



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 28, 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 and Botelho were present. Supervisor De La Cruz was absent. Also present was County Administrative Officer Susan Thompson, County Counsel Matthew Granger and Clerk of the Board Linda Churchill. Chairman Anthony Botelho presided.

9:00 a.m. CALL TO ORDER:

- a) Chairman Botelho led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Chuck Obeso-Bradley, Co-Chairman for Hollister Relay for Life, invited the supervisors and members of the public to attend this worthwhile event beginning on Friday, August 2nd and ending on Saturday, August 3rd at Andy Hardin Field.
Terry Butler, Natasha Wist and Mary Zanger, members of the San Benito County Health Care for All group all addressed the Board and asked for a resolution supporting SB 810 that would mean basic health care for everyone.
Marty Richman, local resident, opposed a resolution supporting SB810 stating this is a health care plan that would cost \$1 trillion and what we need to do is attack basic problems such as tort claim reform, Medicare going broke, etc.
- d) **Department Head Announcements:** County Administrative Officer Susan Thompson reported that the 2009-2010 Recommended Budget has been uploaded to the County website and is available for public review. CAO Thompson noted that on August 5, 2009 budget hearings would begin and the budget should be formally adopted on August 25, 2009.
- e) **Board Announcements, Introductions and Presentations:** Supervisor Monaco welcomed newly appointed County Counsel Matthew Granger and Public Works Administrator Steve Wittry.
Chairman Botelho expressed deep gratitude to Assistant County Counsel Barbara Thompson for taking over as Acting County Counsel and Janelle Cox who stepped in as Interim Public Works Director during the recruitment periods for those positions. Chairman Botelho thanked them both for an outstanding job.

Supervisor Barrios reported that she received a telephone call from a North San Benito County resident who lives close to the Santa Clara County line and he expressed concern about the clearing of the creeks and preparing for possible future flooding and wondered if San Benito County would be addressing issues, particularly trees under the bridges, broken levees and possible Fish and Game concerns that could arise. Supervisor Barrios suggested that this matter be agendized by the Public Works Department after budget hearings are completed.

Supervisor Barrios stated that she sits on the steering committee for Pet Friends and they are recently launching a humane challenge to reduce the over 1000 cats and dogs that are euthanised in San Benito County yearly and an effort is being made to raise funds for an inexpensive spay or neuter clinic and she hopes they will receive support from people of San Benito County.

Supervisor Barrios reported that she attended a Business Council meeting with CAO Thompson and their primary concern was the state of the State. Supervisor Barrios noted that CAO Thompson was very informative and gave the Council up to date information on some of the decisions that have been made that could affect San Benito County. Supervisor Barrios stated that the Business Council would like to see San Benito County more proactive in the streamlining of our Planning and Building (permitting) department.

Supervisor Loe welcomed new County Counsel Matthew Granger and Public Works Administrator Steve Wittry.

Supervisor Loe reported that she attended a New Courthouse meeting last week stating that it went very well and coming along very nicely and they are even looking at landscaping at this point.

Supervisor Loe reminded everybody that this weekend is the Relay for Life event at Andy Hardin Field and she encouraged all to attend and thanked everyone for their support.

Chairman Botelho said he supports the Relay for Life Event and encouraged support from everyone.

Chairman Botelho reported that a joint meeting of the San Benito County Board of Supervisors, Council of Governments, City of Hollister and City of San Juan Bautista was held on July 16, 2009 to discuss the Highway 156 Gap project and its status. Chairman Botelho said he has asked staff to agendize this item for the August 25, 2009 meeting to discuss some of the issues facing property owners.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisors Barrios, approve Consent Agenda Items 1 through 26 with the exception of Item #18 which was pulled for discussion. (4-0 Vote. De La Cruz absent)

ADMINISTRATION:

- 1) **Approved** cancellation of the August 11, 2009 Board of Supervisors Meeting. *File #156*

AGRICULTURAL COMMISSIONER – P. Matulich:

