



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 OCTOBER 27, 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, County Counsel Matthew Granger and Clerk of the Board Linda Churchill. Chairman Anthony Botelho presided.

9:00 a.m. CALL TO ORDER:

- a) Supervisor De La Cruz led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Mike Carter, CSA 16 (Holiday Estates) expressed his views as to how to help resolve the aftermath of the Proposition 218 election stating that the material was not well worded and it needs to be re-done and a new election should take place.
Joe Thompson, local resident, stated that at the last COG (Council of Governments) meeting an action was taken without the vote of all five supervisors stating that all five district taxpayers foot the bill for the Highway 156 alignment and there was not full representation.
- d) **Department Head Announcements:** County Administrative Officer (CAO) Susan Thompson reported that she attended the Annual CAO Conference where discussions were held and ideas given about challenges all counties are facing.
Public Works Administrator Steve Wittry reminded the public that the overlay pavement on Southside Road is underway and there is a lot of activity and people should allow extra time for the next couple of days.
Health & Human Services Agency Director Kathy Flores announced that next Monday, November 2nd the Human Services Office will be commencing on our Go Live for our new automated eligibility system called C-4. This is an automated eligibility system for food stamps, Medi-Cal, CMSP and CalWorks programs.
Ms. Flores reported that with regards to the IHSS Program, there was an injunction issued against the Department of Social Services by the Courts about

two weeks ago that will stop the State from implementing some changes that would have affected about 95 of our recipients of services. Ms. Flores stated that those cuts to service were to take place November 1st but that has been put on hold.

Ms. Flores reminded the public about our upcoming seasonal flu clinic to be held at the Veteran's Memorial Building on Tuesday, November 3rd from 1:30 p.m. to 6:30 p.m.

Ms. Flores also stated that with H1N1 in the news continually, we did get our allocation of 600 doses of the vaccine for the target group of kids ages 2 to 9. Ms. Flores said that they have retained some of that stock and have distributing it on our Tuesday immunization clinics and the rest was pushed out to medical providers in the community.

Planning Director Art Henriques reported that the public noticing has been completed for the Hillside Ordinance and is scheduled for the November 10, 2009 Board of Supervisors meeting and they are also targeting the Housing Element and the Growth Management Ordinance and the Inclusionary Housing Ordinance for sometime in December.

- e) **Board Announcements, Introductions and Presentations:** Supervisor Monaco stated that he and a couple of other Supervisors have been attending some CSA meetings noting that the meetings can get contentious. Supervisor Monaco said he was very concerned in listening to the constituents in these CSA's. Supervisor Monaco stated that at some level the County has made some blunders and we have a real responsibility as government officials to provide clear answers to people and we need to provide information correctly and up front and not keep changing day to day.

Supervisor Monaco reported that he attended the Monterey Bay Unified Air Pollution Control District Board meeting in Monterey on October 21st and like every other government agency they are moving in a direction of leaner and meaner. Supervisor Monaco stated that this does not affect our County directly but affects Monterey and Santa Cruz counties. Supervisor Monaco stated that they are using technology to cut down on the amount of staff time used in some monitoring that is being done and moving in a direction of higher efficiency and more productive and abilities to get answers out to people quickly through internet services that is being upgraded.

Supervisor Barrios agreed with Supervisor Monaco's statements with regards to CSA's stating that what she would like to see us do is that before we start the next Prop 218 voting process we meet individually with each of the CSA's and go over the ballot line by line and if there are any concerns or questions that we address them before that vote is taken again.

Supervisor Barrios reported that she attended a San Benito County Business Council meeting stating that it is nice to see that there is a group of San Benito County folks that are really interested in the success of San Benito County and they want to be a partner and their hope is that there is continued communication with the Board of Supervisors and the City of Hollister and the City of San Juan Bautista and through the planning process we can work and partner with some of the major decision that are made so that businesses can thrive in this county and obtain permits in a relatively easy manner.

Supervisor Barrios also reported that she attended a meeting with the County's IT Manager, Ray Espinosa, and visited his department and learned a lot

by doing so. Supervisor Barrios asked that a regular update by the IT Department be provided.

