

SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios District No. 1 Vice-Chair Anthony Botelho District No. 2 Robert Rivas District No. 3 Jerry Muenzer District No. 4 Chair Jaime De La Cruz District No. 5

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

REGULAR MEETING FEBRUARY 18, 2014 ACTION MINUTES

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

9:00 a.m. CALL TO ORDER:

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

Marvin Jones spoke in regards to the Bureau of Land Management finally making it official that the county does not have the Clear Creek recreational area. He commented that they were making half the country off limits.

d) **Department Head Announcements:**

County Administrative Officer Ray Espinosa spoke of the new courthouse and that they had not received their final permit yet. He indicated they were set to open March 17, 2014. He stated that they had hired Sara Fontanos in Administration to replace Janelle Cox.

- e) **Board Announcements:** Information only.
 - Supervisor De La Cruz wished his wife a happy 25th anniversary.

Supervisor Barrios thanked Janelle Cox for her work. She spoke of the Pajaro Watershed Committee meeting.

Supervisor Muenzer stated that Congressman Sam Farr was introducing a bill to turn Clear Creek back into a recreational area and added that they were monitoring and staying on top of it. He stated that he and his wife spent their 39th anniversary babysitting three of their grandchildren.

CONSENT AGENDA:

Upon motion made by Supervisor Botelho and seconded by Supervisor De La Cruz, **approved** Consent Agenda items with the exception of Items 1, 13 and 14 which were pulled for discussion. (Unanimous)

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

 Approve Waiver of County Personnel Policies & Procedures Handbook Rule 1.H.3 prohibiting CalPERS Benefits for Temporary Employees for ERP related temporary employees.

Clerk Auditor Recorder Joe Paul Gonzalez stated that they were seeking exemption from temporary employees having no benefits for the Enterprise Resource Planning (ERP) project only. He indicated that they were asking the Board to give blanket approval to hire temporary employees for the ERP project only and pay retiree benefits.

Supervisor Rivas asked if there weren't rules and if retirees were vested. He felt they should hire them as temporary employees if they want a temporary job.

CAR Gonzalez stated that one of the statutes in retirement law was if a CalPERS agency hires a member, they are required to pay the employees portion of benefit even if they're not a permanent employee.

Supervisor De La Cruz asked for how long it would be, 2 months?

CAR Gonzalez stated that a temporary employee can't work more than 960 hours in a fiscal year, a new condition with retirees being hired back.

Supervisor De La Cruz stated that they had a bad experience with retired employees as temporary employees.

CAR Gonzalez explained that they needed someone to step into the shoes of current employees to do their work as current employees would be doing the installation of the program. He indicated that the problem was that it would probably be a year to install and another year to get the bugs out. He stated that it would be a train the trainer situation and they were looking at people already tested.

Supervisor Barrios stated that it was important to her that they get the most experienced individual in there and it was a critical move they needed to move forward with.

CAR Gonzalez explained that they had a lot of work ahead of them to assure ERP installation. He added that if they didn't want a failure they needed to give adequate resources to the project.

CAO Espinosa stated that the issue was before them because they weren't paying CalPERS and they wanted to eliminate that issue.

Marty Richman spoke under public comment and stated that he certainly supported the ERP system and they needed experienced personnel. He spoke of the issue of temporary personnel working too long and not taking on a long term commitment that they can't realize. He added that they didn't want to end up paying OPEB on those people.

Supervisor Rivas commented that he was uneasy about the item because of what was stated.

Marvin Jones spoke under public comment and suggested contract employees instead of temporary employees. He asked what ERP stood for.

CAR Gonzalez explained that the Enterprise Resource Planning (ERP) was basically a financial system but much more robust. He added that the employers

share of CalPERS was slightly over 13% and that would be the amount of cost added to the payroll. He noted that all costs are budgeted in the ERP budget and they could not exceed that.

Chair Muenzer closed public comment.

