



# 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

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

## REGULAR MEETING JUNE 4, 2013 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in *regular session*. Supervisor 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 De La Cruz led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **PRESENTATION & RECOGNITIONS, BOARD ANNOUNCEMENTS:**

#### **HUMAN RESOURCES:**

**Present Certificate of Recognition to Jose Angel Santos, Migrant Camp Manager, Health and Human Services Agency for twenty-eight years of dedicated service with the County of San Benito upon retirement and Ronald Terry, Agriculture Biologist, Agricultural Commissioner's Office for five years of dedicated service with the County of San Benito upon retirement.**

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Muenzer, **recognized** certificates to be presented to Jose Angel Santos and Ronald Terry. (Unanimous) File #630*

Supervisor De La Cruz presented the Certificate of Recognition to Jose Angel Santos.

Supervisor Muenzer presented the Certificate of Recognition to Ronald Terry.

- d) **Public Comment:**  
There was no public comment.
- e) **Department Head Announcements:**  
Interim County Administrative Officer Ray Espinosa noted some corrections and changes to the consent agenda which were; item #14 should read \$75,000 and not \$100,000. Item #19 the date should read 6/30/15, not 13. He noted that they

would be pulling item #11 as it had scanned 2 pages at once and they would pull it to read. He noted that he had attended CSAC last week and there was a discussion regarding AB109 as well as healthcare.

Interim Health and Human Services Agency Director Maria Corona reported that she received information from the State on managed care provider for San Benito County which will be Anthem Blue Cross. She noted that back in February they asked for a resolution for a grant and the grant was awarded. She stated that the county's share was \$34,000 to be used for outreach for affordable health care.

f) **Board Announcements:**

Supervisor Rivas requested a future update regarding the general plan and how they were handling responses to comments and the general timeline.

Chairman Botelho felt that was a good idea.

Interim County Administrative Officer Ray Espinosa suggested the first meeting in July.

Supervisor Barrios reported that she attended the CSAC Board of Directors meeting and health issues were big on the Governor's and CSAC's agenda. She spoke of issues discussed at the meeting. Supervisor Barrios also spoke of the Coast to Coast Prescription Program and how she would like to step up the effort as the money goes back to the community.

Supervisor De La Cruz stated that the CAO used to provide quarterly financial reports.

Supervisor Barrios stated that AB109 encouraged CAO's to connect with the State of California as some counties were getting .63 cents on the dollar and some were getting the full dollar. She suggested that CAO write a letter to encourage AB109 in San Benito County.

Chairman Botelho indicated that the Sheriff and Probation were involved in AB109 promotion and suggested using 211 as an avenue to promote prescription discounts.

Supervisor Muenzer reported that he attended a BBQ hosted by Pinnacles National Park which included a question and answer on such subjects as fire service contract, highways and 911 issues.

Chairman Botelho reported that he and Supervisor Muenzer had attended presentation from the Hollister Downtown Association regarding signage and bringing in tourism.

**CONSENT AGENDA:**

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Margie Barrios **approved** Consent Agenda items with the exception of items 11, 18 and 22 which were pulled for discussion. (Unanimous)*

**AGRICULTURAL COMMISSIONER – R. Ross:**

- 1) **Approved** contract with the Dept. of Food and Agriculture to provide petroleum product services for the period of July 1, 2013 through June 30, 2014, for a total of \$975. *File #1.1*

**ASSESSOR'S OFFICE – T. Slavich:**

- 2) **Approved** maintenance agreement with Megabyte System, Inc. for the Megabyte Property Tax System for the period of July 1, 2013 through June 30, 2014, at a cost not to exceed \$126,786. *File #7*

**ASSESSOR/CLERK, AUDITOR & RECORDER/DISTRICT ATTORNEY/TREASURER, TAX COLLECTOR & PUBLIC ADMINSTRATOR OFFICES:**

- 3) **Approved** and **accepted** the completed and signed Elected Officials base pay salary waiver forms; and **adopted Resolution No. 2013-39** with regards to waiver of the 7% CalPERS Employee Retirement Contribution for the County of San Benito Elected Offices of Assessor; District Attorney; Clerk, Auditor, Recorder and Treasurer, Tax Collector & Public Administrator for Fiscal Year 2013-21014. *File #7*

**BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:**

- 4) **Authorized** the County's Behavioral Health Director to sign the amended Multi-Year Negotiated Net Amount Contract Agreement with the State Department of Alcohol and Drug Programs with contingency assignment to the Dept. of Health Care Services for FY 2010-11, FY 2011-12, FY 2012-13 and FY 2013-14; and **adopted Resolution No. 2013-40** to accept the amended ADP Multi-Year Negotiated Net Amount Contract. *File #810*

**CLERK OF THE BOARD – D. Thome:**

- 5) **Approved** the action minutes from the regular meeting on May 7, 2013 and the special meeting on May 14, 2013.

**COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:**

- 6) **Adopted Ordinance No. 917** adding Chapter 1.04 "Administrative Citations" to Title 1 of the San Benito County Code to allow for the issuance of Administrative Citations for Violations of the San Benito County Code; and order that a display ad be published to Government Code 25124(b). *File #119*

**COUNTY COUNSEL – M. Granger:**

- 7) Honor the request from the Hollister Elementary School District and **authorized** the Clerk of the Board to date, sign, and return the memorandum to Orrick, Herrington & Sutcliffe LLP no later than June 4, 2013. *File #13*

**HEALTH & HUMAN SERVICES AGENCY – M. Corona:**

- 8) **Approved** Amendment #1 to contract with National Council on Crime and Delinquency (NCCD) for structured decision making child welfare risk/assessment tools and reports, **extending** the expiration date from June 30, 2013 to June 30, 2014. *File #130*

**HEALTH & HUMAN SERVICES AGENCY – M. Corona:**

- 9) **Approved** contract with Melissa Molina-Casas for counseling services related to child welfare for the period of July 1, 2013 t through June 30, 2014, in the amount of \$15,000. *File #130*

**HEALTH & HUMAN SERVICES AGENCY – M. Corona:**

- 10) **Approved** contract with Youth Alliance for counseling services related to child welfare for the period of July 1, 2013 through June 30, 2014, in the amount of \$20,000. *File #130*

**HEALTH & HUMAN SERVICES AGENCY – M. Corona:**

- 11) **Approve letter of opposition to the Governor’s proposed action on redirecting County Health Realignment back to the State.**

Item was pulled for discussion.

Interim County Administrative Officer Ray Espinosa gave a report.

Supervisor De La Cruz asked if the realignment funds go to several healthcare issues.

Interim Health and Human Services Agency Director Maria Corona replied yes and noted that if it goes through, it places all counties at risk.

Supervisor De La Cruz asked about In Home Support Services (IHSS).

Interim HHS Director Corona stated that she was not sure, but likely yes.

Supervisor Barrios felt that they should support it and that it was important.

Chairman Botelho called for public comment.

Marty Richman commented on the matter.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor De La Cruz, **approved** the letter of opposition to the Governor’s proposed action on redirecting County Health Realignment back to the State, as presented. (Unanimous) File #130*

**INTEGRATED WASTE MANAGEMENT – M. Rose:**

- 12) **Approved** the renewal of membership in the California Product Stewardship Council. *File #142*

**INTEGRATED WASTE MANAGEMENT – M. Rose:**

- 13) **Approved** contract with Philip Services Corporation (PSC) for Household Hazardous Waste and Small Quantity Generator (Business Hazardous Waste for the period of July 1, 2013 to June 30, 2014, in an amount not to exceed \$125,000. *File #142*

