



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 NOVEMBER 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, Muenzer and Barrios were present. Also present were Interim County Administrative Officer Ray Espinosa, County Counsel Matt Granger and Clerk of the Board Denise R. Thome. Chairman Botelho presided.

9:00 a.m. CALL TO ORDER:

- a) Supervisor Muenzer led the Pledge of Allegiance.
- b) *Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios acknowledged Certificate of Posting.*
- c) **Public Comment:**

Felicitas Corona, speaking on behalf of Maria Perez, expressed that she needed for the Board to re-open negotiations and they needed their help.

Cynthia Abrams spoke of the union negotiation of .40 per hour raise and the value of caregivers. She stated that it was just a matter of being aware and not that the board didn't care. She requested that they re-open negotiations and that it was a huge benefit for all lives.

Marty Richman stated that there would be a forum the next evening at 5:30 p.m. at the library regarding the future and current issues of the San Benito County Free Library. He added that it was open to the public and was an important forum.
- d) **Department Head Announcements:** There were no announcements.
- e) **Board Announcements:**

Supervisor De La Cruz spoke of the Veterans Memorial Day function and thanked the men and women of service. He commended Supervisor Muenzer on his speech and that he had done a good job.

Supervisor Barrios thanked Supervisor Muenzer and other members for the United Way extravaganza that kicked off twelve days of giving. She reported that she attended National Philanthropy Day at San Juan Oaks where many were honored.

Supervisor Muenzer thanked the Veterans Service Organization for putting on the program and parade and thanked the public. He also thanked all those that supported the United Way including Supervisors Barrios and Botelho.

Supervisor Barrios thanked Supervisor Rivas for representing the Board of Supervisors at the Veterans breakfast.

CONSENT AGENDA:

*Upon motion duly made by Supervisor Rivas and seconded by Supervisor Barrios, **approved** Consent Agenda items with the exception of Items 5, 7, and 8 which were pulled for discussion. (Unanimous)*

Chairman Botelho announced that he would be abstaining from item 11 as he had a potential conflict of interest.

BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:

- 1) **Approved** contract with North Valley Behavioral Health, LLC for acute care treatment for the period of July 1, 2013 through June 30, 2014, for a maximum amount of \$100,000. *File #810*

BEHAVIORAL HEALTH DEPARTMENT – A. Yamamoto:

- 2) **Adopted Resolution No. 2013-79 accepting** the Realignment Mental Health Services Performance contract as provided by the Dept. of Health Care Services (DHCS); **authorized** the County Behavioral Health Director to sign contract for the period of July 1, 2013 through June 30, 2014. *File #810*

CLERK OF THE BOARD – D. Thome:

- 3) **Approved** the action minutes of the regular meetings of August 20, 2013 and September 24, 2013.

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

- 4) **Approved** license agreement at Fremont Peak with American Tower for Microwave project beginning on December 1, 2013 for an initial 10 year term, with potential renewals at a monthly rate of \$1,208 subject to annual escalators and inspection fee costs. *File #119*

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

- 5) **Approve contract with the Regents of the University of California for services to be provided to the community from November 1, 2013 to June 30, 2014.**

This item was pulled for discussion.

Chairman Botelho asked if this was on the extension service contract.

Interim CAO Espinosa explained that they requested personnel to assist them and they were allotted an amount of money to bring in support.

Chairman Botelho asked if they could utilize some of those funds for possible rent.

Mr. Espinosa stated that was a possibility but it was meant for assistance. He added that the way the contract is written it was a possibility.

*Upon motion duly made by Supervisor Botelho and seconded by Supervisor Muenzer **approved** contract with the Regents of the University of California for services to be provided to the community from November 1, 2013 to June 30, 2014. (Unanimous) File #119*

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

- 6) ***Approved*** contract with the Seniors Council of Santa Cruz & San Benito Counties for services to be provided to the community for the period of November 1, 2013 to June 30, 2014. *File #119*

COUNTY COUNSEL’S OFFICE – M. Granger:

- 7) **Consent to Perkins Cole’s representation of Rancho Gavilan Corporation with regard to the potential development of residential and other uses on an approximate 2,700 acre site located south of State Route 25; and authorize the Board Chair to sign the letter request, indicating the Board’s consent to said representation.**

This item was pulled for discussion.

