



SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios
District No. 1
Chair

Anthony Botelho
District No. 2

Robert Rivas
District No. 3
Vice-Chair

Jerry Muenzer
District No. 4

Jaime De La Cruz
District No. 5

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

REGULAR MEETING FEBRUARY 3, 2015 ACTION MINUTES

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

9:00 a.m. CALL TO ORDER:

- a) Supervisor Botelho led the Pledge of Allegiance.
- b) Acknowledge Certificate of Posting.
- c) **Public Comment: Opportunity to address the Board on items of interest not appearing on the agenda. No action may be taken unless provided by Govt. Code Section 54954.2.**

Mary Hsia-Coron, San Benito Rising spoke in regards to the California Resource Corporation claim letters submitted to the County of San Benito. They don't allege facts that support regulatory takings. She said that no one has applied for a project that is prohibited by Measure J. The County needs to respond to the recent letters, they should clarify for California Resources Corporation that one must submit an application for an actual project that would be prohibited by Measure J and then request an exception. She said that their attorneys are willing to provide the Supervisors with additional information; after all they are the experts since they wrote Measure J.

Andy Hsia-Coron, San Benito rising also spoke in regards to the flurry of letters to the County in regards to Measure J. He said that it is clear that the industry does not believe that they have a case that Measure J is illegal, if they did, they would have done a pre election challenge to make sure that we never put it on the ballot in the first place. He said that their attorneys believe that these letters are groundless and are only to stir up a lot of noise.

Marty Richman, Hollister resident announced that he sees where Apple Computer is going to be building a 2 billion dollar project in Mesa, Arizona and that it is going to use all renewable energy, most likely solar energy. He said that we have an opportunity here in this county to have a solar energy project and maybe eventually it would bring in other business. He said that we need to move on this solar project instead of just talk about it.

Approved by the Board of Supervisors on 3/17/15

d) **Department Head Announcements:** Information only.

District Attorney Candice Hopper announced that she had three new attorneys; Ellen Del Campos, Steven Shilling and Amy Walls.

Ms. Hooper thanked the Board of Supervisors for their support.

Chair Barrios welcomed them aboard.

Chief Probation Officer Ted Baraan announced that on January 22 and 23rd he attended the 4th Annual State Conference on Realignment that was held in Sacramento. This conference was sponsored by CSAC, California State Sheriffs Association and the Chief Probation Officers of California. We were able to send a team of staff from San Benito County, which included Ray Espinosa, James Rydingsword, Tracie Beltran, Renee Hankla from Mental Health, Don Bradley and Lieutenant Escamilla from the Sheriff's Office and myself. He said that we attended different tracks and trainings with presentations from various counties throughout the state. The final presentation was from Governor Brown on the status of realignment and what works in the state of California. He said he was glad that they could all attend and looks forward to attending next year.

CAO Ray Espinosa announced that there is a correction to Item #6, should read Secretary II, not III. He also updated the Board and public that on February 10th they would be having a board retreat at 2301 Technology Parkway at 9:00 a.m. through 1:00 p.m., and following at 1:30 p.m. there will be a special board meeting at our Administration Office for our Ag Commissioner interviews.

Mr. Espinosa announced that they received a letter from the Department of Defense regarding the court security and San Benito County will be receiving \$200,000. He also mentioned that there was a presentation by Dr. John L. Nalbandian, Professor, School of Public Affairs and Administration from University of Kansas in regards to bridging the gap between politics and professional, he said it was a very good presentation.

e) **Board Announcements:** Information only.

Supervisor Botelho announced that he attended a RCRC meeting and they spoke in regards to State Water Resource Board regulations, which he plans on bringing to the Board of Supervisors. He said he would make copies for the public and fellow supervisors if they were interested in reading about it.

Supervisor Muenzer thanked Supervisor Botelho for bringing that information to us; he said he would like the Board of Supervisors to stay on top of it.

Supervisor Rivas announced that he met with the Gray Water Committee and that they plan on bringing something back to the Board soon.

Supervisor De La Cruz announced that Supervisor Muenzer and he attended the Veterans Commission meeting and got an update on the water wells. He said that it will be a blessing to all the clubs who use the facility.

Chair Barrios asked if any fellow board members had any items that they would like to add to the agenda for the Board Retreat on February 10th. She said that she would also like to see a retreat scheduled for the summer for a half day.