**PLANNING DEPARTMENT – G. Armstrong:**

- 14) **Approved** the Assignment and Assumption Agreement by Pulte Home Corporation for the San Juan Oaks project and **authorized** the Auditor to reimburse the deposit previously received from San Juan Oaks in the amount of \$75,000 once the Pulte Group, Inc. (Del Webb) post it’s \$75,000 deposit with the County. *File #790*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 15) **Accepted** all responsive bids in the bid summary report for the Veterans Memorial Park Irrigation Well project; **awarded** and **approved** contact with Maggiora Bros. Drilling, Inc., as the lowest responsive, responsible bidder, in the amount of \$53,880; and **authorized** the Public Works Administrator to execute the contract and issue change orders in the amount not to exceed \$5,388. *File #105.3*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 16) **Accepted** all responsive bids in the bid summary report for the Direct Bore Electrical Line to the Veterans Memorial Park Irrigation Well project; **awarded** and **approved** contract with Daleo, Inc., as the lowest responsive, responsible bidder, in the amount of \$8,666.85; and **authorized** the Public Works Administrator to execute the contract and issue change orders, in an amount not to exceed \$890. *File #105.3*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 17) **Accepted** all responsive proposals received on April 10, 2013; and **awarded** contract to M. A. Jones, Inc. dba: Cleaning Services for the period of July 1, 2013 through April 30, 2016, for an annual amount not to exceed \$86,880 and a total amount not to exceed \$260,640. *File #105.3*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 18) **Approve contract Amendment #2 with Quincy Engineering, Inc. for engineering services related to Panoche Road Bridge project, increasing the contract amount by \$123,097.65, to an amount not to exceed \$414,345.60; and extending original contract expiration from June 30, 2013 to June 30, 2015.**

Item was pulled for discussion.

Public Works Administrator Steve Wittry answered questions and indicated that there were special studies to ensure property owner's ranch was not damaged at all and a change order to communicate and put the situation at ease.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Muenzer approved contract Amendment #2 with Quincy Engineering, Inc. for engineering services related to Panoche Road Bridge project, increasing the contract amount by \$123,097.65, to an amount not to exceed \$414,345.60; and extending original contract expiration from June 30, 2013 to June 30, 2015. (Unanimous) File #105*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 19) **Approved** contract with ACCO Engineered Systems, Inc. for the heating ventilation air conditioning (HVAC) Service and Repair for the period of June 4, 2013 through June 30, 2013, in an annual amount not to exceed \$7,283. *File #105.3*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 20) **Approved** contract Amendment #1 with Nolte Associates, Inc. for engineering services related to Anzar Road Bridge project at San Juan Creek, **increasing** the contract amount by \$13,714, to an amount not to exceed \$327,952. *File #105*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 21) **Approved** contract Amendment #2 with Nolte Associates, Inc. for engineering services related to Santa Ana/Fairview Signal project, **increasing** the contract amount by \$11,820, to an amount not to exceed \$79,733; and **extending** original contract expiration from June 30, 2013 to June 30, 2014. *File #105*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 22) **Approve the submission of grant proposal(s) to the Monterey Bay Unified Air Pollution Control District for the AB2766 Motor Vehicle Emission Reduction Grant program.**

Item was pulled for discussion.

Supervisor Muenzer stated that they did not state what they were asking for in the grant.

Public Works Administrator replied that they were asking for a total of 4 vehicles; a passenger vehicle for COG, a passenger vehicle for IT/Admin. and 2 passenger vans for the work crews. He apologized for the information not being in the grant and added that it was the same grant package as last year.

Chairman Botelho called for public comment.

Richard Bettencourt asked where the grant money comes from, taxpayers?

Supervisor Muenzer explained that it is a dollar amount tied into the vehicle registration at about four dollars per registration.

Mr. Wittry concurred and noted that it was to reduce emissions.

Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Rivas, **approved** the submission of grant proposal(s) to the Monterey Bay Unified Air Pollution Control District for the AB2766 Motor Vehicle Emission Reduction Grant program. (Unanimous) *File #105*

**PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 23) **Approved** contract Amendment #1 with Schaaf & Wheeler for engineering services related to CSA #21 (Stonegate) Water Supply project, extending original contract from June 30, 2013 to December 31, 2013. *File CSA #31*

**SHERIFF'S OFFICE – D. Thompson:**

- 24) **Approved** Amendment #1 with California Forensic Medical Group extending the contract period to June 30, 2014 from June 30, 2013; and **approved** the 3.23% increase of the Medical CPI for the San Francisco-Oakland Region pursuant to section 3.01 of the original agreement. *File #110*

**REGULAR AGENDA:**

**AGRICULTURAL COMMISSIONER – R. Ross:**

- 25) **Accept Engineer's Report for the County Mosquito Abatement program; adopt Resolution of intent to levy assessment for FY 2013/2014; and schedule a public hearing for July 9, 2013.**

Agricultural Commissioner Ron Ross gave a staff report.

