



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 NOVEMBER 10, 2009 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date *in regular session*. Supervisors Monaco, Loe, Barrios, De La Cruz and Botelho were present. Also present was County Administrative Officer Susan Thompson, County Counsel Matthew Granger and Clerk of the Board Linda Churchill. Chairman Anthony Botelho presided.

9:00 a.m. CALL TO ORDER:

- a) Supervisor Loe led the Pledge of Allegiance.

In recognition of Veteran's Day, November 11th, everyone remained standing in honor of the men and women of our armed services and expressing profound gratitude for their dedication to our country.

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

- c) **Public Comment:** Joe Thompson, local resident, expressed his concerns about the record amount of foreclosures in San Benito County and how federal and state government are hurting small businesses.

Marty Richman, local resident, thanked the Board of Supervisors for honoring our veterans and thanked the veterans for defending our nation. Mr. Richman stated that young people should be encouraged to serve their nation noting it was a great life experience.

Urgency Item: Clerk-Auditor-Recorder Joe Paul Gonzalez asked the Board of Supervisors to consider adding an urgency item to the agenda stating that the matter came up subsequent to the posting of the agenda regarding closure hours that were adopted on August 25, 2009. Mr. Gonzalez stated that the Clerk/Recorder/Elections Office was included in that list of closures and as it turns out there is a Government Code cited that because we are receiving a specific revenue that the Board of Supervisors adopted in 1994 by Resolution No. 94-9 that prohibits the Recorder's Office from closing other than legal and judicial holidays. Mr. Gonzalez stated that since November 25, 2009 is our first non-legal closure day he requested adding this item to today's agenda in order to take action to rescind closure days for the Recorder's Office prior to that date.

Supervisor Monaco commented that another office in the county that's creating a major inconvenience for some people is the Assessor's Office closing right before the holidays. Supervisor Monaco felt at some point this should be discussed by the Board of Supervisors

BOARD ACTION: *Supervisor Monaco made a motion to add this urgency item to the agenda as Item No. 24. Supervisor Loe seconded the motion. (Unanimous)*

- d) **Department Head Announcements:** County Administrative Officer Susan Thompson announced that there has been a lot of informal discussion about issues that are coming forward on attempts to get items on the ballot related to State of California budget reform and financial reform and there are a number of these items that are being sponsored by various groups and agencies across the State. CAO Thompson stated that at the California State Association of Counties (CSAC) Conference, to be held next week in Monterey, these items will be discussed in the various CSAC policy committee meetings and we will be able to get a better idea of how it will impact county finance and she would be reporting at a subsequent Board of Supervisor's meeting.

Supervisor Monaco agreed with CAO Thompson's position and he would be attending these policy committee meetings at the CSAC Conference also and it would be wise to postpone any decision made by the Board of Supervisors until after we hear CSAC's position.

Public Works Administrator Steve Wittry announced that Public Works has been working together with staff at Hazel Hawkins Hospital where the hospital is going through renovations. Mr. Wittry said part of that renovation is to get rid of the modular buildings off their site and we are working to acquire those buildings and will be removing them, at no cost to us, and the moduls will then become ours and can be used at the Public Works Department site. Mr. Wittry stated that this item will be coming to the Board of Supervisors for approval to make any necessary repairs to replace outdated trailers that we now have on site.

CAO Thompson stated that these buildings would be moved before the next Board of Supervisors regular meeting.

- e) **Board Announcements:** Supervisor Monaco thanked Management Analyst Catherine Shaw for the E-mail received right after the last Board of Supervisor's meeting concerning the issue of the reimbursement from the Courts noting he appreciated the quick follow-up from County staff.

Supervisor Monaco reported that he attended the annual Farm Bureau Dinner-Dance on Saturday night, stating that it was an outstanding dinner event.

Supervisor Barrios reported that she too attended the Farm Bureau Dinner-Dance and it was very nice and very well attended.