CAO Espinosa explained that at the 2013 budget public hearing the Board had approved the project including temporary help and they could not exceed that dollar amount.

Supervisor Botelho stated that it was a high priority county wide and had to get done. He added that temporary employees were needed and it was set up to not run up long term cost and as long as it was within the budget confinement. He suggested even shutting the doors to offices ½ a day a week in order to focus on implementation.

Supervisor De La Cruz asked if it included temporary employees with PERS add ons.

CAR Gonzalez stated that a back fill plan was always part of the project.

Supervisor De La Cruz asked if they would be bringing back employees from layoffs.

CAR Gonzalez stated that in regards to bringing a laid off employee back to a temporary position, he was not qualified to answer.

CAO Espinosa indicated that regarding cost and timelines, they needed to bring people on quickly and bring financial management on at the beginning of this new fiscal year. He commented that there would be a tremendous amount of work going on. He stated that on January 22, 2013 the Board approved it and explained that it was not to exceed the allocation funds including staff and professional services.

Supervisor De La Cruz states that it did not mention temporary employees.

CAO Espinosa stated that was why they were there that day.

Supervisor Rivas believed there was experience out there not tied to PERS.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho **approved** the waiver of County Personnel and Procedures Handbook Rule 1.H.3 prohibiting CalPERS benefits for temporary employees by minute order.(the motion passed 3-2 with Supervisors De La Cruz and Rivas voting no) File #608

CLERK OF THE BOARD – D. Thome:

 Approved the action minutes to the Board of Supervisors regular meeting of January 21, 2014.

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

3) Approved Amendment to Commercial Lease Agreement between County of San Benito and Community Services Development Corporation beginning March 1, 2014; authorized the HHSA Director to sign said lease agreement; and approved Budget Augmentation in the amount of \$5,755. (4/5 vote) File #130

HEALTH & HUMAN SERVICES AGENCY - J. Rydingsword:

4) **Appointed** Kimberly McCrary and Mark LaShell to the Emergency Medical Care Commission to a term ending December 31, 2014. File #130

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

5) **Reappointed** Nants Foley and **appointed** Crystal Silva to the Emergency Medical Care Commission to a term ending December 31, 2014. File #130

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

6) **Reappointed** Karen O'Connell and **appointed** Rebecca Jones to the Emergency Medical Care Commission to a term ending December 31, 2014. File #130

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

7) **Reappointed** David Westrick and Carlos Reynoso to the Emergency Medical Care Commission to a term ending December 31, 2014. File #130

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

8) **Reappointed** Rick Espino to the Emergency Medical Care Commission to a term ending December 31, 2014. File #130

<u>HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:</u>

9) **Reappointed** Dennis Kidd and Stephanie Zube to the Emergency Medical Care Commission to a term ending December 31, 2014. File #130

<u>HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:</u>

10) **Reappointed** John Fox and **appointed** Matt Leal to the Emergency Medical Care Commission to a term ending December 31, 2014. File #130

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

11) **Appointed** Michael O'Connor and Josh Buzzetta to the Emergency Medical Care Commission for a term ending December 31, 2014. File #130

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

12) Appointed Jimmy Holguin and Brenda Brenner to the Emergency Medical Care Commission to a term ending December 31, 2014. File #130

PUBLIC WORKS DEPARTMENT – S. Wittry:

Approve contract Amendment No. 4 with Kathy Wood & Associates, expanding the original contract scope in an amount not to exceed \$10,000 for a total contract value of \$69,500 for professional services for right-of-way acquisition relating to the Hospital Road Bridge replacement project.

Supervisor Barrios stated that it was no reflection on Public Works Administrator Steve Wittry as he was trying to keep the cost down, but it was frustrating that the contract was coming back for more money, and item #14 as well.

Public Works Administrator Wittry explained that it was a right of way acquisition and on February 4 they had approved outstanding legal services as well to acquire this property. He added that this kind of contract was difficult to scope in the beginning. He noted that the property owner was a little more difficult to deal with and it was a bit more challenging. He expressed that they anticipated that this would cover everything but they could not guarantee it was the last one.

