



SAN BENITO COUNTY BOARD OF SUPERVISORS

Margie Barrios
District No. 1

Anthony Botelho
District No. 2

Pat Loe
District No. 3
Vice-Chair

Reb Monaco
District No. 4
Chair

Jaime De La Cruz
District No. 5

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

REGULAR MEETING JANUARY 26, 2010 ACTION MINUTES

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

9:00 a.m. CALL TO ORDER:

- a) Supervisor Barrios led the Pledge of Allegiance.

A moment of silence for Harry Hill, Sheriff Hill's father who passed away.
- b) *Upon motion duly made, seconded and carried, acknowledged Certificate of Posting.*
- c) **Public Comment:** Joe Thompson, local resident, spoke in regards to the small business owners in San Benito County that are suffering from government apparition like the Council of Governments (COG). Mr. Thompson said that we need to change where we are going.
- d) **Department Head Announcements:** Planning Director Art Henriques announced that staff has been continuing on the environmental work for the Housing Element recognizing that the Board has appointed a committee to work with the staff and public on the Housing Ordinance. Mr. Henriques said that they are on track to get it to HCD by spring.
- e) **Board Announcements, Introductions and Presentations:** Supervisor Botelho said that Supervisor Barrios and he met in regards to the Inclusionary Housing Ordinance and they would be meeting with the Planning Director in regards to their notes and possible changes that would be presented to the Board at a later date.
Supervisor Botelho announced that at the City Council meeting in San Juan Bautista the Fire Chief reported that Cal Fire is considering certain cuts and could affect the working relationship with San Juan Fire. Supervisor Botelho said that he would like to meet with staff and Cal Fire to see what the particulars are.

Supervisor Barrios said that she and Supervisor Botelho are working diligently on the Inclusionary Housing Ordinance committee.

Supervisor Barrios announced that she attended the Regional Council of Rural Counties meeting on January 13th and 14th and there were some things that were discussed that may affect San Benito County in the future which were the State Budget, Top Two Candidates Act and the Seismic Retrofit Improvements. Supervisor Barrios said that we were thanked as a County for completing the RCRC survey.

Chairman Monaco announced that there would be a one day Foreclosure Prevention Workshop on February 25, 2010 from 9:00 a.m. to 5:00 p.m. at the Veteran's Memorial Building. Today from 4:00 p.m. to 6:00 p.m. there will be a business conference at the Veterans Memorial Building in Room 218 in regards to rural development.

CAO Susan Thompson announced that there was an item that needed to be added to closed session, stating this item arose after the agenda was posted and needs to be dealt with prior to the next Board meeting.

BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor Barrios, **moved** to add item to closed session. (Unanimous)*

CONSENT AGENDA:

Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, approved Consent Agenda Items 1 through 20 pulling Items 1, 3, 6, 10, 11 and 13 for discussion and also noting Supervisor De La Cruz abstained from Item #9. (Unanimous)

BOARD OF SUPERVISORS:

- 1) **Appoint Supervisor Pat Loe to the SR 152 Mobility Partnership (ad hoc committee) for 2010. (Chairman Monaco)**

BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor De La Cruz, **appointed** Supervisor Pat Loe to the SR 152 Mobility Partnership (ad hoc committee) for 2010. (Unanimous) File #1035*

ADMINISTRATION:

- 2) **Approved** budget augmentation in the amount of \$11,000 **authorizing** the transfer of contingency fund appropriations (BU 999) to Public & Legal Notices in the board's budget (BU 100). *File #865*

BEHAVIORAL HEALTH – A. Yamamoto:

- 3) **Authorize Chair to sign the JAG/OTP Grant Award Face Sheet and Certification of Assurance of Compliance, and authorize the Behavioral Health Director and the Fiscal Administrative Services Manager to sign the Signature Authorization and Instruction Form; and authorize the Behavioral Health Department to accept the Cal EMA, JAG/OTP Grant Funding of \$168,863 upon award.**

BOARD ACTION: *Upon motion made by Supervisor Barrios and seconded by Supervisor Loe, **authorized** the Chair of the Board of Supervisors to sign the JAG/OTP Grant Award Face Sheet and Certification of Assurance of Compliance and; **authorized** the Behavioral Health Director and the Behavioral Health Department's Fiscal Administrative Services Manager to sign the Signature Authorization and Instruction Form and; **authorized** the Behavioral Health*

