK, AUDITOR, RECORDER'S OFFICE – JP. Gonzalez:

- 11) **Receive the Adopted FY2012-13 County Budget Report and Approve the County General Fund Budget Augmentation to General Purpose Revenues in the amount of \$735,182 and \$220,902 to the Contingency Expenditures Account and \$514,280 to increase OPEB expenditure appropriations in the various General Fund Departments. (4/5 vote)**

Clerk-Auditor-Recorder Joe Paul Gonzalez handed out Schedule I and Schedule II noting that they were on the website and available to the public. He proceeded to give a staff report. He stated that actual revenues were at \$1,792,961 and they were short by \$274,318.

Further discussion ensued between Board members and staff.

The Chairman opened public comment.

Marty Richman spoke under public comment.

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

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor De La Cruz, **received** the Adopted FY2012-13 County Budget Report and **approved** the County General Fund Budget Augmentation to General Purpose Revenues in the amount of \$735,182 and \$220,902 to the Contingency Expenditures Account and \$514,280 to increase OPEB expenditure appropriations in the various General Fund Departments. (Unanimous) File #608*

HEALTH AND HUMAN SERVICES AGENCY – M. Corona:

- 12) **Approve the H&HSA Interim Director's report and approve the sub-recipient agreement between the County and the Homeless Coalition of San Benito County for the period of December 4, 2012 to June 30, 2014 for the amount not to exceed \$100,000. Approve signing authority for the H&HSA Interim Director to sign any amendments and documents relating to this agreement. Approve and have chair sign the letter to HCD and authorize the H&HSA Interim Director to send the letter to HCD.**

Health and Human Services Agency Deputy Director Enrique Arreola gave a staff report noting that there were updates on pages one and five.

Chairman De La Cruz opened public comment.

Marty Richman thanked Mr. Arreola and all those that had worked on the grant system to receive the CDBG money.

Chairman De La Cruz closed public comment.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho, **approved** the H&HSA Interim Director's report and **approved** the sub-recipient agreement between the County and the Homeless Coalition of San Benito County for the period of December 4, 2012 to June 30, 2014 for the amount not to exceed \$100,000, **approved** signing authority for the H&HSA Interim Director to sign any amendments and documents relating to this agreement, **approved** and have chair sign the letter to HCD and **authorized** the H&HSA Interim Director to send the letter to HCD. (Unanimous) File #130

HEALTH AND HUMAN SERVICES AGENCY – Maria Corona:

- 12.1) **Accept State CDBG Standard Agreement in the amount of \$500,000 and authorize the HSA Interim Director and/or the Deputy Director to accept the grant, if awarded, enter into and execute the grant agreement and any subsequent amendments with the State of California, and execute Funds Requests and other required reporting forms for purposes of administering the grant.**

Health and Human Services Agency Deputy Director Enrique Arreola gave a staff report.

Supervisor Muenzer asked if they should have been rattling the State's cage sooner.

The Chairman opened public comment.

Those speaking under public comment were Marty Richman, Doug Emerson and Patrice Kuerschner.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho, **approved** the H&HSA Interim Director's report and **approved** the sub-recipient agreement between the County and the Homeless Coalition of San Benito County for the period of December 4, 2012 to June 30, 2014 for the amount not to exceed \$100,000. Approve signing authority for the H&HSA Interim Director to sign any amendments and documents relating to this agreement, **approved** and have chair sign the letter to HCD and **authorized** the H&HSA Interim Director to send the letter to HCD. (Unanimous) File #130

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 12.2) **Award and approve the contract, for the Automatic Gates at 3235 Southside Road Project to CCOI Gate & Fence in the amount of \$19,000 and find the modified materials, products, things, and/or services specified in Exhibit A to the contract have been determined to be equal to those specified in the Invitation for Bids. Authorize the Public Works Administrator to execute the contract upon receipt of documents as required per the project specifications and authorize the Public Works Administrator to issue change orders in an amount not to exceed \$1,000.**

Public Works Administrator gave a staff report and noted that it had to be fully instructed by December 31, 2012 and if they approved it that day, he could get it done by then.

Supervisor Muenzer asked if they had known all along that they had to have it done by December 31st.

Mr. Wittry replied that he was aware one and a half weeks ago.

Health and Human Services Agency Deputy Director Enrique Arreola stated that he spoke to the State the middle of the previous week and that was when he first heard.

There was no public comment.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **awarded** and **approved** the contract, for the Automatic Gates at 3235 Southside Road Project to CCOI Gate & Fence in the amount of \$19,000 and find the modified materials, products, things, and/or services specified in Exhibit A to the contract have been determined to be equal to those specified in the Invitation for Bids, **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 \$1,000. (Unanimous) File #105.3*

The Board adjourned into a break at 10:47 a.m. and reconvened into regular session at 10:55 a.m.

PLANNING AND BUILDING DEPARTMENT – G. Armstrong:

13) **Consider proposals for General Plan Reimbursement and Maintenance Fee Ordinance and provide direction to staff.**

Assistant Planning Director Byron Turner gave a PowerPoint presentation.

Discussion ensued between Board members and staff.

There was no public comment.