Supervisor Barrios reported that the Pajaro River Watershed Flood Prevention Authority have figured out that it is very urgent that we contact people from the federal and state government regarding a levy project for the Pajaro River Flood Control that has been designed by the Army Corp of Engineers. Supervisor Barrios said they are providing some areas with a new design for a 100 year flood protection but other areas are not being recognized at all and are only eight year protection which could be devastating for the agricultural and the urban areas of both Monterey and Santa Cruz Counties. Supervisor Barrios said this would be devastating for the entire economy of the State and San Benito

County would be affected. Supervisor Barrios said this was not acceptable and they are going back to the table to make sure that this project is designed in a way that it does protect us during a flood. Supervisor Barrios said that letters have been prepared to be sent to the federal government and hopefully they can assist us with this project.

Supervisor De La Cruz announced that he received a royalty check and commission report from the Coast-to-Coast Rx Card Program in the amount of \$46.00 which covers August and September and there would be more to come. Supervisor De La Cruz thanked Internal Services Director Rich Inman, the supervisors and the public for making this a success. *Supervisor De La Cruz said that since these are undesignated dollars the Board, at a future meeting, will need to discuss how to accept these monies.*

Chairman Botelho reported that he also attended the Farm Bureau Dinner Dance noting it was a great event. *Chairman Botelho announced that the first "Farmer of the Year" award was presented to Tony Alameda stating it was greatly deserved and he would be presenting Certificate of Recognition to Mr. Alameda at the next Board of Supervisors meeting.*

PRESENTATIONS & RECOGNITIONS:

- 1) **Present Certificate of Recognition to Kay Gibson, who is retiring after over 32 years of service with the Health and Human Services Department, County of San Benito.**

Chairman Botelho presented Certificate of Recognition to Ms. Gibson.

- 2) **Present Certificate of Recognition to Janet Somavia, who is retiring after 7 years of Service with the Planning Department, County of San Benito.**

Chairman Botelho presented Certificate of Recognition to Ms. Somavia.

CONSENT AGENDA:

Upon motion made by Supervisor Barrios and seconded by Supervisor Monaco approved Consent Agenda Items 1 through 14 with the exception of Items 3, 6, and 10 which were pulled for discussion. (Unanimous)

AGRICULTURAL COMMISSIONER – R. Ross:

- 3) **Approve contract with SCI Consulting Group for the Mosquito Abatement Program, for a total cost not to exceed \$28,500 for a period of three years retroactive from July 26, 2009 thru March 31, 2014.**

Margie Riopel, Management Analyst, provided background information and explained the services provided by SCI Consulting Group.

Chairman Botelho stated he had a hard time understanding why we need to continue with consultant services.

Lengthy discussion ensued about the need to continue this contract.

It was the consensus of the Board to have a report during the budget process on these services and to discuss an exit strategy.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Barrios, approved contract with SCI Consulting Group as recommended. (Unanimous) File #1.1*

BOARD OF SUPERVISORS :

- 4) **Approved** Certificate of Recognition for the 2009 Veteran of the Year Honoree, James David Perales, MSGT, Retired United States Air Force, for presentation at the 15th Annual Veterans Breakfast sponsored by San Benito County LULAC on November 11, 2009. *File #156*

BEHAVIORAL HEALTH – A. Yamamoto:

- 5) **Approved** the appointment of Donald Moody to the Behavioral Health Board as a public interest member for the term of November 10, 2009 through November 10, 2012. *File #810*

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 6) **Add a one (1) FTE Eligibility Supervisor to the CSWD Schedule of Authorized Positions, Budget Unit 2401-12. After the completion of a successful promotional recruitment, delete one (1) FTE Eligibility Worker I/II or Employment Training Services Counselor I/II from said schedule, as appropriate.**

HNSA Director Kathy Flores handed out Page 3 of the board report which was inadvertently left out of the Board's packet.

BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Monaco, approved this item as recommended. (Unanimous) File #130*

- 7) **Appointed** Ms. Nelda Escamilla as representative for the Youth Employment Program (YEP) Council for a three-year term effective November 10, 2009 through November 10, 2012. (CSWD) *File #939*
- 8) **Appointed** Ms. Kathy Flores as a public sector representative for Workforce Investment Board (WIB) for a three-year term effective November 10, 2009 through November 10, 2012. (CSWD) *File #139*

INTERNAL SERVICES – R. Inman:

- 9) **Adopted Resolution No. 2009-105** for 2010 Employer Contributions for CalPERS Health Insurance Premiums for Retirees of San Benito County. *File #630*
- 10) **Approve Reclassification in Community Services and Workforce Development, effective November 15, 2009 to reflect consolidation of duties and departmental reorganization.**

Supervisor De La Cruz said he didn't believe in re-classifications and did not approve of this request.