Chairman Botelho stated that he pulled the item because he had a problem with allowing an attorney that worked for us to go and work for the other side of the table. He asked why Rancho Gabilan would hire someone that worked for us.

County Counsel Granger stated that he couldn’t answer that and apparently it was a new group and an attorney that has previous knowledge results in not as high of a learning curve.

Chairman Botelho stated that this lawyer made a lot of money off the county and it was a potential conflict. He felt it was not right and was not ethically correct.

Supervisor Rivas requested that this matter be agendaized as a regular agenda item at a future meeting.

Supervisor Muenzer asked if it was the Floriani family.

Mr. Granger replied that he thought so and that the Board of Supervisors holds privilege and not County Counsel.

Supervisor Rivas stated it was their item.

Mr. Granger explained that it was not their choice or decision and they were just a conduit.

Supervisor Barrios stated that it was her understanding that most of the information was not confidential and any confidential information would not be disclosed.

Deputy County Counsel Shirley Murphy explained that at the time El Rancho San Benito proceeded she represented the county. She stated that because of the length of time and circumstances, the knowledge was not relevant and things had changed. She added that it did not appear to them as insider information as they were not connected with the original applicants or project. She advised that it was within the Board’s discretion to agree to allow representation or not.

Chairman Botelho asked why Miss Barclay as she was not the only game in town. He asked why they should take a chance and suggested getting another lawyer.

Ms. Murphy stated that it was completely their prerogative.

Chairman Botelho called for public comment.

Pat Loe state that the item was very wrong on so many levels and it should not be on consent. She noted that this attorney worked on strategies with the county and they may have changed, but why take a chance. She commented that the county spent 1,000’s of dollars last time which was not being reimbursed.

Marty Richman did not think the item was worthy of their consent, strictly on their own merits. He indicated that he was not questioning anyone’s integrity but

it was a potential conflict. He stated that there was not only the conflict but the public's perception. He felt they should not appoint.

Supervisor Barrios recommended agendizing it on the regular agenda.

Supervisor Rivas had no problem with it and felt they needed a more general discussion.

Mr. Granger noted that they were not contracting with anyone and that they were asking for a waiver. He indicated that it was simply up to the Board of Supervisors and was an outside request for a third attorney.

Supervisor Rivas stated that he was ready to not move forward.

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Muenzer, **denied** consent to Perkins Cole's representation of Rancho Gavilan Corporation with regard to the potential development of residential and other uses on an approximate 2,700 acre site located south of State Route 25; and **directed** staff to write a letter of denial. (Unanimous) File #160*

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

- 8) **Approve contract with CAPLUCK, Inc. for the implementation of the Low Income Heating Energy Assistance Program (LIHEAP) Combined Reporting Engine (CORE) for a three year term effective November 19, 2013, in the amount of \$17,500; and authorize the H&HSA Director to sign.**

This item was pulled for discussion.

Supervisor Barrios stated that it didn't add up.

HSA Deputy Director Enrique Arreola explained that they received \$50,000 to secure a system and the system cost them \$5,000 a year for 3 years with an upfront set up cost of \$2,500. He stated that the remainder was for other department needs to be used by the end of the year. He added that the software system was to carry them for three years.

Supervisor Barrios asked if they were approved to spend \$17,500.

Mr. Arreola replied yes.

There was no public comment.