Department to accept the Cal EMA. JAG/OTP Grant Funding of \$168,683 upon award. (Unanimous) File #810

- 4) **Ratified** contract renewal with Natividad Medical Center for psychiatric inpatient hospital beds for FY 2008-09 for a maximum annual total of \$250,000. File #810
- 5) **Authorized** the Behavioral Health Department's Substance Abuse Services to implement a revised adjustable schedule of fee charges and **adopted Resolution No. 2010-7** effective as of February 1, 2010. File #810

CLERK OF THE BOARD – L. Churchill:

- 6) **Approve the action minutes of the December 1, 2009 regular meeting.**
Supervisor Barrios made a correction to the minutes to Item #20 to read: 4-1 vote, Barrios voted no.
BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Barrios, **approved** minutes as corrected. (Unanimous)

COUNTY CLERK/AUDITOR/RECORDER – J. P. Gonzalez:

- 7) **Approved** addendum to the master agreement with DFM Associates for the Election Information Management System (EIMS) dated June 27, 2000. File #285

HEALTH & HUMAN SERVICES – K. Flores:

- 8) **Authorized** HHS Director to hire a PHN III at Step F, of Range 25.5 effective January 27, 2010 due to significant expertise, training, and education in the nursing field that will positively impact Public Health services. File #420

INTEGRATED WASTE – M. Rose:

- 9) **Adopted Resolution No. 2010-8, authorizing** the submittal of the Waste Tire Cleanup and Amnesty Event Grant on behalf of the San Benito County Integrated Waste Management Regional Agency to implement programs to reduce, reuse and recycle unwanted tires and protect the public health and safety of the environment. File #142
- 10) **Receive 2008 California Climate Action Registry Emissions Report.**
BOARD ACTION: Upon motion made by Supervisor Barrios and seconded by Supervisor Botelho, **received** report. (Unanimous) File #142

CAO Susan Thompson clarified that the following comments do not pertain to items on the consent agenda.

Supervisor Barrios would like to have a letter sent in support of AB118 calling for appeal of AB32. Supervisor Barrios said that RCRC has sent a letter of support and she recommended that we also participate.

Supervisor De La Cruz concurred with Supervisor Barrios and would like to have item agendized to the meeting of February 9, 2010.

- 11) **Receive report on Landfill Fee Waiver for Non-Profit Donation Collection Sites and direct further updates only if waiver is utilized.**
BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, **received** report. (Unanimous) File #75.4

PULIC WORKS DEPARTMENT – S. Wittry:

- 12) **Adopted Ordinance No. 850**, amending Chapter 3.05 of Title 3 of the San Benito County code relating to the San Benito County Parks and Recreation Commission. *(Continued from 1/12/10 meeting). File #93*
- 13) **Approve specifications for the County Service Area (CSA) Water and Wastewater Services.**
BOARD ACTION: *Upon motion made by Supervisor Botelho and seconded by Supervisor Loe, **approved** specifications (IFB No. PWB-0909) for County Service Area Water and Wasterwater Services. (Unanimous) File #CSA/105*

SHERIFF’S DEPARTMENT – C. Hill:

- 14) **Approved** the Memorandum of Understanding with the Aromas San Juan Unified School District to promote school safety by providing School Resource Officers at local campuses. *File #110*

TREASURER/TAX COLLECTOR – M. Lou Andrade:

- 15) **Adopted Resolution No.2010-9** that provides for establishing a Records Retention Schedule for Treasurer and Public Administrator. *File #685.2*

REGULAR AGENDA:

ADMINISTRATION:

- 16) **Accept and review the statements of explanation regarding 6/30/09 year end budget transfer as they pertained to specific departments.**
Catherine Shaw, Management Analyst, provided an update to the statements of explanation regarding the 6/30/09 year end budget transfers for the specific departments.
CAO Susan Thompson provided additional information.
Supervisor Loe asked to have this item continued to a later date as she could not reconcile figures that Auditing Department presented and she would also like to have the amount of revenues we did not receive provided.
Supervisor Botelho supported continuing this item for more clarification in regards to the revenue.
Discussion ensued by Board and staff.
Marty Richman, local resident, defended the budget.
BOARD ACTION: *Upon motion made by Supervisor Loe and seconded by Supervisor De La Cruz, **moved** to continue with the following clarifications: (1) Bring back the makeup of the \$473,000 in unreceived revenue along with the original item that was presented today. (Unanimous) File #865*

INTERNAL SERVICES – R. Inman:

- 17) **Approve agreement with Cost Control Associates for energy and telecom bill analysis and authorize Director of Internal Services to execute the agreement.**
Director of Internal Services Rich Inman provided information in regards to the proposed agreement with Cost Control Associates.
Discussion ensued by Board and staff.