Management Analyst Jacki Credico explained that this is not a new classification and the employee is performing duties of a different classification

BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Monaco, approved reclassification as recommended and authorizing vacation payout for 274.2 hours for employee receiving reclassification effective November 15, 2009. (4-1 vote. De La Cruz voted no.) File # 939*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 11) **Declared** supplies and equipment as surplus as requested by the Public Works, Integrated Waste Management Departments and the Health & Human Services Agency; and **directed** staff to remove from inventory. *File #105.3*
- 12) **Approved** contract with MNS Engineers, Inc. for resident engineering and construction administration services for San Juan Highway Bike Lane, in the amount of \$100,000. *File #105*

SHERIFF'S DEPARTMENT – C. Hill:

- 13) **Approved** agreement for Deputy Services for the City of San Juan Bautista for the period of July 1, 2009 through June 30, 2010. *File #110*

VICTIM WITNESS – C. Hooper:

- 14) **Approved** the additional grant revenue of \$11,278 awarded by CalEMA State Grant and appropriated funding to temporary salaries in the Victim/Witness budget. *File #165*

REGULAR AGENDA:

HEALTH & HUMAN SERVICES AGENCY – K. Flores:

- 15) **Authorize the Health and Human Services Agency (HHS) to proceed with the development of the San Benito County TANF ECF Subsidized Employment and Non-Recurring Short Term Supportive Services Plan (\$1.6 million) and approve Exhibit A of the San Benito County CalWORKs Plan Addendum and authorize the Director of HHS to sign said plan.**

HHS Director Kathy Flores provided background information and introduced Deputy Director Enrique Arreola who presented a PowerPoint Presentation titled San Benito County TANF ECF Subsidized Employment, Non-Recurring Short Term Support Services,

Mr. Arreola and Ms. Flores answered questions posed by Board members.

It was the consensus of the Board to make sure these funds were spent here in San Benito County.

Marty Richman, local resident, doesn't believe that this plan sustains itself and it doesn't make any sense. Mr. Richman felt that money is being mis-spent and the money should be put into the economy and should be built from the ground up.

Board members felt that this was a good program and a huge benefit as it gets people at the lowest end of the totem pole working again.

BOARD ACTION: *Upon motion made by Supervisor De La Cruz and seconded by Supervisor Monaco, approved item as recommended. (Unanimous) File #130*

PUBLIC WORKS DEPARTMENT – S. Wittry:

- 16) **Approve budget adjustment for Utility Services in County Service Areas.**
Management Analyst Janelle Cox provided background information stating that this item is a recommended budget adjustment in the form of a loan from the General Fund Contingency for utility services in specified County Service Areas (CSA's). Ms. Cox reported that during discussions at the October 27, 2009

Board of Supervisor's meeting testimony was heard from numerous residents representing multiple CSA's requesting the allocation of some funding for utilities for street lights and also for landscape maintenance of the common areas. Ms. Cox noted that staff was directed to return with an analysis of the utility cost in each of the CSA's, the impact of the payment of these services on their reserve balances and then a budget adjustment to fund those services in 2009-2010.

Ms. Cox reported that a revised Attachment #1 was distributed to the Board on Friday, November 6, 2009 and noted that the numbers didn't change in this attachment but are simply displayed in a different manner.

Ms. Cox explained the analysis that was done and before the Board today.

Lengthy discussion ensued with regards to what should be considered essential services and what should be done to meet the requests by the residents.

The Board adjourned for a break at 10:37 a.m. and reconvened at 10:49 a.m.

Discussion continued regarding what services should be continued and also emphasizing that if Proposition 218 is voted down again next year then the services would not be continued.

Joe Thompson, property owner, addressed the Board.

BOARD ACTION:

Supervisor Barrios stated the motion would be to approve the PG & E and street light maintenance only.

