



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 JULY 7, 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 Assistant Clerk Janet Slibsager for the morning session and Clerk of the Board Linda Churchill for the afternoon session. Chairman Anthony Botelho presided.

9:00 a.m. CALL TO ORDER:

- a) Supervisor Barrios led the Pledge of Allegiance.

Supervisor Barrios asked for a moment of silence for Ray Eugene Bailey, father of County Administrative Officer Susan Thompson who passed away.

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

- c) **PRESENTATIONS / RECOGNITIONS:**

Present proclamation declaring July as “Parks and Recreation Month” in San Benito County. (Public Works)

Supervisor Monaco presented proclamation to Parks & Recreation Chairman Don Kelly.

Mr. Kelly thanked the Board for the recognition on behalf of the Parks & Recreation Commission and said that he encourages all the residents in San Benito County to take advantage and make an effort to visit one of our national state or local parks facilities and have some fun and relax.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Barrios, **approved** Proclamation declaring July 2009 as Parks and Recreation Month in San Benito County and **authorized** the chair to sign. (Unanimous) File #430*

- d) **Public Comment:** Laura Yaing and Raquel Ramirez, Regional Diabetes Collaborative, provided information in regards to its organization and the programs, which supports Monterey, San Benito and Santa Cruz County.

Barbara Nicoara, Hazel Hawkins Hospital Foundation, provided information as to the purpose of the foundation and mentioned that she is the

coordinator of a program, called Fit for Kids. This program was a result of a grant that was written by the foundation.

Jennifer Bange, Clinical Nutrition Manager of Hazel Hawkins Hospital, spoke in regards to the Diabetic and Wellness Center in San Benito County and the services they provide.

Joe Thompson, local resident, stated that small business owners dropping like flies in San Benito County due to the fees, constraints and taxes that continue to be increased. Mr. Thompson said that he would like to see the Board adopt a resolution directing the Council of Government Directors to oppose any such schemes for increasing taxes and fees.

- e) **Department Head Announcements:** County Administrative Officer Susan Thompson thanked the staff (SEIU and other County Employees) for stepping up in times of extreme fiscal hardship and have given salary concessions that would have a significant impact in us balancing our budget for next year.

Health & Human Services Director Kathy Flores said that Community Health hosted their Annual Kids at the Park event on June 24th and that they had over 1,400 kids and forty three different organizations with booths, which were all focused on health and safety for our children in our community.

On behalf of Kids at the Park and Public Health Services a Certificate of Appreciation was presented to Supervisor Barrios for being generous with her time and her commitment to our children and families of San Benito County.

Supervisor Barrios said that it was a pleasure to be there noting it was well attended.

- f) **Board Announcements, Introductions and Presentations:**

Supervisor Monaco said that today marks the fourth anniversary of our County Administrative Officer Susan Thompson.

Supervisor Monaco said that on June 30th he accompanied Sheriff Hill for the swearing in of new citizens in Santa Cruz County noting there were approximately one hundred and eight citizens sworn in.

Supervisor Barrios said that she received e-mail from Regional Council of Rural Counties (RCRC) in regards to the Healthy Families Program. They are putting a freeze on new enrollees and will continue to serve the children currently enrolled.

Supervisor Barrios said that she or Supervisor Monaco would like to attend the California State Association of Counties (CSAC) Reform from July 17 through July 18 in Sacramento. She would like to see our county represented because we would be deciding how we would reform the California government.

Supervisor De La Cruz commended Supervisor Monaco for his leadership and effort on the Parks & Recreation Commission and thanked CAO Susan Thompson for her leadership to the Board of Supervisors and staff.

Supervisor Loe said that she attended a new courthouse meeting that revealed the building plans to the community. Supervisor Loe said that there was exciting news that the courts would be hiring, through the State of California, a general contractor to work with local contractors to do outreach to bring subs from our community to work on their courthouse.

Supervisor Loe said that she would like to remind everyone that July 31st through August 1st is Relay for Life at the San Benito High School (Andy Hardin Field).

Chairman Botelho said that he attended a meeting with the Monterey Transit Authority and the Aromas Water District regarding the federal funding portion of the San Juan Interchange Project.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, approved Consent Agenda Items 1 through 32 with the exception of Items 13,14,15, 16, 17, 23, 24, 25, 29 and 31, which were pulled for discussion. (Unanimous)

BEHAVIORAL HEALTH - A. Yamamoto:

