



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 OCTOBER 1, 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 Muenzer led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

c) **Public Comment:**

Dick Gallagher, Jr. Vice-Commander of Hollister V.F.W. stated that the Veteran's Parade was seeking Board sponsorship and that they would be honoring Korean vets on November 11, 2013 at noon with the parade at 1:30 p.m.

William Lee spoke of the appeal regarding Leal Vineyard and noted that it had been three seasons since they passed the noise ordinance. He stated that he has not had any relief from the noise. He indicated that he had asked for help from code enforcement. Mr. Lee stated that not all events are loud but some are. He reported that he met with former Planning Director Gary Armstrong and current Interim Planning Director Byron Turner who told him to send emails for the file. He asked that they open up the Leal use permit for review.

Michele Lee continued her husband's conversation regarding Leal Vineyards and expressed that they had met with frustration. She asked that their rights be considered as much as Mr. Leal's. She spoke of her 6 year old hearing impaired son, who without hearing aids could not go to sleep at 9:30 p.m. because it was too loud. She stated that she called Owie at Leal's who admitted that it was loud but they quieted it down. She admitted that the 10 p.m. cut off does exist. She felt it was not fair to expect them not to sleep. She indicated that they needed some relief and added that Leal built an ag building with a large parking lot.

Marty Richman spoke of the public comment at the last meeting in regards to employees having to pay retirement and health care.

Marvin Jones handed out a graph on the polar ice coverage in the northern hemisphere and noted that it was still freezing and not thawing in the southern hemisphere. He indicated that he was not sure that there was global warming.

d) **Department Head Announcements:**

Interim County Administrative Officer Ray Espinosa stated that items 15 and 24 would be continued to October 15, 2013.

COG Executive Director Lisa Rheinheimer reported that they were offering a free shuttle to the County Fair with pick up spots at Veterans Park, 4th and San Benito, Health Foundation and Kmart. She encouraged participation in International Walk to School Day on October 9th and explained how it worked.

Chairman Botelho asked to hear about West Nile Virus.

Agricultural Commissioner Ron Ross confirmed that a horse in the Lover's Lane area tested positive for West Nile Virus last month and that it was transmitted by a mosquito. He noted that it was the first time in the County since 2006. He reported that they were doing trapping in that area. He encouraged people to dump any water in dog's bowls, water fountains and bird baths. He further recommended wearing long sleeved shirts and long pants and use insect repellent – basic cautions to protect themselves.

Supervisor Muenzer asked for precautions for horse owners.

Ag. Commissioner Ross stated that there was a vaccine available for horses and unfortunately there was not one available for humans. He noted that the infected horse was not vaccinated and had to be euthanized.

Supervisor Barrios asked what the symptoms were.

Ag. Commissioner Ross stated that they become lethargic as it affects the nervous system and that there was no cure for horses or humans.

e) **Board Announcements:**

Supervisor Barrios reported that she attended the RCRC meeting on Chairman Botelho's behalf. She spoke of the different legislative stands that RCRC was supporting including fighting the SRA fee, overregulation in rural counties and reporting out on the vote in closed session. She further spoke of the rim fire and how forests were overregulated by the Federal Government and RCRC wanted counties to help by writing letters to Washington.

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 6 and 13 which were pulled for discussion and Item 15 which was continued to October 15, 2013 (Unanimous)*

AGRICULTURAL COMMISSIONER – R. Ross:

- 1) **Approved** Amendment #1 to contract with the Department of Food & Agriculture for Light Brown Apple Moth for the period of October 1, 2013 through September 30, 2013, for a total of \$23,167.74. *File #1.1*

BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:

- 2) **Authorized** the County Behavioral Health Director to assign \$227,000 of County Mental Health Services Authority (MHSA) Statewide Projects Prevention and

Early Intervention Funds to CalMHSa for the purpose of development and implementation of mental health prevention and early intervention projects that have regional and State-wide benefit. *File #810*

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

- 3) ***Appointed*** James Rydingsword as the Director of Health and Human Services Agency effective October 14, 2013. *File #130*

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

- 4) ***Approved*** contract with Jovenes de Antano for food services for the elderly for the period of October 1, 2013 to June 30, 2014, in the amount of \$35,706. *File #119*

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

- 5) ***Approved*** contract with Advocacy, Inc. for advocacy and rights protection for the period of October 1, 2013 through June 30, 2014, in the amount of \$5,000. *File #119*

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

- 6) **Adopt resolution confirming the County's participation in an inter-jurisdiction effort to investigate the feasibility of a Community Choice Aggregation (CCA) in San Benito or a greater regional area, without obligation from the General Fund; direct the County Administrative Officer or Interim CAO to designate one staff person and an alternate to participate as members of the CCA PDAC; and direct the CAO or Interim CAO to execute appropriate documentation to allow CCA PDAC to request energy usage load data from Pacific, Gas & Electric Company for feasibility study. (Res. No. 2013-70)**

Item was pulled for discussion by the public.

