



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 OCTOBER 16, 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 Management Analyst Margie Riopel, Assistant County Counsel Barbara Thompson and Clerk of the Board Denise Thome. Chair De la Cruz presided.

9:00 a.m. CALL TO ORDER:

- a) Pledge of Allegiance to be led by Supervisor Barrios.

A moment of silence was observed in memory of the passing of William Cagney and Heather Carroll.

- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

- c) **PRESENTATIONS AND RECOGNITIONS:**

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

Proclamation declaring October 2012 as “Safe Sleep for Babies Awareness Month” in San Benito County.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, approved proclamation declaring October 2012 as “Safe Sleep for Babies Awareness Month” in San Benito County.

Supervisor Barrios presented the proclamation to Maria Corona of HHSA and Catherine Farnham of the Public Health Department. Ms. Farnham gave a brief presentation demonstrating a safe sleeping environment for the baby and noted that the most effective action to prevent Sudden Infant Death Syndrome (SIDS) was to place the infant on their back to sleep. (*Unanimous*) *File #430*

- d) **Public Comment:** *Speaking under public comment were:*

Mary Halpin, permit coordinator for Citadel Exploration stated that they would be having a presentation on November 13, 2012 from 6:30 to 8:30 p.m. at the Veterans’ Memorial Building. She added that they would be advertising.

Marty Richman spoke in regards to a correction made by Public Works Administrator Steve Wittry to Mr. Richman regarding the Wastewater plant built by the City. He added that he was running for mayor of the City of Hollister and

his one agenda item was to work closely with the County and look at both budgets as they would sink or swim together. He added that if he was elected he would keep coming to the county meetings.

e) **Department Head Announcements:**

CSAC Director of Public Affairs David Liebler stated that he was honored to present San Benito County as one of the eleven winners of the CSAC Challenge Awards for the video "Booked in a Different Way" created by the San Benito County Probation Department. He presented the award to Chief Probation Officer Brent Cardall and noted that they had invited Chief Cardall to serve on a panel for best practice in Los Angeles.

Chief Probation Officer Cardall gave credit to the judge's wife as she came up with the idea for "Booked in a Different Way". He explained how the 16 week program worked in conjunction with the library.

County Librarian Nora Conte explained the library's part in the program noting that the Friends of the Library took eight months to come up with the money and implement the program.

Information Technology Manager Ray Espinosa stated that there would be a Get Connected event on November 4, 2012 from 1 to 4 p.m. at Veterans' Hall to educate residents about the internet.

f) **Board Announcements, Introductions and Presentations:** Chairman De La Cruz reported that the previous week CAO Rich Inman resigned and it would be effective January 9, 2013. He explained that they would be searching for an interim CAO and then a full time CAO. He thanked Mr. Inman for his time and service and looked forward to working with the next CAO.

Supervisor Rivas stated that LULAC's 25th Anniversary celebration would be held on Saturday October 20, 2012 at San Juan Oaks and people could call 831-673-2009 for tickets.

Supervisor Botelho indicated that he and Supervisor Muenzer had their first Fire Committee meeting and he felt it was quite productive. He stated that the key was working cooperatively together and that the next meeting was in November shortly after the election.

Supervisor Barrios thanked CAO Inman for his service to San Benito County.

Supervisor Muenzer introduced Pinnacles National Monument Superintendent Karen Dorn and asked her to update the board.

Pinnacles National Monument Superintendent Dorn gave a status update on the park noting that they had added 3,000 acres and a campground. She reported that there was a new Westside visitor center on the San Benito County side and they would be expanding the trail system. She added that they had been working on a general management plan and that it was almost ready for public review, hopefully by the end of the month. She stated that they had tentative dates with a barbecue at Jefferson School on November 13th from 5:30 to 8:30 p.m., a community breakfast at Flap Jacks on November 14th from 7:30 to 9:00 a.m., and an open house at San Benito County Library on November 14th from 6 to 8 p.m.