- 1) **Approved** contract renewal with K & R Manor & Salvador Lodge for Board and Care Facilities for FY 2009/10 for a total annual maximum amount not to exceed \$15,000. *File #810*
- 2) **Approved** contract renewal with Natividad Medical Center for inpatient acute hospital psychiatric services for the FY 2009-10 for a maximum annual total of \$250,000. *File #810*
- 3) Approve contract renewal with the Department of Mental Health for State Hospital Bed Use for the FY 2009-10; and authorize the Behavioral Health Director to sign contract; adopt Resolution signifying Board approval to enter into contract. (Res. No. 2009-60)
This item was withdrawn from the agenda.
- 4) **Approved** contract renewal with Country Villa Merced Behavioral Health Center for sub-acute level skilled nursing services for the FY 2009-10 for a maximum annual amount of \$89,000. *File#810*
- 5) **Approved** contract renewal with Kings View Corporation for Telepsychiatry Services for the FY 2009-10 for a maximum total of \$116,000. *File #810*
- 6) **Approved** contract renewal with Remi Vista, Inc. for Therapeutic Behavioral Services for FY 2009-10 for a maximum amount of \$70,000. *File #810*
- 7) **Approved** contract renewal with 7th Avenue Center for Skilled Nursing Facility for the FY 2009-10 for a maximum amount of \$89,000. *File #810*
- 8) **Approved** contract renewal with Charis Youth Center for Mental Health Services for the FY 2009-10 for a maximum amount of \$80,000. *File #810*
- 9) **Approved** contract renewal with Rebekah Children's Services, Inc. for Therapeutic Behavioral Services for the FY 2009-10 for a maximum amount of \$40,000. *File #810*
- 10) **Authorized** the County Behavioral Health Director to sign and submit to the State ADP the Comprehensive Drug Court Implementation Notice of Grant Award application allowing the acceptance of \$17,502 of State General Funds for

the period of January 1, 2010 through December 31, 2010; and authorize the County Behavioral Health Director to sign. *File #810*

CHILD SUPPORT SERVICES – K. Johnson:

- 11) **Approved** Memorandum of Understanding with the County of San Mateo Department of Child Support Services for call center services for the period of 6/30/09 through 6/30/10. *File #22*

CLERK OF THE BOARD – L. Churchill:

- 12) **Approved** the action minutes of the June 9, 2009 meeting.

COUNCIL OF GOVERNMENTS – L. Rheinheimer:

(Items #13 through #17 will be addressed together)

- 13) **Approve contract with Council of Governments for professional and clerical services for FY 09/10.**
- 14) **Approve contract with Airport Land Use Committee for professional and clerical services for FY 09/10.**
- 15) **Approve contract with Local Transportation Authority for professional and clerical services for FY 09/10.**
- 16) **Approve contract with Authority for Freeways and Expressways for professional and clerical services for FY 09/10.**
- 17) **Approve contract with Measure A Authority for professional and clerical services for FY 09/10.**

Supervisor Barrios questioned what the counties share was on the costs from each of the requested contracts and are they county employees.

Council of Governments Executive Director Lisa Rheinheimer replied that there are no costs to the county; COG pays for all of these services through the County and they are county employees reimbursed by COG.

Marvin Jones, Hollister resident, spoke in regards to the five contracts and the legal services.

CAO Susan Thompson clarified that these are revenue agreements for the county to provide professional services and are reimbursed 100% by Council of Governments (COG).

Joe Thompson, resident, said this is an example why we don't have money for health care and an example why the states strung out so badly and the local county governments are under the gun and chasing businesses out of California. Mr. Thompson said these joint powers authorities are violating the Brown Act and the Small Businesses Practices Act.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor De La Cruz, approved contracts with Council of Governments, Airport Land Use Committee, Local Transportation Authority, Service Authority for Freeways and Measure A Authority for professional and clerical services for FY 2009/10. (Unanimous) File #1035*

COUNTY COUNSEL – B. Thompson:

- 18) **Approved** First Amendment to the legal services agreement with the law firm of Bingham, McCutchen, LLP in an additional amount not to exceed \$75,000 for on-going legal services related to processing the Santana Ranch Specific Plan application. *File #160*

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 19) **Approved** contract with Dr. Johnson-Schroetlin for psychological services for the period of July 2, 2009 to June 30, 2010 for the amount of \$30,000.
(Verbal change, change Attachment A, last sentence should be changed from 720 to 300 hours). File #130
- 20) **Approved** contract with the Housing Opportunities for Persons with Aids (HOPWA) for the period of July 1, 2009 to June 30, 2010 in the amount of \$27,250 for services rendered by the county; and **authorized** the H&HSA Director to sign.
(Verbal change to page d.1, last sentence should read San Benito County not Santa Clara County). File #130

INTEGRATED WASTE MANAGEMENT– M. Rose:

- 21) **Approved** contract renewal with Golder Associates, Inc. at John Smith Road Landfill for Groundwater Monitoring for two-year period of July 7, 2009 to June 30, 2011 in the amount of \$135,000. *File #75.4*
- 22) **Approved** contract with Golder Associates, Inc. for General Services for John Smith Road Landfill for two-year period of July 7, 2009 to June 30, 2011 in the amount of \$20,000. *file #75.4*

INTERNAL SERVICES – R. Inman:

- 23) **Approve Third Amendment to the Memorandum of Understanding with SEIU, Local 521 (General Unit Employees).**

Joel Hill, SEIU, spoke in regards to Amendment #3 to SEIU contract. Mr. Hill said that he is asking for restraint by the Board pending an approved budget, specifically, the furlough option. Mr. Hill said that they would like to see the voluntary furloughs begin immediately and phase in the full furlough once the budget has been approved.

