



SAN BENITO COUNTY BOARD OF SUPERVISORS

Don Marcus
District No. 1
Chair

Anthony Botelho
District No. 2

Pat Loe
District No. 3

Reb Monaco
District No. 4

Jaime De La Cruz
District No. 5
Vice-Chair

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

REGULAR MEETING OCTOBER 23, 2007 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date *in regular session*. Supervisors Monaco, Loe, Botelho, De La Cruz and Marcus were all present. Also present was County Administrative Officer Susan Thompson, County Counsel Dennis Le Clere and Clerk of the Board Linda Churchill. Chairman Don Marcus presided.

9:30 a.m. CALL TO ORDER:

- a) Supervisor Monaco led the pledge of allegiance.

A moment of silence was held in honor of Matthew Will local firefighter who lost his life in the line of duty while fighting fire in the Big Sur area.

- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

- c) **Public Comment:** Chuck Lenzi, San Felipe Road resident, came forward representing a group of homeowners that live on San Felipe Road. Mr. Lenzi expressed his concerns and dissatisfaction with the nighttime traffic being directed through San Felipe Road due to the roll over construction on Highway 156 and would like consideration of re-routing the traffic to state routes.

Chairman Marcus stated that he addressed these concerns with Council of Governments and California Highway Patrol last week and they are working on it.

Joe Thompson, Tres Pinos resident, urged the Board of Supervisors to place an item on a future agenda regarding COG's policies. Further Mr. Thompson expressed concerns regarding eminent domain issues.

George Haines, Chief, Cal Fire – San Benito / Monterey Unit, praised the Board and the community for their outpouring of sympathy for firefighter Matthew Will and his family.

- d) **Department Head Announcements:** Health & Human Services Agency Director Kathy Flores reported that the Public Health Division is sponsoring a free Flu Mist Clinic on November 1, 2007 at the Veterans Memorial Building.

Kathy Gibson, Health & Human Services Agency, provided a report on a new low cost auto insurance program offered through the California Department of Insurance and submitted handouts to the Board of Supervisors and anyone interested in the program.

Planning Director Art Henriques provided status report on the General Plan Update stating that the community survey has gone out and he encouraged members of the public to participate and fill out the surveys.

- e) **Board Announcements, Introductions and Presentations:** Supervisor Loe reported that AMBAG (Association of Monterey Bay Area Governments) will be holding their first ever exposition on alternate construction and energy in October 2008 indicating that she has been asked to be on the host committee.

CONSENT AGENDA:

Chairman Marcus indicated that there was an addendum to the Consent Agenda (Item #17.1)

Upon motion made by Supervisor Botelho and seconded by Supervisor Marcus approved Consent Agenda Items 1 through 9 and Addendum Item 9.1. (Unanimous)

AGRICULTURAL COMMISSIONER – P. Matulich:

- 1) **Approved** contract with the California Department of Food & Agriculture for Sudden Oak Death program in the amount of \$3,285.06 for the FY 2007/2008. *File #1.1*
- 2) **Authorized** the Agricultural Commissioner to accept grant from the State of California Department of Food & Agriculture to be used for a Noxious Weed program in the amount of \$18,175.16 for the FY's 2007/2008, 2008/2009 & 2009/2010. *File #1.1*

ADMINISTRATIVE BUSINESS:

- 3) **Canceled** the Board of Supervisors re-scheduled meeting of November 15, 2007. *File #156*

ASSESSOR – T. Slavich:

