



SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios
District No. 1

Anthony Botelho
District No. 2
Chair

Robert Rivas
District No. 3

Jerry Muenzer
District No. 4
Vice-Chair

Jaime De La Cruz
District No. 5

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

REGULAR MEETING FEBRUARY 19, 2013 ACTION MINUTES

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

9:00 a.m. CALL TO ORDER:

- a) Supervisor Rivas led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Cathy Alameda, Chairwoman of the 4H Presentation Day explained that it was a big day for 4H members. She expressed that she would like to have all supervisors be judges for the event. She noted that it would be held on March 16, 2013 from 9 to 12 at Tres Pinos School.
- d) **Department Head Announcements:**

Planning Director Gary Armstrong stated that he was happy to announce that the EIR for the update of the General Plan was ready to go for the 45 day review. He explained that they would set it for Friday and have it end April 8th giving the public the opportunity to comment from March 22 – April 8, 2013.

Public Works Administrator Steve Wittry stated that they would replace the playground material at Vet's Park and the play area should be back in operation by the end of February.

Interim CAO Ray Espinosa reported that IT had met with San Benito High School about the job shadowing program.
- e) **Board Announcements:**

Supervisor Barrios thanked the San Benito County Emergency Medical Services Department for the CPR training last week. She reported that the Intergovernmental Committee had assigned Mayor Velasquez and herself as an ad hoc committee to look at consolidation efforts between the City and County.

Supervisor Muenzer reported that there was a party last Monday at the Pinnacles and wanted to thank the community for supporting the dedication ceremony at the park. Supervisor Muenzer stated that AMBAG voted the draft 2012 Regional Growth forecast and asked if they wanted to agendaize the matter at a future meeting.

Chairman Botelho directed that it be agendaized for the first meeting in March with a presentation from Supervisor Muenzer and perhaps AMBAG. He noted that now they needed to take advantage of the Pinnacles being a national park. He spoke of the positive things such as the courthouse going up, prosperity of agriculture in the county and our staff who were always willing to provide guidance and were often not recognized. He noted that he had not heard complaints in a long time even though there were cut backs of staff. Chairman Botelho spoke of the possibility of bed and breakfasts along the wine trail and the National Park. He suggested a ribbon cutting ceremony and open house to celebrate the Sheriff, Planning and Public Works moving into their new location, once they were all settled. He reported that there was some development interest in the county such as the possibility of Del Webb at San Juan Oaks, Rancho San Benito and the Floriani Family whose development was quite large and at the border of the north of the county. He stated that he was opposed to the Rancho San Benito project and felt it would devalue property in San Benito County and Hollister.

The Chairman reopened public comment.

Cindy Parr reported that we lost another youth in the community. She felt adults and the community should pull together and bring in a rehabilitation as heroin is big in our county. She noted this was the second youth to die from heroin. She asked that they form some sort of committee to address this and educate in schools.

The Chairman closed public comment.

CONSENT AGENDA:

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Rivas, **approved** Consent Agenda items with the exception of items 2, 3 and 6 which were pulled for discussion. (Unanimous)*

CHILDCARE LOCAL PLANNING COUNCIL – K. Bobsin:

- 1) ***Certified*** the annual Childcare Local Planning Council membership and ***authorized*** the Chair to sign certification statement. *File 166*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 2) **Adopt Resolution approving the Operation and Maintenance contract between the State Department of Housing and Community Development (HCD) and the County of San Benito in the amount of \$396,763; and authorize the HHSIA Interim Director to sign said contract. (Res. No. 2013-14)**

Item was pulled for discussion.

Supervisor Muenzer asked why this was not to the Board earlier.

Health and Human Services Agency Deputy Director Enrique Arreola replied that they received the contract one and a half weeks ago, unfortunately, and there was little they could do.

Supervisor Barrios had questions about the operating budget.

HHSA Deputy Director Arreola stated that he would need to get back to them.

Supervisor Muenzer suggested that since it was so late, could they hold it till the next meeting.