Ms. Barrios also spoke in regards to an issue at Fallon/Fairview Road Intersection in regards to an accident. She said that she has talked to Joe at Public Works and she would like the Board to consider in their plans for the future a stop light at that intersection.

Ms. Barrios reported that she and Supervisor Rivas attended the training with staff last week that the CAO spoke about. She said it was very insightful and appreciated the information and believes we walked away with some great information. She thanked Mr. Espinosa and Mr. Nalbandian.

Ms. Barrios also announced that she attended the City of Hollister retirement dinner at San Juan Oaks, it was very nice. Ms. Barrios mentioned that we have money coming from PV2 in the amount of \$50,000 for solar energy. She said that she would like to discuss at the Board level how we would like to spend the \$50,000 and where we would like to put that solar. She asked the CAO to agendaize for the next Board meeting an appointment of an ad hoc committee to work on this.

CONSENT AGENDA:

*Upon motion made by Supervisor De La Cruz and seconded by Supervisor Rivas, **approved** Consent Agenda Items 1-5, with the exception of Item #2 which was pulled for discussion. (5-0)*

AGRICULTURAL COMMISSIONER – R. Ross:

- 1) **Approved** contract with the Department of Food & Agriculture to provide Asian Citrus Psyllid detection services for the period of October 1, 2014 through September 30, 2015, for a total amount of \$49,154. *(File #1.1)*

CLERK OF THE BOARD – D. Thome:

- 2) **Approve the action minutes of the December 2, 2014 regular meeting and the January 20, 2015 special meeting.**

Chair Barrios pulled this item for a correction of a name: should read Ken Underwood not Bill Underwood on page 2 of the December 2, 2014 action minutes and mentioned that all 5 Board members provided comment in regards to the Sheriff's comments and that she was present at the Board of Supervisors meeting on December 2, 2014.

BOARD ACTION: *Upon motion made by Chair Barrios and seconded by Supervisor Botelho, **approved** action minutes with the suggested changes. (5-0 vote)*

COUNTY ADMINISTRATION OFFICE – R. Espinosa:

- 3) **Re-appointed** Pat Loe to represent Supervisorial District 3 on the San Benito County Planning Commission, effective February 3, 2015 through January 2019; and re-appoint Ray Pierce to represent Supervisorial District 4 on the San Benito County Planning Commission, effective February 3, 2015 through January 2019. *(File #790.2)*

COUNTY ADMINISTRATION OFFICE – R. Espinosa:

- 4) **Re-appointed** Jennifer Bagley to represent Supervisorial District 3 on the San Benito County Parks and Recreation Commission, effective February 3, 2015 through January 2019; and re-appoint Debra Cable to represent Supervisorial District 4 on the San Benito County Parks and Recreation Commission, effective February 3, 2015 through January 2019. *(File #93)*

COUNTY COUNSEL – M. Granger:

- 5) **Approved** legal services agreement with the law firm of Miller Starr Regalia, in an amount not to exceed \$197,500 for legal services related to the Sunnyside Estates project. *(File #160)*

FIRST 5 SAN BENITO CHILDREN & FAMILIES COMMISSION – L. Faulkner:

- 6) **Approved** Waiver of County Policies and Procedures Handbook Rule 1.H.3. Prohibiting CalPERS benefits for Temporary Employees and **authorized** the current Secretary III temporary employee at First 5 to exceed 1,000 hours for the 14-15 fiscal years, with employment not to exceed June 30, 2015 without further approval by the Board of Supervisors. *(File #156)*

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

- 7) **Appointed** Ms. Nancy Roberts-Knight as the Representative for the Private Sector for District #4 to the Community Action Board for a three-year term effective January 8, 2015 through January 8, 2017. *(File #130)*

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

- 8) **Appointed** Ms. Samantha Conatti-Fowler as the Representative for the Poor for District #2 to the Community Action Board for a three-year term effective December 11, 2014 through December 11, 2017. *(File #130)*

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

- 9) **Appointed** Ms. Ann Ross as the Representative for the Board of Supervisors for District #4 to the Community Action Board for a three-year term effective January 8, 2015 through January 8, 2017. *(File #130)*

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

- 10) **Appointed** Mr. Christopher Rizzuto to the Youth Employment Program Council (YEP) to represent the private sector, for a three-year term effective January 8, 2015 through January 8, 2017. *(File #130)*