Supervisor Barrios asked if there was any control to save the taxpayers' money and asked when they would go with a different plan.

Mr. Wittry explained that they were tied to a certain statute and that property was acquired through a process.

County Counsel Matt Granger explained the process.

Supervisor Barrios asked if these were Federal funds.

Mr. Wittry replied yes and indicated that he was in constant communication with Cal Trans.

Supervisor Botelho felt they were letting the contractor off too easy and that she knew walking into this how much work it was going to be. He noted that he did not see a breakdown of her hours. He commented that he was not happy about it.

Further discussion ensued.

There was no public comment.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer, **approved** contract Amendment No. 4 with Kathy Wood & Associates, expanding the original contract scope in an amount not to exceed \$10,000 for a total contract value of \$69,500 for professional services for right-of-way acquisition relating to the Hospital Road Bridge replacement project. (the motion passed 4-1 with Supervisor Botelho voting no.) File #105

PUBLIC WORKS DEPARTMENT – S. Wittry:

14) Approve contract Amendment No. 2 with Bengal Engineering, L.P., extending the term for engineering, environmental and design services for Hospital Road Bridge project, for the period of December 31, 2014 to December 31, 2015 and expanding scope \$91,676 for a total contract value of \$335,016.29.

Supervisor Barrios stated that she had the same argument as the last one.

Discussion ensued between board members and staff.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Muenzer **approved** contract Amendment No. 2 with Bengal Engineering, L.P., extending the term for engineering, environmental and design services for Hospital Road Bridge project, for the period of December 31, 2014 to December 31, 2015 and **expanding** scope \$91,676 for a total contract value of \$335,016.29. (the motion passed 4-1 with Supervisor Botelho voting no) File #105

PUBLIC WORKS DEPARTMENT – S. Wittry:

15) Adopted <u>Resolution No. 2014-13-A</u> approving the installation of a stop sign at Quien Sabe Road Eastbound at its intersection with Santa Ana Valley Road. File #105

PUBLIC WORKS DEPARTMENT – S. Wittry:

Adopted <u>Resolution No. 2014-14</u> approving the installation of a stop sign on Bolado Road Northbound at its intersection with Southside Road. File #105

PUBLIC WORKS DEPARTMENT – S. Wittry:

17) **Approved** the plans, specifications, and bid documents for the Fiber Optic Cable Infrastructure project. File #105.3

The Board adjourned at 10:07 a.m. for a break and reconvened into regular session at 10:14 a.m.

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

<u>PUBLIC WORKS DEPARTMENT – S. Wittry:</u>

Hold a public hearing; make CEQA findings set forth on Attachment "A" to the AIT; adopt Resolution declaring intent to levy special tax for CSA 55 (Creekside 5), approving mailed ballot election, and taking other related action; adopt Resolution declaring election results, establishing appropriations limit, ordering levy of special tax commencing in FY 2014/2015, and taking other related action; and approve Owner's Covenant and Irrevocable Agreement to Annex to the City of Hollister.

Public Works Administrator Steve Wittry gave a staff report.

Assistant County Counsel Barbara Thompson also gave a staff report and spoke of the changes made and that were given to the Clerk and the Board of Supervisors.

Discussion ensued between board members and staff.

The Chairman opened the public comment and closed public comment as there was none.

Upon motion duly made by Supervisor Botelho and seconded by Supervisor De La Cruz made CEQA findings set forth on Attachment "A" to the AIT; adopted Resolution No. 2014-15, with amended changes made by County Counsel, declaring intent to levy special tax for CSA 55 (Creekside 5), approving mailed ballot election, and taking other related action; adopted Resolution No. 2014-16, with amended changes made by County Counsel, declaring election results, establishing appropriations limit, ordering levy of special tax commencing in FY 2014/2015, and taking other related action; and approve Owner's Covenant and Irrevocable Agreement to Annex to the City of Hollister. (Unanimous) File CSA #55

REGULAR AGENDA:

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

19) Discuss and provide direction to staff on the establishment of a proposed Tourism Business Improvement District in San Benito County; and review Request for Proposals (RFP) for a Tourism Business Improvement District and Management District Plan services and provide direction to staff.

