



# SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios  
District No. 1

Anthony Botelho  
District No. 2  
Chair

Pat Loe  
District No. 3

Reb Monaco  
District No. 4  
Vice-Chair

Jaime De La Cruz  
District No. 5

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

## REGULAR MEETING FEBRUARY 10, 2009 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, Barrios, De La Cruz and Botelho were present. Also present was County Administrative Officer Susan Thompson, Acting County Counsel Barbara Thompson and Clerk of the Board Linda Churchill. Chairman Anthony Botelho presided.

### 9:00 a.m. CALL TO ORDER:

- a) Supervisor Monaco led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Joe Thompson, local resident, expressed his concern about the health of small business owners stating that he understands the Board of Supervisors can't do anything about Federal pre-emptions and State mandates but we need the Board of Supervisors lobbyists to send messages to Sacramento and this would be a golden opportunity for the Board to do something.  
Marvin Jones, local resident, stated that February 12<sup>th</sup> would be the 200<sup>th</sup> birthday of Abraham Lincoln noting that Mr. Lincoln believed that "all men are created equal" and he would be upset with the federal government of today. Mr. Jones states that all of the rules and regulations are stifling.
- d) **Department Head Announcements:** Assessor Tom Slavich reported that people throughout the county and the state were receiving a notice through the mail about filing a Reassessment Application and charging a service fee to do so. Mr. Slavich said that many people have brought these notices to his office and he wanted to publicly warn people not to pay this fee and to throw these notices away. Mr. Slavich stated that his office provided this service by just calling or coming to the Assessor's Office. Mr. Slavich stated that he would be getting the media involved to alert the public.

Sheriff Curtis Hill reported that yesterday (February 9, 2009) a three-judge panel that has been looking into the prison overcrowding issue and how it affects the medical care in the State prison system ruled that they are going to finalize their opinion and could start releasing between 38,000 and 54,000 prison inmates which is essentially one third of the whole prison system. Sheriff Hill

stated that this is problematic for public safety stating that approximately 70% of those released inmates would be committing new crimes. Sheriff Hill stated that the final decision is not out yet.

CAO Susan Thompson reported that there has been a little change in her expectations pertaining to the hiring of a replacement for a budget director. CAO Thompson said that a number of candidates were interviewed and to date have not found a candidate and we will be going out again for further recruitment. CAO Thompson reported that in the meantime we are working on a contract for temporary help for a consultant to help with the budget, noting we have found someone who has lived in Hollister for over 29 years and he retired in 2006 as the budget director of Monterey County and is interested in helping us out for a very reasonable rate.

- e) **Board Announcements, Introductions and Presentations:** Supervisor Loe reported that she met with Chief Probation Officer Brent Cardall and Ray Rodriquez, High School Board of Director member, to encourage the High School Board to get on board with our new gang coordinator employee. Supervisor Loe said she would be attending the School Board meeting on Wednesday night and asking them to please sign on noting they are the last partner to sign on and it is very critical to have them do so.

Supervisor Barrios indicated that she would like to join Supervisor Loe at the meeting.

Supervisor Barrios reported that she received a letter from the State Controller that talked about a Property Tax Postponement Program and wondered if people were actually using it as it is available to the public and wondered if it was available in San Benito County.

*CAO Thompson stated that she had not seen this document and she would like to meet with the Assessor and discuss it and agendize it for a later date.*

Chairman Botelho reported that he attended the County Service Area community meeting held at the Board Chambers on Monday, February 9, 2009 in the evening to inform the public with regards to Proposition 218. Chairman Botelho stated it was well attended and a very informative meeting and commended the Public Works Department and Acting Public Works Director Janelle Cox for the great work they are doing on this project.

