



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

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

REGULAR MEETING MARCH 3, 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 for the morning session and Assistant Clerk Janet Slibsager for the afternoon session. Chairman Anthony Botelho presided

9:00 a.m. CALL TO ORDER:

- a) Supervisor Barrios led the pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Marvin Jones, local resident, addressed the Board with regards to the County Transit buses noting that having these buses with so few passengers was a black hole for taxpayer money.
Joe Thompson, local resident, agreed with Mr. Jones about the buses and also addressed the board about the small businesses that are continually failing here in this County.
- d) **Department Head Announcements:** County Administrative Officer (CAO) Susan Thompson reported that last Friday was the FY 2009/2010 budget deadline for submittal by departments. CAO Thompson stated that the Mid Year Budget Report would be presented at the next meeting on March 10, 2009. CAO Thompson emphasized that this would be a very tight budget.
CAO Thompson also stated that we are looking into firms that do impact fee study review, as this needs to be done every five years. CAO Thompson also reported that Acting Public Works Director Janelle Cox and her staff are working on the CSA Proposition 218 process and have been holding meetings with the various CSA's to explain the process and receive input.
Fire Chief Mike Marlow handed out a copy of a letter from the San Benito County Water District to Agricultural Small Parcel Customers dated February 26, 2009 pertaining to water usage and closing of valves. Chief Marlow said he would be working with the water district on this as it involves blue valve water for fire protection.

e) **Board Announcements, Introductions and Presentations:**

Supervisor Monaco commended Acting Public Works Director Janelle Cox and Loretta Smith from Public Works for their participation in setting up and attending the CSA meetings, which can be very difficult with attendees who get very irate.

Supervisor Monaco announced that there is a meeting scheduled on March 26, 2009 in Gilroy concerning the High Speed Rail Authority noting that there are two other meetings prior to that date in Merced and San Jose. Supervisor Monaco encouraged attendance by Board members or staff stating that he would be unable to attend.

Supervisor Barrios encouraged Board members to attend the annual County Office of Education Joint Board of Trustees meeting to be held this month.

Supervisor Barrios reported on her trip to the California State Association of Counties (CSAC) institute on Thursday and Friday of last week stating that the message was we will not recover any time soon to the same level of funding as we have had in the past and we need to be prepared for that. Supervisor Barrios stated that we need to be very visible at the State level and she committed herself to that duty and would be in Sacramento.

Chairman Botelho echoed Supervisor Monaco's comments with regards to the CSA meetings thanking staff for their good work.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved Consent Agenda Items 1 through 10 with the exception of Items 2 and 3 which were pulled for discussion. (Unanimous)

AGRICULTURAL COMMISSIONER – P. Matulich:

- 1) ***Re-appointed*** members Helen Matulich and Jerry Hammond, to the Taylor Act Grazing Advisory Board, for a three-year term effective July 1, 2009. *File #1.1*

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

- 2) **Approve amendment #3 to the contract with Sequoia Pacific Voting Systems for the purchase of a pre-owned refurbished 400-C Unit Ballot Tabulator at a total cost of \$58,625 and authorize the County Clerk, Auditor & Recorder to sign said amendment; approve the budget transfer to cover total cost of purchase.**

Supervisor Barrios stated that she supported having a back-up system but expressed concern asking if we still need to have a professional standby if we have the two machines.

County Clerk/Auditor/Recorder Joe Paul Gonzalez answered that with the warranty and agreement we will have the availability of a quick response.

Mr. Gonzalez answered further questions posed by Board members.

Marty Richman, local resident, stated that he supports buying voting machine because we don't have any choice but asked why are we doing this and noting that there is half a billion dollars worth of voting machines sitting in

warehouses all over the State. Mr. Richman stated that this just doesn't make sense and we should be in the State's face expressing our dissatisfaction.

BOARD ACTION: Upon motion made by Supervisor Barrios and seconded by Supervisor Monaco, authorized the County Clerk/Auditor/Recorder to sign amendment #3 to the purchase agreement with Sequoia Pacific Voting System to purchase a pre-owned refurbished 400-C Unit Ballot Tabulator at a total cost of \$58,625; and approved the budget transfer transferring funds from the Elections #140 Budget, from Services & Supplies to Fix Assets, to cover total cost of purchase of an additional Sequoia 400-C. (Unanimous) File #285

- 3) **Augment the Elections FY 2008-2009 Election Budget #140 with \$200,000 from General Fund contingencies to conduct Special Statewide Elections to be held on May 19, 2009.** (4/5 vote)

Supervisor Loe asked what if we just say no to this request.