CONSENT AGENDA:

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Rivas, **approved** Consent Agenda Items with the exception of Items 5, 9, 10 and 12 which were pulled for discussion. (Unanimous)*

ASSESSOR'S OFFICE – T. Slavich:

- 1) ***Adopted Resolution No. 2012-62 approving*** a lot line adjustment for agricultural preserve, Weatherly, et.al. and Daugherty; and ***adopted Resolution No. 2012-63 approving*** the Enlargement of one agricultural preserve (Moules).
File #7

BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:

- 2) ***Approved*** the appointment of Emi Maruyama as a consumer member to the Behavioral Health Board effective October 2012 through October 2015. *File #810*

BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:

- 3) ***Approved*** the appointment of Thomas Keylon as a public interest member to the Behavioral Health Board effective October 2012 through October 2015. *File #810*

BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:

- 4) ***Received*** 2011 Annual Behavioral Health Board report on County Mental Health Services. *File #810*

BOARD OF SUPERVISORS:

- 5) **Accept the donation of the surplus stove/oven from the City of Hollister and direct staff to coordinate with the Migrant Camp for the installation.**

Supervisor Rivas wanted to discuss what to do with the surplus stove. He noted that the Homeless Shelter was in need of a new stove and felt they should move forward and direct staff to take it off of the City's hands.

Chairman De La Cruz asked why the City of Hollister didn't just give it to the shelter.

Supervisor Rivas replied that he didn't know but if it was donated to the Homeless Coalition, they needed to act on it.

HHSA Deputy Director Enrique Arreola explained the reason is that the Homeless Coalition leases from the Farm Bureau and it has to go through the county. He explained that the stove they have there works fine but they would be open to replacing it with this double oven.

Supervisor Botelho asked what the cost would be.

HHSA Deputy Director Arreola reported that it looked complete but needed a good cleaning. He explained that the expense would be in having someone delivering it from the airport, but perhaps a county department could do that and coordinate it with the Farm Bureau.

Supervisor Botelho thought the Farm Bureau could come up with the cost.

Supervisor Barrios suggested that a local electrician could volunteer to help install the stove if needed.

There was no public comment.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor De La Cruz, **accepted** the donation and **directed** staff to coordinate with the Migrant Camp for installation and moving to the labor camp at no cost to the County, adding that if there was a cost they would need to report back to the Board. (Unanimous) File #142*

COUNTY ADMINISTRATION OFFICE – R. Inman:

- 6) **Approved** copier lease purchase agreement for County Administration Office with Monterey Bay Office Systems/US Bank to be effective upon delivery in the amount of \$10,470; **approved** service and supply agreement in the amount of \$21.00 per month for duration of lease; **adopted Resolution No. 2012-64 approving lease** agreement, budget augmentation and other relation action. *File #119*

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

- 7) **Approved** contract with K & H Print Solutions regarding printing for the upcoming November 6, 2012 Presidential General Election for the period of August 28, 2012 through December 30, 2012. *File #285*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 8) **Approved** and **accepted** CDC Comprehensive Agreement in the amount of \$359,854 for public health emergency preparedness (PHEP) activities for the period of July 1, 2012 to June 30, 2013 and **authorized** the Interim HHS Director to sign. *File #420*

PROBATION DEPARTMENT – B. Cardall:

- 9) **Approve out-of-state travel for Al DeVos, Gang Prevention Coordinator, to attend the international Bullying Prevention Association Conference in Kansas City, MO on November 3, 2012 to November 7, 2012.**

Supervisor Barrios supported the effort to be a part of an international conference.

Chief Probation Officer Brent Cardall stated that the cost to travel out of state was 100% covered by grants and there was no cost to the County.

There was no public comment.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, approved out-of-state travel for Al DeVos, Gang Prevention Coordinator to attend the International Bullying Prevention Association Conference in Kansas City, Missouri on November 3, 2012 to November 7, 2012. (Unanimous) File #510

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 10) **Approve Amendment #2 with Nolte Associates, Inc. for additional design and engineering services on the Rocks Road Bridge replacement project, in the amount of \$16,313, for a total contract amount not to exceed \$317,455; and extend the original term of contract from June 30, 2013 to June 30, 2014.**

Supervisor Botelho asked if it was part of the engineering cost.

Public Works Administrator Steve Wittry explained that it was in reference to the work Cal Trans requested for the deck of the bridge.