CONSENT AGENDA:

Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved Consent Agenda Items 1 through 8. (Unanimous)

BEHAVIORAL HEALTH - A. Yamamoto:

- 1) **Approved** contract renewal with Heritage Oaks Hospital for inpatient psychiatric hospital services for the FY 2009-10 for a maximum amount not to exceed \$50,000. *File #810*
- 2) **Approved** the facility lease agreement for 544 San Benito Street, Suite 102, Esperanza Drop-In-Center, for the period of December 1, 2009 through November 30, 2014. *File #810*

CLERK OF THE BOARD – L. Churchill:

- 3) **Approved** the action minutes of the September 22, 2009 regular meeting.

HEALTH & HUMAN SERVICE – K. Flores:

- 4) **Adopted Resolution No. 2009-100** authorizing the Emergency Medical Services Agency to access criminal history information for the purpose of certifying EMP-1 and First Responder applicants. *File #1068*

INTERNAL SERVICES – R. Inman:

- 5) **Approved** revised Joint Powers Agreement creating the Trindel Insurance Fund. *File #36*

PROBATION DEPARTMENT – B. Cardall:

- 6) **Authorized** Probation Department to accept Youthful Offenders Block Grant (YOBG) Funds for FY 2009-2010 in the amount of \$117,000; **approved** contract with Hollister Youth Alliance not to exceed \$50,000 and **approved** modification as set forth in the budget transfer and augmentation of budget units in both revenue and expenses. *File #510*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 7) **Approved** the specifications and bid documents for the Southside Road Asphalt Overlay Project – Phase II. *File #105*

SHERIFF'S DEPARTMENT – C. Hill:

- 8) **Approved** out of state travel for Beth Kafer to attend the National Center for Missing and Exploited Children training seminar in Alexandria, VA from November 6, 2009 through November 10, 2009 for cost not to exceed \$300. *File #110*

Chairman Botelho announced that due to the amount of people in the audience that were present for the CSA Item he would move the Public Works Department Items up on the agenda beginning with Item #13.

REGULAR AGENDA:

PUBLIC WORKS DEPARTMENT – S. Wittry:

13) **Adopt resolution approving the Parks and Recreation Facilities Naming Policy.**

Public Works Administrator Steve Wittry provided background information stating this was a revisit of the adoption of the Parks & Recreation Facilities Naming Policy. Mr. Wittry stated that the item was before the Board of Supervisors several weeks ago and there were several changes made to the document and it went back to the Parks & Recreation Commission and there were changes made there as well. It was forwarded to the Veteran's Memorial Park Commission for their review and it is now before the Board of Supervisors for approval.

Mr. Wittry reported that one of the changes made that the Board of Supervisors has not seen before was a stipulation of a policy that any facility on the Veteran's Memorial Park would also go through the Veteran's Memorial Park Commission prior to it's being accepted.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Barrios, adopted **Resolution No. 2009-102** approving the Parks and Recreation Facilities Naming Policy. (Unanimous) File #93*

14) **Approve the definition of essential services as it pertains to County Service Areas; and consider and provide direction on the reclassification of Reserve balances.**

Public Works Administrator Steve Wittry provided background information stating that in August 2009 an election for property related services was conducted by the County in accordance with Proposition 218. Mr. Wittry stated there were several CSA's which did not approve property related fees and therefore we were in a situation where we have services that are expected by residents but there is no fee mechanism available to collect for that process. Mr. Wittry continued stating that on October 2, 2009 there was a budget hearing and the budgets for the CSA's were adopted and at that meeting the Board directed staff to provide direction as to a clarification to essential versus non-essential services. Mr. Wittry stated that the Porter-Cologne Water Quality Control Act dealing with water and wastewater clearly define and set precedence for the services of water and sewer as being essential services and we need to comply with the provisions of this Act.

Mr. Wittry noted that at this point in time there is action happening in Sacramento to modify the Porter-Cologne Act to address storm water issues and to date there is nothing that addresses water quality in terms of storm water drainage but it is pending.

Mr. Wittry stated that staff is recommending that storm water services, also storm water maintenance services be included as essential services. These types of services include weed abatement, inlet cleaning, grading of flow paths and failure of these types of systems can lead to significant personal property damage as well as the effect of public water systems and septic systems if flooded. Adversely, staff is not recommending that landscaping services, street maintenance services, utility services be identified as essential because although

those services greatly enhance the quality of life, staff does not feel that there is essential need to provide those service and staff is concerned about the setting of precedence for areas in the County which do not have CSA's to cover their needs.