Supervisor Barrios asked about other incidental costs on page 20.

Mr. Ross spoke of the allowance for uncollectable charges. He added that a large part was computation of what each parcel should pay.

There was no public comment.

Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **accepted** Engineer's Report for the County Mosquito Abatement program, **adopted Resolution No. 2013-41** of intent to levy assessment for fy 2013/2014; and **scheduled** a public hearing for July 9, 2013. (Unanimous) *File #1.1*

**COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:**

26) **Review the draft River Parkway and River Parkway Focus Area and Regional Park Master Plans; and provide direction to staff.**

Supervisors Botelho and Muenzer recused themselves from the item.

The Board adjourned for a break at 9:49 a.m. and reconvened into regular session at 9:54 a.m.

Management Analyst Janelle Cox gave a staff report and PowerPoint presentation and noted that there were two draft master plans before them.

Supervisor Rivas asked if the environmental review would be a 9 to 12 month process and what the specific focus would be.

Ms. Cox stated that there would be two areas; program level and environmental document project level, all in one.

Public Works Administrator Steve Wittry stated that the all in one document would fold in both processes.

Supervisor Rivas referred to pages 38 and 39 of the booklet regarding the regional park and conception plan. He stated that he supported it and it was exciting. He added that he would like to think that he is a visionary but also a realist and pointed out a problem with the budget in that between 37 and 41 million for the project to be realized. He asked if it was possible to plan in specific projects and phase in and accomplish.

Steve Sutherland of SSA Landscape Architects replied that it absolutely could be phased and the next step was to prioritize. He added that it can be broken down into \$500,000 or \$250,000 chunks. He explained that it was a vision and a starting place and a lot of state and federal grants require a plan in place and this would give them a leg up on grants.

Supervisor Barrios thanked SSA Landscape Architects for an incredible document and noted that it was not a cookie cutter document. She thanked the community as well.

Supervisor De La Cruz noted that everyone has an interest, from regular citizens to non-profit representation.

Mr. Sutherland replied that at the community meetings the public at large came and shaped the plan.

Public comment:

Julie Morris, working with the Community Foundation of San Benito County, thanked Janelle and understood the budget concerns with the county. She spoke of Supervisor De La Cruz's concerns and felt that the advisory committee should have persons representing all parts of the community.

Jim West shared Supervisor Rivas's concerns with the 37 to 41 million and agreed that the total scared him. He supported the plan.

Close Public Comment.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Rivas, gave **direction** to staff to proceed with outreach effort, **move forward** and do EIR and talk to community about sustainability. (the motion passed 3-0-2 with Supervisors Botelho and Muenzer recusing themselves) File #93*

**COUNTY COUNSEL – M. Granger:**

27) **Approve letter supporting proposed legislation H.R. 1776 which would establish the Clear Creek National Recreational Area.**

Assistant County Counsel Barbara Thompson gave a staff report.

Supervisor Barrios expressed thanks for the work done on it and thanks to Supervisor Muenzer.

Chairman Botelho felt very strongly about the utilization of the Clear Creek area for public use.

Chairman Botelho opened public comment.

Marty Richman expressed thanks to Congressman Farr noting the uphill battle. He indicated that he was concerned with the testimony by people brought by BLM and was concerned that it wasn't honest.

John Eade stated they have bordered Clear Creek for years and that it was criminal that the EPA can close down on the premise that short fiber asbestos can cause cancer.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **approved** letter supporting proposed legislation H.R. 1776 which would establish the Clear Creek National Recreational Area. (Unanimous) File #160*

### **PUBLIC WORKS DEPARTMENT – S. Wittry:**

- 28) **Consider the evaluation criteria established for the Courthouse space planning effort; and provide direction to staff regarding the importance factor of each criteria.**

Interim County Administrative Officer Ray Espinosa gave an update and spoke of the questionnaire created by the committee which was now going to the full board for discussion.