There was no public comment.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, approved amendment #2 with Nolte Associates, Inc. for additional design and engineering services on the Rocks Road Bridge replacement project, in the amount of \$16,313, for a total contract amount not to exceed \$317,455;

and **extended** the original term of contract from June 30, 2013 to June 30, 2014.
(Unanimous) File #105

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 11) **Approved** Amendment #2 with SSA Landscape Architects, Inc. for design services for the River Parkway/Regional Park Conceptual Master Plan, increasing the contract by \$10,650 for a total not to exceed \$220,332. *File #105.3*

SHERIFF'S OFFICE – D. Thompson:

- 12) **Approve reorganization in the Sheriff's Office to include the following: Add .75 FTE Office Services Supervisor to the schedule of authorized positions and add 1.0 FTE Office Assistant I to the schedule of authorized positions.**

Sheriff Darren Thompson requested that the matter be pulled off the consent agenda. He explained that he was requesting to make modifications to the agenda item before the Board which would be a plan that would be more beneficial to employees and the county which was being made possible by a new opportunity. He requested that they disregard the AIT with 3 layoffs scheduled to take effect November 1st of 1.8 civil clerks and 1.0 records clerk. He explained that he was asking to rescind one layoff notice of the 1.8 civil clerks. He further explained that the new plan would allow all 3 employees to remain employed and it would save the county amount of money that they needed to save.

Supervisor Barrios asked if they would still see a savings by this action.

Sheriff Thompson replied that they would eclipse the previous savings by more than \$26,000.

Supervisor Rivas asked that it be reagendaized as a regular item so that he could study it.

Supervisor Muenzer asked if they had to take action by November 1st.

Assistant County Counsel Barbara Thompson stated that the alternative would be to extend the layoffs to November 6th.

Supervisor Barrios asked if further noticing would be needed.

Assistant County Counsel Thompson assumed that Human Resources of the Sheriff would provide notice to employees.

Sheriff Thompson explained that if they extended the layoff notice they only needed to extend the layoff notice of 1.8 civil clerks.

Supervisor Muenzer expressed reservations as Supervisor Rivas had. He felt it would be clearer to the Board and the public if they put it on the next agenda.

Chairman De La Cruz asked what the cost was for one week.

Sheriff Thompson replied that it was under \$1,000.

Chairman De La Cruz asked Management Analyst Jacki Credico if the county would save more money or pay more out later at retirement.

Management Analyst Credico replied that there was some other benefit related costs.

Chairman De La Cruz replied that he wanted to see a fiscal impact breakdown and a long term financial impact.

Management Analyst Credico answered that the Sheriff was staying within his budget.

Chairman De La Cruz reiterated that he wanted to see the breakdown.

There was no public comment.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **extended** the layoffs of 1.8 civil clerks to November 6, 2012. (Unanimous) File #110*

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

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 13) **Continued public hearing from September 25, 2012 meeting, for refund of County Service Area Fees in the amount of approximately \$32,593 – (CSA #33-Torrano Estates).**

Public Works Administrator Steve Wittry requested that the hearing be continued to December 4, 2012 to allow time to get answers.

There was no public comment.

Upon motion duly made by Supervisor Rivas and seconded by Supervisor Muenzer, continued the public hearing for the refund of County Service Area Fees re: CSA #33, Torrano Estates, to December 4, 2012 at 9:00 a.m. (Unanimous) File CSA #33

REGULAR AGENDA:

Chairman De La Cruz stated that item #22 would be heard at this time.

PLANNING DEPARTMENT – G. Armstrong:

- 22) **Review draft ordinance regarding Oil and Gas Well regulations; direct staff to schedule for public hearing for potential adoption.**

Assistant Planning Director Byron Turner gave a staff report and explained what the new ordinance would do, indicating that the changes were in the packet. He noted that there were some typos that needed to be taken care of.

Assistant County Counsel Barbara Thompson stated that all changes on the ordinance were red lined.

Supervisor Botelho felt it was important to have an expert in the field that knows what they're looking at. He further felt it was imperative that they work with interested parties and make sure it's done right.

Supervisor Rivas stated that he liked the revisions that were made but was concerned with fracking close to urban areas which could have long term effects. He suggested an evening meeting with the Board.

Chairman De La Cruz opened the matter up for public comment.

Manager of Corporate Development for the Termo Company Ralph Combs stated that he was also representing CIPA. He thought the Santa Barbara model that was mentioned may not be appropriate for San Benito County. He added that the Santa Barbara County ordinance was already out of date. He suggested that they take time to meet and educate each other on the needs of the county and industry and perhaps they could form a committee.

Aromas resident Pat Lerman expressed that he was proud that they took their request seriously with Aromas Cares for Environment (ACE) and supported the concept of a public evening meeting and spoke of protecting air and water environment.