*Upon motion duly made by Supervisor Barrios and seconded by Supervisor De La Cruz, **approved** contract with CAPLUCK, Inc. for the implementation of the Low Income Heating Energy Assistance Program (LIHEAP) Combined Reporting Engine (CORE) for a three year term effective November 19, 2013, in the amount of \$17,500; and **authorized** the H&HSA Director to sign. (Unanimous) File # 130*

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

- 9) **Adopted Resolution No. 2013-80 accepting the Supplemental Nutrition Assistance Program-Education (SNAP-Ed) Grant Program, in the amount of \$570,000; **authorized** the Director of HSA to approve and execute the grant agreement for a three year term effective October 1, 2013 through September 30, 2016; **approved** FY 2013/14 budget augmentation in the amount of \$184,664 for the (SNAP-ED) Grant Program; and **amended** schedule of authorized positions to include one (1) regular Outreach Educator Specialist Position for the duration of available funding. File # 130**

INTEGRATED WASTE MANAGEMENT – M. Rose:

- 10) **Approved** Amendment #1 to the contract with Environmental Stewardship & Planning Inc., tasks to finalize EIR for proposed San Benito County Resource Recovery Park, in the amount not to exceed \$45,000. *File # 142*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 11) **Approved** contract with Cornerstone Structural Engineering Group for the design services and preparation of plans and specifications for the Y Road Bridge at San Benito River crossing for the period of November 19, 2013 to June 30, 2017, in an amount not to exceed \$1,275,400.00; **authorized** the Public Works Administrator to issue change orders, in an amount not to exceed \$127,540.00. (The motion passed 4-0-1 with Supervisor Botelho abstaining) *File # 105*

Chairman Botelho abstained from this item citing that he had a potential conflict of interest.

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 12) **Approved** the plans and specifications and bid document for the John Smith Asphalt overlay project. *File # 105*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 13) **Adopted Resolution No. 2013-81 approving** a Right-of-Way agreement and accept a Grant Deed from the Brigantino Family Trust for the Hospital Road Bridge project; authorize the Chair to execute the Right-of-Way Agreement and Certificate of Acceptance & Consent to Record the Grand Deed; and **authorized** payment for such purchase not to exceed \$250,700. *File # 105*

REGULAR AGENDA:

SHERIFF'S OFFICE – D. Thompson:

- 14) **Hold discussion regarding Courthouse security staffing.**

Executive Officer of the Superior Court Gil Solorio explained that the f/y 11/12 budget process for the state redesigned the responsibility for security. He added that they redirected sales tax to the county but it was insufficient to provide adequate personnel for security, not equipment, at the new courthouse. He stated that the most effective remedy was to pursue two solutions. He explained that one would be for short term funding as the \$400,000 received by the Sheriff was sufficient at the old courthouse but not enough for the new courthouse. He spoke of short term funding obligation and that it was his intent to recommend allocation from the courts own general fund to open the building and that a long term resolution would require legislation. He stated that the courts would appreciate the board's endorsement of the process and collaboration.

Supervisor Barrios asked if the courts would pay the first part or support.

Mr. Solorio stated that in the short term, the courts were prepared to provide their own general fund money and not the county's as a method of providing additional money for additional security personnel.

Supervisor Barrios asked if that would be enough or would the county need funds.

Mr. Solorio explained that the court was going through their own fiscal issues as the courts can no longer carry any reserves. He stated that he was trying to

carve out an amount to carry out for the next six months per Captain Bradley's scenario. He noted that he could not guarantee.

Supervisor Barrios asked if they could fund through June 30.

Mr. Solorio replied that he could not guarantee. He indicated that they were trying to figure out if the amount of money the courts can contribute can go into the next fiscal year with a possibility through December 2014. He explained that the funding formula was essentially lodged in that State's budget process and from a legislative process it was a formula for all trial courts in the state. He stated that the formula did not allow flexibility and his intent was that he thought legislation would fix the formula for everyone, or specific relief for a handful of projects.

Supervisor De La Cruz asked if any additional costs would be the burden of the taxpayers if the State legislation doesn't come through. He commented that they all wanted the courthouse open.