- 4) Regarding new Land Conservation Act contracts, consider the following:
 - a) **Adopted Resolution No. 2007-80** establishing Ag Preserve 07-01 – Barbara R. Hidalgo and **authorized** Chair to sign said contract and resolution.
 - b) **Adopted Resolution No. 2007-81** establishing Ag Preserve 07-02 – Joy Law and **authorized** Chair to sign said contract and resolution.
 - c) **Adopted Resolution No. 2007-82** establishing Ag Preserve 07-03 – Frank & Joyce Casillas and **authorized** Chair to sign said contract and resolution.
 - d) **Adopted Resolution No. 2007-83** establishing Ag Preserve 07-04 – John P. & Julie E. Giannotta and **authorized** Chair to sign said contract and resolution.
 - e) **Adopted Resolution No. 2007-84** establishing Ag Preserve 07-05 – O'Connell Ranch, LLC and **authorized** Chair to sign said contract and resolution.
 - f) **Adopted Resolution No. 2007-85** establishing Ag Preserve 07-06 – Harlan T. Winkle and **authorized** Chair to sign said contract and resolution.
 - g) **Adopted Resolution No. 2007-86** establishing Ag Preserve 07-07 – Harlan T. Winkle & Mary Ann Drewitz-Winkle and **authorized** Chair to sign said contract and resolution.
 - h) **Adopted Resolution No. 2007-87** establishing Ag Preserve 07-08 – Harlan T. Winkle & Mary Ann Drewitz-Winkle and **authorized** Chair to sign said contract and resolution. *File #7.1*

CLERK OF THE BOARD – L. Churchill:

- 5) **Approved** the minutes of the September 25, 2007, October 2, 2007 and the October 9, 2007 regular meetings.

CLERK/AUDITOR/RECORD – J. P. Gonzalez

- 6) **Approved** agreement with City of San Juan Bautista for signature verification for the November 6, 2007 Election conducted by the City of San Juan Bautista. *File #285*

COUNTY LIBRARIAN – N. Conte:

- 7) **Accepted** donation of three computers from the Hollister School District valued at approximately \$4,000. *File #80*

INTERNAL SERVICES – R. Inman:

- 8) **Approved** 2nd Amendment to Memorandum of Understanding (MOU) with the San Benito County Deputy Sheriff's Association. *(File #1010 / 630)*

SAN BENITO COUNTY LAW LIBRARY – J. Zlotkin:

- 9) **Accepted** annual written report from the San Benito County Law Library Board of Trustees. *File #595*

INTERNAL SERVICES – R. Inman:

- 9.1) Addendum. **Approved** extension to Memorandum of Understanding between the County of San Benito and the Management Employees Group, effective October 1, 2007

REGULAR AGENDA:

For each regular agenda item, the following schedule shall occur:

- a) Staff report.
- b) Public opportunity to address the Board on a particular agenda item. Please fill out a speaker card and present it to the Clerk prior to consideration of the item.
- c) Consideration by the Board.

AGRICULTURAL COMMISSIONER – P. Matulich:

- 10) **Accept quarterly report on the Wildlife Services program.**
Agricultural Commissioner Paul Matulich presented quarterly report on the Wildlife Services Program.
Accepted report. *(File #1.1)*

COUNCIL OF GOVERNMENTS – L. Rheinheimer:

- 11) **Approve letter to Business, Transportation and Housing Agency Secretary Dale E. Bonner supporting Highway 101 at San Juan Road Interchange Project.**
Chairman Marcus noted there was a revised letter submitted for consideration.
Mary Dinkun, Transportation Planner, addressed the change to the letter stating this was a support letter of this project.
BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved letter as revised and directed staff to send a copy of letter to Carl Guardino, California Transportation Commission in addition to those already indicated for copies. (Unanimous) File #*

HEALTH & HUMAN RESOURCES – K. Flores:

- 12) **Receive presentation and report from Emmaus House and Homeless Task Force to discuss potential funding resources and short and long term strategies for service sustainability.**

H & HSA Director Kathy Flores provided background information.

Received presentation and report from Dale Yarmouth, Executive Director of Emmaus House and Doug Emerson, Treasurer of the Homeless Task Force.

Mr. Yarmouth and Mr. Emerson answered questions posed by the Board.

The Board expressed their support of these programs.