President of Aromas Community Grange Jan Saxton expressed concern with fracking as our county was already water stressed and they could not afford to

exchange water for oil. She added that it diverts resources from alternative energy sources that are clean and renewable. She expressed concern with leases being covered by this ordinance or not. She appreciated the town hall suggestion.

Seth Capron remarked on how quickly staff worked on the ordinance and stated that he would like more opportunity to respond.

Aromas resident Phyllis Katz expressed extreme appreciation for the tremendous efforts on the ordinance as the current ordinance was shockingly weak. She was concerned that they had not delegated to a committee. She noted that unfortunately the State has a lot of control over the manner of drilling and the County had to address the areas unregulated by the State. She looked forward to the community forum but there were still a number of concerns with the ordinance.

Aromas Water District General Manager Vicki Morris stated that their board had passed a resolution to update the ordinance and address concerns. She noted that their primary concern was preservation of the aquifer.

Aromas resident Rob Ryan felt that the State had ignored them and was gratified that the County would pursue the best practices. He was very concerned with the safety of air and water and supported the evening meeting. He thanked Supervisors Botelho and Rivas for wanting to protect the community.

Richard Bettencourt stated that his only comment was that everyone wanted to talk about fracking but didn't know if everyone knew what the process was. He suggested that if they had a meeting they should educate the public on both sides of the issue.

Robert Scoles asked how thoroughly did the County review the June 2011 Citadel application. He noted the apparent error of Bitterwater Road being called Bittersweet Road and hoped the initial permit was not rubber stamped. He added that there was no mention of the depth of the well. He explained that oil and steam mix and move around in porous sand. He added that they've been told that fracking happens 1,000's of feet below the water table but what about enhanced recovery and secondary recovery.

There was no further public comment.

Supervisor Barrios liked the idea of an evening workshop which would have to be noticed. She stated that she would like to have a committee with representation from the City of Hollister, San Benito County, Aromas, the operators and County Counsel.

Chairman De La Cruz stated that it should not just be Aromas but all persons in San Benito County.

Supervisor Muenzer stated that they had given direction to staff for the legality of the moratorium and asking how long to draft. He stated that they did not need a petroleum administrator hired. He added that if there was an ad hoc committee he would like to be on the committee as all the active oil fields were in his district.

Supervisor Rivas stated that he would like to see a workshop and inclusive committee as he was hesitant to be behind closed doors with oil people as he did not trust them, but it would be okay if the committee was inclusive.

Supervisor Botelho agreed with having a workshop. He stated that there was a lot of complex information and the county's current ordinance needed a lot of work. He understood that the petroleum administrator would be a cost but the cost should be borne by the operators and would not be full time but contracted out. He spoke of protection of the environment, air, water and communities and

to keep on fast track. He indicated that they needed to come out with something workable and viable.

Chairman De La Cruz did not support a petroleum administrator. He appointed Supervisors Muenzer and Botelho and direction to select someone from Aromas and South County, Cities of San Juan Bautista and Hollister and a representative from the oil industry and come back to the Board.

Supervisor Barrios suggested having the workshop first then get the ad hoc committee together.

Chairman De La Cruz agreed to schedule the workshop first. He set the special meeting for Thursday, November 1, 2012 at 6:00 p.m. in Board Chambers. *File #790*

The Board adjourned for a short break at 10:45 a.m. and reconvened into regular session at 10:57 a.m.

BOARD OF SUPERVISORS – M. Barrios:

14) **Presentation on the State Health Care Reform by a representative from the California Primary Care Association.**

Supervisor Barrios stated that she had invited Carmella Castellano-Garcia of the California Primary Care Association to speak on the State Health Care Reform.

Ms. Castellano-Garcia explained about her organization and what they do. She spoke of the impacts of implementing State Health Care Reform 2014.

The Board thanked Ms. Castellano-Garcia for the information.

Ms. Castellano-Garcia concluded by saying that currently there are four million people uninsured and soon they will have access and it will impact the medical field resulting in a capacity issue in California. *File #156*

ASSESSOR'S OFFICE – T. Slavich:

15) **Accept the Assessor's 2012-2013 Annual Report.**

County Assessor Tom Slavich presented the 2012-13 Assessor's Annual Report.

Supervisor Barrios expressed appreciation and noted that the trend was encouraging.

Supervisor Botelho hoped it was the last time with a negative figure.