- 2) **Approved** contract with the California Department of Food & Agriculture for organic inspection services for the FY 2009/2010 in the amount of \$4,675.00. *File #1.1*
- 3) **Approved** Memorandum of Understanding (MOU) with the Department of Interior for weed control work at Pinnacles National Monument. *File #1.1*

BEHAVIORAL HEALTH – A. Yamamoto:

- 4) **Approved** contract renewal with John Muir Behavioral Health Center for acute psychiatric hospital care for the period of July 1, 2009 through June 30, 2010 for a maximum total not to exceed \$70,000. *File #810*
- 5) **Approved** contract renewal with St. Helena Hospital Center for acute psychiatric hospital services for the period of July 1, 2009 through June 20, 2010 for a maximum amount not to exceed \$70,000. *File #810*
- 6) **Approved** contract Chamberlain's Children Center, Inc. for Therapeutic Behavioral Services for the period of July 1, 2009 through June 30, 2010 for a maximum annual total of \$40,000. *File #810*
- 7) **Approved** the request for the Behavioral Health Department's Substance Abuse Program Manager to attend the Project Director's Meeting in Washington, D.C. scheduled for August 3-5, 2009, sponsored by the United States Education Department. *File #810*
- 8) **Approved** contract renewal with Hope Rehabilitation Services for the FY 2009-10 for a maximum annual total of \$25,000. *File #810*
- 9) **Approved** contract renewal with the Department of Mental Health for State Hospital Bed Use for the FY 2008-09; and **authorized** the Behavioral Health Director to sign contract; **adopted Resolution No. 2009-67** signifying Board approval to enter into contract. *File #810*

CLERK OF THE BOARD – L. Churchill:

- 10) **Approved** the action minutes of the June 2, 2009 and June 23, 2009 meetings.

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 11) **Approved** contract with the State Department of Public Health for Immunization Assistance Program for the period of July 1, 2009 through June 30, 2010 in the amount of \$35,000 and **authorized** the HSA Director to sign. *File #420*
- 12) **Adopted Resolution No. 2009-68** extending authority to levy an additional \$2.00 for every \$10.00 or fraction thereof until January 1, 2014, upon every fine, penalty or forfeiture imposed and collected by the courts for specified criminal offenses and vehicle code violations for emergency medical services. *File #130*
- 13) **Re-appointed** Ms. Loree Van Bebber to the Workforce Investment Board for a three-year term effective August 1, 2009 through July 31, 2012. (CSWD) *File 939*

- 14) **Appointed** Mr. Alex Arias to the Workforce Investment Board for a three-year term effective July 28, 2009 through July 27, 2012. (CSWD) *File 939*
- 15) **Appointed** Mrs. Mary Tomlinson to the Community Action Board for a three year-term effective July 28, 2009 through July 27, 2012. (CSWD) *File 939*

INTERNAL SERVICES – R. Inman:

- 16) **Approved** deletion of six county vehicles assigned for 24-hour use and **approved** attached Exhibit B entitled “County Vehicle Log-24 Hour-Recommended”. *File #630*
- 17) **Approved** Exhibit A, an amendment to Rule 19 B 3 of County of San Benito Personnel Policies and Procedures Handbook concerning use of accrued vacation for probationary employees who have already completed a previous probationary period. *File #630*
- 18) **Approve the Third Amendment to the Memorandum of Understanding (MOU) with the Deputy Sheriff’s Association (DSA).**
Deputy Sheriff Marc Williams and President of the Deputy Sheriff’s Association stated that through numerous meetings they were able to come to a reasonable agreement, making some concessions, and they were happy as an Association to support the County and look forward to maintaining a positive relationship and future negotiations.
BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Monaco, approved the third amendment to the MOU with the DSA as recommended. (4-0 Vote. De La Cruz absent) File #1010*
- 19) **Approved** the First Amendment to the Memorandum of Understanding (MOU) with Management Employees (MEG). *File #630*

INTEGRATED WASTE MANAGEMENT - M. Rose:

- 20) **Approved** the application and **adopted Resolution No. 2009-69** authorizing the Integrated Waste Management Director to apply for 15th Cycle Used Oil Block Grant funds with the California Integrated Waste Management Board (CIWMB).
File #142