HHSA Deputy Director Arreola stated that the longer they delayed, the longer it would take to get remittance.

Supervisor Barrios stated that she could get her answers later and not hold up the contract.

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Rivas, **adopted Resolution No. 2013-14 approving** the Operation and Maintenance contract between the State Department of Housing and Community Development (HCD) and the County of San Benito in the amount of \$396,763; and **authorized** the HHSA Interim Director to sign said contract. (Unanimous) File #130*

PLANNING DEPARTMENT – G. Armstrong:

- 3) **Approve budget transfer in the amount of \$67,000 to Budget #1001-272 for costs related to the General Plan Update. (4/5 vote)**

Item was pulled for discussion.

Chairman Botelho asked about utilizing contingencies for the cost and asked where they were at with contingencies.

Clerk-Auditor-Recorder Joe Paul Gonzalez spoke of the different revenue expected for contingencies and estimated the contingency balance would be between half a million and \$700,000.

Further discussion ensued between Board members and staff.

Supervisor De La Cruz moved to transfer \$67,000 from contingencies to the general plan update as a loan with funds coming out of a fee structure created for funding of the general plan.

Supervisor Barrios seconded the motion.

Under the question:

Further discussion ensued

Supervisor Barrios withdrew her second.

Supervisor De La Cruz withdrew his motion.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer **approved** the budget transfer to Budget #1001-272 for costs related to the General Plan Update. (Unanimous 5-0) File #790*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 4) **Approved** Use Agreement with Hollister Heat for construction of roof Structure within the Veterans Memorial Park. *File #127*

SHERIFF'S OFFICE – D. Thompson:

- 5) **Approved** agreement with Venus Azar, MD for autopsy services at the Monterey County coroner's facility effective February 1, 2013 through December 31, 2013; and **authorized** the Sheriff to sign said contract. *File #110*

SHERIFF'S OFFICE – D. Thompson:

- 6) **Accept the Off-Highway Motor Vehicle Grant award in the amount of \$17,158 and approve the Budget Adjustment/Transfer increasing appropriations and revenue in the amount of \$17,158. (4/5 vote)**
Item was pulled for discussion.

Supervisor Muenzer stated that the California Department of Parks through Hollister Hills was stepping up to the plate in assisting the county. He wanted to publicly thank them.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios **accepted** the Off-Highway Motor Vehicle Grant award in the amount of \$17,158 and **approved** the Operating Budget Adjustment/Transfer form increasing appropriations and revenue in the amount of \$17,158. (The motion passed 4-0-1 with Supervisor Rivas absent for the vote) File #110*

SHERIFF'S OFFICE – D. Thompson:

- 7) **Approved** Coordinated Special Weapons and Tactics (SWAT) Agreement with Monterey County Sheriff's Office for the period of January 21, 2013 and **continued** until terminated by any participating party; and **authorized** Sheriff to sign said agreement. *File #110*

PUBLIC HEARING – 9:00 a.m. (Or as soon thereafter as the matter may be heard)

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

- 8) **Conduct a public hearing to amend Sections 5.01.035 and 5.01.036 of the San Benito County Code, establishing new fees and amending existing fees in the fee schedule for the offices of the County Clerk, Recorder and Registrar of Voters; and adopt Ordinance, amending Sections 5.01.035 and 5.01.036 of the San Benito County Code, establishing new fees and amending existing fees in the fee schedule for the offices of the County Clerk, Recorder and Registrar of Voters.**

Clerk-Auditor-Recorder Joe Paul Gonzalez gave a staff report.

Chairman Botelho opened the public hearing.

Marty Richman felt they should be precise about the fees for negative declaration and CEQA declaration and preferred that it read "the state fee for....." and "local schedule is....." He noted that he would like to see that on both big fees.