Management Analyst Janelle Cox gave a PowerPoint presentation and reported that she would be meeting with the hoteliers the next day.

Supervisor Rivas expressed concern that they were putting the cart before the horse and a lot of staff time had been invested. He added that he checked online and the lowest percentage of involvement was government agencies. He felt the whole process should be driven by the hotel owners.

Supervisor De La Cruz indicated that he had spoken to two hotel owners that expressed concerns that they felt like small players in the game. He felt they needed to make sure they bought into it and it had to be a fair distribution.

Supervisor Botelho agreed that they may be rolling out a little too fast and what Supervisor Rivas said made sense.

Further discussion ensued between Board members and staff.

Supervisor Muenzer stated that he did not see any hotel operators in the room and did not feel that was a good sign. He noted that the Hollister Downtown Association as an agency was struggling promoting a PDID and that may muddy the waters in raising a TOT tax. He wanted Ms. Cox to meet with the hotel owners and then come back to the Board about an RFP.

Further discussion ensued.

The chairman called for public comment.

Scott Fuller of San Juan Oaks stated that they had a hotel on paper and as a member of the Chamber of Commerce Board they looked into TOT and TBID. He stated that a sales job was required to make it happen and they as volunteers did not do a good sales job.

Marty Richman suggested that they not only talk to those already with hotels but also talk to those with potential hotels. He felt it was important to get their view on it. He asked that they consider lowering the TOT slightly and offset it with the TBID with that same amount. He added that the owners knew how much price elasticity they could have with their rates.

Chairman Muenzer asked if the new hotels would be subject.

Ms. Cox stated that if approved by 50% it would apply to all.

Upon motion duly made by Supervisor Barrios and seconded by Supervisor Botelho, **directed** staff to meet with the cities of Hollister and San Juan Bautista and the stake holders and report back March 4, 2014. (Unanimous) File #119

COUNTY ADMINISTATIVE OFFICE – R. Espinosa:

20) Receive report in reference to Drought State of Emergency proclaimed by Governor Brown on January 17, 2014, and the status of San Benito County.

Management Analyst Margie Riopel gave a staff report.

District Manager Jeff Cattaneo of the San Benito County Water District gave an update report on the drought situation. He surmised that next year would be a major issue and even if it rained the rest of the year our allocation will be incredibly low. He stated that they were looking at a pumping plate in Tracy to get the water out of the Delta. He predicted that next year the San Luis Reservoir would be very low. He noted that there would be no water transfers this year.

Supervisor Botelho thanked Mr. Cattaneo for coming in and commended the Water District and their management of water resources in the county.

The chairman called for public comment.

Marty Richman and Richard Bettencourt spoke under public comment.

Directed staff to put a resolution on for the meeting of March 4, 2014. File #119

Chairman Muenzer advised that they would be working through lunch and having the closed session at 1:00 p.m.

LOCAL AGENCY FORMATION COMMISSION (LAFCO) – B. Braitman:

21) Receive presentation from San Benito County LAFCO Executive Officer regarding new development in the sphere of influence.

Bob Braitman stated that he has been the LAFCO executive for the last six months. He spoke of the agreement between the City and County with regards to annexation and indicated that it needed to be corrected and some attention given to it.

Supervisor Botelho stated that it had been a problem since he had been on the board and that it was not very efficient.

Mr. Braitman spoke of a tax rate area within the city and indicated that no one could explain why the county and city agreed to a deal that essentially stops annexation. He talked of developing urban services within the City of Hollister's sphere of influence.