PLANNING DEPARTMENT – A. Henriques:

- 21) **Approved** contract with Resource Design Technology, Inc. for Annual Quarry and Mine Inspections as required by State Law for the period of July 28, 2009 through June 30, 2012 in an amount not to exceed \$42,000 per year. *File #790*

PUBLIC WORKS DEPARTMENT –S. Wittry:

- 22) **Approved** agreement with the California Department of Transportation for the Regional Surface Transportation Program (RSTP) Federal Exchange and State Match Program for FY 2008-09, in the amount of \$239,849; **adopted Resolution No. 2009-70** approving the same. *File #105*
- 23) **Approved** the reimbursement agreement with City of Hollister for contract administration for Pavement Design of two county roads, El Camino Paraiso and Santa Rosa Drive, in the amount of \$17,000. *File #105*

- 24) **Approved** lease agreement with Toshiba Business Solutions for two Toshiba E-Studio copiers for a period of 48 months through July 28, 2013 in the amount of \$3,936 per year. *File #105*
- 25) **Approved** contract with LSA Associates, Inc. for biological services for the period of July 28, 2009 through June 30, 2011 in the amount of \$50,000. *File #105*
- 26) **Approved** contract with San Benito Engineering Company for construction staking and engineering support during the construction of the bridge for the period of July 22, 2009 to June 30, 2010. *File #105*

REGULAR AGENDA:

COUNTY SUPERINTENDENT OF SCHOOLS – M. Sanchez:

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

County Superintendent of Schools Mike Sanchez reported that the purpose of the visits is to inspect the schools that fall within the Deciles 1 and 3 to assure that they have adequate materials and that their facilities are also adequate. Superintendent Sanchez reported that out of the four schools visited there was no deficiencies found and no complaints were received in these areas. Superintendent Sanchez also reported that in the area of teacher assignments there were no misassignments in the Aromas/San Juan area and there were two misassignments within the Calaveras / R.O. Hardin schools but it was corrected within the 30 days that are allowed. *File #13*

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

10:35 a.m.

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 28) **Held public hearing to consider proposed resolution confirming the Annual Report for CSA #36 (Emergency Medical Services and Life Support) and adopt said resolution accepting the annual report and adopting the benefit assessment charges contained therein.**

Mark Eiserer, HHS Administrative Services Manager, provided background information stating that the purpose of this public hearing is to adopt a resolution to establish the assessment for CSA#36 for Fiscal-Year 2009/2010 and to accept the annual report for CSA#36 which was submitted to the Board on June 9, 2009. Mr. Eiserer reported that the assessment proposed for 2009/2010 is \$13.50 per parcel, which is a \$6.49 reduction from Fiscal-Year 2008-2009 and is attributed to the restructure of the ambulance provider contract with American Medical Response (AMR). This restructured contract approved by the Board on April 7, 2009 eliminated the County subsidy previously to AMR and placed the responsibility for county communications and electronic patient care reporting

maintenance on AMR. Mr. Eiserer also reported that the contract allowed AMR to increase their rates effective July 1, 2009 to absorb those costs.

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

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, adopted **Resolution No. 2009-71** accepting the annual report for CSA #36 and the benefit charges set forth therein and authorized the Chairman to sign. (4-0 Vote. De La Cruz absent) CSA*

AGRICULTURAL COMMISSIONER – P. Matulich

- 29) **Hold a public hearing regarding the Mosquito and Disease Control Assessment; discussion regarding the rate to be imposed for Mosquito and Disease Control Assessment; adopt Resolution to levy the rate of the Mosquito and Disease Control Assessment for FY 2009-10 based on the Engineer's Report prepared by SCI Consultants.**

Management Analyst III Margie Riopel gave the staff report on behalf of the Agricultural Commissioner who was unable to attend the meeting. Ms. Riopel reported that on June 23, 2009 the Board received an Engineer's Report prepared by SCI Consultants for the Mosquito Abatement Assessment and adopted a resolution of intent to increase the rate based on findings. Ms. Riopel stated that a public hearing is required today. Ms. Riopel reported that there has been some discussion about the CPI rate, which can also be discussed today.