Chairman De La Cruz opened the matter up for public comment.

Marty Richman drew attention to page 13 noting that of the 20 smallest California counties, 70% of those are in the minus column and the most populist was only 25-26% in negative. He indicated that San Benito County was second from the worst. He surmised that the costs were far outstripping the tax revenue to pay for it. Mr. Richman stated that population was needed to generate local jobs and that they should form a special committee with the City.

There was no further public comment.

Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Rivas accepted the Assessor's 2012-13 Annual Report. (Unanimous) File #7

ASSESSOR'S OFFICE – T. Slavich:

16) **Consideration to initiate steps to implement AB1265 (Williamson Act) and set a public hearing for November 6, 2012 at 1:30 p.m. or as soon thereafter**

as the matter may be heard to make a final determination regarding implementation.

Supervisor Botelho stated that he owned some land under the Williamson Act contract primarily in Santa Clara County but some in San Benito County. He viewed it as a general exemption and wanted to participate in the discussion. He indicated that he had requested a ruling from the Fair Political Practices Commission (FPPC) on the matter.

Supervisor Muenzer stated that he was in the same position. Assessor Tom Slavich reported that he had brought this to the Board two times now, in 2010 and 2011, and the Board told him to bring it back. He explained what implementation does and that the County would yield \$230,000 in revenue. He added that the County qualified for the program. He added that the County has been sub-venting the Williamson Act program since 2009 and had lost 3 million dollars which was \$750,000 a year.

Supervisor Muenzer stated that up until the economic hard times and the state not paying the county, previously they were made whole by the state.

Assessor Slavich concurred.

Supervisor Barrios stated that they were never at a breakeven point and they always had something to gain. She concluded that by implementing AB 1265 they would have gained \$230,000.

Assessor Slavich confirmed that was correct. He added that there was a moratorium in place and there was no new land in the Williamson Act.

Chairman De La Cruz opened it up for public comment.

Marty Richman stated that there was a conflict of interest by Supervisors Botelho and Muenzer as they direct financial interest if Williamson Act or not. He indicated that it would change their tax rate. He asked the Chairman.

Chairman De La Cruz asked if County Counsel elected to respond.

Assistant County Counsel Barbara Thompson explained that the FPPC enters extensive guidelines and not just economic interests. She stated that even if there are economic interests affected, she did not think the supervisors were required to answer.

Mr. Richman asked the Chair if a significant of the public was affected by the Williamson Act. He felt it was the wrong course to take. He suggested they reclude themselves until the ruling and not participate until then.

Supervisor Rivas stated that he was in favor of implementing AB 1265.

Upon motion duly made by Supervisor Rivas and seconded by Supervisor Barrios set a public hearing for November 6, 2012 at 6:00 p.m. or as soon thereafter as the matter may be heard to make a final determination regarding implementation of AB1265 (Williamson Act).

Supervisor Botelho expressed concern with a tax increase to a group that did not receive a whole lot of services.

Supervisor Muenzer stated that he could not support going forward with a public hearing as it would be a definite threat to some ranchers. He asked that the public hearing be moved to the evening at 6:00 p.m.

In the afternoon session, the Board changed the time of the public hearing accordingly.

Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Botelho changed the public hearing on November 6, 2012 to 1:30 p.m. (Unanimous) File #7

The Board adjourned for lunch at 11:49 a.m. and reconvened into regular session at 1:15 p.m. Chairman De La Cruz stated that item #20 would be heard at this time.

INTERNAL SERVICES – M. Riopel:

- 20) **Approve contract with California Department of Forestry and Fire Protection for fire protection services with a contract term from July 1, 2012 through June 30, 2013 in an amount not to exceed \$1,069,763 and adopt a Resolution to reflect an amount not to exceed \$930,731 for Schedule A services for fiscal year 2012/13.**

Management Analyst Catherine Shaw gave a brief staff report.

Supervisor Muenzer explained that it was a stop gap measure to get us through the next year. He added that the contract did not have a fire prevention officer and that it was the best they could do under the budgetary times.

Supervisor Barrios asked who was responsible for the difference if the difference was not covered.

Cal Fire Battalion Chief Phil Matteson stated that the county would be responsible and that they had brought costs down as much as they could. He explained that historically there was more than a 5% reduction in budget and any cost over the not to exceed amount would be borne by Cal Fire.

