



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 JULY 23, 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) **PRESENTATIONS & RECOGNITIONS:**

Present Proclamations to Angelica Rojas of the San Benito Health Foundation declaring August 11-17, 2013 as Health Center Week, August 2013 as Breastfeeding Awareness Month and the week of August 11-17, 2013 as Farm Worker Health Week in San Benito County.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor De La Cruz **approved** the proclamation declaring August 11-17, 2013 as Health Center Week. (Unanimous)*

Supervisor De La Cruz presented the Health Center Week proclamation to Angelica Rojas of the San Benito Health Foundation.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer **approved** the proclamation declaring August 2013 as Breastfeeding Awareness Month. (Unanimous)*

Supervisor Barrios presented the Breastfeeding Awareness month proclamation to Angelica Rojas of the San Benito Health Foundation.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer **approved** the proclamation declaring August 11-17, 2013 as Farm Worker Health Week in San Benito County. (Unanimous)*

Supervisor Botelho presented the Farm Worker Health Week proclamation to Angelica Rojas of the San Benito Health Foundation. *File #430*

- d) **Public Comment:**

Marty Richman spoke of the prioritization that he felt was necessary for a 1% sales tax in the unincorporated areas.

Marvin Jones passed out handouts regarding the United Nations Wildlands project and spoke of the bio diversity treaty.

e) **Department Head Announcements:**

Health and Human Services Agency Interim Director Maria Corona reported that she received notification that the Healthy Families transition will be delayed to November 1st instead of September 1st.

f) **Board Announcements:**

Supervisor Barrios spoke of the meeting of the facilities ad hoc committee. She thanked Ag Commissioner Ron Ross for setting up the CSA 50 meeting along with representatives from the State pesticide department. She spoke of the Intergovernmental Committee's commitment to explore other partnerships with the City, but not public protection.

Supervisor Muenzer reported that he went to New Idria Road and saw the new equipment Public Works was using to tear up the roads. He commented that he was pleasantly surprised as to how small the unit was and that it seemed to be working well. He spoke of the AMBAG workshop held the previous Wednesday and stated that it was well attended. He explained that the workshop was dealing with how the region will grow. He reported that last week the local United Way gave \$40,000 to local non-profits and their goal was to get back to the \$120,000 they used to give away in the past.

Chairman Botelho reported that one of the facilities committee options included Council of Governments (COG). He asked the CAO to get a report on a per call basis from Animal Control on what types of calls they receive in the City and the County. He expressed concern with vicious dogs, noting that his neighbor was attacked by a pit bull down the street. He asked that they explore the responsibility of the owners, licensing, etc. He felt they needed to work on the animal control ordinance with perhaps specifics for pit bulls as other communities have done. He indicated that he would like a report in September or October.

Interim CAO Espinosa confirmed that he would put it on the agenda.

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

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 1) **Hold a Public Hearing to hear all objections, protests, or requested changes or corrections to the written report of service charges for County Service Area #36 (Emergency Medical Services and Advance Life Support) for FY 2013/2014; and adopt Resolution accepting the annual report for CSA #36 and benefit assessment charges set forth and authorize the Chair to sign. (Res. No. 2013-53)**

EMS Coordinator Marcie Morrow gave a staff report.

Chairman Botelho opened the public hearing.

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

Supervisor De La Cruz indicated that he would like to discuss with the department, at another time, about the fact that San Benito County is coming close to having a dialysis center.

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Barrios, **adopted Resolution No. 2013-53 accepting the annual***

report for CSA #36 (Emergency Medical Services and Advance Life Support) and benefit assessment charges set forth and **authorized** the Chair to sign. (Unanimous) File CSA #36

AGRICULTURAL COMMISSIONER – R. Ross:

- 2) **Hold a public hearing to hear objections, protests or requested changes or corrections to the written report regarding the Mosquito and Disease Control Assessment rate to be imposed; adopt Resolution accepting the annual report for the Mosquito and Disease Control Assessment and levying the rate of \$10.90 per unit Mosquito and Disease Control Assessment for FY 2013/2014 based on the Engineer's report. (Continued from July 9, 2013 meeting) (Res. No. 2013-54)**

Ag Commissioner Ron Ross gave a staff report.

County Counsel Matt Granger spoke of the opinions from independent law firms on whether the county would be limited to the 3% increase or bank the consumer price index (CPI) increases from previous years. He reported that it was the opinion of the Collantino and Levine law firm that the county can bank CPI increases from previous years and legally under 218.

SCI Consulting Civil Engineer John Bliss spoke of the CPI issue and noted that most of their clients charge the maximum amount each year. He further spoke of the emerging vector of the yellow fever mosquito. He commented that San Benito County was providing a high level of service at a reasonable rate to property owners.

Chairman Botelho stated that he would like to see actual expenses as a third line on the graph. He felt that Ron Ross does an outstanding job managing the program. He indicated that he thought they were setting aside for equipment replacement and local infestation and asked where they stood with those two funds.