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

- 11) **Appointed** Mr. Duane Bradford to the Workforce Investment Board to represent the private sector, for a three-year term effective January 8, 2015 through January 8, 2017. *(File #130)*

HEALTH & HUMAN SERVICES AGENCY – J. Rydingsword:

- 12) **Re-appointed** Mr. Richard Bianchi to the Workforce Investment Board to represent the private sector, for a three-year term effective February 7, 2015 through February 7, 2017. *(File #130)*

HUMAN RESOURCES – G. Cochran:

- 13) **Adopted Resolution No. 2015-5**, establishing the position of Assistant County Administrative Officer as a Department Head level position. *(File #630)*

PUBLIC WORKS DEPARTMENT – J. Horwedel:

- 14) **Approved** for transfer of the agriculture structure(s) to the San Benito County Historical Park for reconstruction and **delegated** to the County Administrative

Officer approval authority for all necessary documents related to the transfer and reconstruction. *(File #105)*

SHERIFF'S OFFICE – D. Thompson:

- 15) ***Approved*** out-of-state travel for the court security supervisor to attend the court security training seminar, February 24-26, 2015 in Las Vegas. NV. *(File #110)*

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

PLANNING DEPARTMENT – B. Turner:

- 16) **Continue Public Hearing on Appeal of the Planning Commission's Approval of Use Permit 1103-14 (Verizon Wireless) by Appellant Frank V. Guerra-Guerra Nut Shelling Company; Consider the merits of the appeal; and direct staff to prepare a Resolution for the Board of Supervisors to either grant the appeal, deny the appeal, or other action including modification of the project or returning the project to the Planning Commission.**

Interim Planning Director Byron Turner provided information to the appeal of the Planning Commission's decision, Use Permit 1103-14 and the Planning Commission's action on November 12, 2014 to approve a new wireless facility for Verizon Wireless for the construction of a 65' monopine tree pole located at the Sunnyslope Water District tanks near Fairview and John Smith Roads. Mr. Turner provided a PowerPoint presentation which covered: Planning Commission Action; Section 7.11.005; Visual of what the tower would look like, before and after project; staff response.

Questions asked to Mr. Turner by Board of Supervisors.

He said that staff recommendation was to continue the open public hearing; consider the merits of the appeal; and direct staff to prepare a Resolution for the Board of Supervisors to either grant the appeal or deny the appeal, or other action including modification of the project or returning the project to the Planning Commission.

Chair Barrios continued the public hearing.

Frank Guerra, Appellant, spoke on behalf of his family and business Guerra Nut Shelling. He spoke as to how he doesn't want the tower on their property, on behalf of his family. He said that the Santana Ranch will be a subdivision soon and that this would negatively impact this project and provided additional information in regards to his discussion with Verizon in regards to cell tower. Mr. Guerra asked the Board of Supervisors to deny Verizon's application for a cell tower, because the location does not meet the county code.

Paul Rovella, Attorney representing the Guerra Nut Shelling Company, spoke in regards to the precedent that the approval of this project could set. He said approving a project without legal or dedicated access would remove a major road block to development in this county for many potential projects. He also provided additional information as to why he feels that this project should be denied.

Rebecca Anderson spoke on behalf of the Applicant, Verizon Wireless, she provided information as to the need for a new tower site in this area and how they did research alternative areas and how they were not feasible. She said that they have been working on this for 5 years now and were previously in negotiations with the Guerra's but that fell through. She said that we have been

working on legal access, it hasn't happened yet but we are working on it. Verizon does not plan on moving forward, with the site without having legal access. She said that if it was the Boards wish to condition that as condition of approval Verizon would accept.

Paul Albritton, Attorney for Verizon Wireless, pointed out that they have been in negotiations for the last 2 years with the landlord. Mr. Albritton pointed out that one of the concerns raised today is the access; there is access to this water tank there is a road that has been there for decades we drove on it yesterday. So in terms of access to the project there is no need to grade a new mile long road. Our issue here is securing the legal access and Verizon is very concerned about that and there are many ways to do that. He said that we won't build the facility unless we have access to the site, so we are willing to have a condition of approval that the building permit cannot be pulled until access is demonstrated to the county. He explained that the appearance will be that of a tree. He also spoke in regards to the information that was provided to the Board in a packet. He said that they have submitted substantial evidence meeting the county code to put this facility and believe there is no evidence to deny this site and Verizon Wireless is in much need for this site to help improve service to customers.