Supervisor Rivas agreed. He felt that it was extremely important especially since they were updating the General Plan and it needed to be fast tracked. He added that it was unacceptable to have all these pockets.

Clerk-Auditor-Recorder Joe Paul Gonzalez provided background and spoke of the reason why the master tax agreement was created by the Administration Office with the help of the Auditor's Office. He indicated that the number one reason it is a real issue for the board is because Planning and Public Works were never invited to the table for discussion.

Chairman Muenzer asked if the master tax agreement was about 30 years old.

CAR Gonzalez stated that the second master tax agreement was 2010 and the first one was done in 2000.

Chairman Muenzer asked if it was not part of the agreement with San Juan Bautista.

CAR Gonzalez replied that it was not and that tax sharing accrued with incremental growth of values.

Further discussion ensued between board members and staff.

There was no public comment.

CAO Espinosa confirmed that he had direction for the tax to go to Steve Wittry, Joe Paul Gonzalez and Matt Granger for review. *File* #790A

PLANNING DEPARTMENT – B. Turner:

22) Receive progress report on the General Plan Update.

Interim Planning Director Byron Turner gave a staff report.

Michael Groves, Senior Principal and President and Associate Planner Ashley Hefner of EMC Planning Group gave a PowerPoint presentation.

Mr. Groves stated that at the next meeting Ms. Hefner would be making the changes in real time on her computer in the workshop.

Chairman Muenzer stated that it was his hope that they would have a joint meeting with the Planning Commission.

Mr. Groves explained that they have had more success bringing the Planning Commission in with the Board and working through it so as not to volley back and forth.

Discussion ensued between board members and staff.

Direction given to set a joint workshop with the Planning Commission for March 19, 2014 at 6:00 p.m. *File* #790

PLANNING DEPARTMENT – B. Turner:

Adopt Resolution for the inclusion of a measure on the June 3, 2014, San Benito County primary ballot to extend the Abandoned Vehicle Abatement (AVA) Program for a ten-year period; and discuss/delegate authority (if desired) to one or more Board members to prepare an argument in favor of the proposed measure and/or and rebuttal argument.

Interim Planning Director Byron Turner gave a staff report noting that it adds a \$1 fee to all vehicles registered in the county.

Chairman Muenzer asked if a dollar was already being collected and this was just continuing it.

Mr. Turner replied yes.

Marty Richman spoke under public comment.

The board questioned Code Enforcement Officer Stacey Watson regarding towing of vehicles.

Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Botelho **adopted** <u>Resolution No. 2014-17</u> for the inclusion of a measure on the June 3, 2014, San Benito County primary ballot to extend the Abandoned Vehicle Abatement (AVA) Program for a ten-year period. (Unanimous)

Upon motion duly made by Supervisor De La Cruz and seconded by Supervisor Barrios **delegated** the Chair and staff to prepare an argument in favor of the proposed measure. (Unanimous) File #790

PUBLIC WORKS DEPARTMENT - S. Wittry:

24) Receive update on the RFP process for the surplus real property located at 3110 Southside Road containing the former Southside Convalescent Hospital and provide direction to staff.

Public Works Administrator Steve Wittry gave a staff report noting that there were zero responses to the proposal. He added that the cost to remove would be more than they thought and a lot of outlay cost. He felt they needed a plan B, C, and further options.

Supervisor Barrios suggested they put out an RFP to come in and tear it down and pay for it out of our funds and then we would have the property.

Chairman Muenzer asked what funds.

Supervisor Barrios stated that she did not know. She added that there was no guarantee with the CDBG grant and they would have to have a plan B.

Mr. Wittry stated that it would be disingenuous to do an RFP if there was no project to do with it.

Supervisor De La Cruz suggested opening it up to all groups. They could then ask what they would do with it and what funds and then the board could decide.

Mr. Wittry spoke of a minimum bid of \$100,000 and the appraisal was \$600,000 and the estimate for contamination disposal was \$500,000. He added that they were now hearing more than \$500,000 to dispose of.