Lengthy discussion ensued with regards to the how the CPI rate was calculated and whether the proposed increase is legal.

Chairman Botelho opened the public hearing.

The following members of the public addressed the Board: Marvin Jones, local resident who questioned the legality of raising the assessment more than the maximum 3%; Marty Richman, local resident, stated he was against automatic raises; and, Nina Schafer who questioned the next item on the agenda which is eliminating the Vector Control Technician position but increasing the assessment.

Staff members answered questions posed by the public.

Chairman Botelho closed the public hearing.

Further discussion ensued about whether or not the assessment should be raised by more than 3%, the services that are provided and whether the County needs this level of consultants for professional services and also if this item could be continued for further information and discussion.

County Clerk/Auditor/Recorder Joe Paul Gonzalez stated that law mandates that if you're going to place an assessment on the ballot the public hearing must be concluded by August 1st if it is to be placed on the assessment for the Secured Tax Roll.

BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Monaco, adopted **Resolution No. 2009-72** with an amendment of a rate not to exceed 3% and to levy the rate of the Mosquito and Disease Control Assessment for Fiscal-Year 2009-2010 based on the Engineer's Report prepared by SCI Consultants. (3-1 Vote. Botelho voted no, De La Cruz absent)*

It was noted that the assessment of \$10.08 shall be added to the blank line of Paragraph 9, Page 2 of the resolution. File #1.1

AGRICULTURAL COMMISSIONER – P. Matulich:

30) Approval of elimination of position and recommended layoff in the Mosquito Abatement Program, effective on or around October 1, 2009.

Internal Services Director Rich Inman provided the background information for this item on behalf of the Agricultural Commissioner who was unable to attend the meeting. Mr. Inman reported that the County Administrative Officer challenged each General Fund Department Head to lower their budget net cost to the county. Mr. Inman said that the Agricultural Commissioner, in looking to meet that goal, looked into the ability to provide the services for the Mosquito Abatement District with existing permanent staff in his department that would generate a little over \$67,000 for the General Fund. Mr. Inman stated that the Agricultural Commissioner assured him that the elimination of the 1.0 FTE Vector Control Technician II position should not effect the standard level of service provided by the Mosquito Abatement Control Program, mainly due to shifting the expense of existing permanent, professional staff who will split the duties of the District and meet all of the mandates effectively.

Supervisor Barrios stated she was concerned because of the letter from the California Department of Public Health who expressed their concern as to whether if this position is eliminated if we are going to meet all of the criteria necessary under this ballot measure for this program. Supervisor Barrios asked if we needed to respond to this letter assuring the State that we are going to be meeting all of the criteria.

Mr. Inman stated that he would respond to the letter and assure the State that we will be meeting all of the criteria.

Supervisor Monaco stated that while this was a difficult decision he has been assured by the Agricultural Commissioner that the services can be provided at the required level.

The following members of the public addressed the Board:

Nina Schafer, San Felipe Road resident, stated it did not make sense to pay higher taxes for less service. Ms. Schafer left \$5.00 on the podium stating it could be considered a donation to the General Fund.

Stan Husted, retired Public Health Biologist, stated he was in strong disagreement with the Agricultural Commission noting that a full-time technician is needed.

Kriss Costa, San Felipe Road resident, who worked in Mosquito Abatement for Santa Clara County for 20 years, felt that a full-time technician is necessary and she did not feel that existing staff had Code Enforcement Certification.

Marvin Jones, local resident, felt it was a bad idea to have Agricultural Commissioner staff replace a certified technician.

Marty Richman, local resident, asked how this related to the previous item where the Mosquito Abatement Program budget showed a total of \$135,000 for salary, benefits, social security, etc. to employ one person stating this was a lot of money.

Mr. Inman clarified that 100% of the cost of the program is 100%. 80% of that cost is to support the full time tech with the remaining 20% as administrative expense for the Agricultural Commissioner and Secretarial time for administrative support. Mr. Inman stated that 80% represents one FTE (Full Time Equivalent).