Mr. Wittry further reported that if the Board determines that storm drainage maintenance service activities are essential services, Public Works would perform those actions in accordance with the budgets that were approved on October 2, 2009.

Mr. Wittry noted that the Board received some updated sheets today that are referred to as changing packets. Mr. Wittry explained that these were not changes to the budget but were clerical errors.

Mr. Wittry said if the Board takes action that storm drainage maintenance is an essential service then Public Works Department will immediately go through the process of performing those actions with the approved budgets that are already in place. Mr. Wittry said if the Board determines that essential services do not include storm drainage maintenance services we have a situation where we have 18 CSA's that essentially do not have "essential services" and there is fund balances that are there.

Mr. Wittry said that staff is requesting direction as to how we would deal with those fund balances and how we move forward through that process. Mr. Wittry stated that the recommendation from staff is that we keep those reserves in place until there is a CSA that has been approved or another legal entity has stepped in to take over those services or the CSA is dissolved.

Lengthy discussion ensued and comments provided by Board members with regards to what should be considered essential services or non-essential services.

The following members of the public addressed the Board:

Tami Cook-Erickson, CSA #16 (Holiday Estates)
William Dudding, CSA #14 (Quail Hollow)
George Constantine, CSA #14 (Quail Hollow)
Deane Judd, CSA #21 (Long Acres)
Ed Hawkins, CSA #16 (Holiday Estates)
Joe Thompson, Vineyard Estates
Bonita Rivera, CSA #53 (Riverview Estates)
Julio Salazar, CSA #53 (Riverview Estates)
Marty Richman, local resident
Richard Ferreira, CSA 35 (Union Heights)
Maria Alfaro, CSA #14 (Quail Hollow)
Elizabeth Pennington-Young, local resident
Mike Carter, CSA #16 (Holiday Estates)

The Board adjourned for a break at 10:45 a.m. and reconvened at 11:55 a.m.

Chairman Botelho asked if staff had the figures as to the costs of utilities for each CSA as questioned by Supervisor Loe.

Mr. Wittry answered that there are currently 11 CSA's that have utility payments, which is water for landscaping and/or street lighting, and if the desire is to go forward and provide the lighting we would be looking at a cost of between \$20,000 and \$25,000 out of the County's General Fund that would be used to supplement that.

Mr. Wittry referred to Attachment Two (2) in the packet which is a listing of CSA's and figures that look at their reserve balances, the approved budget, and the proposed year-end reserve balance. Mr. Wittry stated if there was a successful process to bring those dollars back out of the General Reserve you would have no additional CSA's go negative that are shown on Attachment Two. Mr. Wittry indicated that Rancho San Joaquin, Lemmon Acres, Oak Creek and Hollister Ranch Estates would go negative if the current adopted budget were fully encumbered and those same four CSA's would go additional negative by various amounts due to the payment for utilities.

Discussion ensued with regards to shifting costs from General Fund to Reserves as a loan in order for CSA's to keep their lighting.

Joe Paul Gonzalez, County Clerk/Auditor/Recorder explained the process for a possible General Fund loan and also stating that it would have to be considered at the FY 2010-2011 budget hearings to use reserves.

County Counsel Matt Granger addressed the debate over essential services explaining that the failure of the Prop 218 vote means that the county is under no further obligation to provide any services so all services, water, sewer, landscaping and road maintenance should be cut off after the failure of the Prop 218 vote. County Counsel Granger further explained that there is a separate mandate under various federal / state laws, and perhaps even county laws, that says for public health and safety reasons or for compliance with, for example, the National Clean Water Act, the county has a responsibility to do these things irrespective of whether Prop 218 fails or not. Those are what are talked about as essential services and those are the services that we are trying to identify today and are legally required to be provided irrespective of Prop 218.

Discussion ensued

BOARD ACTIONS: *Supervisor Monaco made a motion to define storm drainage as an essential service countywide. Supervisor Loe seconded the motion. (Unanimous)*

Supervisor De La Cruz made a motion to provide funding and an allocation from contingencies, not to exceed \$25,000, to accommodate the CSA's budget for lighting for this one-time only period, until either Prop 218 or the budget process. Supervisor Monaco seconded the motion.