Ag Commissioner Ross replied that they had a small fund balance this year, but they wanted a bit more cushion noting that their expenses were a little below their revenues.

Chairman Botelho asked if they had replaced the money they pulled from the general fund.

Ag Commissioner Ross replied that all of it had been repaid.

Further discussion ensued between Board members and staff.

Chairman Botelho opened the public hearing.

Marty Richman spoke of the green pool problem and felt that a lien should be placed on a green pool property and the county would get their money eventually. He further spoke of the idea of licensing for pools as it was not fair to the rest of them to pay for others that do not live up to their obligations.

Marvin Jones spoke of the resolution and stated that he would remind voters about this when it came time to vote.

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

Supervisor Muenzer moved to adopt Resolution 2013-54 at the rate of 3% increase for the Mosquito and Disease Control Assessment for 2013/2014. The motion died for lack of a second.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor De La Cruz, **adopted Resolution No. 2013-54 accepting the annual report for the Mosquito and Disease Control Assessment and levying the rate of \$10.90***

per unit Mosquito and Disease Control Assessment for FY 2013/2014 based on the Engineer's report. (Continued from July 9, 2013 meeting) (The motion passed 4-1 with Supervisor Muenzer voting no) File #11

PUBLIC HEARINGS – 9:30 a.m. (Or as soon thereafter as the matter may be heard)

PUBLIC WORKS – S. Wittry:

- 3) **Hold public hearing for Prop. 218 proceedings re: a new property related fee in CSA No. 50 (Dunneville) for FY 2013-14 and future years and continue public hearing to August 6, 2013 at 9:00am.**

CSA Coordinator Lynette Redman gave a staff report. She noted that in the last few weeks there were questions on the fee report and they had met with residents. She recommended they open the public hearing and continue it to August 6, 2013.

Chairman Botelho opened the public hearing.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor De La Cruz, **continued** the public hearing for Prop. 218 proceedings re: a new property related fee in CSA No. 50 (Dunneville) for FY 2013-14 and future years to August 6, 2013 at 9:00 a.m. (Unanimous) File CSA #50*

CONSENT AGENDA:

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor De La Cruz **approved** Consent Agenda Items with the exception of Items 4 and 5 which were pulled for discussion. (Unanimous)*

HUMAN RESOURCES – G. Cochran:

- 4) **Adopt Resolution No. 2013 - 55 and 2013 - 56 for Employer Paid Member Contributions for Miscellaneous Employees in the San Benito Courts.**

Item was pulled for discussion.

Chairman Botelho opened public comment.

S.E.I.U. Local 521 Field Representative Nora Hochman introduced herself and spoke of the many challenges of the workers of San Benito County.

Marty Richman asked the Board to be careful of what they say in negotiations regarding this issue and other related issues. He relayed a story of what happened in the City of Vernon when there was "loose lips". He further asked them to be careful of what they promise.

Chairman Botelho closed public comment.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **adopted Resolutions No. 2013-55 and 2013-56** for Employer Paid Member Contributions for Miscellaneous Employees in the San Benito Courts. (Unanimous) File #630*

HUMAN RESOURCES – G. Cochran:

- 5) **Approve the appointment of and the contract for Ray Espinosa as the Assistant County Administrator.**

Item was pulled for discussion.

Supervisor Rivas listed three reasons why he could not support the appointment. His reasons were that a lot of the department heads do not have assistants, the Board should clearly avoid contracts and the timing in which he

felt the action was premature and should wait until there is a permanent CAO. He hoped that the contract Human Resources person could clarify the severance issue and asked if there was a specific County policy for severance.

Supervisor Barrios listed three reasons why they should move forward. She indicated that she had received several calls from department heads supporting this move, they had experienced a tremendous savings and changed the scope of work so that this person can do various jobs including IT which resulted in more for their money and thirdly Mr. Espinosa was a proven individual. She stated that ten months earlier they had given him a huge task including the budget and he had handled and carried out the goals of the Board. She felt this appointment would only strengthen the CAO position.

Chairman Botelho expressed that he wholeheartedly disagreed with Supervisor Rivas and that at this time they needed a strong administration in the County. He explained that the Interim CAO had met and exceeded any expectations he had and has done an outstanding job. He added that Mr. Espinosa had accomplished much more than anticipated and he expressed tremendous gratitude and admiration towards him. He felt that a new CAO needed some sort of guide and history and there would be no one better to provide that than Mr. Espinosa. Chairman Botelho stated that he was very supportive of this position and noted that the position would wear different hats.

Supervisor De La Cruz stated that he would support Ray Espinosa and had a question on section 7 of the contract that spoke of the value of banked vacation time upon termination.

Georgia Cochrane, Human Resources, stated that it was a vested benefit shared by all employees of the County.

Supervisor De La Cruz asked if there was a car allowance.

Ms. Cochrane was not aware of any.

Supervisor Muenzer asked if the vacation time was capped.