Assistant County Counsel Barbara Thompson explained that the Board would have to do a general fund contingency transfer.

Battalion Chief Matteson recommended that in the future they don't do that and instead put budgeted amount the same as amount of the contract.

Supervisor Barrios agreed that they shouldn't bank on it coming in at less.

There was no public comment.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Rivas **approved** contract with California Department of Forestry and Fire Protection for fire protection services with a contract term from July 1, 2012 through June 30, 2013 in an amount not to exceed \$1,069,763 and **adopted Resolution No. 2012-65** to reflect an amount not to exceed \$930,731 for Schedule A services and fiscal year 2012/13. (Unanimous) File #60*

Discussion was had about the time of the public hearing re: AB 1265 (Williamson Act) noting that it was on Election Day and the chambers would be in use.

Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Botelho changed the time of the public hearing to consider AB 1265 (Williamson Act) to 1:30 p.m. on November 6, 2012.

COUNTY ADMINISTRATION OFFICE – R. Inman:

- 17) **Receive status report on Feasibility Study regarding the establishment of a Community Services District for parks, recreation and library services.**

Management Analyst Janelle Cox gave a PowerPoint presentation. She concluded by saying that they hoped to have the date to bring back to the Board in December and mail ballots for the August 2013 election.

Supervisor Botelho did not like that it appeared to set up another level of bureaucracy that a project would have to move through to get approval. He

added that he hated to see another taxing entity and perhaps they should look at it as more of a joint powers agreement format.

Management Analyst Cox stated that she could do some analysis on it and added that the Board would no longer have to deal with Parks and Recreation and the library.

Supervisor Botelho stated that for his personal preference he didn't like it and thought the County was too small and it would interfere with Planning and a consolidated plan.

Supervisor Barrios stated that they were constantly facing the threat of closing the library and no parks and recreation services and this would keep it in existence for the community that wants it. She felt it was the way to go.

Supervisor Muenzer indicated that he also supported it in general terms. He stated one concern was that he was hearing negative comments regarding another district and thought perhaps a JPA. He indicated that he definitely supported the library and parks and recreation on their own funding source.

Supervisor Rivas expressed that he was not worried about it being managed as it would be an elected board. He stated that he liked the sustainability of these programs. He was concerned if the money was going to be adequate enough for library service and parks and recreation.

Management Analyst Cox stated that she would have to do an analysis.

Chairman De La Cruz spoke of the maintenance of level of effort and wondered if it would take away from the property taxes and the general fund.

Clerk/Auditor/Recorder Joe Paul Gonzalez explained the way the formula works for property tax revenue vs. general discretionary funds ratio.

Chairman De La Cruz asked if they would be fighting for the same dollars.

Clerk/Auditor/Recorder Gonzalez explained that a percentage of what is currently paid into district is paid in perpetuity. He added that it was no different than a city annexation.

Management Analyst Cox noted that City Council had the same questions at their meeting the night before.

Supervisor Muenzer stated that Mr. Gonzalez had enlightened him as he thought it was to get the whole library and parks and recreation off the county's budget.

Management Analyst Cox stated that she would be back in December with the results.

Chairman De La Cruz opened the matter up for public comment.

Marvin Jones indicated that he had no problem with the Parks and Recreation as a special assessment, but wanted to know how they were going to get the library out of the San Benito County library district. He spoke in regards to the mosquito abatement district. He suggested to get revenue for the library they should do a parcel tax for the library only, \$8.00 a year to support the library. He felt they should have the library stand alone on itself and that would take care of the library.

Richard Bettencourt indicated that he attended the Vision meetings. He spoke of the question raised which was "in 10 years what would the City of Hollister look like?" He posed the same question for the library and parks.

There was no further public comment. *File #93*

COUNTY ADMINISTRATION OFFICE – R. Inman:

18) **Discussion concerning method to pay for General Plan costs to complete the update and provide direction to staff.**

Management Analyst Catherine Shaw reported that it was CAO Inman's intention on how to pay for the additional costs of \$107,680 to Mintierharnish through the following possible options; use general fund contingencies (she warned that there was only \$200,000 in there), a loan from impact fees, use of insurance refund as they were anticipating a Trindel refund and some salary savings from the loss of a senior planner.

Planning Director Gary Armstrong stated that the \$107,680 was not hard and fast and they could negotiate. He was looking for direction on how to proceed.