Supervisor Barrios made a motion to:

- 1) *Approve the appropriation of General Fund Contingency funds to provide a source of financing for PG&E costs and street light maintenance support services in County Service Area Nos. 16, 21, 25, 28, 30, 33, 34, 42, 46, 47 and 53 for FY 2009-10 through a loan to the County Service Areas as listed on Exhibit 1 which has been amended to be in the amount of \$10,068.*
- 2) *Approve the transfer and budget adjustment to County Service Area Nos. as named in above Item #1 in the amounts noted for each on Exhibit 1 for a total amount of \$10,068 through a loan authorized by Govt. Code 25214.4; and*
- 3) *Approve the loan on the condition that the repayment date is extended to FY 1010-2011 and that the interest on the loan be calculated at the same rate of interest as earned by the County's temporarily idle funds; and*
- 4) *Direct staff to include the reimbursement of the General Fund Contingency by County Service Area Nos. as named in above item #1 during the FY 2010-11 budget process.*

Supervisor Monaco seconded the motion.

The motion passed unanimously.

Supervisor Barrios made the same motion as stated above with respect that it is the same County Service Areas, the same process of transferring budget adjustment and loan conditions but this would be strictly for landscape maintenance (water) costs in the amount of \$19,736 with the same stipulations as the previous motion.

Supervisor De La Cruz seconded the motion.

Roll Call Vote:

<i>Supervisor Monaco</i>	-	<i>No</i>
<i>Supervisor Loe</i>	-	<i>No</i>
<i>Supervisor Barrios</i>	-	<i>Yes</i>

Supervisor De La Cruz - Yes
Supervisor Botelho - Yes
The motion failed due to the requirement of a 4/5 vote.
CSA File / #106

INTERNAL SERVICES – R. Inman:

- 17) **Approve Resolution Electing to Establish a Health Benefit vesting requirement for future retirees under the Public Employees' Medical and Hospital, which will apply only to employees hired by San Benito County on or after January 1, 2010.**

Management Analyst Jacki Credico provided background information stating that this request was brought to the Board of Supervisors with the intention of reducing the County's long-term (future) liability for retiree benefits. Ms. Credico reported that this is a plan that is offered through CalPERS and allowable under the Public Employee Retirement Law (PERL).

Ms. Credico reported that the County has negotiated this change of future benefit with the recognized bargaining groups as required by the Myers-Milias Brown Act. The General Unit (SEIU), the Deputy Sheriff's Association and the Management Employee Group have all agreed in recent approved Memorandums of Understandings regarding the County's budget situation and employee furloughs. Ms. Credico noted that all other employees who are not members of these bargaining groups would fall under the same terms and conditions for benefit purposes.

Ms. Credico provided further explanation and referred to the Vesting Key Rules and Schedule and Actuarial by Bickmore Risk Services, which were included in the Board's packets.

Ms. Credico and CAO Thompson answered questions posed by Board members.

Supervisor De La Cruz encouraged the new 2010 Chairman of the Board to re-visit appointing a Finance Committee and a Pension Committee.

Joe Paul Gonzalez, Clerk-Auditor-Recorder, informed the Board of Supervisors that he looked at the actuarial studies and he felt that it was so close an item that he was kind of indifferent to the decision of going with vesting or not vesting because the increased benefit under vesting lowers the advantage of vesting. Mr. Gonzalez stated that hopefully employees hired after January 2010 will not have much PERS experience and we may then experience some savings. Mr. Gonzalez stated that he is indifferent to the plan so long as the County sticks to the policy that this can only be for employees hired after January 1st and that there be no Opt In period allowed because that would increase our costs dramatically.

CAO Thompson stated that we are one of the few counties who are doing something about unfunded liability and feels we are moving in the right direction.

