



## SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios  
District No. 1

Anthony Botelho  
District No. 2  
Chairman

Pat Loe  
District No. 3

Reb Monaco  
District No. 4  
Vice Chairman

Jaime DeLaCruz  
District No. 5

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

### SPECIAL MEETING MONDAY, NOVEMBER 23, 2009 ACTION MINUTES

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in *special session*. Supervisors Monaco, Loe, Barrios, De La Cruz and Botelho were all present. Also present was Internal Services Director Rich Inman, County Counsel Matthew Granger and Clerk of the Board Linda Churchill. Chairman Anthony Botelho called the meeting to order.

#### 1:00 P.M. CALL TO ORDER:

- a) Chairman Botelho led the Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*

#### SPECIAL MEETING AGENDA

*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.)*

#### 1) PUBLIC EMPLOYEE DISCIPLINE / DISMISSAL / RELEASE

Authority: Government Code Section 54957

- a) Hold Closed Session pursuant to California Govt. Code Section 54957
- b) Hold Open Session (if requested by employee) pursuant to California Govt. Code Section 54957(b)(2).

Chairman Botelho asked Jim Stevens if he would like to have this matter heard in closed or open session.

Mr. Stevens answered that he would like to have the matter heard in open session.

The following members of the public spoke in support of Mr. Stevens: A. J. Moley, General Contractor who submitted two letters of support for Mr. Stevens from Oscar Rosales and Randy Wood; Karen Holcomb, San Juan Bautista resident; Jim Shaw, local resident; and Guy M. Gentry, General Contractor.

Joel Hill, SEIU, addressed the Board, stating that he started this process with Mr. Stevens because he felt Mr. Stevens was wronged. Mr. Hill noted five bullet points that he asked the Board to consider.

Seeing no one else who wished to address the Board, Chairman Botelho closed the public comment period. Chairman Botelho stated that they would proceed as follows: Mr. Stevens and his representatives would state their case and then the County would have the opportunity to make its case and a rebuttal by Mr. Steven would be allowed and the Board would then adjourn to Closed Session to deliberate.

Frank Arden, on behalf of SEIU Local 521, the labor union representing James Stevens and the San Benito County Employee's Association, began by stating this hearing was called today to review the award by Arbitrator Morris Davis. Mr. Arden stated that the Union filed the grievance that was decided to be meritorious by Arbitrator Davis.

Mr. Arden presented the case on behalf of Mr. Stevens. Mr. Arden submitted a document dated November 23, 2009 and titled "James Stevens, County of San Benito, Case 10531-521, Summary of the decision by Arbitrator Morris Davis" which he referred to and quoted items from the documents.

Mr. Arden ended his presentation by stating that if it was the Board's will to reverse, or in any way modify this decision by the Arbitrator, it would be an extreme miscarriage of justice. Mr. Arden stated that the Union asks that the Board uphold the decision of Arbitrator Davis and immediately re-instate Jim Stevens to his former position of the Building Inspector II and move to implement the back pay award plus compensatory interest as the County should shoulder the financial burden with respect to Jim's unwarranted loss of employment.

Mr. Arden further stated that the Union puts the Board on notice that Local 521, on its own behalf, and on behalf of our member, Mr. Stevens, explicitly reserves all legal rights and remedies available in this matter including, without limitation, the right to file a Writ of Administrative Mandate.

Terra Chaffee, Deputy County Counsel, on behalf of the Planning and Building Department, began by stating that the grounds for Mr. Steven's termination are contained in the Notice of Intent to Terminate, which was included in the packets provided to the Board. Deputy Counsel Chaffee made her presentation by highlighting points of the case.

Deputy Counsel Chaffee ended her presentation by stating that as a Building Inspector, Mr. Stevens is in a position in which he must work under little direct supervision and the department needs to be able to trust that he is responsible and on task in the office and out in the field where they cannot supervisor him. Deputy Counsel Chaffee stated that Mr. Steven's past and present actions make it impossible for the department to leave him in a position of trust, therefore, the department respectfully requests that the Board uphold the department's disciplinary decision and adopt a decision modifying the arbitrator's award accordingly.

Mr. Arden rebutted the case presented by Deputy Counsel Chaffee and urging the Board to uphold the recommendation of the arbitrator to reinstate Mr. Stevens with back pay plus interest.

The Board adjourned into Closed Session pursuant to California Government Code Section 54957 to discuss Public Employee Discipline / Dismissal / Release and returned into open session at 2:18 p.m. after deliberations.

**BOARD ACTION:**

*County Counsel Granger reported that after deliberations the Board of Supervisors, by a unanimous vote, decided pursuant to Govt. Code Section 11517c(2)(a) to adopt the proposed decision of the arbitrator in its entirety.*

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There being no further business the Board adjourned at 2:20 p.m. to December 1, 2009 at 9:00 a.m.

**ANTHONY BOTELHO, CHAIRMAN**  
San Benito County Board of Supervisors

ATTEST:  
Linda, Churchill, Clerk of the Board