Supervisor Barrios explained that she and Supervisor Botelho were on the Facilities Committee and there was 10,000 square feet available at the courthouse. She noted that there were official records from the 1800's and they were not all in one space. She added that Trindell will help with the process as areas in the courthouse are risky and need to be addressed.

Chairman Botelho indicated that it was not as easy as it sounds.

Public Works Administrator Steve Wittry explained that they were looking for input on an actual score sheet.

Chairman Botelho noted that the information available to the committee was available to the rest of the board members.

Interim CAO Espinosa explained that they would look at the maximum points for each of the four categories.

Supervisor De La Cruz asked if it had to be a department or perhaps a business, to generate revenue.

Mr. Wittry stated that it went to all county departments and COG can pay close to market value.

Supervisor Rivas stated that he was okay with the criteria but the efficiency was a stretch. He noted that assessing the needs of the community was not in there. He gave the example of moving the Office of Education over and expanding the library and commented that he liked to be proactive.

Supervisor Barrios stated that it was the efficiency of providing service to the community.

There was no public comment.

Supervisor Botelho stated that they would get more information to the full board.

Interim CAO Espinosa stated that they could look at it at the June 18, 2013 agenda.

## **AFTERNOON SESSION 1:30 P.M.**

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

### **PLANNING DEPARTMENT – B. Turner:**

- 29) **Hold a public hearing and consider the project and the Appeal of Use Permit 1048-11A-E approval for Indian Wells Pilot Program (Citadel); adopt resolution making CEQA and Use Permit Finding, approving the Mitigated Negative Declaration, approving the conditional use permit and denying the appeal, and taking other related actions; or provide direction to staff and continue the matter to July 9, 2013 for further action. (Res. No. 2013-41)**

Interim Planning Director Byron Turner gave a staff report. He explained that it was an exploratory drilling program, was a temporary project with no fracking involved. He added that the project did not fall under the oil and gas ordinance and the applicant had chosen to comply with many of the items in the ordinance. He stated that they were prepared to deny the appeal at that time.

David Hobstetter of the Center for Biological Diversity stated that the project approval is for fifteen wells near a National Park and the project location was habitat for endangered condors. He noted that cyclic steam injection was used and there was substantial evidence on record that significant impacts could result. Mr. Hobstetter felt they should reverse the decision and require an EIR. He noted that all arguments and points were in the appeal. He continued by stating that cyclic steam injection is extremely dangerous and creates surface expressions. He added that it creates hazardous conditions and consumes large amounts of water and can lead to water contamination. He explained that steam injection likely occurs only 300 feet underground and cyclic steam injection is an intensive energy use project. He spoke of green house gas emissions noting that staff already predicts emissions at only 2% below limits. He indicated that combustion of oil could result in 40,000 metric tons of carbon dioxide per year and that substantial evidence is in the record indicating an EIR is necessary. Mr. Hobstetter stated that California Condors, of which only 400 are alive, and California Tiger Salamanders are threatened. He stated that a major release point of the condors is Pinnacles National Monument and the condors pick up trash around the sites and feed it to the chicks which has killed them. He commented that harming even one of these animals calls for mitigation. He indicated that the mitigation measures proposed defer actual mitigation and are too ambiguous to enforce. He spoke of water injections causing earthquakes.

Anthony Lombardo spoke on behalf of the applicant and stated that high pressure steam flood has nothing to do with this project. He added that the initial study prepared by staff is the size of an EIR. He indicated that the appellant ignores all conditions of approval and that the applicant has dozens of conditions and mitigations to make sure there is no significant effect. He explained that they were not approving production of oil, but just a test project. He respectfully

requested support of the Planning Commission's decision and staff's recommendation.

Chairman Botelho opened the public hearing.