County Clerk/Auditor/Recorder Joe Paul Gonzalez answered that since we are a division of the state we are bound to conduct elections per state mandate.

Lengthy discussion ensued expressing frustration with the mandate by the state to hold this election and the impact it will have on the county's small budget.

The following members of the public addressed the Board regarding this item: Marty Richman, local resident; Joe Thompson, local resident, Marvin Jones, local resident and Robert Scoles, Aromas resident.

BOARD ACTION: Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, approved augmentation of the Elections FY 2008-2009 Budget #140 with \$200,000 from General Fund Contingencies and directed staff to draft a resolution for consideration at the next meeting, March 10, 2009, encouraging rapid reimbursement and expressing dissatisfaction with requiring a special election and send it to the Governor, local legislators, CSAC and RCRC. (Unanimous) File #285

CLERK OF THE BOARD – L. Churchill:

- 4) **Approved** the action minutes for the February 10, 2009 meeting.

HEALTH & HUMAN SERVICES – K. Flores:

- 5) **Adopted Resolution No. 2009-19** authorizing the Director of Health & Human Services Agency to enter into and execute agreements with the California Department of Social Services (CDSS) for reimbursement of interim assistance payments. File #130
- 6) **Approved** transfer of \$5,294 in the Public Health Emergency Preparedness budget from special department expense to fixed assets; recognize a fixed asset for an Alternate Care Site Trailer to the Public Health/HHSA budget and schedule of fixed assets for FY 08/09. File #420

INTERNAL SERVICES DEPARTMENT – R. Inman:

- 7) **Adopted Ordinance No. 835** entitled "An Ordinance Amending Chapter 3.01(Administration Generally) of Title 3 of the San Benito County Code". (Continued from 2/24/09 mtg.) File #630

PROBATION DEPT. – B. Cardall:

- 8) **Approved** amendment to contract with King & Associates for services to teach Health Realization principles to minors and parents from the Juvenile Justice Crime Prevention Act funds in an amount not to exceed \$23,500. *File #510*

PUBLIC WORKS DEPARTMENT – J. Cox:

- 9) **Declared** equipment specified on submitted list be declared surplus per County practice and removed from inventory. *File #105*
- 10) **Adopted** the specifications for the Juvenile Hall Maintenance and Improvements, Painting Project, Invitation for Bid (IFB). *File #120.5*

9:30 A.M. - PUBLIC HEARING (or as soon thereafter as the matter may be heard):

INTERNAL SERVICES – R. Inman:

- 11) **Adopt ordinance amending Chapter 13.01 (Animals and Fowl) of Title 13 the San Benito County Code (Continued from 2/24/09 mtg.); and,**

Management Analyst Margie Riopel provided background information stating that the ordinance is currently before the Board for adoption noting that it was continued from the February 24, 2009 meeting when it was introduced.

Supervisor Monaco asked if there were any problems with the contract could it be amended and could we exit out of it if we chose to do so.

County Counsel Barbara Thompson answered yes.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, adopted **Ordinance No. 836**, an animal control ordinance amending Chapter 13.01 of Title 13 of the San Benito County Code. (Unanimous)*

Hold public hearing and adopt resolution regarding new animal control fees, including license, shelter, euthanasia, adoption, and other animal related fees.

Ms. Riopel provided background information stating that the proposed resolution adopts new animal control fees, including license, shelter, euthanasia, adoption and other animal related fees and the fee schedule is based on the City of Hollister's fee schedule for Animal Control services.

Chairman Botelho opened the public hearing. There was no one from the public who wished to address the Board on this matter.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Barrios, adopted **Resolution No. 2009-20** adopting fees for the County of San Benito, which are based on the City of Hollister's fee schedule for animal control services. (Unanimous) File #425*

REGULAR AGENDA:

INTERNAL SERVICES – R. Inman:

- 12) **Update on status of recruitment for County Counsel and Public Works Administrator.**

Internal Services Director Rich Inman provided an update stating we have obtained the services of Bob Murray and Associates as our executive search firm

for both the Public Works Administrator and County Counsel positions. Mr. Inman noted that the brochure that was developed for both of the positions were included in the Board's packets. Mr. Inman reported that as of Friday, February 27, 2009 we have had 17 inquiries of interest for the Public Works Administrator and seven inquiries have been made for the position of County Counsel.

Supervisor Barrios noted that there were a couple of misspelled words in the brochure.