David Huboi, Architect for Huboi Architecture, found the feasibility study opportunity very intriguing and felt the key word was choice. He indicated that it gives a choice where the power comes from. He noted that AB 32 underlies CCA and this is a tremendous opportunity. Mr. Huboi encouraged the Board to move forward with the matter.

Marvin Jones felt that it was another government body getting in the way with another layer of government control over private industry which equaled fascism. He spoke of AMBAG, COG and MBUAPCD and asked the Board to think it through before entering into the agreement.

Management Analyst Margie Riopel explained that they were there to look at the opportunity to get involved in a feasibility study for the CCA process. She further explained that funds were already being raised so there was no cost or obligation. She added that other counties were already pursuing the CCA process.

Interim County Administrative Officer Ray Espinosa introduced Ginny Johnson from Supervisor Bruce McPherson's office.

Ginny Johnson of Supervisor McPherson's office explained that this was an opportunity for the county of San Benito to explore and partner with other regional counties with giving choices for the future. She added that there was no obligation and that it had major environmental and economic benefits. She indicated that local renewable energy projects created jobs. Ms. Johnson stated

that the economic benefits were profound. She stated that San Benito County was very important to the project, noting that it was the best place to build and create jobs. She encouraged the Board to approve the exploration.

Supervisor Barrios asked about partnerships with the cities.

Ms. Johnson indicated that they had not heard from the Hollister City Council but local governments have to approve whether or not to participate. She hoped our two cities would join and stated that she would approach them.

Supervisor De La Cruz asked if it was a regional effort and if so was there a point where one region has to sacrifice for another region.

Ms. Johnson stated that it was a regional effort and no, that you have to think of how the grid works and basically have to consider the whole region. She explained that if there was a joint powers agreement, you would be represented.

Supervisor Muenzer thanked Santa Cruz County and Supervisor McPherson for asking San Benito County to participate. He expressed that he realized the importance of San Benito County being a player in the region and totally supported it.

Marty Richman supported it and felt the County couldn't afford to do it on their own. He expressed that there was a real economic impact and hoped the cost of energy is the same or lower than P.G. and E., which he did not consider a private company.

Kristina Chavez Wyatt, San Benito County Chamber of Commerce, stated that the Chamber of Commerce was the lead proponent and referred the County to explore. She added that if the County did not have the staff resources they should have David Huboi represent the County.

Chris Khan, president of Joint Venture Monterey Bay stated to only join was the easiest task before the Board that day. He indicated that the result would be to provide San Benito County the information to look at for a CCA. He explained that if, at a future date, and the county did not sign today, they would then have to go through a feasibility study and fund their own.

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor Muenzer, **adopted Resolution No. 2013-70 confirming the County's participation in an inter-jurisdiction effort to investigate the feasibility of a Community Choice Aggregation (CCA) in San Benito or a greater regional area, without obligation from the General Fund; directed the County Administrative Officer or Interim CAO to designate one staff person and an alternate to participate as members of the CCA PDAC; and directed the CAO or Interim CAO to execute appropriate documentation to allow CCA PDAC to request energy usage load data from Pacific, Gas & Electric Company for feasibility study. (Unanimous) File #119***

COUNTY COUNSEL – M. Granger:

7) **Adopted Resolution No. 2013-71 authorizing** contract Third Party Administrator, Trindel Insurance Fund, to reject, settle, compromise, or approve Workers' Compensation claims filed against the County of San Benito. *File #36*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

8) **Appointed** Mr. Ken Michaelson as District #4 representative to the Community Action Board for a three-year term effective October 1, 2013 through October 1, 2016. *File #130*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 9) **Appointed** Mr. Jeffrey Long as District #5 representative to the Community Action Board for a three-year term effective October 1, 2013 through October 1, 2016. *File #130*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 10) **Appointed** Ms. Patty Bove-Stewart to the Workforce Investment Board Youth Employment Program Council for the period of October 1, 2013 through October 1, 2016. *File #130*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 11) **Appointed** Ms. Carol A. Thomas to the Workforce Investment Board Youth Employment Program Council for the period of October 1, 2013 through October 1, 2016. *File #130*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 12) **Approved** contract with EGG Pediatric Therapy for Occupational Therapy Services for the period of November 1, 2013 through June 30, 2014, for an amount not to exceed \$60,000. *File #130*

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 13) **Adopted Resolution No. 2013-72 approving the Operation and Maintenance contract with the State Department of Housing and Community Development (HCD) for the maintenance and operations of the San Benito County Migrant Center in the amount of \$791,430; and authorize the HHSA Interim Director or designee to be the signature authority for said contract and any subsequent amendments to said contract. (Res. No. 2013-72)**

Item was pulled for discussion.