Supervisor Botelho stated that another option was to not pay it adding that they were very explicit on budget and time and it was neither. He expressed that he was not happy with the consultant and would rather spend \$107,000 to sue them rather than pay it. He spoke of the fact that the consultant billed them to do the bill.

Supervisor Barrios felt they should only consider paying two things; the change of level of service and the new community language which added up to \$6,800. She suggested negotiating after they receive the final product.

Planning Director Armstrong reminded that the greenhouse gas was specifically excluded, which was a \$33,000 item. He stated that it was clear that it was not included and it was crucial for the preparation of the document.

Supervisor Rivas stated that up to that point he did not like the document and was hard pressed to vote for the increase. He indicated that he probably wouldn't approve.

Supervisor Muenzer surmised that it was an update and if they threw it out they would still have a useable general plan.

Planning Director Armstrong concurred that was correct but the State requires updates and we were well over due. He stated that they were most focused on the Housing Element which they updated and it was in good shape and current.

Supervisor Muenzer asked if they could put it on the shelf for a year or two, could they function.

Planning Director Armstrong replied yes but noted that they may want to consider the start up costs to do that and added that they were so close to finishing it.

Chairman De La Cruz felt if they shelved it, they should release the EIR.

Planning Director Armstrong stated that they would still have to do some level of environmental documentation somewhere down the road and added that about 99% has been done on the EIR. He stated that they were now incorporating staff comments and they could go with the EIR without staff comments. He spoke of a specific memo to the CAO about 10 months ago regarding additional costs.

Supervisor Botelho stated that he would like to see them finish the document as they had a million dollar investment. He suggested finishing the work in house.

Supervisor Rivas stated that he would like to see some conclusion to the general plan. He expressed concern with "estimate cost to finish the general plan". He stated that he would like to get another cost to finish the general plan and would like to see another option, preferably one that would cost less.

Supervisor Barrios felt they should establish an additional cost for the greenhouse portion.

Planning Director Armstrong stated that they were throwing around the number of \$33,000. He indicated that if they paid the invoice there would be \$1,800 left of the million and currently there was \$15,000 left.

Supervisor Muenzer suggested using the \$15,000 to pay him for the work done and then shelve it and when they had the money go back.

Supervisor Botelho was adamant about not paying the consultant one more dime until the product was finished and no payment until the general plan was completed and unchallenged.

Chairman De La Cruz stated that could take four to five years.

Supervisor Barrios felt that shelving the general plan did not make sense as it was a moving target and was outdated already. She stated that they would have to start all over if they shelve it.

Planning Director Armstrong concurred with Supervisor Barrios and felt the Board had the leeway to negotiate and ask for a bare minimum to negotiate.

Supervisor Barrios suggested paying the \$15,000 and the additional \$6,800.

Planning Director Armstrong felt there was some potential for them to come at them with contractual liabilities. He felt there was room for negotiation.

Chairman De La Cruz called for public comment.

Aromas Community Grange president Jan Saxton stated that she was on the general plan advisory committee and from the beginning they were frustrated with Mintierharnish noting that they had put the committee through exercise after exercise for two years. She added that they were consistently late in getting materials and scheduling meetings. She asked why time and money was spent on responding to private comments and developers. She expressed that she had no faith in Mintierharnish and asked them to please not give them any more money.

Richard Bettencourt stated that as a Planning Commission they were constantly updating the general plan. He also stated that he had never heard the Board say thank you to the GPAC.

Chairman De La Cruz and Supervisor Barrios stated that they had said thank you to GPAC and did so again.

There was no further public comment.

Supervisor Muenzer moved to use the estimated \$15,000 in the original contract to negotiate a settlement to pay off Mintierharnish for the outstanding bill. Supervisor Botelho seconded the motion. (The motion died 2 to 3 with Supervisors Riva, Barrios and De La Cruz voting no).

Under the question:

Supervisor Botelho stated that he was not impressed with the consultant at the last meeting and had a problem that they had paid one million dollars and didn't get the complete product. He raised the questions of "don't they have the obligation to perform?" and "was there any recourse?"

Assistant County Counsel Barbara Thompson stated that staff could look at it closely and negotiate with Mintierharnish.

Planning Director Armstrong stated that they were on friendly terms with them and could negotiate and wrap it up in a finished form. He suggested that he and County Counsel could meet with the consultant.

Supervisor Rivas asked what the contingency plan was.