Those speaking under public comment were; landowner Martin Salaberry, landowner Charles Hinkle, Pinnacles National Park Scott Scherbinkski, Laura Walter, Gloria Iaci67, landowner Joe Spencer and landowner Les Sands.

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

Mr. Lombardo addressed the endangered species by stating that the conditions of approval don't allow them to be harmed. He indicated that water was also a concern but was not new today. He stated that Mr. Hinkle's well would be monitored and that he agreed to support the project. He reported that it would be 15 million gallons of water over the 5 year test period, worst case scenario. He commented that the impact on the aquifer, in the opinion of county staff and the San Benito County Water District (SBCWD) would not be significant. He stated that if there was an effect, they wouldn't pump from that aquifer anymore.

Chairman Botelho felt that a neighbor's concern from draw down should be part of the monitoring.

Mr. Lombardo answered that it could easily be done at the same time, adding that there would be no quality or quantity impact. He addressed the concern of oil and chemical water being spewed by stating that it is a closed system. He explained that low pressure steam was recycled and reused and the waste product was disposed of properly and it was not a methane gas laden structure.

Supervisor Barrios asked if there would be a county representative as point of control in addition to biologist.

Mr. Lombardo replied yes.

Supervisor Rivas stated that he was trying to be as balanced as possible and he was struggling because it is a proposal for a use permit for testing. He asked about wastewater and it being in contact with oil. He expressed that he was opposed to it or take it off site. He wanted them to take out injection. He also stated that he was a little concerned regarding traffic and the daily average of traffic impact. He asked how regular the testing on water would be.

Chairman Botelho calculated that there would be 3,400 trips equaling 7,800 in and out.

Mr. Lombardo stated that water wouldn't be put back into the groundwater aquifer but that it would be returned to where oil is located and the reinjection of water is into the oil reservoir. He added that the water has to meet drinking water conditions. He indicated that they were flexible to do either injection or shipping out.

Armen Nahabedian, Chief Executive Officer for Citadel, explained that they would produce oil and water and reinject water back into the ground. He stated that steam from the water is clean to drink. He added that produced water from the ground will be cleaner when he injects it than when it came out of the ground. He stated that the constitutional right to produce the water is in his lease.

Supervisor Barrios asked if the equipment would be held in the proximity of the well.

Mr. Nahabedian replied yes.

Supervisor Muenzer asked if he purchased the mining rights from the lease.

Mr. Nahabedian stated that he had a lease that gives him the rights to the water and anything he deemed convenient he was allowed to do. He added that it was a good lease form him as a lease.

Mr. Lombardo stated that it was a test program.

Mr. Hobstetter had a lot of questions about the project and there was confusion. He stated that trucking water offsite or keeping on site indicated that an EIR was necessary. He noted that they say just test wells but they also say take oil out of the ground. He stated that the initial study says cyclic steam injection and cyclic steam injection presents some of the harshest conditions you can create in a well. He spoke in regards to the California Tiger Salamander and the buffers needed. He noted that the monitor is on site only once a week. He added that even if the applicant disagrees, there is substantial evidence that it requires an EIR. He thanked the board for their time.

Supervisor Rivas stated that The Center for Biological Diversity brings up good and valid points. He indicated that the EIR is arbitrary to case law already set in California which doesn't require preparation of an EIR prior to drilling of test wells. He understood the concerns. He noted that it was for exploration and testing and full scale was a whole different issue. He indicated that if they come back to the board at that point then he agreed.

Mr. Hobstetter stated that each well was a 400 gallon tank filling up and taken off site to be sold. He indicated that some production here was not just a test well. He was unaware of any law requiring capturing of all methane on a project.

Supervisor Rivas asked if it was a test well or not a test well.

Mr. Turner explained that if the project is successful, some oil would be produced and then they would return to the Planning Commission to make a permanent well with a limited amount.

Supervisor Rivas asked if the production would be monitored.

Mr. Turner stated that the petroleum administrator would watch what's going on at the site.