Board members asked questions of Enrique Arreola of HHSA about the State contract.

Discussion ensued.

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Rivas, **adopted Resolution No. 2013-72 approving the Operation and Maintenance contract with the State Department of Housing and Community Development (HCD) for the maintenance and operations of the San Benito County Migrant Center in the amount of \$791,430; and authorized the HHSA Interim Director or designee to be the signature authority for said contract and any subsequent amendments to said contract. (Unanimous) File #130***

HEALTH & HUMAN SERVICES AGENCY – M. Corona:

- 14) **Approved** the operating permits for the following: American Medical Response West, Silicon Valley Ambulance, Inc., WestMed Ambulance and Rural/Metro of Northern California. *File #6*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 15) **Adopt Resolution approving the purchase agreement with the Frances Palmtag Trust for the purchase of real property APN 020-170-017 in the amount of \$415,000, approving the form of a grant deed and authorizing the Public Works Administrator to accept the fully executed grant deed and**

sign the certificate of acceptance and consent to record, for and on behalf of the County of San Benito. (Res. No. 2013-73) *File #105*

This matter was continued to October 15, 2013.

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 16) ***Adopted Resolution No. 2013-74 approving*** grant deeds pertaining to County-owned parcels, to perfect lot line adjustments 2013-0009399 at the Southside Hospital property. *File #105*

SHERIFF’S OFFICE – D. Thompson:

- 17) ***Approved*** amendment to the Sheriff’s Schedule of fixed assets to include a video system in the amount of \$5,000; and ***approved*** the augmentation to budget unit 1001-210 increasing expenditures (fixed assets/equipment) in the amount of \$5,000 and revenue in the same amount under 1001-210/570010 (Reimbursable Other) (4/5 vote) *File #110*

SHERIFF’S OFFICE – D. Thompson:

- 18) ***Approved*** amendment to the Sheriff’s Schedule of Fixed Assets to include a DVR in the amount of \$4,000; approve budget augmentation. *File #110*

REGULAR AGENDA:

AGRICULTURAL COMMISSIONER – R. Ross:

- 19) **Accept donation of painting the Radio Amateur Civil Emergency Services (RACES) building at 3224 Southside Road by Troop 777, Boy Scouts of America; and authorize the Agricultural Commissioner to execute any documents required, subject to review by the County Counsel and the Interim County Administrative Officer.**

Agricultural Commissioner Ron Ross explained the painting project that Boy Scouts Troop 777 was proposing as an Eagle Scout project. He noted that John Starkweather, a local painting contractor, would be mentoring the group for the project.

Supervisor Barrios expressed full support of the project.

Chairman Botelho stated that it was heartening to see young men achieve rank in an organization. He indicated that when the project was finished he wanted to present a certificate of recognition from the Board.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **accepted** donation of painting the Radio Amateur Civil Emergency Services (RACES) building at 3224 Southside Road by Troop 777, Boy Scouts of America; and **authorized** the Agricultural Commissioner to execute any documents required, subject to review by the County Counsel and the Interim County Administrative Officer. (Unanimous) File #1.1*

Chairman Botelho stated that he would be moving item #20 to the end.

Supervisor Rivas asked why.

Chairman Botelho stated that he wanted to let the gentleman from Trindel make his presentation first.

Supervisor Rivas asked why they couldn’t just swap items 20 and 21.

Chairman Botelho agreed to switching items 20 and 21.

The Board adjourned for a break at 9:57 a.m. and reconvened into regular session at 10:04 a.m.

COUNTY COUNSEL – M. Granger:

20) **Introduction of ordinance making revisions to Section 3.01.091 (Qualifications”) of Article VI (“County Administrative Officer”) of Chapter 3.01 of Title 3 of the San Benito County Code; read title of ordinance for the record; and continue to October 15, 2013 at 9:00 a.m. for adoption.**

Assistant County Counsel Barbara Thompson explained the proposed amendment to the ordinance and read the title of the ordinance for the record.