Supervisor Monaco thanked SEIU and appreciated that these negotiations ran so well in these very tough economic times.

Jonell Ortega, County Communications Dispatcher, said that they are not able to do the furlough program because of their twenty-four hour need and are open to other ideas, maybe looking at some of the comp time off.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, approved the Third Amendment to the Memorandum of Understanding (MOU) with SEIU, Local 521 (General Unit Employees) (Unanimous) File #630*

- 24) **Adopt Resolutions opposing the closure of San Juan Bautista State Historic Park and the Fremont Peak State Park. (Res. No. 2009-61)**

Chairman Botelho said that he would like to make a suggestion to add a whereas on the resolution to read: The economy of the County of San Benito is significantly enhanced by the activities that take place at the San Juan Bautista State Historic Park and Fremont Peak State Park and the visitors that come to San Benito County.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, **continued** to the afternoon session to make changes to the resolutions as directed. (Unanimous)*

25) Appoint Mr. Steve Wittry as the Public Works Administrator for San Benito County effective July 21, 2009.

Supervisor Barrios said that she welcomed Mr. Wittry and mentioned that he brings a lot of local experience and knowledge to the County.

Chairman Botelho said that he is very excited about having someone for our local community getting this position.

BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Loe, **appointed** Mr. Steve Wittry as the Public Works Administrator for San Benito County effective July 21, 2009 at Range 40.6 Step B of the County County's Department Head Salary Plan and **approved** the following: (1) Employee shall receive 120 hours of administrative leave on July 21, 2009 and thereafter 120 hours of administrative leave shall be credited each calendar year on January 1. (2) Car allowance of \$500 per month. (3) 90 days prior notice of intent to terminate. (4) All other benefits provided to management employees.*

Mr. Wittry said that he looks forward to working with the county and appreciated the vote of confidence. *(Unanimous) File #105/630*

PUBLIC WORKS DEPARTMENT – J. Cox:

26) **Adopted Ordinance No. 838,** amending Chapter 17.01 of the San Benito County Code, Motor Vehicles and Traffic, establishing a speed limit of 25 miles per hour on Carr Avenue, from its intersection at Carpenteria Road, to Mile Post 1.275, and 35 miles per hour from Mile Marker 1.275 to 1.63, at the intersection of Anzar and Aromitas Road. *(Continued from June 23, 2009 meeting) File #105*

27) **Adopted** the specifications for the Juvenile Hall Maintenance and Improvements HVAC Project. *File #120.5*

28) **Adopted Resolution No. 2009-63,** authorizing Public Works to accept donated materials from Dassel's Petroleum, Inc. for the construction of two Horseshoe pits to be located at the San Benito County Historical Park. *File #105.3*

29) **Roll FY 2008-09 appropriation for the Cienega Road Realignment Project to FY 2009-10 beginning July 1, 2009 until adoption of the FY 2009-10 capital improvement budget; accept all bids in the bid summary report; award contract to Don Chapin Co., Inc. as the lowest responsive, responsible bidder; approve contract in the amount of \$422,160; and authorize the Road Commissioner to issue change orders to the construction contract in an amount not to exceed \$33,611.**

Supervisor Barrios said that she had received a phone call in regards to opening of the bids and that the subcontractors had not been listed and she brought it to the attention of County Counsel. Supervisor Barrios said this was, in

particular, the cost of the subcontractor that is supplying the actual bridge. Supervisor Barrios said that County Counsel was going to look into this.

Assistant County Counsel Barbara Thompson said that she would try to have an answer for the Board this afternoon.

Supervisor Monaco said that he spoke with Assistant Public Works Director Arman Nazemi in regards to this specific project and would be working with Mr. Nazemi in the near future and have this entire project brought back to the Board for information only as to the status of the realignment

BOARD ACTION: Upon motion made by Supervisor Monaco and seconded by Supervisor Barrios, **continued to the afternoon session for further clarification.** (Unanimous)

- 30) **Made** a finding authorizing sole source lease with Pitney Bowes for upgrade of current mail processor machine; **approved** a 60-month lease contract with Pitney Bowes through 2014 in the amount of \$603.00 year for a total lease amount of \$3,015. *File #105*

SHERIFF'S DEPARTMENT – C. Hill:

- 31) **Approve Step F (Range 19.4) of the Communications Dispatcher II position effective July 26, 2009. Funds are budgeted for this position.**

Chairman Botelho said that he was concerned about hiring someone at a higher step at this time and asked if someone that we already have within our rank could take that position at a lower step and keep it in house.

Sheriff Hill explained how this would be an overall savings.