County Counsel Granger stated that the motion being contemplated was not agendized for this particular topic and so under the Brown Act the Board can provide direction to staff to contemplate the motion and bring it back for consideration.

Supervisor De La Cruz withdrew his original motion and amended his motion to direct staff to come back to the Board at the next available meeting so the Board can vote on the motion. Supervisor Monaco agreed.

Supervisor Loe stated when this item comes back we need to have the numbers accurate and we need to make sure that any reserve is taken out at the next budget time and also we need a second part for the one's that don't have enough money in their CSA's to cover it.

CAO Thompson stated that Mr. Wittry just informed her that the \$22,000 isn't just exclusively lighting and we haven't got the data to say exactly what the number is and it probably will be less than that.

Mr. Wittry stated that there is a roll-up of some of these and when we talk about utilities we also include the line item for landscape irrigation so for the three CSA's that get landscape irrigation that is a part of that \$22,000.

CAO Thompson said we would remove that and bring it forward with just the actual cost that we can identify for lighting.

Supervisor Barrios stated she did not want to take this dollar amount that was suggested and to just bring back a contract for utilities, not just PG&E, to include landscaping water that is included in these other CSA's. Supervisor Barrios said just say utilities noting this is a loan so why not include a loan for that.

Board members concurred.

Supervisor Loe asked if we could have that spelled out when it comes back so we have the two different numbers so we can make a decision at that time?

Supervisor Barrios agreed.

Chairman Botelho stated that he understands the motion would be to direct staff to apportion utilities costs to each CSA's impact on their individual reserves and for us to be able to take action to continue lighting as an essential service.

Supervisor De La Cruz stated that as the maker of the motion he meant to bring two-dollar figures and concurred with Supervisor Loe, one is for lighting and the other dollar figure for lighting and utilities. So there would be two budget figures for each CSA that has those items.

CAO Thompson stated that they would display the burn rate for those services, what is there actually remaining, if any, fund balance at the end of the year for essential services and the following period should Prop 218 fail.

Chairman Botelho stated that he felt the Board understands the motion and called for the vote.

The motion passed unanimously.

Mr. Wittry stated that just for clarification right now we are scheduled to terminate services on October 31st and with the direction and action coming forward it was his assumption that we will continue the services until the final determination.

The Board members stated that was correct.

Mr. Gonzalez said he also wanted to bring forward that it would be permissible for the Board to direct that the escape levy on CSA #16 for \$54 could be brought back to be put on the tax bill, as a corrected tax bill, but it would at least continue the continuity of having a revenue stream there so in the event that there is a failed Prop 218 there is something there.

Mr. Gonzales said they would have to prepare a levy for Board approval.

Chairman Botelho provided direction to prepare the levy and bring it back for Board consideration. CSA File / File #105

15) Receive the County Service Area Quarterly Report encompassing the period of July 1, 2009 through September 20, 2009.

Management Analyst Janelle Cox reported that during this particular reporting period we were at the end of the majority protest hearings and getting ready for the mail ballot election. Ms. Cox indicated that they met with some of the CSA's that requested a meeting and had questions about the mail ballot election. Ms. Cox reported that they also met with two of the CSA's (Cielo Vista

and Dunneville) that voted down the property related fee to try to work with them to come up with a fee they could approve and these discussions continue.

Ms. Cox further reported that Public Works is going to be completing a schedule to distribute to all of the CSA's showing when they plan to accomplish specific tasks related to storm drainage and road maintenance and they intend to distribute this schedule to each of the County Services Areas and report back on a quarterly basis.

Ms. Cox referred to a Summary of the Data from Public Works included in the Board's packet.

Ms. Cox stated that we are moving forward with meetings with all of the County Service Areas.

Supervisor Monaco thanked staff for their efforts to educate the public. *Supervisor Monaco asked that another column be added to the budget with per parcel costs. CSA File / File #105*

The Board adjourned at 11:35 a.m. and reconvened at 1:30 p.m. re:

ADMINISTRATION:

- 9) **Adopt resolution approving the form of and authorizing the execution and delivery of a purchase and sale agreement and related documents with respect to the sale of San Benito County's Proposition 1A Receivable from the state; and direct and authorize certain other actions in connection therewith.**

CAO Susan Thompson provided background information stating this is an item for full securitization of the Proposition 1A borrowing that the State of California has imposed upon us for this current fiscal year. CAO Thompson stated this is 8% of our property tax and with our participation in securitization, which was authorized under State legislation recently, we will without cost to us, be part of a pool of 56 counties and a many cities and special districts who will be doing a joint bond securitization program. CAO Thompson said what this means to us is rather than waiting for the State to pay us back within the next two years and possibly borrowing again before we actually get the money in the bank we will get our funds much quicker rather than waiting for the State.