Supervisor Rivas expressed that he felt strongly about this issue. He shared a personal story about how his mother, who was a single Mom, completed her education, received her degree and became a teacher. He spoke of how his grandfather always reminded them of how important it was to go to college. Supervisor Rivas stated that education was the key to advancement, critical thinking and problem solving. He commented that he was troubled by the discussion they were about to have on how they could lessen the requirements for the CAO position. He stated that with the proposed amendment a future CAO would not have to attend college or earn a degree and if that happened, San Benito County would be the only county in the state with a CAO without a college degree. He asked how this amendment serves San Benito County. He added that it served it poorly and puts the future of our county at significant risk. He urged the board to vote no and felt that voters would vote against this. He asked the board to set personal relationships and agendas aside.

Supervisor Barrios stated that she couldn't agree more and suggested changing the wording on the proposed ordinance to the effect that under special circumstances work related experience to be considered with the requirement to continue university training. She felt that would offer the best of both worlds. She added that it would provide the opportunity to hire or keep a proven individual and they would hire what they felt was the very best. She noted that they had not always gotten the very best.

Supervisor Muenzer asked Supervisor Barrios if she meant university training or college.

Supervisor Barrios answered college or university.

Supervisor De La Cruz offered the term higher education.

Supervisor Barrios stated that the wording was not as important as the intent.

Supervisor Rivas commented that he appreciated the ideas and what not but this was not a job where you can learn on the job. He stated that he could not support it.

Chairman Botelho expressed that he supported Supervisor Barrios's idea and that it was a good addition. He stated that some of the most accomplished people in his life, ones that he admired the most, did not have a college degree. He added that you needed two things in life to succeed; health and an education. He noted that a third thing that could be added would be hard work. He stated that in our country he hated to dismiss anyone from any goal, just because they don't have a couple of letters on a piece of paper, which was tougher to obtain than ever before. Chairman Botelho stated that it did not lower the bar and he was supportive of the amendment and Supervisor Barrios's suggestion which brings it in line with what they expect from other leaders and department heads.

Supervisor Rivas appreciated Chairman Botelho's comments but did not agree.

Supervisor De La Cruz thanked Supervisor Rivas for his story and felt that education was an equalizer 90 – 95% of the time. He stated that he had a BS in Accounting and spoke of his siblings, some of which had degrees and some did not. He felt the Board should be given the opportunity to seek an individual to provide.

Local SEIU 521 Negotiator Bill Freitas expressed concern with what was going on. He understood about life experience but felt by tweaking, it was a slippery slope. He felt that reducing the qualifications of the CAO position seemed suspicious. He stated that no other county in California reduced its requirements. Mr. Freitas requested that the Board do the right thing and reject the ordinance.

Jillian Wilson thanked Mr. Freitas for his comments and felt that changing the qualifications to fit the person instead of finding a person to fit the qualifications, lowered the bar. She stated that the requirements were only for a BA and she felt it should be a masters or PhD. She added that if they were going to lower it, they should at least open it to other candidates that qualify. She stated that it was nothing against Mr. Espinosa, but that it didn't look or feel right.

Tony Ruiz felt that the comments made by the supervisors were irrelevant and the person they hired at the top was the most important decision they would make. He added that college doesn't make you smarter, but you do gain knowledge. He suggested that they should be tightening the qualifications and that the Board was taking it too lightly. He requested that they be careful because it was the most important decision they would ever make.

Marty Richman felt that if they changed the requirement they should go back out and let everyone have a shot so that it was fair. He stated that yes they would like someone in there with a PhD. and lots of experience for \$150,000 a year but there wasn't a line out the door. He stated that no one out there would work for that kind of money. He stated that he took umbrage with Supervisor Rivas's statement that people with college educations were more honest and trustworthy. He stated that he did not have a college degree and if anyone wanted to take him on intellectually. Mr. Richman stated that the U.S. Government saw fit for him to oversee nuclear warheads. He stated that he was smart and is smart and did not need a college degree to be smart. He added that Bill Gates walked out of college.

Kristina Wyatt asked that they not compromise by lessening the requirements for future CAO's, noting they should have seven plus years of fiscal experience. She stated that if they hired Mr. Espinosa they owed the public information on why they were unable to successfully recruit.

Pat Loe asked for clarification of what the phrase equivalent work related experience meant. She asked who would or would not be qualified. She stated that the addition for greater flexibility sounds good and that it was actually good 'ole boy back room deals. She asked how the word change took place. She indicated that no action was reported at the meeting and they have to report failed recruiting. She felt there were Brown Act violations and the Brown Act had been violated at many of their meetings. Ms. Loe expressed that the county needed true leaders and they needed to have a discussion openly in the Board room. She did not support the change and noted if there was a change they

needed to reopen the application to everyone as many employees in the county would qualify.