Marty Richman, local resident, addressed the Board stating that we should always, where possible, consider an internal recruitment noting it was not always good to bring in out-of-town people. *File #630*

PLANNING & BUILDING DEPT.- A. Henriques:

13) Approve the County Administrative Draft Environmental Impact Report (ADEIR) Policy.

Planning Director Art Henriques reported that staff has received inquiries recently from some large project applicants and others as to what is the current policy of the County as to what level of administrative draft reviews, if any, would applicants, and perhaps other members of the public, be allowed to look at documents before they come out for the public ADEIR.

Mr. Henriques explained the details of drafting up a policy for a public draft EIR and what it would entail. Mr. Henriques provided examples from neighboring counties.

Mr. Henriques outlined the pros and cons regarding the release of an ADEIR.

Board members provided input and asked questions.

The following members of the public addressed the Board with regards to this document: Scott Fuller, San Juan Oaks Golf Club; Aurelio Zuniga, local resident; and Jim West, Granite Rock Company.

Further discussion ensued.

County Administrative Officer Susan Thompson stated that this is strictly a fact-based process.

Chairman Botelho asked Mr. Henriques to explain the public involvement and when they would enter the process.

Mr. Henriques outlined the following steps:

- 1) The agency (County) would go through an initial review.
- 2) Early in the process, if the applicant's proposal is reasonably complete, get the project description out to the community to get early input in the CEQA process and then go out for a Notice of Preparation (NOP) and get early comments from the public.
- 3) Take all information to the Planning Commission and Board of Supervisors.

Further discussion ensued.

Supervisor De La Cruz made a motion to create a sub-committee of Chairman Botelho and Supervisor Barrios to come back at the March 24, 2009 meeting with their recommendations of the policy. Supervisor Monaco seconded the motion.

Discussion ensued as to what the intent of forming this sub-committee would actually be.

Acting County Counsel Barbara Thompson suggested that staff should take another look at this issue and incorporate the comments made today and

bring it back to the Board of Supervisors and let the Board decide at that point in time if a sub-committee is needed after staff has finalized the policy as much as possible.

County Administrative Officer Susan Thompson stated that she has difficulty with Board members serving on a committee noting that they can't give policy direction to staff and the policy should be made in public.

Further discussion ensued with Supervisor Loe stating that this matter should be handled transparently noting that staff should have the opportunity to come back on March 24, 2009 and talk about it with the Board and take public input and then at that time if we decide we need to move on with a sub-committee then the decision could be made at that time.

Supervisor Barrios agreed with Supervisor Loe.

Chairman Botelho stated that he did not feel they were too far off from creating this policy and perhaps it could be decided on March 24, 2009 after allowing staff to fine tune the policy.

Supervisor De La Cruz stated that committees do not create policy. It is only a recommendation that is brought back to the Board of Supervisors for further consideration.

Supervisor De La Cruz withdrew his motion to allow staff to report back at the March 24, 2009 meeting.

Chairman Botelho directed staff, by consensus of the Board, to come back on March 24, 2009 meeting with a more fine tuned policy. File #790

ADMINISTRATIVE BUSINESS – S. Thompson:

14) **Receive status report on Federal Stimulus Act application activity and direct staff as appropriate.**

County Administrative Officer Susan Thompson reported that a collaborative effort of local organizations has been pulled together to look at local priorities and local opportunities that we might work on together to submit applications within the presently unfolding processes for these funds. CAO Thompson further reported that she conducted a meeting on March 2, 2009 with various City and County leaders to look at all of the opportunities together.

CAO Thompson stated that the county would be bringing items to the Board of Supervisors on a regular basis.

CAO Thompson answered questions posed by Board members and Board members provided input.

Joe Thompson, local resident and Marty Richman, local resident, addressed the Board with regards to this item. *File #119*

The Board adjourned for a 5-minute break at 11:30 a.m. and reconvened into Closed Session at 11:35 a.m.

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.)

The Board adjourned into Closed Session and reconvened into Regular Session at 11: 50 a.m. re:

- 15) **Name of Case: Frances Vyverberg v. San Benito County, et.al., Superior Court of California, County of San Benito, Case No. CU-08-00174**
BOARD ACTION: *Acting County Counsel Barbara Thompson reported that the Board of Supervisors determined not to provide legal representation for defendant Michael Rodrigues. File #235.6*

AFTERNOON SESSION
1:30 P.M.