Supervisor Muenzer suggested staff find out how much a consultant only would be and come back to the Board.

Chairman De La Cruz felt that was a good idea. *File #790*

PLANNING AND BUILDING DEPARTMENT – G. Armstrong:

14) **Approve Second Amendment with Mintier Harnish detailing the revised Scope and Budget for Option 3 as chosen at the November 6, 2012 Meeting.**

Assistant Planning Director Byron Turner gave a staff report and noted that he had a signed agreement.

Supervisor Barrios stated that the tasks were completed October 22, 2012 and were already paid for and there should be no additional charge.

Jim Harnish explained the charge.

Discussion ensued between Board members and staff.

There was no public comment.

County Counsel Granger spoke of Mintier Harnish's claim of \$108,000 against the County.

The Board discussed where the money would come from.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **approved** the second amendment to the contract with Mintier Harnish as recommended by staff and **directed** staff to come back with recommendation on funding to cover the \$67,000. (The motion passed 4 to 1 with Supervisor Botelho voting no)*

Further discussion ensued between Board members. File #790

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

ASSESSOR'S OFFICE – T. Slavich:

15) **Public Hearing on Review Land Conservation Act Requests for Compatible Use and Division: APN 012-020-013**

Assessor Tom Slavich gave a staff report.

Supervisor Rivas recused himself and stated that his wife was an employee of Earthbound Farms.

County Counsel Granger reported that Supervisor Botelho would be recusing himself from the matter because of his relationship with Earthbound Farms.

Assessor Slavich explained that they were asking for compatible use so that 19 acres wouldn't be farmed and put a plant on it. He noted that the Board was about jobs and increasing employment in the County.

Supervisor Barrios asked why one person on the Ag. Commission was against it.

Assessor Slavich stated that Sergio Garcia did not like any acres being lost and it was 19 acres lost with a building and no farming.

Supervisor Barrios commented that it met the criteria for ag related and she was in favor of more jobs in the county.

Chairman De La Cruz opened public comment for the compatible use request.

Joe Torquato of Earthbound Farms explained that it would stay in the Williamson Act and the county would see significant revenue. He stated that they would expand 300 new positions over the next few years.

Larry Cain, representing his wife and children who were owners of the land, stated that it was the official position of their family that the land remain in agricultural production. He commented that agricultural production needed a boost and they were supporting this for reasons of supporting the county.

Chairman De La Cruz closed public comment.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer **directed** staff to return at a future meeting with the findings that this request meets the criteria of the San Benito County Code §19.01.023(C) & (F) and California Government Code 51238.1 and that the Agricultural Preserve Advisory Committee recommends the Board of Supervisors approve the Compatible Use Request by Cain, et. al. (B &C Ranch) APN 012-020-013, based on findings and conditions of approval set forth in Code §19.01.023(C) & (F) and California Government Code 51238.1. (The motion passed 3-0-2 with Supervisors Botelho and Rivas abstaining)*

Supervisor Barrios pointed out a spelling error on page 448 of the division wherein manor should be manner.

Assessor Slavich stated that he would make the correction.

Chairman De La Cruz opened public comment for the division request.

There being no speakers, the Chairman closed public comment.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios **directed** staff to return at a future meeting with the findings that this request meets the criteria of the San Benito County Code §19.01.021(B)(2) and (D)(1) and that the Agricultural Preserve Advisory Committee recommends the Board of Supervisors approve the Division Request by Cain, et. al. (B &C Ranch) APN 012-020-013, based on findings and conditions of approval set forth in Code §19.01.021(B)(2) and (D)(1). (The motion passed 3-0-2 with Supervisors Botelho and Rivas abstaining)*

File #7

Supervisor Rivas joined the meeting again.

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 16) **Close Public Hearing for the refund of County Service Area Fees for CSA 33 Torrano Estates. (Continued Public Hearing of September 25, 2012 Board Meeting)**
Public Works Administrator Steve Wittry gave a staff report. He explained that they did not have a fee approved by the property owners and they had yet to respond to the letters. He asked that they close the public hearing.
Chairman De La Cruz closed the public hearing.
Supervisor Muenzer asked if there were outstanding funds.
Public Works Administrator Wittry answered yes and there were about \$33,000.
Supervisor Muenzer asked if there were other CSA's in the same situation.
Public Works Administrator Wittry replied that CSA's could approach them to do the same process. *File CSA 33*

CLOSED SESSION:

The Board adjourned into closed session at 11:39 a.m. and reconvened into regular session at 12:07 p.m.

- 17) **Public Employment Recruitment**
Title: County Administrative Officer
Authority: California Government Code 54957 (continued from 11/20/12 mtg)
No reportable action.

The Board adjourned to lunch at 12:08 and reconvened into regular session at 1:30 p.m.

Items 15 and 17 were heard at this time.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, moved to adjourn the meeting.

The vote of each member of the Board of Supervisors upon each matter at the foregoing meeting, unless otherwise stated, was as follows:

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

There being no further business the Board adjourned at 1:52 p.m. to December 18, 2013 at 9:00 a.m.

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

ATTEST:
Denise R. Thome, Clerk of the Board