Mr. Solorio reported that he had a conference call with the judicial council on this specific matter. He indicated that the solution may be forming as they speak. He stated that the legislation may not have to come from the grass roots up as other, larger jurisdictions with new courthouses have issues as well.

Supervisor Muenzer thanked Mr. Solorio for the tour and indicated that he had a better understanding of the issues. He appreciated that he was aware of the public perception and commented that they wanted to work together and resolve the matter.

Supervisor Rivas also thanked Mr. Solorio for the tour and that it helped him understand as well. He added that he was not worried about perception or boots on the ground. He stated that they had a fiscal problem in the county and state and he was less than optimistic about legislative relief. He felt that San Benito County was an afterthought in Sacramento and they needed to take advantage of temporary relief from the court. He stated that it was a state of the art building and was a step toward downtown revitalization. Supervisor Rivas felt they needed it to happen and happen soon as they cannot afford a delay in opening. He felt that they were lucky that the courts were stepping up and they should take advantage. He suggested that perhaps the Intergovernmental Committee should address consolidation.

Chairman Botelho stated that it was a fiscal problem for them and was a significant amount of money. He added that they've been asking employees to take it on the chin for several years. He noted that it was a million dollars for the next two years and he was really upset about it. He commented that if any of their departments came in with this amount of shortfall it would be a firing offense. He stated that he wanted the courthouse open but that if they opened on schedule he guaranteed that they would get nothing. Chairman Botelho indicated that he needed to answer to constituents and they needed to send a message. He felt they shouldn't decide it that day.

Supervisor Rivas stated that his decision was based on safety and that it was a state of the art, safe environment.

Mr. Solorio indicated that there were government codes interpreted that say the sheriff is mandated to provide court security at the courts. He added that they were looking at 6 to 18 months augmentation.

Supervisor Barrios felt that Supervisors Botelho and Rivas both made excellent points and they should not make a decision that day. She felt they needed to be proactive and jump into the wagon with the big counties such as

San Bernardino, San Diego and Calaveras. She felt they should write a letter delaying opening the courthouse for these reasons and contact other counties because together they would be stronger.

Captain Don Bradley stated that Sheriff Thompson was on vacation. He noted that security falls under the sheriff's department. He listed the sheriff's responsibilities regarding the courts as listed on the attachment to the AIT. He read directly from the staff report.

Chairman Botelho stated that a new facility would be a lot safer and there was no question about it. He stated that the biggest reason they were approved for the new courthouse was because of the condition of the old courthouse. He indicated that there was no easy solution and the sheriff had stated that he felt very clear that this was a state mandate. He asked if there were any other non-state mandate options.

Captain Bradley replied possibly but there was the potential of overrunning the budget.

Supervisor Muenzer stated that the sheriff and the courts had been in discussion and the Board of Supervisors had not been involved. He felt they had been blindsided. He stated that they needed to be involved in future discussions and they needed to be at the table.

Supervisor De La Cruz stated that overtime was an issue for him. He noted that not all counties provide sheriff security.

Chairman Botelho opened public comment.

Marty Richman spoke under public comment.

Chairman Botelho indicated that he liked Supervisor Barrios's suggestion of bringing it back the meeting after next to update and staffing options being considered by the Sheriff.

Supervisor Barrios directed a discussion at the Intergovernmental Committee meeting. She added that Mr. Granger had the letter Calaveras County sent and they should use that as a model.

Interim CAO Espinosa stated that they could write the letter and have it approved at the December 19th meeting or write the letter and send it off.

Mr. Solorio stated that there were several irons in the fire. He indicated that the county not wanting to open had made it to the judicial council already and perhaps that is why the conference call this week.

Supervisor Barrios directed staff to create a letter for the first meeting in December. File # 110

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

15) Receive quarterly status report from Hollister City Fire.

Captain Mike O'Connor displayed a map and gave a report on the volume of calls. He noted that there was a small volume of calls to the south of Tres Pinos.