## **CONSENT AGENDA:**

*Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, approved Consent Agenda Items 1 through 10 with the exception of Items 3, 5 and 8, which were pulled for discussion. (Unanimous)*

## **BEHAVIORAL HEALTH – A. Yamamoto:**

- 1) **Authorized** the County's Behavioral Health Director to sign the FY 2008-09 Amendment No. 1 to the Negotiated Net Amount Contract (NNA), for the period of July 1, 2007 through June 30, 2010, with the State Department of Alcohol and Drug Programs (ADP); and **adopted Resolution No. 2009-10** to accept the ADP FY 2008-09 Amendment No. 1 to the Negotiated Net Amount Contract. Contract annual total is \$561,066.00. *File #810*

**CLERK OF THE BOARD – L. Churchill:**

- 2) **Approved** the action minutes for the meeting of January 27, 2009.

**HEALTH & HUMAN SERVICES & PLANNING DEPT. – K. Flores & A. Henriques:**

- 3) **Adopt Resolution opposing AB 885 draft regulations for Onsite Wastewater Treatment Systems.**

Supervisor Barrios suggested that maybe our resolution should be more detailed such as the one that we received from Madera County.

HHS Director Kathy Flores said it would be a risk to postpone this item to the February 23, 2009 meeting and not meet the deadline.

It was the consensus of the Board to submit this resolution now as written and possibly something could be sent out later with more detail.

**BOARD ACTION:** Upon motion made by Supervisor Barrios and seconded by Supervisor De La Cruz, **adopted Resolution No. 2009-11** opposing AB885 draft regulations for Onsite Wastewater Treatment Systems. (Unanimous) File #142.9

**INTERNAL SERVICES – R. Inman:**

- 4) **Adopted Resolution No. 2009-12** entitled "Resolution of the San Benito County Board of Supervisors Amending Resolutions 2003-105, 2003-106, 2004-110 and 2004-111 Retroactively Establishing Health Insurance Rates for Retirees for 2004 and 2005". File #630

**PROBATION DEPARTMENT –B. Cardall:**

- 5) **Authorize Probation Department to accept Youthful Offenders Block Grant (YOBG) Funds for FY 2008-2009 in the amount of \$117,000; authorize Probation Department to transfer prior year revenues in the amount of \$10,895; and authorize modification as set forth in the budget transfer and augmentation of budget units.** (4/5 Vote)

Supervisor Barrios asked if this program could include third graders and under.

County Administrative Officer (CAO) Susan Thompson explained that this was more for at-youth risk kids.

Administrative Services Specialist Rita Campbell said the younger children were not covered under this grant.

**BOARD ACTION:** Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, authorized the Probation Department to accept YOBG funds as requested. (Unanimous) File #510

**PUBLIC WORKS DEPARTMENT – J. Cox:**

- 6) **Approved** agreement with Monterey County for the administration; right-of-way purchase and construction of the Lonoak Road Bridge replacement at no cost to San Benito County. File #105

- 7) **Accepted** the bids received on January 9, 2009; **awarded** contract to Edward R. Bacon Co. Inc., for the purchase and installation of the Juvenile Hall Standby Generator, for the period of February 3, 2009 to June 30, 2009 in the amount of \$106,661.43. File #120.5

- 8) **Adopt Resolution providing for the placement of a stop sign on a County roadway intersecting Union Road and for the placement of intersection warning signs on Union Road.**

Supervisor Barrios commended Public Works staff for their efforts in getting this project done.

**BOARD ACTION:** Upon motion made by Supervisor Monaco and seconded by Supervisor Barrios, **adopted Resolution No. 2009-13** providing for the placement of stops signs as requested. (Unanimous) *File #105*

- 9) **Adopted Resolution No. 2009-14** providing for the placement of a stop sign on San Juan Canyon Road northbound at its intersection with Mission Vineyard Road and for the placement of a yield sign on Mission Vineyard Road westbound at its intersection with Salinas Grade Road. *File #105*

#### **SHERIFF'S DEPARTMENT – C. Hill:**

- 10) **Approved** the multi-year lease with Dataflow Business Systems for copier machine in the amount of \$7,241.93 over the life of the lease and **authorized** the Sheriff to sign. *File #110*

9:27 a.m. Heard Item 12 prior to Item 11 in order to meet the public hearing time requirement of 9:30 a.m. for Item 11.