Supervisor Botelho suggested seeing if the Homeless Coalition would be interested and commented that the building was set up for it.

Mr. Wittry spoke of Meaghan's Law and the requirement that offenders not be near a school.

Supervisor De La Cruz asked why address these issues and suggested staying away from it and giving it to the homeless coalition.

Supervisor Botelho concurred.

Chairman Muenzer asked if the Notice of Federal Awards (NOFA) has to be site specific.

CAO Espinosa replied yes. He recommended taking it back to the Facilities Committee and then bringing it back to the Board.

Chairman Muenzer asked for a consensus.

Supervisor De La Cruz answered no.

Chairman Muenzer wanted to send it back to the Facilities Committee.

Supervisor Barrios asked that James Rydingsword and Enrique Arreola be at the next meeting.

Chairman Muenzer directed that the matter go back to the Facilities Committee. File #105.3

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

25) Receive and accept the Mid-Year Financial Review for FY 2013/2014.

Management Analyst Melinda Casillas gave a PowerPoint presentation on the mid-year review.

Supervisor Barrios noted that in the future she would like to see a 5 year average, right next to it.

Assessor Tom Slavich reported that they estimated last year's increase as 3% and actually it went up 6.3%, adding that previously it was negative growth. He noted the following positive factors this year; increase in home values in county increased 25-30%, Prop. 8 assessments, new construction, Williamson Act values increased, supplemental assessments – positive growth, business and personal property up 12% last year and up again this year, Prop. 13 inflation factor, less than ½ % this year and typically it goes up 2%. He felt it would be positive growth and would not be surprised if it was in the high teens.

Supervisor Barrios asked if the Consumer Price Index (CPI) was 2% max.

Mr. Slavich replied affirmatively.

Speaking under public comment was Marty Richman.

Discussion ensued between board members and staff. File #865

COUNTY ADMINISTRATIVE OFFICE – R. Espinosa:

26) Receive presentation in regards to 2013 Year End Report.

County Administrative Officer Ray Espinosa thanked the department heads for their help and gave a PowerPoint presentation. He noted that there was an incredible amount of work being done with minimal staffing throughout the county departments.

Supervisor Botelho thanked CAO Espinosa for the report. He stated that very few people know what government does and this was just a snapshot of what they do. He thanked the CAO and staff for their efforts to make 2013 a very successful year with challenging times.

Supervisor Barrios thanked CAO Espinosa and staff for their team effort for a successful year.

Supervisor De La Cruz thanked CAO Espinosa and staff.

Supervisor Rivas stated that staff had done a great job and that there was a lot more work to do and challenges to face. He expressed appreciation for all that staff does and Ray's report.

Chairman Muenzer noted that it was good to see in hindsight and thanked staff for their hard work. He added that he was looking forward to next year's report. File #119

The Board adjourned into closed session at 12:59 p.m. and reconvened into regular session at 2:00 p.m.

CLOSED SESSION (1:00 p.m.):

27) Conference with Labor Negotiators

Agency designated representatives: Dana Torres Wong, Ray Espinosa, Joe Paul Gonzalez, Melinda Casillas, Georgia Cochran and Mark Gregersen

Employee Organizations: Management Employees' Group

Institutions Association

SEIU Local 521 (General Unit Employees)

SEIU United Long Term Care Workers Local 6434

Law Enforcement Management Deputy Sheriff's Association

Authority: California Government code Section 54957.6

No reportable action. File #235.6

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

AYES: SUPERVISORS: Muenzer, De La Cruz, Rivas, Botelho, Barrios

NOES: SUPERVISORS: None ABSENT: SUPERVISORS: None

There being no further business the Board adjourned at 4:27 p.m. to March 4, 2014 at 9:00 a.m.

JERRY MUENZER, CHAIRMAN

San Benito County Board of Supervisors

ATTEST:

Denise R. Thome, Clerk of the Board