BOARD ACTION: Upon motion made by Supervisor Barrios and seconded by Supervisor Loe, adopted **Resolution No. 2009-106** electing to establish a Health Benefit Vesting requirement for future retirees under the Public Employees' Medical and Hospital Care Act, which will apply only to employees hired by San Benito County on or after January 1, 2010. (Unanimous) File #630

- 18) **Approve contract with Keep IT Simple's (KIS) consulting services to assist with the implementation and migration services for the County IT System at a cost not to exceed \$171,310 to begin on November 11, 2009 and end on March 11, 2010; approve all other expenditures listed on Exhibit B to implement all other components of the County IT Infrastructure Project at a cost not to exceed \$464,690.**

Internal Services Director Rich Inman stated that if this item is approved it would breathe life into our IT Plan by adhering to the guidelines that we established within that Plan.

IT Manager Ray Espinosa stated that this is something that we really need to do to move forward with Information Technology (IT) to bring it in to our County. Mr. Espinosa said that this will go hand in hand with our 5-Year Plan.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Loe, approved Contract with Keep IT Simple's (KIS) consulting services as recommended. (Unanimous) File #119.1*

- 19) **Hold discussion on purchasing and public projects ordinances.**

Management Analyst Margie Riopel provided background information stating that in March 2007 the Board of Supervisors adopted a purchasing ordinance and we strived at that point to initiate a purchasing process and maintain consistency of bidding procedures and to demonstrate the transparency of government policies surrounding purchases and contracting.

Ms. Riopel reported that upon approval, the Purchasing Chapter was implemented and also a Purchasing Manual that was designed to define the level of detail required for implementation of this chapter and with the passage of the Purchasing Ordinance the County Administrative Officer (CAO) was appointed as the Purchasing Agent and the Department Heads as Assistant Purchasing Agents. Ms. Riopel noted that over the last two years the procedures have helped to expedite the purchasing procedures and provides the transparency we were looking for. Ms. Riopel stated we are currently at the point where we identified areas where recommended changes might be considered. Ms. Riopel stated that before going forward she wanted to bring this item to the Board for direction.

Ms. Riopel explained the following recommendations as submitted in the Board's report covering the following points:

- A. Findings – Purchasing, Contracting, Public Projects
- B. Recommendations – Consider Developing Two Chapters
- C. Consider Purchasing Chapter Changes – Items 1 through 8
- D. Consider the Development of the Public Project Chapter – Items 1 through 9

Ms. Riopel further reported that there has been some discussion about public projects to include language for preference of local contractors and she has explored the possibility of adding language similar to some of our neighboring counties who have attempted to do this but many local jurisdictions are being challenged over this issue or just not enforcing their codes to avoid litigation. Ms. Riopel stated that she has been advised by County Counsel that this is not a prudent idea at this time unless the laws are changed at the federal and state levels; however, we may be able to include language in our proposals to developers that suggest consideration of local contractors, if qualified to do the

work, as is the case that we have seen with Court project and would encourage developers who are considering the projects to utilize local contractors and resources.

Ms. Riopel closed her report stating that the separation of the purchasing and public projects chapters will help clarify the differences and she encouraged the Board to direct her to move forward with the process.

Supervisor Barrios stated that she had issue with some of the language stating that she would like the Board to maintain the limits that are now \$10,000 and \$3000 and not have the limits go up to \$25,000 and \$10,000. Supervisor Barrios further suggested that with regards to defining local businesses she would like to bring in language from local contractors and she would like to give that to Ms. Riopel before finalizing the language.

Supervisor Barrios said she was not comfortable with naming the Public Works Department as the lead agency and she feels San Benito County should always be the lead agency, no matter what project we are doing.

CAO Thompson explained that it is all under the County's umbrella when those processes are done but we need to identify one department as the lead agency within the County organization noting this does not take the authority away from the Board of Supervisors.

Supervisor Monaco supported maintaining the limits we have established at \$10,000 and \$3000 for now. Supervisor Monaco stated he also would like for Supervisor Barrios to be able to share the local contractor's language that she has around purchasing. Supervisor Monaco stated he was aware of these lawsuits that have been filed in other jurisdictions and once those have been resolved we can explore this matter further. Supervisor Monaco supported having the Public Works Department as the lead agency as it streamlines the process.

Joe Thompson and Marty Richman, local residents, provided comments and input.