#### **REGULAR AGENDA:**

#### **PUBLIC WORKS DEPARTMENT – J. Cox:**

- 12) **Introduce Ordinance amending Chapter 17.01 of Title 17 of the San Benito County Code, Traffic Regulations, establishing a speed limit of 35 miles per hour on Carr Avenue; and waive the reading of ordinance and continue to Tuesday, February 24, 2009 for adoption of said ordinance.**

Acting Public Works Director Janelle Cox stated that they planned to bring this item back on a future agenda after talking with people in the area about the speed and would be considering reducing it lower than the 35 miles per hour.

Chairman Botelho stated he would like to see a reduced speed and allowed the Aromas residents who were present to address the Board.

The following Aromas residents expressed their concerns about the unsafe conditions on Carr Avenue: Glenn Skogen, Catherine Bosworth, Cathy Chavez Miller and Lynn Mello. *File #105*

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

9:44 a.m.

- 11) **Held public hearing to accept public comment and testimony on the proposed County Service Area #31 (Stonegate) annual fee and adopt Resolution declaring the results of a protest tabulation, imposing a property related fee, ordering capital improvements and maintenance therein, and confirming the fee report, the fee schedule and fee; and**

**providing for the levy of the Fiscal Year 2008/09 supplemental fee and an annual fee in subsequent years and authorize a mail ballot election to be held June 24, 2009 for the storm drainage fee.**

Acting Public Works Director Janelle Cox provided an overview stating that on December 2, 2008 the Board of Supervisors adopted a resolution approving the imposition of a property related fee in CSA No. 31 (Stonegate), approved the fee report and set the public hearing for today. On December 16, 2008 the Board also adopted a resolution establishing a revolving fund in the amount of \$1.4 million for CSA No. 31 to fund the capital improvements for the long-term water supply solution. Ms. Cox reported that staff has met with the residents of CSA No. 31 three times since December 2008 and have talked through the proposed budgets and have negotiated the fee and have come up with an annual maximum fee that we believe provides the resources necessary to fund the services provided in CSA No. 31. Ms. Cox noted that today's meeting is to provide an opportunity for a public hearing on the proposed fee and to tabulate the protests and to adopt the resolution.

Ms. Cox explained the process stating that at this time the Clerk of the Board, with our consultant Pablo Perez from NBS, would tabulate the protests received and at the same time the public can provide testimony and after that we will report on the tally of the protests received.

Chairman Botelho opened the public hearing.

Lloyd Lowrey, Attorney representing the Stonegate Homeowners Association read a letter to the San Benito County Board of Supervisors into the record from Mike Randle, President of the Stonegate Homeowners Association. Mr. Lowrey also referred to, and handed out a copy of, a letter dated April 30, 1997 to the Board of Supervisors from Max Bridges (former Public Works Director).

The following Stonegate property owners addressed the Board: Dan O'Leary; Lisa Greenup; Mike Biechman; Gordon Wood; John Torres; Tom Bonnaud; and, Wendy Krulee. Marty Richman, local resident also addressed the Board.

The Chairman closed the public hearing.

Supervisor Monaco asked for clarification regarding the rationale of an interest cap.

Pablo Perez, consultant with NBS; Acting County Counsel Barbara Thompson and County Administrative Officer Susan Thompson explained the 6% interest rate cap and the fee report.