REGULAR AGENDA:

PLANNING DEPARTMENT – A. Henriques:

- 16) **Adopt Resolution granting the appeal of the Santana Ranch Owner's group and provide the appellant with 22 allocations or take alternate action. (Postponed from 2/24/09 mtg.)**

Assistant Planning Director Byron Turner provided background information stating that this item was originally heard on January 13, 2009 and it was continued in order for staff to provide the Board of Supervisors with options. On February 3, 2009 the Board chose an option to send the matter back to the Planning Commission in order for them to make the finding that an increase in the Allowable Population Increase (API) was warranted. Mr. Turner further reported that at the Planning Commission of February 18, 2009 the Commission adopted Resolution 2009-02 finding that an additional 22 allocations were available this year based on the flexibility of the API so the Board may implement the option presented to the Board which is to allocate an additional 22 allocations to the Santana Ranch Owner's Group. Mr. Turner stated that the solution presented today will give the Santana Ranch Owner's Group, as the appellant, and the highest ranking applicant, 22 allocations without taking allocations away from those who received them from the Planning Commission and this solution is supported by the current Growth Management Ordinance now in place.

Chairman Botelho asked how can we give a high point total on something hasn't even been developed yet for the point allocation system with regards to water not being available.

Mr. Turner answered that based on actions from the Board in the past regarding projects and allocations that have come forward with Will Serve letters only, and staff knew that the Will Serve letter was necessarily accurate but the jurisdiction providing the Will Serve letter did not have the available hook-ups today, was an action that was supported by the Board in the past on projects on appeal.

Supervisor Botelho expressed concern with allocating 22 units today that may be tied up for some time.

Supervisor Loe asked how does the vote of the people figure into this project.

Mr. Turner answered that because this project is located in an area identified as an Area of Special Study by the General Plan there is no General

Plan Amendment and increase of density that would trigger the vote of the people for this project.

Supervisor Loe stated then the developer is doing special things for this special area.

Mr. Turner stated that this area is identified in the General Plan as an Area of Special Study and if the definition of Area of Special Study includes acknowledgement that this is a place where increased density can happen and that is why this is not subject to the PRGI Ordinance; however, we would still be entering into a development agreement with this applicant regarding other aspects of the project including the exemption from the Growth Management Ordinance exception.

Supervisor Loe asked Mr. Turner to send her this finding in writing.

Supervisor Loe asked why the 22 allocations did not go out for others to apply but only to one applicant.

Mr. Turner stated that is what Planning staff understood as the direction from the Board.

Acting County Counsel Barbara Thompson provided input.

Supervisor Loe expressed further concerns about the allocations process.

Chairman Botelho opened the public hearing.

Frank Guerra, Santana Ranch Owner's Group, addressed the Board stating that he believed that the Lico Project that was approved in the original ground of allocations was about 19 or 20 lots and he was relatively sure that they had a Will Serve Letter from the water districts. Mr. Guerra also noted that there is a well drilled on Southside Road and the water district is actively working to increase their production within the next couple of years.

Chairman Botelho closed the public hearing.

Chairman Botelho felt that this was the wrong application process for this project and he would not support it today.

BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Monaco, adopted **Resolution No. 2009-21** granting the appeal of the Santana Ranch Owner's Group and provide the appellant with 22 allocations.*

(3-2 vote. Loe & Botelho voted no.) Appeal File

1:30 P.M. - PUBLIC HEARING (or as soon thereafter as the matter may be heard):

PLANNING DEPARTMENT – A. Henriques:

- 17) **Hold a public hearing to consider an ordinance for Zone Change (ZC 08-161) Request: A Zone Change from Rural (R) to Rural-Planned Unit Development (R-PUD) for the purpose of subdividing approximately 200 acres into 17 one-acre lots, a 68-acre open space parcel, and a remainder lot of 115 acres. Applicant/Appellant: Guerra Nut Shelling. Location: 500 John Smith Road, Hollister, CA. APN 025-100-007. CEQA Determination: Mitigated Negative Declaration. (Continued from November 25, 2008)**

Assistant Planning Director Byron Turner provided background information that this item was continued from November 25, 2008 to today (March 3, 2009) and at this time staff is requesting a further continuance, with agreement from the applicant, so they may complete the changes and the amendments to the Inclusionary Housing Ordinance, which would definitely affect how this project moves forward.

Chairman Botelho opened the public hearing. There being no one who wished to address the Board the Chairman closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz continued this item to a date uncertain to be determined by the Planning Department.*

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 to March 10, 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
(Morning Session)

Janet Slibsager
Assistant Clerk
(Afternoon Session)