BOARD ACTION: Upon motion made by Supervisor Barrios and seconded by Supervisor De La Cruz, **approved Step F (Range 19.4) of the Communications Dispatcher II position effective July 26, 2009 noting funds are budgeted for this position.** (Unanimous) *File #110*

- 32) **Authorized** (OES Manager) to submit the CalEMA FY09 Homeland Security Grant Program on behalf of the County Operational Area; **adopted Resolution No. 2009-63** approving an application for funding from the California Emergency Management Agency – FY09 Homeland Security Grant Program. *File #75.5*

PUBLIC HEARING: (9:00 a.m. or as soon thereafter as the matters may be heard)

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 33) **Regarding request to authorize submission of the 2009 Community Development Block Grant (CDBG) Application:**

- 1) Receive Health & Human Services Agency (HHS) Director's report.
- 2) Hold public hearing to receive public comment on the proposed application.
- 3) Authorize Chair to sign resolution authorizing submission of the grant application in the amount of \$400,000 and authorize signing authority for the HHS Director
- 4) Authorize the County Administrative Officer to sign the "Assurances" pertaining to the grant.

Health & Human Services Director Kathy Flores provided background information regarding the proposed resolution for the 2009 Community Development Block Grant (CDBG) application.

Enrique Arreola explained the purpose of the CDBG application and grant.

Mr. Arreola noted that there was a sign up sheet at the back of the room and the CDBG application for viewing.

Chairman Botelho opened the public hearing.

Lisa Faulkner, Representative of Emmaus House, thanked the county for their past support and the CDBG Team for their leadership in putting the application together. Ms. Faulkner said that without these funds they would not be able to keep the shelter open 24 hours, seven days a week. Ms. Faulkner said that their goal is to launch an educational campaign that would be bilingual and target the outlying regions of the area.

Doug Emerson, Homeless Task Force, said that they currently have 24 beds and mostly younger people occupy them. Mr. Emerson said that they rely on the CDBG grant funding as it allows them to open on November 1, 2009, a month early.

Mr. Emerson said that every year they have a fundraiser and this year it is Jazz Under the Stars on the 18th of July. He encouraged everyone to attend.

Mary Ann Hughes, Executive Director of Community Food Bank of San Benito County-Community Pantry, said that they are one of the grantees for the CDBG grant. Ms. Hughes said that they provide a nutritional education program to their clients. Ms. Hughes said that they have a need for more fresh fruits and vegetables.

Marty Richman, Hollister resident, said that he supports this grant application and programs.

Chairman Botelho closed public hearing.

Mr. Arreola answered questions posed by Board Members.

BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Loe, **received** the Health & Human Services Agency (HHS) Directors report, **adopted Resolution No. 2009-64**, authorizing submission of the grant application; and **authorized** chair to sign said resolution; **authorized** signing authority for the HHS Director; **authorized** the County Administrative Officer to sign the "Assurances" pertaining to the grant. (Unanimous) File #130*

REGULAR AGENDA:

ADMINISTRATION:

34) Status update of State Budget.

County Administrative Officer Susan Thompson reported that there is no state budget to date. CAO Thompson addressed the issue of the IOU's that are going out to the forty smallest counties, with populations under 40,000, stating that we are not one of those counties. CAO Thompson explained that we are on deferral meaning we are getting no interest for the loans that we are making to the State of California to make up for the fact that the State is not sending us money.

Ms. Thompson said that we are waiting for the budget to be approved by the State and would proceed in the preparation of our county budget and have budget hearings begin on August 3rd.

35) Briefing by Bureau of Land Management (BLM) Hollister Field Office on the draft resource management plan/environmental impact statement for managing public lands in Clear Creek Management Area and direct staff as appropriate.

Hollister Field Manager of the Bureau of Land Management Rick Cooper provided a PowerPoint presentation in regards to the Briefing on the Clear Creek Management Area Resource Management Plan. Items that were covered were: planning area, planning history, current planning activities, purpose and need, outreach and involvement, public health and safety, range of alternatives, summary comparison of alternatives, map-no action alternative, clear creek area, preferred alternative map, preferred alternative, private landowners, county CEQA needs, continued use in Clear Creek Management Area, risk in the area.

Mr. Cooper said that what BLM would be looking for from the Board of Supervisors is what they could do to enhance this draft document that would help county decision makers to proceed with the county roads out in this area to help the county.

Mr. Cooper mentioned that the key points in this plan that the county needs to focus on are transportation, social economic sections, economic and risk sections.

Mr. Cooper said that the schedule that they are looking at right now is to release the draft by mid August for public review and a final Environmental Impact Statement (EIS) in spring of 2010 and hopefully a record of decision in early summer of 2010.

Discussion ensued by Board members and Mr. Cooper.

Marty Richman, Hollister resident, said that once EPA throws the red flag the game is over. Mr. Richman said that he recommends that we look at what the exposure is for hikers and the availability of people to go in on foot.