There being no further comment Chairman Botelho closed public comment.

Chairman Botelho stated that he did not think any of them were taking it lightly and had been working diligently. He indicated that he would say it was a failed process. He stated that we are a small county and they were very fortunate that the county was in an improved state of affairs due to the Interim CAO. He commented that if they were doing nothing different than what was required of department heads. He noted that if they adopted with Supervisor Barrios's suggestion they would still be setting the bar higher. He expressed that he felt comfortable with the change and appreciated the public's comments and concerns. He commented that this was the first time he had felt good about the county in a long time due to the Interim CAO's leadership and department heads.

Supervisor Rivas stated that if they moved forward he would be embarrassed to be a member of the Board and added that County Counsel should not even be sitting in closed session as he was a reference for Mr. Espinosa. He stated that he felt it was a possible investigation.

Assistant County Counsel Thompson read what she thought the suggested changes were.

Discussion ensued between board members as to the exact language.

Supervisor Rivas stated that he was not okay with the changes proposed.

Assistant County Counsel Thompson read into the record the changes agreed upon as follows; Section 1 Subsection D: *strike* or equivalent work related experience and *add*: however, under special circumstances governmental administrative experience may be considered qualifying for appointment with a requirement for the appointee to continue college/university training to completion of a degree.

Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, read the title of the ordinance with amendments as read into the record, accepted the introduction, waived further reading of the ordinance and continued the item to October 15, 2013 at 9:00 a.m. for adoption. (The motion passed 4 -1 with Supervisor Rivas voting no.) File #160

HUMAN RESOURCES – R. Espinosa:

21) Receive presentation from Trindel Insurance Fund.

David Nelson, Executive Director of Trindel Insurance Fund, gave a brief overview and gave a PowerPoint presentation.

Discussion ensued between Board members and Mr. Nelson. *File #36*

PLANNING DEPARTMENT – B. Turner:

22) Approve contract with Rincon Consultants, Inc. for management of the San Juan Oaks project, in an amount not to exceed \$58,799; and authorize the Planning Director to approve minor contract amendments, authorizing additional work within the 10% contract contingency amount not to exceed \$5,879.

Interim Planning Director Byron Turner gave a staff report.

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Muenzer, **approved** contract with Rincon Consultants, Inc. for management of the San Juan Oaks project, in an amount not to exceed \$58,799; and **authorized** the Planning Director to approve minor contract amendments,*

authorizing additional work within the 10% contract contingency amount not to exceed \$5,879. (Unanimous) File #790

PLANNING DEPARTMENT – B. Turner:

23) Receive progress report on General Plan Update.

Interim Planning Director Byron Turner gave an update and indicated that they had received two proposals to assist in finalizing the General Plan. He noted that the deadline was the previous day and they would agendize the matter for October 15, 2013.

The Chairman called for public comment.

Marty Richman reiterated that the major area of concentration was who had the ability to act as a program manager, noting that someone has to be the point of contact.

There being no further public comment, the Chairman closed public comment. Chairman Botelho asked Interim Planning Director Byron Turner if he would be the program manager.

Interim Planning Director Turner replied that he would. *File #790*

Closed session item #24 was continued to October 15, 2013.

CLOSED SESSION:

24) CONFERENCE WITH REAL PROPERTY NEGOTIATOR:

Property: -Palmtag Ranch (APN 020-170-017), off of Cienega Road, Hollister, California

-San Benito High School (APNs 020-170-043, 059-020-001 & 059-020-003), off of Nash Rd., Hollister, California

-Chick/TAG Paintball (APN 020-280-050), San Benito Street, Hollister, California

Agency Negotiator(s): Steve Wittry, Public Works Administrator; Adam Goldstone, Capital Projects Manager; Ray Espinosa, Interim CAO; Matthew Granger, County Counsel, Barbara Thompson, Assistant County Counsel and Shirley Murphy, Deputy County Counsel

Negotiating Parties: Ron Ross, on behalf of Palmtag Ranch property owners; Michael Robustelli, on behalf of the San Benito High School District; and Roland Chick, on his own and on behalf of TAG Paintball

Under Negotiation; price and terms of payment

Authority: California Government Code Section 54956.8

This matter was continued to October 15, 2013. *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 11:28 a.m. to October 15, 2013 at 9:00 a.m.

ANTHONY BOTELHO, CHAIRMAN
San Benito County Board of Supervisors

ATTEST:
Denise R. Thome, Clerk of the Board