Chairman Botelho asked for a copy of the map.

Supervisor De La Cruz stated that they were doing a good job and he had heard nothing but good comments and overall the response time had decreased.

Further discussion ensued between board members and staff. *File # 60*

The Board adjourned for a break at 10:31 a.m. and reconvened into regular session at 10:41 a.m.

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

- 16) **Accept the FY 2012/2013 4th quarter financial review and accept the FY 2013/2014 1st quarter financial review, along with various information presented with the review.**

Management Analyst Melinda Casillas gave a report on fourth quarter totals and noted the changes in the handout. She proceeded to go through an overview of the totals.

Discussion ensued between board members and staff.

Supervisor De La Cruz asked if those departments that didn't meet budgeted revenue were told they needed to be more realistic.

Ms. Casillas stated that was part of the budget process to review.

Interim CAO Espinosa stated that they were looking at tracking to capture excess funds for contingencies.

Chairman Botelho stated that if they did not meet revenues they need to meet on the expense side as well. *File # 865*

PLANNING DEPARTMENT – B. Turner:

- 17) **Receive report on Homes for Troops request for waiver of impact fees; and provide direction to staff.**

Interim Planning Director Byron Turner reported that the home had been finalized and all fees paid by Homes for Troops and now it was whether the board wanted to contribute to funding.

Chairman Botelho reported that Supervisor Muenzer, he and staff had met as the ad hoc committee and if they wanted to waive the impact fees they would have to be made up from the general fund. He added that the contribution was not to the individual in the home, whom they had a debt of gratitude to, but to Homes for Troops. He reported that they concluded that it would be difficult at this point in time to waive for one organization in the middle of the budget year and impact the general fund. He indicated that as much as they would like to, other organizations would step forward.

Supervisor Muenzer explained that initially they looked at deferring but found out that deferring would basically be a lien on the home. He commented that the request should have come to the Board at the beginning of the process and not at the end. He stated that he could not support it at this time.

Supervisor Barrios felt they should make sure that organizations were aware of all community organizations through the community foundation.

Marty Richman spoke under public comment.

Mr. Turner stated that they had direction. *File # 790*

HUMAN RESOURCES – G. Cochran:

- 18) **Approve the appointment of and the contract for Ray Espinosa as the County Administrative Officer effective November 19, 2013.**

Interim Human Resources Director Georgia Cochran gave the history and presented it to the board for their approval.

Supervisor Rivas stated that the last three years on the board he had made some tough decisions. He stated that some were easy and some difficult and he was often in the minority. He indicated that every time he had spoken his mind and expressed opinions he had received phone calls and they all said thank you for doing what is right. He stated that he did not care if his opinions were popular

or unpopular but that his concern was with how it affects residents and the community. He stated that the most important decision they can make was in hiring the County Administrative Officer. He expressed that in good faith he could not hire Ray Espinosa as he was not fit for the job, did not have the proper experience and never should have been interviewed. He stated that Mr. Espinosa was less than honest with his credentials. He indicated that they had had this conversation and Alameda University was Sham University that you pay for in the Bahamas and they send you a degree. Supervisor Rivas expressed that he didn't know if he was advised or did it on his own. He felt the board decided to award less than honest behavior and it was not based on performance but on friendship which was nepotism. He proclaimed that we would be the only county in California with a CAO without a college degree. He noted that there could be so many other applicants, once they changed the requirement, that could apply. He commented that he would have liked to apply for the job himself. He stated, for the public record, that from the beginning he stood against the decision to hire Ray Espinosa as County Administrative Officer.