Supervisor Monaco said that we need to deal with the issue pertaining to the county road that goes through this property. Supervisor Monaco suggested possibly forming an ad hoc committee to work with the Bureau of Land Management (BLM) or someone with public works, etc.

Supervisor Loe said that we need technical people to do a peer review of this document and bring back a proposal pertaining to costs.

County Administrative Office Susan Thompson said that she would like to look into the options of the board and possibly an ad hoc committee and bring back a proposal to the Board at a later date.

Sheriff Curtis Hill said that their office has worked closely with BLM over the years. Sheriff Hill said that that there is a huge law enforcement problem in that area. *File #755*

36) Consider and approve the funding recommendations for the FY 2009-10 presented by the Community Foundation for San Benito County as follows: a) Advocacy, Inc. \$5,000, b) Area Agency on Aging \$25,000, c) Community Food Bank of San Benito County \$3,126, d) Foster Grandparents Program \$5,476, e) Jovenes de Antano \$40,000, f) Senior Citizens Legal Services \$3,500 for a total of \$82,102.

County Administrative Officer Susan Thompson provided background information in regards to the funding recommendations for the FY 2009-10 presented by the Community Foundation for San Benito County.

Gary Byrne's of the Community Foundation gave a brief overview of the process that was used for the non-profit funding for FY 2009-10. Mr. Byrne's said that they received ninety-eight letters of intent from eighty-four non-profit services in San Benito County. Mr. Byrne's said the process took about four months and he was here today with the recommendations to the Board of Supervisors for the non-profit funding for San Benito County.

Supervisor Monaco said that he appreciated the Community Foundation assisting the county with this project.

The following representatives from community organizations addressed the Board: Terry Hancock, Director Senior Citizens Legal Services; Clay Kemp, Executive Director of the Seniors Council Area Agency on Aging and Foster Grandparents Program; Kathleen Johnson, Executive Director Advocacy, Inc., Pauline Valdivia, Executive Director Jovenes de Antano, Mary Ann Hughes, Executive Director of Community Food Bank of San Benito County.

Marty Richman, Hollister resident, said it was a good decision to have the Community Foundation help put it all together.

Linda Faulkner, Emmaus House, said that that they have received support in the past and hopes to receive support in the future and appreciates the counties collaboration with the Community Foundation.

County Administrative Officer Susan Thompson said that we need instructions from the Board today to enter into formal contracts for specific services for each organization that the Board chooses to fund.

Supervisor Monaco said that he would like to have staff move forward and prepare contracts for each program for execution by the Board of Supervisors.

Clay Kemp of the Seniors Council Area Agency asked for the funds for Foster Grandparents Program be reduced to \$1,376 and the funds for the Area Agency on Aging be increased to \$29,100.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor De La Cruz; **moved** to prepare contracts with the recommended changes to the Area Agency on Aging increase amount to \$29,100 and decrease the Foster Grandparents amount to \$1,376. (Unanimous) File #119*

INTERNAL SERVICES – R. Inman:

- 37) Approve agreement with Coast2Coast RX Card Program.
This item was moved to the afternoon session.

BOARD OF SUPERVISORS:

- 38) Hold discussion and take possible action regarding the Mosquito Abatement Program Assessment; direct staff to make changes as appropriate to the final Resolution based on the action today, to be presented at the Public Hearing on July 28, 2009. (Supervisor Botelho)
This item was moved to the afternoon session and subsequently continued to the July 28, 2009 meeting.

COUNTY SUPERINTENDENT OF SCHOOLS – M. Sanchez:

- 39) Receive the County Superintendent's Report on visits to schools rated at Decile 3 or below in San Benito County.

This item was moved to the afternoon session and subsequently continued to the July 28, 2009 meeting.

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.)

- 40) Conference with Legal Counsel – Existing litigation (Subdivision (a) of Government Code Section 54956.9) Number of cases: 1
Name of case: Guerrero v. County of San Benito, et al; U.S. District Ct, San Jose; Case No. C08 00307PVT
Item was continued to July 28, 2009.

**AFTERNOON SESSION
1:30 P.M.**

The Board adjourned to Closed Session at 1:30 p.m. and reconvened into Regular Session at 1:45 p.m. re:

- 41) **Conference with Legal Counsel – Anticipated Litigation** – Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9 Number of cases: 1. Closed session is authorized by Section 54956.9(b)(3)(A).
No final action taken. File #235.6

Closed Session Item #42 was moved to the end of the afternoon session.

SITTING AS THE PUBLIC AUTHORITY FOR IN HOME SUPPORTIVE SERVICES:

1:45 p.m.