Supervisor Monaco stated that Stonegate homeowners need to have a clear understanding of how much they will need to pay. Supervisor Monaco stated that this situation has really polarized the Stonegate community and the 74 residents of Stonegate are basically the captains of their own ship. Supervisor Monaco noted that we have gone through a voting process now under State law and the County has agreed to loan them \$1.4 million at a fairly low interest rate to seek the solution that they chose. Supervisor Monaco stated that for the past 20 years the County has met their commitment to the agreement which originally established the development of Stonegate noting that the residents have never been without water. Supervisor Monaco stated that now for a variety of reasons it has become clear to the Stonegate residents that they would prefer some other mechanism other than a one source of water but the catch is they have to pay for it and cannot expect the rest of San Benito County's citizenry either to encumber

over a 10-year period \$1.4 million with no interest. Supervisor Monaco stated that we can only rely on a majority vote of the 74 people in this development to express to us what they desire by the process of a ballot.

Supervisor Barrios asked for clarification of certain points discussed and also asked if the voting process was done properly as questioned by Mr. O'Leary.

Mr. Perez explained the Proposition 281 process stating that he was confident that the process was appropriate and legal.

Further question and answer period ensued.

Clerk of the Board Linda Churchill announced that there was a total of seven protest letters received.

Mr. Perez explained that in order to defeat the fee 38 written protests would have been required and with only seven received it means that the Board could now consider adopting the fee.

**BOARD ACTION:** *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, adopted **Resolution No. 2009-15** declaring the results of a protest tabulation, imposing a property related fee in County Service Area No. 31, Stonegate, ordering capital improvements and maintenance therein, and confirming the fee report, the fee schedule and fee, and providing for the levy of the Fiscal Year 2008-09 supplemental fee, an annual fee in subsequent years, and authorized mail ballot election to be held on June 24, 2009, for the storm drainage fee. (Unanimous) CSA 31 File*

The Board adjourned for a 5-minute break at 10:40 a.m. and reconvened at 10:45 a.m. re:

## **REGULAR AGENDA:**

### **COUNTY COUNSEL – B. Thompson:**

13) **Provide update for tasking outside Counsel on El Rancho San Benito (DMB) project and direct staff as appropriate.**

Deputy County Counsel Shirley Murphy provided background information stating that an update has been provided answering questions asked at the January 27, 2009 meeting. Ms. Murphy stated that as explained in the staff report they have met with the original sub-committee to review the rationale for originally selecting two firms and the different tasks that were anticipated for each firm. Ms. Murphy explained the tasks that were assigned to Hoge, Fenton, Jones & Appel, Inc. and to Bingham McCutchen LLP.

Lengthy discussion ensued regarding the need for two law firms and the logistics of using the two firms and what each firm was actually working on.

Supervisor Loe stated that as a member of the original sub-committee they spent a considerable amount of time speaking with the firms and deciding what was the best for the County and she believes that everyone gets the best representation by having the two firms noting this was the largest application the county has ever processed and believes we need as many professionals as possible working on it.

Acting County Counsel Barbara Thompson stated that this is a policy decision for the Board of Supervisors but she felt that if the Board was going to go with one law firm that it's important to do it before the whole EIR process is

further along. Ms. Thompson further stated that she felt it was more efficient to have one law firm and if we have to go forward with one firm then it should be Bingham, McCutchen LLP that the County should go forth with even though both law firms are excellent.

Supervisor Monaco stated that as Supervisor De La Cruz mentioned earlier during this discussion we should have frequent, regular agendized updates as we go through this process to keep us informed as to where it is going.

**BOARD ACTION:** *Supervisor Monaco made a motion that at this current time we use only one law firm, Bingham, McCutchen, LLP, in the reimbursement agreement as this process goes along. Chairman Botelho seconded the motion.*

Board members provided further comments.

**Roll Call Vote:**

Supervisor Monaco ----- Yes

Supervisor Loe ----- No

Supervisor Barrios ----- No

Supervisor De La Cruz -- Yes

Supervisor Botelho ----- Yes

***The motion passed 3-2. File #160***

**INTERNAL SERVICES – R. Inman:**

14) **Approve San Benito County's participation in the NACO Prescription Drug Discount Card Program.**

Internal Services Director Rich Inman explained that this was not a request to approve an agreement at this time but approval to join this program and noting that we would be the 20<sup>th</sup> County in the state to join. Mr. Inman reported that this is a product of the National Association of Counties (NACO) of which we are a member.