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

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **adopted Ordinance No. 913 amending** Sections 5.01.035 and 5.01.036 of the San Benito County Code, **establishing** new fees and **amending** existing fees in the Fee Schedule for the Offices of the County Clerk , Recorder and Registrar of Voters. (Unanimous) File #943.1*

REGULAR AGENDA:

COUNTY ADMINISTRATION OFFICE – R. Espinosa:

- 9) **Discussion regarding San Benito County Fire Protection; and provide direction to staff.**

Interim CAO Ray Espinosa stated that the City Fire was providing an estimate at the Fire Committee meeting on March 7th and he would bring it back to the Board at the end of March or early April.

Chairman Botelho stated that the Committee asked staff to bring back options and the deadline was March to get it done.

Supervisor Muenzer felt the Fire Protection Committee was off to a rocky start with issues being aired out. He noted that he was pleased with the last meeting and that everyone was looking at a way to provide better service.

Chairman Botelho opened public comment.

Marty Richman felt the agreement between the three agencies; Cal Fire, Hollister Fire and the volunteers was disappointing. He spoke of the AMBAG projections in the County and suggested that the Board needed to step up and make a special district of the unincorporated area and charge a 1% sales tax. He noted that the unincorporated areas do not pay a 1% sales tax like the cities. He estimated that with a 1% sales tax in the unincorporated area they would receive one to one and a half million dollars.

Chairman Botelho closed public comment. *File #60*

COUNTY ADMINISTRATION OFFICE – R. Espinosa:

10) Review and discuss documents for the FY 2013-2014 Budget Hearings.

Interim CAO Ray Espinosa gave a staff report.

Supervisor Barrios noted 3 changes to the Board policies that she would like brought back later.

Interim CAO Espinosa stated that he would bring as an agenda item to the next special meeting. He noted that spreadsheets would be available for review on the computer this year.

Supervisor Rivas commented that was fantastic and that he didn't want a white board like last year. He stated that he only wanted to see a balanced budget that they were tweaking.

Chairman Botelho expressed that he was more optimistic and that the Administration Office had established better communication with departments and it was running smoother. He directed that the changes to the budget policies were to be brought back to the February 26, 2013 special budget meeting. *File #865*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

11) Discussion and provide direction regarding the operations of the San Benito County Unaccompanied Adult Farm Labor Camp.

Interim Health and Human Services Agency Director Maria Corona stated that a few weeks before questions came up and they sent a letter.

Health and Human Services Agency Deputy Director Enrique Arreola reported that based on the recommendation at the last meeting, County Counsel sent a letter with the Board's recommendations. He indicated that the Farm Labor Association had been responsive to the request and had been providing information. He stated that the FLA's first priority was to the camp residents and providing meals for them. Mr. Arreola stated that they gave him an updated operation agreement. He indicated that he had spoken to the State about it and they said priority should be given to residents, which doesn't seem to be the case. He commented that the State has concerns and they would get back to

him. Mr. Arreola summarized that the State said, roughly, that no one should benefit.

Supervisor Barrios stated that they had a great working relationship with the Farm Labor Association and was glad they were working together and addressing concerns.

Chairman Botelho explained that the camp leases to the Farm Labor Association and the Farm Labor Association sub-leases to the Homeless Coalition for a period of time. He noted that the County approved that relationship. He added that the Farm Labor Association also sub-leased a portion of the facilities to a vendor to supply meals at the camp as well for off-site distribution of services. He noted that there was no written consent to that. Chairman Botelho indicated that a health permit was needed and possibly a use permit and asked if the sub-lease tenant had addressed that.

Mr. Arreola replied that they acquired the health permit and it expired and they haven't renewed it yet.

Deputy County Counsel Shirley Murphy stated that Mindy Sotelo of the Farm Labor Association did not want a sub-lease but does want an operating agreement. She explained the process they were going through now.

Chairman Botelho asked if they were operating under a lease or an operating agreement.

Ms. Murphy explained that the lease was with the Farm Labor Association and that sub tenants were also bound by all the grant terms. She noted that the operating agreement did not address off-site. She added that there would be dire consequences by the State if in breach of agreement.

Chairman Botelho expressed concern if adequate reserves are being met. He asked about the County getting a portion of the profit.