The Board adjourned as the Board of Supervisors and reconvened as the Public Authority for In Home Supportive Services re:

IN HOME SUPPORTIVE PUBLIC AUTHORITY:

- 43) **Regarding rescinding of Public Authority In Home Supportive Services (IHSS) provider rate approved on May 26, 2009 take actions as follows:**
- 1. Reinstate the Public Authority rate for IHSS Providers to \$10.50 per hour.**
 - 2. Reinstate the rate for hourly Public Authority Administrative costs of \$.38.**
 - 3. Authorize the Clerk to sign a minute order, in order to provide the California Department of Social Services (CDSS) with verification of the approved rate increase.**

Health & Human Services Agency Executive Director Kathy Flores provided background information stating that on May 26, 2009 the Board of Supervisors

approved the request to reduce the rate to \$9.85 from the previous wage of \$10.50 per hour. This action was triggered by State budget action that would have limited the State's financial participation in the In Home Supportive Service Program Provider wage to \$9.50 per hour effective July 1, 2009. Ms. Flores reported that on June 30, 2009 we were apprised of an injunction and a court order issued on June 26, 2009 ordering the State to stop the wage participation limit of \$9.50 per hour which was in response to a lawsuit filed by SEIU and although the injunction is directed at the State our County Counsel has advised that action be taken to reinstate the \$10.50 wage. Ms. Flores said they have informed State Department of Social Services and they in turn told us that we had to take this back to the Board of Supervisors and then submit the paperwork, SOC 449, to reinstate the wage back to \$10.50. Ms. Flores asked that the action include that this will be effective July 1, 2009.

The following members of the public addressed the Board: Felicitas Corona, IHSS Provider; Irma Gonzalez IHSS Provider and Benigno Delgado SEIU ULTCW staff.
BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Barrios, approved Items 1, 2 and 3 as recommended with Items 1 and 2 to be effective July 1, 2009. (Unanimous) File #130.1*

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

PLANNING DEPARTMENT – A. Henriques:

44) **Held a public hearing regarding amendment of the General Plan Land Use Element and Map (GPA's 08-38, 08,39 & 09-40); review and consider said amendment and map; and adopt resolution adopting the Mitigated Negative Declarations and Mitigation Monitoring and Reporting Programs, adopting the recommended findings and conditions of approval, and amending the General Plan Land Use Element and Map, as reflected in General Plan Amendment Nos. 08-38, 08-39 & 09-40 based on the recommended findings and conditions of approval.**

Assistant Planning Director Byron Turner explained that this item amending the General Plan Land Use Element and the three following zone change requests were very closely tied together and provided an explanation through a PowerPoint presentation outlining the three proposed zone changes.

Discussion was held as to the format for considering Items 44, 45, 46 and 47 individually or as a whole. Question and answer period ensued with Board members addressing their concerns for each of the zone change requests.

Chairman Botelho opened the public hearing.

The following members of the public addressed the Board: Joe Thompson, local resident; Robert Gatto, Hollister resident; and, Anne Hall, Civil Engineer, San Benito Engineering.

Chairman Botelho closed the public hearing.

Discussion ensued and questions posed by the Board were answered by staff.

BOARD ACTION: *Supervisor Monaco made a motion to adopt **Resolution No. 2009-65** adopting the Mitigated Negative Declarations and Mitigation Monitoring and Reporting Programs, adopting the recommended findings and conditions of approval, and amending the General Plan Land Use Element and Map, as reflected in General Plan Amendment Nos. 08-38, 08-39 & 09-40, based on the*

recommended findings and conditions of approval. Supervisor Barrios seconded the motion.

Roll Call Vote:

Supervisor Monaco - Yes

Supervisor Loe - No

Supervisor Barrios - Yes

Supervisor De La Cruz - Yes

Supervisor Botelho - No

The motion passed 3-2.

File #790

- 45) Held a public hearing regarding Zone Change 08-167, changing the Zoning Designation of a Parcel Located at 11300 Cienega Road from Agricultural Rangeland (AR) to Agricultural Productive (AP), Calera Wine Co.; and adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; adopt the recommended findings and conditions of approval; and adopt ordinance approving the zone change.**

Assistant Planning Director Byron Turner provided background information.

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

BOARD ACTION: *Supervisor Monaco made a motion to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for Zone Change Petition 08-167; adopt the recommended findings and conditions of approval reflected in the Board report and in Planning Commission Resolution 2009-04; and adopt **Ordinance No. 839** approving Zone Change No. 08-167, based on the findings and conditions of approval reflected in the Board report, and as recommended by the Planning Commission. Supervisor Barrios seconded the motion.*

Roll Call Vote:

Supervisor Monaco - Yes

Supervisor Loe - Yes

Supervisor Barrios - Yes

Supervisor De La Cruz - Yes

Supervisor Botelho - No

The motion passed 4-1.

File #790

- 46) Held a public hearing regarding Zone Change 08-166; changing the Zoning Designation of Parcel Located at 2200 Santa Ana Valley Road from Agricultural Rangeland (AR) to Agricultural Productive (AP), Darin Del Curto; and adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; adopt the recommended findings and conditions of approval; and adopt ordinance approving the zone change.**

Assistant Planning Director Byron Turner provided background information.