Discussion ensued by Board, staff, Mr. Albritton representing Verizon Wireless and the Appellant Frank Guerra in regards to health, safety issues and emissions.

Chair Barrios closed the public hearing.

Chair Barrios mentioned that she visited the site yesterday and the location is optimum for what they are proposing, not optimum for the applicant, because they have their concerns but it is an elevated area that is really going to provide much needed and better service. She said that Verizon gave them a picture of the tower of what it is going to look like; it is aesthetically pleasing and not so obvious. She said that if the Board decides to pass this that we have respect for the applicant, because I believe that we owe them that as they have brought a lot of business to San Benito County and we value that. She said at the same time we know there is a need for what Verizon is trying to provide and believe there will be some value to residents in that area.

Chair Barrios said that she will support the applicants and Planning Commissions decision to move forward. She also mentioned that we need to modify the ordinance in the future.

Supervisor Botelho said that he supports Supervisor Barrios on this position. He said that there is no evidence from the Appellant to not justify. The public needs to have good phone service and believes the Planning Commission did their work.

Supervisor De La Cruz said that he disagreed and he had some issues on the right of way. He said that he feels it is conflict with the Santana Ranch project and grants the denial of Appellant Frank Guerra.

Supervisor Rivas said that he had no problem in supporting this action today, although the language needs to get cleaned up in the ordinance so it is not as vague.

Supervisor Muenzer also agreed that we need to clear up our ordinance. He asked for clarification from County Counsel that we cannot put on the applicant a condition of approval of access like we did with the shopping center at Ridgemark.

County Counsel Matt Granger replied that we are going to bring back at the next Board meeting for the final signature, and in the permit there will be a condition of approval saying that Verizon needs to have legal access to the property.

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Barrios, **denied** appeal; **directed** staff to bring back Resolution denying the appeal. (3-2 vote) De La Cruz and Muenzer voted no (File #790)*

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

PUBLIC WORKS DEPARTMENT – J. Horwedel:

17) Continue Public Hearing to consider the landowners' petition to vacate Vasquez Creek Road, (County Road #8030) as provided by staff; and adopt a Resolution vacating Vasquez Creek Road (County Road #8030). (Res. No. 2015-6)

Interim Public Works Director Joe Horwedel provided an aerial photo of where the road sits and staff report. He provided additional information in regards to emails received and the issues that were raised from constituents and addressed concerns of the Board from the meeting of January 20, 2015. He said that we did not make a decision whether Vasquez Road should be abandoned or not based on a future road happening or promises of future roads, we looked at it solely under the Highway Code how the road is used. It is not a through road, it serves the limited number of property owners and the property owners that are served by that road have made a request to the county asking that that road go away that they have other private agreements that would allow their interior access that is not requiring a public right of way to achieve that, so we have gone through the findings under that. He said from a CEQA standpoint we are not analyzing or depending on a new Vasquez Road to happen. He said that the request in front of the Board today is not predicated on that road happening.

Chair Barrios continued the public hearing from January 20, 2015.

Those speaking from the public were: Marty Richman, Hollister resident, encouraged the Board to support this project. He asked what the advantages to keeping this road open; you need to weigh the advantages and the disadvantages of everything. We need to move forward.

Chair closed the public hearing.

Supervisor Muenzer said that he feels that this road does have and has had a monetary value for the County. We have received our gasoline tax money on this road that is our only source of maintaining our roads system in this county. Our road system is inadequately being maintained. He said he would support vacating Vasquez Road on the condition that our Public Works Director mentioned earlier and on an increase of \$15,000 worth of solar panels to be used at the discretion of the County.

Supervisor Botelho said that he supports the vacating of this road, because it is time to move forward with this solar project. It has been drug out for a long time, there are a lot of benefits not only just jobs, sales tax and income to this County that we really need right now. It is time to move this project forward.

Supervisor De La Cruz said that he is happy and pleased that Supervisor Botelho wants to move forward on this. He said that we need to move forward, no more delays. This is going to benefit the community.

Supervisor Rivas also agreed with what has been said. The County has a lot to gain from this project. We need to move forward and does agree with Supervisor Muenzer's idea about getting some more solar panels or credits in return.