Ms. Cochrane replied yes and that there was a 2 tier system in place to bring balances down. She stated that in regards to the severance issue under section 10 a, it was a long standing practice and is consistent with what has been done with the last several officials that have left.

Chairman Botelho asked if Supervisor Rivas was suggesting changing county policy.

Supervisor Rivas indicated that he wanted to know what county policy was.

Ms. Cochrane stated that it was 3 months notice and 3 months pay.

Supervisor Rivas asked if it was practice or policy.

Ms. Cochrane indicated that if this was a sticking point they could direct staff to reword and re-sign.

Supervisor Barrios stated that she read policy as what the County has done.

County Counsel Matt Granger stated that since approximately 4 years ago most department heads have written contracts and they moved to appoint with resolutions in which benefits are spelled out, such as 3 months notice and 3 months pay for a 6 month severance. He added that it became policy through practice.

Supervisor De La Cruz stated that he had pushed to get rid of contracts and felt they should spell it out directly, 3 and 3.

County Counsel Granger stated that they could spell out the severance with specificity.

Ms. Cochrane told Supervisor De La Cruz that in item 6 d there was a car allowance. She explained that all appointed department heads receive \$350 per month and that she would like to correct the record.

Chairman Botelho opened public comment.

Marty Richman stated that Mr. Espinosa knew how well he thought of him and how well he has done and that was why he was against demoting him. He stated that since there was no CAO, all agreed that Mr. Espinosa has done a great job as Interim CAO, to leave him as Interim CAO. He felt it was important that the CAO and Assistant CAO get along and the CAO should have some input as to who the permanent Assistant CAO is. He felt they shouldn't demote Mr. Espinosa now and instead give him full authority as Interim CAO until there is a permanent CAO.

Supervisor Barrios explained that it was designed so that the Interim CAO stays in position until they hired a permanent CAO.

Chairman Botelho commented that was a good point as it may be awhile before they hire a CAO.

County Librarian Nora stated, as a department head, how much she appreciated the leadership to appoint Interim CAO to weave the department heads together with his interpersonal skills. She stated that Mr. Espinosa has a can do attitude with leadership skills.

Chairman Botelho closed the public comment.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **approved** the appointment and contract for Ray Espinosa as the Assistant County Administrator with the change of spelling out the severance in paragraph 10. (the motion passed 4 to 1 with Supervisor Rivas voting no) File #630*

SHERIFF'S DEPARTMENT – D. Thompson:

- 6) **Approved** the Memorandum of Agreement between the County of San Benito and the San Benito County Office of Education in the amount of \$30,000 for Livescan fingerprint services pursuant to Vehicle Code Section 9250.19. *File #110*

REGULAR AGENDA:

COUNTY CLERK, AUDITOR & RECORDER – JP Gonzalez:

- 7) **Direct staff to complete an analysis and report on the potential impacts of the effects of the initiative concerning legalization and taxation of medical marijuana, no later than 30 days after the meeting of the certification of the petitions by the election official is held.**

Clerk-Auditor-Recorder Joe Paul Gonzalez gave a staff report and spoke of the initiative presented by Mr. McPhail.

Assistant Clerk-Recorder-Registrar of Voters Angela Curro gave a PowerPoint presentation and answered questions of the Board.

County Counsel Matt Granger stated that they would be have a closed session on August 6th on this item and Purple Cross and what the Board can and cannot do.

Further discussion ensued between Board members and staff.

Chairman Botelho opened public comment.

Marty Richman asked for clarification in regards to the initiative process and any enforcement from court rulings, asking if they would have to stop any enforcement of the same subject.

County Counsel Granger stated no, only after the initiative was on the ballot and approved by the voters would they stop enforcement.

Chairman Botelho closed public comment.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **directed** administrative staff to direct/compile/complete an analysis of the impacts as described in this report and in Election Code 9111 on the potential effects of the initiatives concerning legalization and taxation of medical marijuana and **directed** administrative staff to present the report on the potential impacts of the effects of the initiatives concerning legalization and taxation of medical marijuana, no later than 30 (days) after the meeting of the certification of the petitions by the election official is held. (Unanimous) File #285*

The Board adjourned into closed session at 11:03 a.m. and reconvened into regular session at 12:13 p.m.

CLOSED SESSION:

8) Public Employee Appointment
Title: County Administrative Officer
Authority: California Government Code 54957
No reportable action was taken. File #235.6

9) Public Employee Appointment
Title: Chief Probation Officer
Authority: California Government Code 54957
No reportable action was taken. File #235.6

10) Conference with Legal Counsel: Anticipated Litigation
Significant exposure to litigation pursuant to California Government Code Subdivision (b) of Section 54956.9(d)(2): One Case
No reportable action was taken. 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 12:14 p.m. to August 6, 2013 at 9:00 a.m.

ANTHONY BOTELHO, CHAIRMAN
San Benito County Board of Supervisors

ATTEST:
Denise R. Thome, Clerk of the Board