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

BOARD ACTION: *Supervisor Barrios made a motion to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for Zone*

Change Petition 08-166; adopt the recommended findings and conditions of approval reflected in the Board report and in Planning Commission Resolution 2009-01; and, adopt **Ordinance No. 840** approving Zone Change No. 08-166, based on the findings and conditions of approval reflected in the Board report, and as recommended by the Planning Commission. Supervisor Monaco seconded the motion.

Roll Call Vote:

Supervisor Monaco - Yes
Supervisor Loe - No
Supervisor Barrios - Yes
Supervisor De La Cruz - Yes
Supervisor Botelho - No

The motion passed 4-1.

File #790

- 47) **Held a public hearing regarding Zone Change 06-148; changing the Zoning Designation of Parcel Located at 2321 Fallon Road from Agricultural (AP) To Heavy Industrial (M-2) Ruben Rodriquez; and adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; adopt the commended findings and conditions of approval; and adopt ordinance approving the zone change.**

Assistant Planning Director Byron Turner provided background information.

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

BOARD ACTION: Supervisor Barrios made a motion to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for Zone Change Petition 06-148; adopt the recommended findings and conditions of approval reflected in the Board report and in Planning Commission Resolution 2009-03; and adopt **Ordinance No. 841** approving Zone Change No. 06-148, based on the findings and conditions of approval reflected in the Board report, and as recommended by the Planning Commission. Supervisor De La Cruz seconded the motion.

Roll Call Vote:

Supervisor Monaco - Yes
Supervisor Loe - Yes
Supervisor Barrios - Yes
Supervisor De La Cruz - Yes
Supervisor Botelho - Yes

The motion passed 5-0.

File #790

REGULAR AGENDA:

PLANNING DEPARTMENT – A. Henriques:

- 48) **Review draft of the 2007-2014 General Plan Housing Element and authorize submittal to the State Department of Housing and Community Development.**

Planning Director Art Henriques provided a PowerPoint presentation covering the following points: Purpose; Regional Housing Needs Allocations; Sites Inventory; Sites by map; Currently zoned for development showing various maps/areas; Remaining needs; Developable under GP only after rezoning; General Plan Amendment and rezoning required prior to development; Erratum; Changes since June drafts; Planning Commission Review; and, Next Steps.

Supervisor Monaco asked if the property on Southside Road, known as the Brigantino Property, would be included noting that a letter was received from Dave Brigantino and included with today's packet, requesting that the draft Housing Element include this property. Supervisor Monaco felt it should be included.

Mr. Henriques responded that this inclusion of the Brigantino property was not considered by the Planning Commission because the request was not received at that time.

Discussion ensued.

Supervisor Barrios noted an error on Page 7 stating that the Median Household Income in 1980 should read \$18,600 and not \$1860.

Joe Thompson, local resident, objected to COG having anything to do with this item noting that there are redundant and duplicative agencies.

Scott Fuller, San Juan Oaks, asked the Board to include the Hart Property, now owned by Brigantinos, in the Housing Element Draft. Mr. Fuller also stated that the current impact fees are too high for development of low-income housing.

Marty Richman agreed with Mr. Thompson and Mr. Fuller stating that impact fees are too high for all houses, not just low income.

Dave Brigantino, representing the Brigantino family, stated that he hoped that the Board of Supervisors reviewed his letter referring to the Hart Property and the Southside Road Property being included in the Housing Element Draft and in respect to the Southside Road property he would like to see it as high density as possible.

It was consensus of the Board members to include the two Brigantino Properties (Southside Road and Hart/Brigantino Property) in the Housing Element Draft and submit to the State HCD.

Chairman Botelho directed staff to address the concerns of the Board and the public as stated today and to have the two ordinances that have been previously discussed back to the Board of Supervisors within the timeline as set forth. File #790

Due to the lateness of the hour Chairman Botelho stated that we would continue Items 38, 39 and 40 to the meeting of July 28, 2009.

The Board took a five-minute break at 4:10 and reconvened at 4:15 p.m. re:

24) Adopt Resolutions opposing the closure of San Juan Bautista State Historic Park and the Fremont Peak State Park. (Res. Nos. 2009-61 & 2009-61A)

Internal Services Director Rich Inman reported that after this morning's discussion of this item he has added a 4th paragraph to the San Juan Bautista

State History Park resolution and a 5th paragraph change has been made to the Fremont Peak State Park resolution.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, adopted **Resolution No. 2009-61 and Resolution No. 2009-61A**, as amended, opposing closure of San Juan Bautista State History Park and the Fremont Peak State Park. (Unanimous)*

Chairman Botelho directed staff to send the resolutions to our state representatives and the City of San Juan Bautista with a cover letter stating that the Chairman would be more than happy to answer any questions and be of assistance with regards to opposing these closures. File #93

- 29) Roll FY 2008-09 appropriation for the Cienega Road Realignment Project to FY 2009-10 beginning July 1, 2009 until adoption of the FY 2009-10 capital improvement budget; accept all bids in the bid summary report; award contract to Don Chapin Co., Inc. as the lowest responsive, responsible bidder; approve contract in the amount of \$422,160; and authorize the Road Commissioner to issue change orders to the construction contract in an amount not to exceed \$33,611.**