Chair Barrios agreed with Supervisor Muenzer, I understand your concern about the value of this road and the money that we have been getting and if we can get additional concessions that would be wonderful. I don't think necessarily it has to be panels maybe we need a structure like a parking overhang at the Sheriff's Department. I would like to discuss this further, if we could set an amount and say that we would like to use it in relation to solar then maybe we can benefit in a different way. She said that she would support it.

Supervisor Muenzer said that he was ready to make a motion.

There was a discussion on the table by Supervisor De La Cruz in regards to what the first \$50,000 could be used for and the additional \$15,000.

Mr. Horwedel provided information.

Deputy County Counsel Shirley Murphy added that there is nothing in the proposed resolution about the \$50,000 or the additional \$15,000. If the Board would like to have that added, you could continue this item before closed session so that she could make the necessary changes to reflect that.

County Counsel Matt Granger added that the Board could make a motion to include the additional \$15,000 of solar panels, we can make that change and bring it back on the consent calendar next time or we could continue this item until later this afternoon for approval with the changes by County Counsel.

The pleasure of the Board was to bring back this item in a half hour with the corrections to the Resolution that were discussed by the Board.

The changes were brought back by County Counsel with changes made to page 5 to include an additional payment by developer of \$15,000 for solar facility to augment the \$50,000 amount agreed upon.

BOARD ACTION: *Upon motion made by Supervisor Muenzer and seconded by Supervisor De La Cruz, **adopted Resolution No. 2015-6** as presented by staff with the revisions. (5-0 vote) (File #105)*

The Board took a break at 10:40 a.m. and reconvened at 10:53 a.m. to regular agenda.

REGULAR AGENDA:

PLANNING DEPARTMENT – B. Turner:

18) Receive progress report on the General Plan Update.

Interim Director Byron Turner provided information in regards to the general plan update and where they were currently at.

Michael Groves, President of EMC provided a PowerPoint presentation in regards to the completion process of the General Plan Update & EIR which covered: Revised schedule as of January 2015; Links to GPU Documents; New GPU Policies of Note.

Mr. Groves thanked Byron Turner for taking this on personally and helping them get this to a final place where they could submit a document to the County that they felt was a good administrative document. Mr. Turner has provided this document to the departments asking for comments. He said after county staff

reviews this document it would then be available to the public for review. He provided the public review process and what happens after that.

Supervisor Botelho commented that he wants an internal review deadline. I want all departments to have this document back to EMC on a specific date and then we can go into the public review process.

Chair Barrios commented on how we go from an original completion date that this Board set on January 19th to 6 months later, which is just not acceptable.

Mr. Groves stated, it is pretty simple; we don't have a document to put out to the public and until we have one the timeline just keeps getting expanded. He provided information as to the process from here in order to get it out to the public.

Those speaking from the public were: Marvin Jones, Hollister resident; Chris Vanni, Vanni Properties.

Supervisor Botelho said that he expects no more hiccups and this needs to get done.

Chair Barrios agreed with Supervisor Botelho and asked staff to agendize this item for every meeting through June to keep the Board updated as to where they are at. *(File #790)*

COUNTY COUNSEL – M. Granger:

19) Approve the legal services agreement with the law firm of Miller Starr Regalia, in an amount not to exceed \$50,000, for legal services related to the San Benito County General Plan Update.

County Counsel Matt Granger provided information in regards to the General Plan EIR and why the decision was made for the legal review of the Miller Starr Regalia firm to help assist the County with the General Plan Update in order to meet deadlines at a reasonable charge.

Chair Barrios asked what the timeline on the contract was, she didn't see it.

Mr. Granger said that we don't want to put the 30 days in because if something comes up or goes to the 31st day, she is aware of the 30 days. We may want to keep her under contract just in case something is identified as a major item that needs further discussion or direction from the Board. He said come March 3rd her review will be done.

Those speaking from the public were: Michael Groves, EMC Planning Group, acknowledged what Mr. Granger said is correct; the County is responsible for having a legal, defensible document. He said at the same time he wants to be really clear about the fact that if this is going to get reviewed over the next 30 days how he would like the comments returned back to him and how he does not want the document style to be changed when it is sent back to him. He said that he hopes the review is short and sweet.