Planning Director Armstrong stated that they needed to fulfill CEQA obligations and it would be a huge, almost insurmountable task for staff left.

Supervisor Barrios felt they needed a completed product.

Supervisor Muenzer did not agree to amend his motion and said that it could die.

Supervisor Botelho stated that he didn't want to give him the lump sum and that some comments could be handled by staff.

Planning Director Armstrong stated that he would prefer some allowance for staff to meet with the consultant as he believed they were willing to lose some amount of money.

Chairman De La Cruz asked if he would like to take time to talk to them.

Planning Director Armstrong replied affirmatively adding that the consultant doesn't want a bad ending and he would like to talk to him about what it would take to finish to go public.

Chairman De La Cruz called for the vote which was as follows:

Supervisor Botelho	yes
Supervisor Rivas	no
Supervisor Muenzer	yes
Supervisor Barrios	no
Supervisor De La Cruz	no

The motion died 2 to 3.

Chairman De La Cruz directed Planning Director Armstrong to talk to the consultant and bring the matter back on November 6, 2012.

Further discussion ensued between Board members. *File #790*

INTERNAL SERVICES DEPARTMENT – M. Riopel:

19) **Receive Annual Impact Fee Report for fiscal year 2011/2012.**

The matter was continued to November 6, 2012. *File #119.2*

PLANNING DEPARTMENT – G. Armstrong:

21) **Discuss and direct staff accordingly to potentially release to the public the General Plan Update (GPU) policy document and the GPU Draft EIR document.**

Planning Director Armstrong gave a brief staff report noting that the policy part was ready to go but the EIR was not. He added that he would like to get changes in the EIR before releasing and should be able to do so within a month.

Supervisor Rivas proposed posting the EIR or policy document on the county website noting that up until this point it has been a top secret document. He reiterated that he was in favor of posting some type of document so they can begin to review it.

Supervisor Barrios noted that the time difference was one month for the draft of the EIR and she would like to follow state protocol.

Planning Director Armstrong stated that he could not promise one month after negotiation.

Supervisor Barrios stated that she would like it to be a public document.

Supervisor Botelho expressed concern with the public's trust in our process and transparency. He felt that they would be ahead of the game by releasing the document, put it on the website and make it clear that it's a draft. He added that if they made changes they would make changes to what was posted.

Supervisor Muenzer asked if they would know by the November 6th meeting how long they will need for the draft EIR.

Planning Director Armstrong replied that he believed so.

Supervisor Muenzer suggested continuing to November 6, 2012 and make a decision then to release or hold off until the EIR.

Assistant County Counsel Barbara Thompson stated that their office was more in favor of releasing the draft policy document as opposed to the EIR.

Chairman De La Cruz felt it needed to be released and the sooner the better with the farthest out being November 6, 2012.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor Botelho moved to **release** the policy document for the General Plan Update as soon as possible with proper disclosure that it is a draft document and staff cannot field comments. Further moved to **continue** the discussion to release the draft EIR timeframe to the public as well to November 6, 2012. (Unanimous)*

Supervisor Barrios asked if the draft general plan update did not include the level of service.

Planning Director Armstrong explained that it will include going to level D service in the policy document but does not include the impact of CEQA. He added that the new community and unplanned growth were in the EIR document.

Supervisor Muenzer asked to hear from staff if they were comfortable with the motion.

Planning Director Armstrong replied yes. *File #790*

The Board adjourned into closed session at 3:13 p.m. and reconvened into regular session at 4:26 p.m.

CLOSED SESSION:

**23) Conference with Legal Counsel – Anticipated Litigation
Initiation of Litigation pursuant to Government Code Section 54956.9(c)
Number of cases: 1
*No action taken. File #235.6***

**24) Public Employment Recruitment
Title: County Administrative Officer
Authority: California Government Code 54957
*No action taken.
Chairman De La Cruz set a special meeting for Tuesday, October 23, 2012 at 8:30 a.m. to consider this matter. File #235.6***

**25) Public Employee Appointment
Title: Interim County Administrative Officer
Authority: California Government Code 54957
*No action taken.
Chairman De La Cruz set a special meeting for Tuesday, October 23, 2012 at 8:30 a.m. to consider this matter. File #235.6***

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 4:28 p.m. to October 23, 2012 at 8:30 a.m.

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

ATTEST:
Denise R. Thome, Clerk of the Board