Mr. Inman stated that some things are too hard to believe but where else would you have a government sponsored program with no enrollment fees, no forms to fill out, no age or income requirements, no medical condition restrictions, entire family is covered with just one card and virtually all common prescribed medication is covered.

Health & Human Services Agency Director Kathy Flores noted that her department would be glad to do this as long as it was merely just the distribution of the card and that written materials are provided.

It was the consensus of the Board to support this program.

Mr. Inman stated that he would bring this item back in an agreement form.

*File #630*

**ADMINISTRATIVE BUSINESS – S. Thompson:**

15) **Update on local impacts of State budget actions and direct staff as necessary.**

County Administrative Officer Susan Thompson provided an update of what the impact to San Benito County will be given that the State of California is currently without a balanced budget and the State Controller has actually taken action as of the first of the month to begin delaying payments to counties statewide.

CAO Thompson provided a PowerPoint presentation titled California's Budget Crisis – What the State's Proposal to Defer Payments means to San

Benito County. The following points were addressed: State's Cash Crisis; State's Proposal; Deferral of H & SS Payments; Deferral of San Benito County Human Services Payments; Economy Impacting San Benito County Families; Proposed Transportation Deferrals; Impacts on San Benito County Roads; Economy Already Impacting San Benito County Budget; Property Taxes No Longer Fill Gap; Counties Can't Fix State Budget Woes; Counties have few options; We're Not Alone – Counties around the State are struggling; and What can we do?

CAO Thompson stated that at the very least the Board of Supervisors should send a letter to Sacramento that they need to do their job.

Lengthy discussion and comment period ensued expressing frustration over the State's inability to adopt a budget.

Supervisor Loe stated that a strongly worded resolution should be prepared for the next meeting for Supervisor Barrios to take to Sacramento at the end of the month when she is attending a conference there.

Marty Richman, local resident, asked what are we willing to give up and what are we willing to do as a county to cut back.

CAO Thompson stated that the Board should get credit for the fact that they have managed within their means and that they have taken cuts every year and have maintained services at lower than optimum levels in this community to put themselves in the financial condition that we are in right now and just for once she would like to hear someone say "Good Job". *File #865*

Chairman Botelho stated that there was an oversight in that there was suppose to be a General Plan Revision update on today's agenda.

CAO Thompson replied that we would be bringing this back and one of the things we need to talk about in terms of procedure is that we need to work with the Board of Supervisors about getting updates to them on a regular basis but providing updates when we have something to report.

Supervisor Loe expressed frustration that we appointed a committee of citizens (General Plan Advisory Committee) and she has been receiving e-mails asking when are we going to be meeting. Supervisor Loe stated we need to move forward with this.

The Board adjourned into Closed Session at 12:08 p.m. and reconvened into Regular Session re:

**CLOSED SESSION:**

*Matters discussed during Closed Session include existing and pending litigation, personnel matters and real property negotiations. Reportable actions taken by the Board during Closed Session will be announced during open session. (Gov. Code Section 54957.1(a) & (b), Ralph M. Brown Act.)*

**16) Conference with Legal Counsel-Anticipated Litigation**

Initiation of litigation pursuant to subdivision (c) of Section 54956.9

Number of Cases: (2)

**REPORTABLE ACTION:** *Acting County Counsel Barbara Thompson reported that the Board authorized litigation against John and Jae Eade unless mediation*

*is scheduled within the next two weeks. The mediation does not need to occur within two weeks, but the date needs to be scheduled. 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: Monaco, Loe, Barrios, De La Cruz, Botelho  
NOES: SUPERVISORS: None  
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned at 12:30 p.m. to February 24, 2009 at 9:00 a.m. for a regular meeting.

**ANTHONY BOTELHO, CHAIRMAN**  
San Benito County Board of Supervisors

**ATTEST:**  
Linda Churchill  
Clerk of the Board