Assistant Public Works Director Arman Nazemi explained that one of the reasons the sub-contractors were not listed is because they are not considered as sub-contractors but as vendors and Don Chapin Co. would provide the services.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe approved as recommended. (Unanimous) File #105*

INTERNAL SERVICES – R. Inman:

- 37) Approve agreement with Coast2Coast RX Card Program.**

Internal Services Director Rich Inman provided background information stating that some months ago he made a presentation to the Board concerning the NACo prescription discount card program and since that time he explored alternative programs and discovered the Coast2Coast Rx Program which appears to be a better program and would not involve any county staff and also generates revenue for the county in that we would receive a 50 cent royalty for each prescription filled under the program and that could mean an estimated \$10,000 or \$15,000.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, approved the agreement between San Benito County and Coast2Coast Rx Card Program and authorized the Chairman to sign said agreement. (Unanimous) File #630*

- 49) Review the request by the City of San Juan Bautista to amend their Sphere of Influence; and adopt resolution in order for the City of San Juan Bautista may proceed with their application to LAFCO.**

Planning Director Art Henriques provided background information stating that this is a request by the City of San Juan Bautista to work with the County through an agreement process under California State Government Code to be able to go forward to LAFCO (Local Agency Formation Commission) for a proposed Sphere of Influence adjustment that would adjust approximately 357

acres (Davidson Property) to the City of San Juan Bautista's Sphere of Influence along its southerly border. Mr. Henriques explained the process.

Mr. Henriques answered questions posed by Board members.

A map titled Davidson Sphere of Influence Amendment was submitted by the City of San Juan Bautista.

Supervisor Loe asked Mr. Henriques to provide a list of everything that Consultant Denise Duffy has worked on so far including the costs to date.

Further discussion ensued and Mr. Henriques clarified the process and what action the Board of Supervisors would be taking today.

Steve Julian, Acting San Juan Bautista City Manager, stated that this was more than just what has been said regarding how this interacts with LAFCO. Mr. Julian stated that the City of San Juan has had a rough road over the past few years and the relationship between the City and the County has not always been on the best of terms. Mr. Julian said that they have had good cooperation with the County Planning Department and the County Administrative Officer and this is a opportunity for the City and the County to work together on some issues and he appreciates the staff cooperation and looks forward to moving forward with what will be a mutual benefit.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, indicated that the request by the City of San Juan Bautista to amend their Sphere of Influence has been reviewed and adopted **Resolution 2009-66** authorizing a proposed agreement between the City of San Juan Bautista and the County of San Benito to be forwarded to the Local Agency Formation Commission (LAFCO) for consideration pursuant to Government Code Section 56425(b). (Unanimous) File #790*

50) Approve contract Amendment #1 with Pacific Municipal Consultants for preparation of environmental impact report (EIR) for Santana Ranch Specific Plan application.

Planning Director Art Henriques provided background information stating that this is an amendment to the environmental services agreement with PMC for the Santana Ranch Specific Plan project and given discussions with the applicant there is a need to go beyond the supplemental EIR and go to a full EIR and in order to do that PMC needs an additional amount of funds, not to exceed an additional \$36,250, to go forward with ongoing environmental planning services.

Mr. Henriques indicated that in a few weeks he would be bringing back an Amendment #2 because there needs to be additional analysis done and a traffic impact fee program.

Supervisor Loe stated that at the last Board of Supervisor's meeting she asked for a copy of what the attorney's decided as to why this does not have to go to a vote of the people and she would like to have this on the next agenda (Consent Item) so the public can see it, noting that nothing confidential needs to be included.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor Monaco, approved the first amendment to the environmental services agreement with Pacific Municipal Consultants (PMC) in an additional amount not to exceed \$36,250 for ongoing planning services related to the preparation of an EIR for the Santana Ranch Specific Plan application and authorized the Chairman to sign. (Unanimous) File #790*

The Board adjourned into Closed session at 4:45 p.m. and reconvened into Regular Session at 4:55 p.m. re:

42) Conference with Legal Counsel – Existing litigation (Subdivision (a) of Government Code Section 54956.9) Number of cases: 1
Name of case: Nuno, et al v. Churchman, et al; Monterey County Superior Court, Case No. M95209

BOARD ACTION: *Moved to provide defense for Deborah Churchman in this litigation which arises out of a car accident. (5-0 Vote) 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: Monaco, Loe, Barrios, De La Cruz, Botelho
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned at 4:55 p.m. to July 28, 2009 at 9:00 a.m. for a regular meeting.

ANTHONY BOTELHO, CHAIRMAN
San Benito County Board of Supervisors

ATTEST:
Janet Slibsager
Assistant Board Clerk
Morning Session

Linda Churchill
Clerk of the Board
Afternoon Session