CAO Thompson answered questions posed by Board members.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor De La Cruz, adopted **Resolution No. 2009-101** approving the form of and authorizing the execution and delivery of a purchase and sale agreement and related documents with respect to the sale of San Benito County's Proposition 1A Receivable from the State and directed and authorized certain other actions in connection therewith. (Unanimous) File #119*

- 10) **Receive status report on the work tasks in process with the Planning Application and Permit Streamlining Project.**

Internal Services Director Rich Inman reported that a workshop was held a few weeks ago sponsored by the Economic Development Corporation (EDC) where there was a discussion with developers, building officials and local agency officials was held with regards to a process by which we could develop a more efficacious way of processing permits and getting projects done in a timely manner. Mr. Inman reported that on October 7, 2009 the County Administrative Officer, Director of Planning, Public Works Administrator, Environmental Health

Manager and himself met to identify a specific work tasks plan to address a number of issues.

Mr. Inman provided a PowerPoint presentation titled Permit Streamlining, Project Update covering the following points:

- Issues
 - Accountability,
 - Clear Understanding of Processes
 - Coordination & Consistency
 - Bottle-Necks

Mr. Inman, CAO Thompson, and Planning Director Art Henriques answered questions posed by Board members and took note of input provided by the Board.

Supervisors expressed concerns with regards to a timeline to have this plan in effect and would like to see reports come back to the Board on a monthly basis.

Mr. Inman said he would have the first status report on the December 1, 2009 meeting agenda.

Brian Curtis, Stone Creek Properties; Marty Richman, local resident and Planning Commissioner Richard Bettencourt addressed the Board and provided suggestions. *File 790*

PLANNING DEPARTMENT – A. Henriques:

11) **Review General Plan Update Vision Statement; adopt or amend the statement as the guiding vision statement for the General Plan Update.**

Planning Director Art Henriques provided background information stating that the General Plan Advisory Committee prepared a vision statement to guide the drafting of the updated General Plan and the choice of General Plan alternatives. That statement is before the Board of Supervisors for consideration.

Supervisor Barrios suggested the following amendments to the statement:

- 1) Eliminate the year 2035. (Should be a forever vision.)
- 2) Eliminate the word walkable in the 2nd paragraph.
- 3) Change last sentence of paragraph to read “or by the way of enhanced virtual telecommunications” eliminating the word virtually.

BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Monaco, adopted the General Plan Update Guiding Vision Statement with amendments as suggested by Supervisor Barrios. (Unanimous) File #790*

12) **Review quarterly General Plan report and provide direction to staff.**

Planning Director Art Henriques provided background information stating that the Board of Supervisors approved a Phase Two contract for staff to work with the General Plan Committee and consultant in February 2009. Mr. Henriques stated they have been meeting about every six weeks with the General Plan Committee following previous Board discussion.

Mr. Henriques reported that the General Plan consultant is working on a background report and some opportunities and challenges report.

Mr. Henriques reported that the Vision Statement and a Health Policy have been discussed and at the next meeting draft criteria to help the county decide how to screen requests that have come in will be considered.

Mr. Henriques stated that staff is also completing some alternative budget scenarios to reduce the cost to the General Fund as previously requested by the Board and the report will be before the Board of Supervisors in November.
File #790

CLOSED SESSION:

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

16) **Public Employee Employment**

Title: Agricultural Commissioner and Sealer Weights and Measure
Authority: Government Code Section 54957
No reportable action. *File #235.6*

17) **Authority: California Government Code Section 54957**

Consider Discipline/Dismissal/Release matter of a Public Employee
Board Action: *County Counsel Matthew Granger reported that the Board adopted Resolution No. 2009-103 approving the retirement pension for the Deputy Sheriff position. (Unanimous)*

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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 3:05 p.m. to November 3, 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