No action taken. File #130

- 13) **Introduce Ordinance amending Chapter 6C.1, Article V. of the San Benito County Code, pertaining to Medical Marijuana Program fees; waive reading of said ordinance and continue to November 6th, 2007 meeting for adoption of said ordinance.**

H & HSA Director Kathy Flores provided background information.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, introduced ordinance, waived reading and continued consideration of the ordinance to November 6, 2007 for adoption. (Unanimous) File #130*

- 14) **Receive presentation and approve contract with American Medical Response (AMR) for equipment and services necessary to implement the Electronic Patient Care Report (ePCR) system.**

Jim Clark, Emergency Medical Services (EMS) Coordinator, provided background information and introduced Chris Mangano the Operations Manager for AMR in San Benito County. Ms. Mangano then introduced Chris Duncan, Paramedic Field Supervisor for Santa Clara County and his partner Robert Guerrero who provided a brief demonstration on what the electronic system does.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Botelho, approved contract with AMR for equipment and services necessary to implement the ePCR system. (Unanimous) File #1068*

ADMINISTRATIVE BUSINESS:

- 15) **Hold workshop conducted by the County's Financial Advisor, KNN addressing the County's financial management assessment and approaches to develop Capital Project Financing.**

County Administrative Officer Susan Thompson provided background information stating that this is part one of a two-part presentation and introduced David Leifer, Managing Director of KNN Public Finance Company who held a workshop with a Power Point Presentation explaining the County's financial management assessment and approaches to develop Capital Project Financing.

Marty Richman, local resident, applauded the County and stated this was a great report and he was glad to see the Board of Supervisor's interest in this plan.

No action taken. File #608

1:30 p.m. PUBLIC HEARING (or as soon thereafter as the matter may be heard):

PLANNING DEPARTMENT – A. Henriques:

- 16) **Held a public hearing to consider an ordinance for Zone Change 06-150. Applicants: Jae and John Eade. Location: Northwest corner of State Highway 25 and Southside Road in the unincorporated area of Tres Pinos, San Benito County, CA, APN: 22-20-09 and 22-20-10. Request: A zone change from R-1 (Single-Family Residential District) to C-1 (Commercial Thoroughfare District) in order to facilitate placement of a hotel. Zoning: Single-Family Residential. General Plan: Rural/Urban. (Continued from 9/25/07)**

Chairman Marcus set the stage for the afternoon continuation of this public hearing.

Supervisor Loe stated that the staff report was not what the Board directed Planning staff to come back with. Supervisor Loe stated that 1) Staff was instructed to come back with options about moving forward and not just one blanket statement how staff feels we should proceed; and 2) There was never anything in the motion about a C-District review and an EIR and never a decision made by the Board. Supervisor Loe stated she did not see any reason to move forward today until the Board gets what they asked for to begin with.

County Administrative Officer Susan Thompson stated that she, along with County Counsel and Planning staff, believe it was what they were asked to bring back.

Discussion was held about how to proceed.

Chairman Marcus polled the Board. Supervisors Monaco, De La Cruz and Marcus felt they should proceed. Supervisor Loe and Botelho felt it should come back with options as previously directed.

The hearing proceeded.

Planning Director Art Henriques provided a staff report and a Power Point Presentation Discussion was held and Mr. Henriques answered questions posed by the Board.

Chairman Marcus opened the public hearing.

Paul Rovella, spoke on behalf of the applicants, explaining that under CEQA Guidelines there must be specific requirements for an EIR. Mr. Rovella noted that Planning Staff has never found substantial evidence of a significant impact on the environment. Mr. Rovella further stated that the applicant was willing to stand by their project and indemnify the County.

Ed Schmidt, Tres Pinos resident who lives next to the proposed site, spoke on behalf of the opposition to the zone change. Mr. Schmidt emphatically stated that an EIR should be done to address all concerns such as water, traffic, noise, lighting, parking and sewer and an EIR would protect the county and the neighbors.

The following members of the public addressed the Board of Supervisors:

- Jane Schmidt, neighbor of the proposed project, stated that a full EIR sets a precedent and should be done.
- Bobby Zaucha, Tres Pinos resident, felt a full EIR should be done to address all concerns.
- Robert Frusetta, Tres Pinos resident, stated that the project as it stands is not right for Tres Pinos and should require a full EIR.
- Marty Richman, Hollister resident, stated that people don't want to compromise and the county is going nowhere with economic development and an EIR would kill the project.
- Sue Alvarado, Tres Pinos resident, felt that an EIR would answer questions and this project is too big for the town of Tres Pinos.
- Helen Frusetta, Tres Pinos resident, felt this was a beautiful project but this was not the right place for it.