Supervisor Barrios stated that she did not believe the action he took in putting down a non-credited university was meant to be deceitful and not intended to deceive the board. She stated in regards to being only CAO without a college degree, she assured them it was only temporary and it was in the ordinance. She commented that she had faith and trust that he would achieve the goal in the time limit or close to. Supervisor Barrios reminded that they gave Ray Espinosa huge tasks and he was not afraid of the challenge and has earned the respect of the board and department heads. She added that you don't necessarily get courage, intelligence and willingness to work hard with a degree. Supervisor Barrios indicated that he had worked as an interim CAO for over a year and had proven himself, so why would you throw out a proven individual. She concurred that a degree was important and that's why it was in the contract. She added that most people don't see the day to day operation with an administrator and don't see the progress in many areas. She expressed support for Ray Espinosa.

Supervisor Muenzer concurred with Supervisor Barrios. He stated that he did not feel Ray was not truthful and indicated that they threw him into a bad situation and he sought resources and had done admirably. He expressed that he supported him as CAO.

Supervisor De La Cruz concurred with Supervisors Barrios and Muenzer and supported Ray Espinosa. He noted that he had a difficult job bestowed upon him. He spoke of the quality of seeking out if you don't have an answer and commended him for it. He stated that he supported Ray Espinosa and it was not done on friendship or behind the scenes.

Chairman Botelho echoed the three previous supervisors and felt that it was right to appoint and that it was at the right time now. He indicated that he had been on the board for 9 years with 5 CAO's that were college educated and highly experienced and he admired all of them to an extent. He commented that this last year he served on the board he had never felt like they had accomplished more because of the CAO and the leadership with department heads. He added that the City of San Juan Bautista Manager said he really enjoyed working with Ray. He noted that they had gone through an exhaustive CAO search and they had not been railroaded and Ray had risen to the top. He agreed that a college education was very important but should only be used as one component and hard work, honesty, integrity and investment in our

community should also be considered. He felt confident that he would do a good job for years to come and that he was looking forward to working with him.

*Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Margie Barrios, **approved** the appointment of and the contract for Ray Espinosa as County Administrative Officer. (The motion passed 4-1 with Supervisor Rivas voting no.)*

Chairman Botelho congratulated CAO Espinosa.

CAO Espinosa thanked the board. He indicated that there was a lot of work to be done and he was working on it. He stated that he would come back to the board at the beginning of the year with a full report of the year's activities and future activities. He added that the next few years will be very busy. He explained that he had an Associate's degree and 140 credits. He stated that he would continue his education to finish it. He stated that it had been an honor and a privilege to work with the board as well as the employees in the county who make the county a better place to live. *File # 630*

The Board adjourned into closed session at 11:38 a.m. and reconvened into regular session at 12:55 p.m.

CLOSED SESSION:

- 19) **Conference with Legal Counsel-Anticipated Litigation
Initiation of litigation pursuant to subdivision (d)(4) of Section 54956.9**

Number of Cases: (1)

No reportable action. File # 235.6

- 20) **Conference with Legal Counsel: Anticipated Litigation
Significant exposure to litigation pursuant to California Government Code
Section 54956.9(d)(2) & (e)(1)**

Number of cases: 1

No reportable action. File # 235.6

REGULAR AGENDA (Continued):

PLANNING DEPARTMENT – B. Turner:

- 21) **Adopt Resolution authorizing the extension of the Abandoned Vehicle
Abatement Program until May 2024. (Res. No. 2013-82)**

Byron Turner gave a staff report.

There was no public comment.

*Upon motion duly made by Supervisor Muenzer and seconded by Supervisor Barrios, **adopted Resolution No. 2013-82 authorizing** the extension of the Abandoned Vehicle Abatement Program until May 2024. (The motion passed 4-1 with Supervisor Rivas voting no) File # 790*

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, Muenzer, Barrios
NOES:	SUPERVISORS:	None
ABSENT:	SUPERVISORS:	None

There being no further business, the Board adjourned at 12:59 p.m. to December 3, 2013 at 9:00 a.m.

ANTHONY BOTELHO, CHAIRMAN
San Benito County Board of Supervisors

ATTEST:
Denise R. Thome, Clerk of the Board