Ms. Murphy stated that it was off season now and it was not immediately crucial and they should iron things out before the new season starts.

Supervisor De La Cruz indicated that they needed to figure out what's going on out there and if it's an operating agreement are they opening it up to others. He stated that there were a lot of questions and didn't feel the County should assume the risk for someone else to make a profit.

Chairman Botelho stated that the Farm Labor Association was non-profit. He indicated that very few entities operate labor camps. He commented that the Migrant Camp has a long history of being run well and he was hesitant to open it up.

Supervisor Rivas thanked staff and in moving forward he felt optimistic that they would fix it. He added that there were a number of issues and problems that have never been addressed and that sub-leases needed to be done correctly. He felt it was a great opportunity to champion the efforts of volunteers.

Mr. Arreola stated that he took up overseeing when the former director retired. He explained that he brought the matter up to the Board two times and the response back was that they disagreed with the findings of his letter. He indicated that there had been true efforts in addressing the issues.

Supervisor Barrios stated that the reason they were there was because of discontent. She suggested a day home for the homeless.

The Chairman opened public comment.

Bill Coates stated that he was a volunteer that helped feed the homeless. He explained that previously they had use of all the facilities when preparing dinner but now, most of the commercial refrigerators were locked and they had access

to only one. He summarized that it was more difficult to operate out there to provide meals to the homeless.

Judi Johnson indicated that the Sunnyslope 4H had been going out there for 10 years. She stated that the equipment was locked up and they had to haul equipment and food which was frustrating. She spoke of the donations each year to the homeless by the church and that 4H also helps. She stated that the situation was difficult.

Doug Emerson, Chairman of the Homeless Coalition stated the issues they have had have been no freezer space and can no longer use the refrigerators. He indicated that they bought a used commercial refrigerator but that it was on its last legs. He expressed the concern with stacking food in the small refrigerator. He noted that they couldn't buy in bulk from Costco or freeze bread which lowers their cost. He noted that in the past they have had a good relationship with the Farm Labor Association but in the past year it has been contentious. He spoke of various issues such as being accused of denting the freezer with a hammer, their plates being moved, and taking their stuff out of the freezer. He added that there were 15 farm workers there and they were not given a choice of a meal. Mr. Emerson explained that New Choice delivered meals in the morning and evening and that they told them that they don't like their food so they weren't going to serve them.

Mindy Sotelo, Executive Director of the Farm Labor Association, indicated that she had not heard that New Choice was not serving the farm laborers. She stated that she did not know where this was coming from or about the use of the kitchen. She summarized that they needed to come back to the table. She noted that they have to provide three meals a day and New Choice provided meals outside when it was slow to make ends meet.

Discussion ensued regarding refrigerator and freezer space and usage.

Supervisor De La Cruz believed that the Farm Labor Association and the Homeless Coalition needed to compromise, work together and report back to the Board of Supervisors. He stated that it was a Board of Supervisors issue now and they needed to create a task force committee as he didn't want to hear this issue next year.

Chairman Botelho stated that the Farm Labor Association was doing a service for the county and the Homeless Coalition was doing a service as well. He indicated that it had worked for the past eight years and there was a little problem right now that they needed to work through. He stated that they had a contract with a food vendor in the winter months and the equipment, etc. was available to the Homeless Coalition. He added that it is a labor camp and not a homeless shelter. He noted that the labor camp had a low population in the winter and that's how it's worked well.

Supervisor Muenzer concurred with Supervisor De La Cruz that they needed a committee. He asked when the Homeless Coalition started was anything spelled out as to what to use.

Ms. Sotelo stated that the sub-lease agreement was all they had. She added that 2005 was the last copy she had and it doesn't spell out anything. She noted that in 2005 the kitchen was not in place then and that the agreement was outdated.

Supervisor Muenzer stated that once they lease it out, they give up the lion's share of rights in saying how the facility is to be used. He commented that they

had two great non-profit groups to work to serve the needs in the community and they needed to adjust the agreement.