- o Vedanna Freitas, Hollister resident, stated that economic development is needed in the county and the Board should consider what's best for the entire county and start saying yes to projects.

The Chairman closed the public hearing.

Members of the Board of Supervisors expressed their views on the zone change and the project and whether there was a need for a full EIR.

Supervisor De La Cruz made a motion to adopt the Planning Commission's findings that the approval of Zone Change 06-150 will serve the public necessity, convenience, general welfare and good practice, as reflected in Planning Commission Resolution No. 2007-03; and, to adopt Ordinance No. 820 approving Zone Change 06-150. Supervisor Monaco seconded the motion.

Deputy County Counsel Shirley pointed out that if the maker of the motion and the second would concur the ordinance required a small correction, a reference to a section in the zoning ordinance, Section 20, which should be Section 19 noting that she had an alternate version of the ordinance.

Chairman Marcus asked for clarification that the proposed ordinance being considered was on the condition of a focused environmental impact report.

Supervisor De La Cruz withdrew his motion to discuss the ordinance language. Supervisor Monaco agreed.

Discussion was held with regards to changing language in the ordinance and allow for the Chairman's signature without holding another public hearing.

Supervisor De La Cruz made a motion to take a 20-minute break to allow Counsel to prepare and come back with an ordinance with the proper language.

Ms. Murphy stated that if there was an interest by the Board to have a condition added to solidify the applicant's offer in the letter by their attorney to also provide indemnification she had an alternate version of an ordinance in anticipation that the Board may wish to move in that direction.

Supervisor De La Cruz withdrew his motion to take a 20-minute break.

Chairman Marcus asked for clarification that based on Supervisor Monaco's comments that Lines 9, 10 and 10 ½ refer to the conditions of the zone change based on an environmental impact report and Supervisor De La Cruz's motion would have that part eliminated; and, also that Line 12 referring to the Mitigated Negative Declaration for Commercial C-District Review for the project is sufficient.

Supervisor Monaco answered yes.

Chairman Marcus further clarified then that they would need to incorporate the language referring to the offer made by the developer to indemnify the county.

Ms. Murphy stated that she did have a possible version of the ordinance that does all of those things and the Board could review it.

Chairman Marcus called for a 10-minute break to look over the alternate version of the ordinance.

3:35 p.m. The Board reconvened.

Chairman Marcus noted that the Board individually looked at two revised documents.

BOARD ACTION:

*Supervisor Monaco made a motion to **adopt Ordinance 820** as presented at this time including the obligation to defend and indemnify and hold harmless the County of San Benito which is a separate document.*

Ms. Murphy clarified that the indemnification agreement was the county's standard form and it did not have to be approved.

County Administrative Officer Susan Thompson read the proposed ordinance changes into the record.

Supervisor De La Cruz seconded the motion.

Under the question. Supervisor Loe asked Deputy County Murphy how we could say in the ordinance that we are going to accept a Mitigated Negative Declaration for the C-District Review?

Ms. Murphy answered that the Mitigated Negative Declaration did analyze both the zone change and the C-District Review.

Supervisor Loe asked then we are saying that no further CEQA has to happen?

Ms. Murphy answered that by adopting this ordinance the answer is yes.

The Chair called for the question.

Supervisors Monaco, De La Cruz and Marcus voted yes. Supervisor Loe and Botelho voted no.

Ordinance No. 820 (an ordinance of the San Benito County Board of Supervisors to rezone the parcel described in Exhibit A to the Commercial Thoroughfare (C-1) Zoning District (ZC 06-150) was adopted by a 3-2 vote. File #790

The meeting was adjourned at approximately 4:05 p.m.

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: Monaco, Loe, De La Cruz, Marcus, Botelho

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to November 6, 2007 at 9:30 a.m. for a regular meeting.

DON MARCUS, CHAIRMAN

San Benito County Board of Supervisors

Attest:

Linda Churchill, Clerk of the Board