File #118

The Board adjourned for lunch break at 12:05 p.m. and reconvened at 1:30 p.m. re:

BOARD OF SUPERVISORS:

- 20) **Instruct staff to prepare appropriate agendas and noticing to allow the conduct of a special Board meeting on December 16, 2009 to address high priority planning and land use items.**

Chairman Botelho stated that he asked to have this item placed on the agenda for the sake of clarification to the public and to receive input from Board members to have a special meeting on December 16, 2009 since we have a very full agenda on December 15, 2009 with important issues pertaining to the County Planning Department and in order to have a thorough discussion and not short change any particular item he felt it wise to call a special meeting in order to get through all of these issues before 2010 which has been his goal as Chairman.

Board members provided input and it was decided to hold a special meeting on December 16, 2009 at 9 a.m. to hear Planning Department items.

Supervisor Monaco requested that the Solar Alternative Energy Item be agendized on December 15, 2009 in the afternoon. *File #156*

AFTERNOON SESSION
1:30 P.M.

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

PLANNING DEPARTMENT – A. Henriques:

23) Held a public hearing to consider an ordinance revising the hillside development regulations (Ordinance No. 781), Article II of Chapter 25.29 of Title 25 (Zoning Ordinance) of the San Benito County Code. The Ordinance is entitled **AN ORDINANCE OF THE COUNTY OF SAN BENITO, STATE OF CALIFORNIA, AMENDING SECTION 25.29.30 THROUGH 25.29.43 OF THE SAN BENITO COUNTY CODE (ORDINANCE NO. 781) RELATING TO THE REGULATION OF HILLSIDE DEVELOPMENT.**

- **Receive the report update on the Hillside Ordinance.**
- **Adopt resolution making the necessary CEQA findings; and**
- **Adopt the Ordinance recommended by the Planning Commission on October 21, 2009.**

Art Henriques, Planning Director, provided background information, and introduced Assistant Planning Director Byron Turner who presented a PowerPoint Presentation titled Hillside Development Ordinance and covering the following points:

- Design Review
- Design Review Process
- Goal of the Viewshed Ordinance
- Viewsheds
- Applicability
- Diagram showing 200 foot elevation level
- Maps – Hwy.156, Hwy. 25 and Fairview Road Viewsheds
- CEQA (California Environmental Quality Act)
- Recommendation to the Board of Supervisor/

Supervisor Monaco asked for clarification about the Design Review process.

Mr. Turner explained that final decision rests with the Planning Commission.

Supervisor Loe stated that the only problem she has with the whole process is with CEQA and the Categorical Exemption.

Mr. Turner explained that staff discussed CEQA many times throughout this whole process especially when the direction of the Board was to reduce restrictions or remove the ordinance all together. Mr. Turner said, as they discussed with the Planning Commission and the Board, it was difficult to say that removing restrictions on hillsides was not an impact; therefore, staff recommended to get rid of the ordinance all together would require an EIR (Environmental Impact Report). Mr. Turner said they attempted a few times to do an Initial Study and really had problems finding mitigation measures again in order to remove restrictions. Mr. Turner explained that in this case we added flexibility and have not removed restrictions, and if anything, some restrictions have been added while others have been removed but the key is that it is now flexible, but the intent of the ordinance, which is the protection of the hillsides,

remains in place and therefore we determined that no further CEQA analysis was necessary.

Supervisor Barrios asked about the ordinance that was handed out today which showed some possible changes to the ordinance highlighted in red.

Mr. Turner stated that the handout was received by a member of the public (Brian Curtis) and was asking to clarify the applicability section A, located on slopes of 15% and the suggestion was to be located on building areas with average slopes rather than 15%. The intent of that would be to clarify that the building site itself is where we're going to measure the slope and not the entire property. Mr. Turner stated that staff has no objection if the Board wants to add that clarification.

Supervisor Barrios stated it was a viable statement to have in there.

County Counsel Matt Granger explained that if the Board of Supervisors were to adopt the changes as recommended by Mr. Brian Curtis on this handout then the issue becomes whether this matter would have to go back to the Planning Commission for further review; and, it is somewhat of a close call and he believes that a fair reading of the Government Code that addresses this would indicate that it would have to go back to the Planning Commission. Mr. Granger stated that the Board would not be able to adopt the ordinance today and it would have to be sent back to the Planning Commission.