Mr. Hobstetter indicated that CEQA law states substantial evidence in the record supporting a fair argument of significant impacts. He stated that the project characterizes as oil in and out and cyclic steam injection is known to result in a high number of failures. He added that any monitoring would only happen after the fact and mentioned the greenhouse gas effect on oil they pull out of the ground.

Chairman Botelho asked what they could do besides not have the project.

Mr. Hobstetter suggested a buffer around the pond of 1.2 miles, an expiration of time and if successful with oil the application would have to come back - the most prudent way to go forward. He stated that there was substantial evidence in record and significant impacts can occur. He asked the board to think of it in that way, is there substantial evidence.

Chairman Botelho thanked Mr. Hobstetter for his time and for bringing up these issues.

Mr. Hobstetter thanked the board and Clerk of the Board Denise Thome.

Supervisor Barrios stated that she would support the resolution but there were four typos on it.

Mr. Turner noted that Fish & Game revised the mitigation project in regards to the buffer and there is a new mitigation in its place.

Supervisor Muenzer felt they didn't have to rush into it and rather error on the side of caution and continue it to a future date because of the following reasons. He felt the permit should be amended and if water use is beyond 53.8 acre feet, further analysis be done to determine where wells will test. He expressed

concern that the U.S. Fish & Wildlife were not there to address their concerns. He preferred to ask staff to contact them as opposed to the applicant.

Supervisor Rivas felt the applicant had gone above and beyond and the permit was low risk. He added that if producing that is a different issue at that time and noted that the mitigation in place was to his liking.

Supervisor De La Cruz indicated that he now saw the benefits of the ordinance and that the applicant had gone above and beyond what was asked for. He stated that it was a test pilot project and once it hits the next phase, then they start talking. He supported it.

Chairman Botelho expressed that he was satisfied with the conditions and mitigation in place and that it conforms to the oil and gas ordinance. He added that if a condor gets sick it would be easy to tell if it is from the oil. He stated that this project will be under a microscope. He indicated that he would like to move this forward and supported denial of the appeal.

Chairman Botelho closed the public hearing.

*Supervisor Muenzer moved to direct staff to continue to July 9<sup>th</sup> for further action.*

*Supervisor Botelho seconded the motion.*

Under the question:

Supervisor Muenzer stated that he would like to see the conditional use permit amended and if water use of 53.8 acre feet is drawn additional conditions and monitoring and have staff contact U.S. Fish & Wildlife for further study of commitment letter.

Supervisor Barrios stated that all three had already been addressed.

Supervisor Muenzer stated that the applicant can go over the 53.8 acre feet of water and he did not hear standard water level tests included.

Assistant County Counsel spoke of the details.

Supervisor Muenzer stated that he stood by his motion.

*The motion failed 1-4 with Supervisors Rivas, De La Cruz, Barrios and Botelho voting no).*

Assistant County Counsel asked for a five minute break to go over the conditions of approval.

The board adjourned at 3:12 p.m. for a break and reconvened into regular session at 3:41 p.m.

County Counsel Matt Granger explained that there were 5 changes to the conditions.

Assistant County Counsel Thompson read the changes into the record:

*21 a-2 amended 53.8 acre feet.*

*35 amended provide documentation to county or allow inspection within 15 days and document water usage.*

*New #36 – applicant required to monitor closest well for drawn down.*

*Water quality testing on offsite properties with landowner's permission. All testing at applicant's expense.*

*33 (b) amended 2<sup>nd</sup> line distance of 1 mile altered to 3 miles, last 14 words are eliminated.*

County Counsel Granger stated that they would deny the appeal, amend the Planning Commission decision and incorporate changes that were read into the record.

Supervisor Barrios listed the typos/corrections that she found on pages 690, 698, 699 and 705.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor De La Cruz adopted Resolution 2013-42 with corrections and changes as stated and deny the appeal. (Unanimous) File # 790*

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

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

There being no further business the Board adjourned at 3:49 p.m. to June 18, 2013 at 9:00 a.m.

**ANTHONY BOTELHO, CHAIR**  
San Benito County Board of Supervisors

**ATTEST:**  
Denise R. Thome, Clerk of the Board