Mr. Groves said that the next piece of the puzzle is the budget. He said we have about \$19,000 left in our budget to do whatever comments that we get back in the 30 days, then we have to prepare a draft for the state and the public, respond to all the comments that come in, prepare staff reports, findings, resolutions and get it to the Planning Commission, attend Planning Commission hearings, Board hearings and then produce the final EIR for publication. He said that I can't afford to spend more than \$2,000 in this process.

Matt Granger explained that he would invite Mr. Groves to meet with him and Nadia so that he can reinforce what he would like to see so that everyone is on the same page.

Joe Giaualone, Giaualone Management, Inc., said that we would like to see Nadia from the law firm come back within 2 weeks with her comments to the consultant so that he has 2 weeks to respond, so that we don't lose another 30 days. It should not take that long.

Chair Barrios asked Counsel to keep on top of this and if it can get done sooner that would be great.

BOARD ACTION: *Upon motion made by Supervisor Muenzer and seconded by Supervisor Botelho, **approved** the legal services agreement with the law firm of Miller Starr Regalia, in an amount not to exceed \$50,000, for legal services related to the San Benito County General Plan Update. (5-0 vote) (File #16)*

PUBLIC WORKS DEPARTMENT – J. Horwedel:

20) Review the information in staff report attached to the Agenda Item Transmittal (AIT) in order to consider the selection of one of the three described properties for use as a project development site for the proposed permanent Homeless Shelter Center Facility of San Benito County.

Interim Public Works Director Joe Horwedel provided information and a handout in regards to options for sites for a Homeless Shelter Center Facility in San Benito County. He said that there are 3 options before the Board today that we think are the best choices to look at. The first site listed is the Hospital Site located off of Southside Road; it is a county owned facility; the second one, McCloskey Road, private party selling portion to another nonprofit use; the third site, San Felipe Road behind HHSA, owned by nonprofit organization landlord to HHSA.

Mr. Horwedel said the proposed project would be funded from the \$1,500,000 State CDBG Grant received by the County. He said that what we are looking at from the Board is there a site that is of interest so that we can pursue with the decision making process.

HHSA Director James Rydingsword said that it would be helpful if the Board could agree on a site so that we can move forward with the process.

Chair Barrios said that the Facilities Committee is recommending Southside Road site. She said that if we choose Southside Road it would help reduce the liability and vandalism to the building.

Supervisor De La Cruz had a question in regards to cost issue for each site.

Mr. Rydingsword provided information.

Chair Barrios and Supervisor Botelho provided more information on how the Facilities Committee weighed out the options.

Supervisor Rivas said that he feels that the Southside site is an ideal location and feels great about this plan.

CAO Ray Espinosa said that we have discussed the demolition of that building and the cost.

Those speaking from the public were: Jim Dassel, Dassel's Petroleum; John Brigantino, Hollister resident; Richard Bettencourt, Hollister resident.

Supervisor Muenzer said that it is going to cost \$500,000 to demolish the building at Southside Road even though we get grants to help with the facility.

His other concern is it being so far out. He said that he thinks that the HHS site make more sense to him.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Barrios, **moved** go forward with the Hospital site on Southside Road. (4-1 vote, Muenzer voted no) (File #105)

The Board broke for lunch at 12:00 p.m. and reconvened at 1:30 p.m.

OFFICE OF EMERGENCY SERVICES – K. O’Neill:

- 21) **Read title of ordinance for the record: An Ordinance of the County of San Benito amending Chapter 11.01 (“Civil Emergencies”) of Title 11 (“Public Health and Safety”) of the San Benito County Code; accept introduction and waive further reading of the ordinance and continue to February 17, 2015 at 9:00 a.m. for adoption of said ordinance.**

Manager of Office Emergency Services Kevin O’Neill provided information in regards to the changes to be made to Ordinance 898 to better align the county ordinance with the state guidelines to better fit the role of the San Benito County Office of Emergency Services and Disaster Council.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Rivas, **moved** to accept the changes to Ordinance 898 as staff recommended; and **waived** further reading of the ordinance and **continued** to February 17, 2015 at 9:00 a.m. for adoption. (5-0 vote) (File #75.5)

COUNTY COUNSEL – M. Granger:

- 22) **Approve the transfer of General Fund Contingency to Non-Departmental Expenses in the amount of \$265,500 to pay settlement in Center for Biological Diversity v. County of San Benito. (4/5 vote)**

County Counsel Matt Granger provided information in regards to the settlement agreement that was entered into between the Center for Biological Diversity and the County of San Benito and Citadel regarding the legal action. He said that this is a transfer of funds from our contingency fund in the amount of \$265,500.