Supervisor Barrios spoke in regards to the lease adding that they were a government agency and don't give up all rights. She suggested strict criteria and specifications, noting that a different situation needs to be revisited.

Ms. Sotelo felt the solution was to have a Board members committee to come in.

Chairman Botelho closed public comment as there were no further speakers.

Chairman Botelho called for an ad hoc committee.

Chairman Botelho re-opened public comment.

Pat Loe spoke of County Counsel's letter and the issue of the profit business operating out of a county building and property without proper zoning or use permit. She asked why it wasn't red-tagged like any other business. She spoke of the county property housing an illegally zoned business.

County Counsel Matt Granger concurred that Ms. Murphy's letter was correct and that the Farm Labor Association and Planning had been advised. He stated that A New Choice needed to get into compliance and until then they were not lawfully operating.

Gregg Swett, president of Farm Labor Association stated that they had entrusted a set of assets and in twenty years they were making sure the assets were in the same condition. He indicated that the population served is their focus. Mr. Swett felt it was a failure on his and Doug Emerson's part and he hoped to meet with the volunteers. He asked that they please not forget who they were trying to serve. He stated that it would be a quarter of a million to \$300,000 to take it on and added "be our guest". He stated that there was a fundamental problem and they would take care of it.

Chairman Botelho closed public comment.

Chairman Botelho appointed Supervisors Muenzer and De La Cruz to an ad hoc committee to work with staff and the Farm Labor Association to work out the issues.

Supervisor Barrios suggested the ad hoc committee use the County Counsel letter as a point of reference.

Supervisor De La Cruz concurred that they needed to address the public and Pat Loe's issues. *File #750*

The Board adjourned for a break at 11:16 a.m. and reconvened into regular session at 11:31 a.m.

INTEGRATED WASTE MANAGEMENT – M. Rose:

12) Review the proposal from Waste Connections Inc., and direct staff as appropriate.

Interim County Administrative Officer Ray Espinosa indicated that there had been a family emergency and Integrated Waste was not available that day. He added that the item would be pulled and brought back in March or April.

Chairman Botelho opened public comment.

Josh Shaw of Waste Connections, Inc. spoke of the criteria and guarantee of 400 tons per day. He noted that last month it was 272 tons but the county would be compensated at 400 tons.

Chairman Botelho closed public comment and suggested continuing the item until the Integrated Waste Director could be present.

Supervisor Barrios felt that was appropriate and indicated that she would like to see the difference of processing residual waste and municipal solid waste. She added that she would like information on the odor as well, be brought back.

Chairman Botelho continued the item to a later date. *File #75.4*

PLANNING DEPARTMENT – G. Armstrong:

- 13) **Discuss the Groundwater Extraction proposed ordinance revisions to Chapter 15.05 of Title 15 of the San Benito County Code; and direct staff to conduct any necessary CEQA analysis on the proposed changes, and then bring back the proposed changes to the Board for further consideration and potential adoption.**

Planning Director Gary Armstrong reported that the San Benito County Water District suggested some revisions to the ordinance and felt they were good and appropriate changes. He stated that if they get approval to make the changes they would go through CEQA and be brought back.

Dale Rosscamp of the San Benito County Water District (SBCWD) explained that the proposed tweaks were to exist so that it was better enforceable and meets the intent without removing excess from aquifers and not pose a hardship.

Supervisor Barrios asked about measuring the sub basin.

Mr. Rosscamp replied that SBCWD monitors the groundwater basin and there was an annual groundwater report.

Supervisor Barrios asked if they estimated the amount of extraction.

Mr. Rosscamp replied yes and that was done with a monitoring element.

Supervisor De La Cruz asked who would review in the case of an appeal.

Mr. Rosscamp indicated that the authorizing agency was delegated to SBCWD

Supervisor De La Cruz expressed that he did not feel comfortable with that and that he felt it should come back to the Board of Supervisors, not the SBCWD. He noted that he was all for everything else.