Discussion ensued as to whether it was necessary to make these changes which would hold up the process of adoption of the ordinance.

Chairman Botelho opened the public hearing.

Brian Curtis, Civil Engineer, representing Stone Creek Properties, stated that he did not have any concerns with the ordinance as far as the viewshed. Mr. Curtis said his only concern was with the word "slope". Mr. Curtis noted that in the ordinance there are two definitions – there is "average slope" and you have "slope". Mr. Curtis referred to his exhibit on the very last page and stating that if he were to do a topo map and there was any irregularity in your lot and you do a survey those are all going to show up as being over 15% slope. Mr. Curtis stated that if you said it is over 15% average slope then those would not show up and it was his concern that if didn't say average slope then anybody with a ditch on their lot is going to be subject to design review which would bog down the Planning Department and Planning Commission.

Marvin Jones, local resident, stated we have a Federal government that wants to regular health care and now we have a county that wants to regulate your landscaping.

Marty Richman, local resident, supported Mr. Curtis' suggestion stating that in the future the intent would be clear.

Further discussion ensued about whether or not to send this ordinance back to the Planning Commission or adopt it as written.

Chairman Botelho closed the public hearing.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Chairman Botelho, accepted the report on the Hillside Ordinance and adopted Resolution No. 2009-107 making the necessary CEQA findings; and adopted Ordinance No. 846 recommended by the Planning Commission on October 21, 2009. (Unanimous) File #790*

COUNTY CLERK-AUDITOR-RECORDER – J. Paul Gonzalez:

- 24) ***Urgency Item: Proposed Resolution amending Resolution No. 2009-81 to reflect the need to keep the Office of the Clerk-Recorder-Elections open every business day except for legal holidays and judicial holidays.***

Clerk-Auditor-Recorder Joe Paul Gonzalez reported that this item deals with closure days for the County Clerk-Recorder-Elections Office authorized by the Board of Supervisors on August 23, 2009, by Resolution No. 2009-81, to accommodate furlough dates. Mr. Gonzalez stated that these are not legal or judicial holidays and in 1994 a resolution was adopted that approved the charge of an extra \$1.00 for Modernization Funds (Recording Funds) and that the County is committed to keep the Recorder's Office open except on all legal and judicial holidays.

Mr. Gonzalez that the reason he brought this item forward as an Urgency Item is because this was discovered after the posting of the Board of Supervisor's agenda and secondly on November 25, 2009 we have a furlough day coming up where the Recorder's Office would be closed and there is not a regular meeting which he could have brought this item before the Board in time to be able to change the closure days.

Supervisor Barrios asked how the affected employees who have possibly already made plans for these days off would be mitigated.

Mr. Gonzalez stated that when he explained the situation to the affected employees they were receptive to the idea realizing that this was necessary.

Supervisor Monaco said that the closure dates was also an issue for the Assessor's Office and he would like to have this discussed on the December 1, 2009 Board meeting after he talks further with the Assessor.

County Counsel Matt Granger explained the actions that are required for an urgency item.

BOARD ACTION: *Upon motion made by Supervisor Monaco and seconded by Supervisor Barrios, made findings that immediate action is required and that the need for that action came up after the posting of the agenda per Government Code Section 54954.2(b)(2) and adopted Resolution No. 2009-108 amending Resolution 2009-83 to reflect the need to keep the Office of the Clerk-Recorder-Elections open every business day except for legal holidays and judicial holidays. (Unanimous) File #1112.5*

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 2:25 p.m. and reconvened into Regular Session at 3:10 p.m. re:

- 21) **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

22) **Conference with Legal Counsel – Existing Litigation** – (Subdivision(a) of Section 54956.9) Number of Cases(s):

1. *Egan v. County of San Benito, et al.* (San Benito Superior Court, Case No. CU 08 00187)

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, De La Cruz, Botelho

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: None

There being no further business the Board adjourned at 3:10 p.m. to November 23, 2009 at 1:00 p.m. for a special meeting.

ANTHONY BOTELHO, CHAIRMAN

San Benito County Board of Supervisors

ATTEST:

Linda Churchill
Clerk of the Board