Supervisor Botelho commented that Citadel really owes the people of San Benito County this money for not stepping up and fulfilling their obligations yet again for their violations of a use permit.

Supervisor Muenzer said that he agreed with Supervisor Botelho, we need to hold Citadel to their agreement they had with the county. We need to proceed to get settlement from them.

Supervisor Rivas said that he also agreed with what had been said. He said that we met with Citadel attorneys and they told us everything that we wanted to hear, I was very skeptical of their project, but I went ahead and supported it. He said some of the things that they told me was they were going to help to improve our County by bringing more jobs to this community, they wanted to bring increased revenues that would help our local library and our schools. He said that our Board gave them an opportunity to do just that and unfortunately they did not act in good faith. We got challenged in court and the court ruled against our decision. They signed an Indemnification Agreement stating that they shall hold County free and harmless of any and all suits, fees, claims, demands, attorney fees, etc. He said what the tax payers are being asked to fund today is attorney fees because we have an oil entity here in Citadel that is

refusing to honor the agreement that they signed. He said this really bothers me because it shows that they did not act in good faith.

Supervisor De La Cruz said that he felt the same as his fellow Supervisor's. He said that when they approved this project it was just for test wells. He said now we are short \$262,500, which could have been used for library services and rewarding our employees who have stuck together during the hard times. How do we move forward from this?

Chair Barrios said well said Supervisors. The only thing I would like to add was to thank staff for being able to save the County some money, we could have been out \$441,000. It is a shame that we are out any money at all. She said that she also agreed with Supervisor Muenzer that if there was any way to recoup any of those funds, we certainly do not want to miss that opportunity.

Those speaking from the public were: SEIU Organizer Mark Weirick, said he hopes that the Board will aggressively pursue having Citadel pay for the cost of the settlement, so that these funds can get returned back to the general fund where they belong. Again these are funds that could be used for public service. He said that they would like to offer their full support in helping hold Citadel accountable.

BOARD ACTION: Upon motion made by Supervisor Muenzer and seconded by Supervisor Rivas, **approved** transfer of General Fund Contingency to Non-Departmental Expenses in the amount of \$262,500. (5-0 vote) (File #160)

COUNTY ADMINISTRATION OFFICE – R. Espinosa:

- 23) **Adopt Resolution for exception to the 180 day wait period under Government Code Sections 7522.56 and 21224 to allow the retiring Director of Integrated Waste Management to serve on a part-time basis while the position is being filled and authorize employment of Normandy Rose on a part-time basis, effective February 4, 2015. (Res. No. 2015-7)**

Interim Director of Human Resources Georgia Cochran provided information in regards to a resolution for the exception of the 180 day wait period for the retiring Integrated Waste Director to serve on a part-time basis while the position is being filled.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Muenzer, **adopted Resolution No. 2015-7**, as presented by staff. (5-0 vote) (File #630)

The Board adjourned into closed session at 1:50 p.m. and reconvened out at 3:06 p.m.

CLOSED SESSION:

- 24) **County Employee Appointment**
Title: Assistant County Administrative Officer
Authority: California Government Codes 54957
No reportable action. (File #235.6)
- 25) **Conference with Legal Counsel-Anticipated Litigation.**
Initiation of litigation pursuant to subdivision (d)(4) of Section 54956.9:
Number of Cases: (2)
No reportable action, only met on 1 case. (File #235.6)

Approved by the Board of Supervisors on 3/17/15

26) **Conference with Legal Counsel-Existing Litigation.**
Subdivisions (a) and (d)(1) of Section 54956.9
Name of Case: Center for Biological Diversity v. San Benito county, et.al.,
Superior Court of California, County of Monterey, Case No. M123956
(Citadel Exploration, Inc.-Real Party in Interest).
No reportable action. (File #235.6)

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

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

There being no further business the Board adjourned at 3:08 p.m. to February 10, 2015 at 9:00 a.m., Board Retreat.

MARGIE BARRIOS, CHAIRPERSON
San Benito County Board of Supervisors

ATTEST:
Janet Slibsager, Asst. Clerk of the Board