Chairman Botelho stated that he appreciated SBCWD being the agency to monitor. He posed the question of why wouldn't the appeal go to the water board. He added that they may have evidence as to why it was denied. He asked what evidence the Board would have to override.

Supervisor De La Cruz noted that his last meeting as a SBCWD director was on December 1, 2004 and with all due respect, the Board of Supervisors is the Board of Equalization and relied on staff for information.

There was no public comment.

Supervisor Barrios stated that they do not give authority to SBCWD in any other area. She noted that well permitting was delegated. She asked who did the appeals regarding wells.

Mr. Rosscamp explained that they inspected the wells for State standards for drilling and construction.

Supervisor Barrios felt the final appeals should come before the Board like the Planning Commission.

Supervisor Muenzer noted that if they appeal with SBCWD and they don't like that decision, the applicant can still go to the courts. He agreed with the Chairman that the Board does not have the expertise to deal with water and the public has the protection of the courts.

Further discussion ensued between Board members and staff.

Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Barrios, moved that with the exception of the appeal process, **accepted** the draft Groundwater Extraction Ordinance, **directed** staff to conduct any necessary CEQA analysis on the proposed changes and then bring back the proposed changes to the Board for further consideration and potential adoption. **Requested** additional information and to hear from the San Benito County Water District on the appeal process. (The motion passed 4-1 with Supervisor Muenzer voting no) *File #790*

County Counsel Matt Granger stated that item number 16 was being pulled from the agenda.

Public comment for item number 15.

Marty Richman expressed concern with funds sitting in limbo in an account being disputed by the County and the State. He hoped the matter could be resolved without spending money on a legal battle that would eat all the funds up. He added that the money was doing no one any good. He further hoped that someone at the State would listen because there was 2 to 3 million in an account doing nothing.

The Board adjourned into closed session at 12:03 p.m. and reconvened into regular session at 3:25 p.m.

CLOSED SESSION:

- 14) **Conference with Labor Negotiator:**
Authority: California Government Code Section 54957.6
Agency Designated Chief Negotiator: JoDan and Associates, Linzie Daniel and/or Management Analyst Jacki Credico and Interim CAO Ray Espinosa
Employee Organizations: Management Employees' Group
No reportable action. File #235.6
- 15) **Conference with Legal Counsel-Anticipated Litigation**
Significant Exposure to litigation pursuant to subdivision (d) of Section 54956.9:
Number of Cases: (1)
Closed session is authorized by Section 54956.9(d)(2), and (e)(2): The State Controller's Office states the County of San Benito underfunded the Education Revenue Augmentation Fund (ERAF) from July 1, 1991 and June 30, 2001.
No reportable action. File #235.6
- 16) **Conference with Legal Counsel-Anticipated Litigation**
Significant Exposure to litigation pursuant to subdivision (d) of Section 54956.9:
Number of Cases: (1)
Closed session is authorized by Section 54956.9(d)(2),and (e)(1)
This item was pulled from the agenda.
- 17) **Conference with Real Property Negotiator**
Property: Palmtag Ranch (APN 020-170-017), off of Cienega Road, Hollister, CA

Agency Negotiator(s): Steve Wittry, Public Works Administrator; Ray Espinosa, Interim CAO, Janelle Cox, Management Analyst, Matthew Granger, County Counsel, and Shirley Murphy, Deputy County Counsel
Negotiating Parties: Ron Ross, on behalf of the property owners
Under Negotiation: price and terms of payment
Authority: California Government Code §54956.8
No reportable action. File #235.6

- 18) **Public Employee Performance Evaluation**
Title: Interim County Administrative Officer
Government Code Section: 54957
No reportable action. 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, De La Cruz, Rivas, Barrios, Muenzer
NOES:	SUPERVISORS:	None
ABSENT:	SUPERVISORS:	None

There being no further business the Board adjourned at 3:27 p.m. to March 5, 2013 at 9:00 a.m.

ANTHONY BOTELHO, CHAIRMAN
San Benito County Board of Supervisors

ATTEST:
Denise R. Thome, Clerk of the Board