Chairman Botelho stated that he certainly hears what the public speakers had to say today and in an ideal situation a Vector Control Officer's expertise is what's needed for this program. Chairman Botelho stated that when we started this program we started with the Agricultural Commissioner's staff managing Vector Control noting that staff took classes and were certified and that's how it was operated for the first year or so and they did a fine job. Chairman Botelho stated that unfortunately we are not in an ideal situation and local government must consolidate some of these services and find ways that we can maintain programs and keep things afloat. Chairman Botelho stated that in actuality we're losing agricultural program services in order for our staff members to dedicate more time to the Vector Control Program, which they are qualified and certified to do. Chairman Botelho stated that when things get tough employees need to wear more hats and he supports the Agricultural Commissioner in this decision.

Supervisors Monaco, Loe and Barrios concurred stating they support this decision.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Barrios, 1) Approved the elimination of 1.0 FTE Vector Control Technician II position in the schedule of authorized positions for the Agricultural Commissioner's Office, Mosquito Abatement Control Program, effective on or around 10/1/09; and 2) Approved the layoff of 1.0 FTE Vector Control Technician II in the Agricultural Commissioner's Mosquito Abatement Control Program. (4-0 Vote. De La Cruz absent) File #1.1*

ADMINISTRATIVE BUSINESS:

- 31) **Consider the scheduling of Full or Partial County office closures necessary to effectively manage unpaid furlough time off necessary to balance the fiscal year 2009-10 budget and provide direction to staff.**

County Administrative Officer Susan Thompson stated that she was not asking for any decision today about any specifics but wanted to talk about the concept of closure days. CAO Thompson said that San Benito County has never done anything like this before. CAO Thompson noted that the County would be meeting with SEIU and MEG (Management Employee Group) tomorrow to talk about what kinds of closure scenarios would work best in some of the operating departments and also we'll be having conversations with Department Heads.

Board members provided input stating that input from staff is critical and suggested that closure during the week between Christmas and New Year's would be a good time and also Christmas Eve day. Another suggestion would be making the 4th of July weekend one day extra. Closing in line with state closures should also be looked into and consistency with closure days so the public would know in advance.

Supervisor Loe stated that day care could be an issue and to keep that in mind when talking to employees.

CAO Thompson stated that some floating days should be considered which would not be an impact to the public and allow flexibility to employees.

Supervisor Loe noted that some Board of Supervisor's meetings might have to be canceled. *File #630*

BOARD OF SUPERVISORS:

32) **Hear report on the Cities, Counties, Schools (CCS) summit held in Sacramento on July 17-18, 2009. (Supervisor Barrios)**

Supervisor Barrios reported that it was an honor to attend this summit meeting for Supervisor Monaco who was unable to attend this year. Supervisor Barrios stated that this was an historic event as it was the first time these three groups met in a statewide gathering to create framework for change in the State of California. Supervisor Barrios said there were about 500 attendees representing 8000 California elected officials. Supervisor Barrios noted that the summit was named "Rebuilding California From the Ground Up". *File #156*

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 at 11:16 p.m. and reconvened into Regular Session at 12:15 p.m. re:

33) **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

No reportable action. *File #235.6*

34) **Public Employee Performance Annual Evaluation**

Title: County Administrative Officer

Authority: California Government Code Section 54957

No reportable action. *File #235.6*

35) **Conference with Legal Counsel – Anticipated Litigation**

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: Number of Cases: (2)

No reportable action. *File #235.6*

36) **Conference with Legal Counsel – Anticipated Litigation**

Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9: Number of Cases: (1)

Closed session is authorized by Section 54956.9(b)(3)(C).

No reportable action. *File #235.6*

Addendum:

37) **Conference with Legal Counsel – Anticipated Litigation**

Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9. Number of Cases: (1)

Closed session is authorized by Section 54956.9(b)(3)(C).

No reportable action. *File #235.6*

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

AYES: SUPERVISORS: Monaco, Loe, Barrios, Botelho
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: De La Cruz

There being no further business the Board adjourned at 12:15 p.m. to August 4, 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