BOARD ACTION: Upon motion made by Supervisor De La Cruz and seconded by Supervisor Barrios, **approved** agreement with Cost Control Associates and **authorized** Director of Internal Services to execute the agreement. (Unanimous)
File #119.2

PLANNING DEPARTMENT – A. Henriques:

- 18) **Accept State-approved plan to re-activate the HOME Investment Partnership First-Time Homebuyer (FTHB) Program for homebuyer down payment assistance in San Benito County and transfer administration of this program from the Community Services and Workforce Development Department (CSWD) to the Housing & Economic Division of the Planning and Building Department; adopt resolution adopting said Program; and, approve the necessary budget transfers.**

San Benito County Housing Programs Coordinator C.J Valenzuela provided a PowerPoint presentation in regards to the Home Investment Partnerships Program (HOME) First-Time Homebuyer Program that is offered through the State Department of Housing and Community Development (HCD) to assist cities, counties and non-profit Community Housing Development Organization (CHDO) to create and retain affordable housing for very low and low income households.

Discussion ensued by Board and staff.

Joe Thompson, local resident, appreciated the words of generosity and charity that was expressed but believes that this program belongs in the private sector.

BOARD ACTION: Upon motion made by Supervisor De La Cruz and seconded by Supervisor Barrios, **accepted** the State-approved plan to re-activate the HOME Investment Partnerships Program (HOME) First-Time Homebuyer Program for homebuyer down payment assistance in San Benito County and transfer administration of this program from the Community Services and Workforce Development Department (CSWD) to the Housing & Economic Division of the Planning and Building Department; **adopted Resolution No. 2010-10**, adopting the HOME Investment Partnerships Program First-Time Homebuyer Program Guidelines, the Local Account Reuse Plan and designate the Director of Building and Planning as the Authorized Representative; **approved** the transfer of \$1,058,836.00 from CSED Fund 2402 to Home Fund 2405; **approved** the transfer of the appropriation in the amount of \$427,991 from CSWD Fund 2402, Acct 6301-Care & Support to Housing & Economic Development (1001267; and have C.J. come back with within two months with additional figures and details regarding this program. (4/1, Botelho no) File #790

PUBLIC WORKS – S. Wittry:

- 19) **Adopt resolution supporting the findings of the California Statewide Local Streets and Roads Needs Assessment.**

Public Works Administrator Steve Wittry provided information in regards to the proposed resolution supporting the findings of the California Statewide Local Streets and Roads Needs Assessment Report.

Discussion ensued by Board and staff.

Joe Thompson, local resident, voiced concern that the Board of Supervisors is now taking control of transportation decisions, stating he thought we had another governmental body that made those decisions in our county.

BOARD ACTION: Upon motion made by Supervisor Botelho and seconded by Supervisor Barrios, **adopted Resolution No. 2010-11,** supporting the findings of the California Statewide Local Streets and Roads Needs Assessment. (Unanimous) File #105

20) Receive report on County Road Maintenance Strategy and provide direction to staff.

Public Works Administrator Steve Wittry provided information in regards to the County Road Maintenance Strategy and goals for the fiscal year 2009-10.

Board of Supervisors commended Mr. Wittry for an outstanding report.

Joe Thompson, Local resident, voiced his concern about how highway safety should be our top transport priority. File #105

AFTERNOON SESSION

1:30 P.M.

PUBLIC HEARING – 1:30 p.m. (Or as soon thereafter as the matters may be heard):

PLANNING & BUILDING DEPARTMENT – A. Henriques:

24) Hold a public hearing to consider an appeal of the decisions made by the San Benito County Planning Commission on December 2, 2009 to deny the following Use Permits:.

USE PERMIT NO. 1010-08 REQUEST: The applicant is requesting a Use Permit for a seasonal rodeo and music stage, including an arena surrounded by portable bleachers, livestock pens, beverage concession stand, a food catering truck, portable toilets, and portable hand washing stations. The rodeo may be held in conjunction with the flea market proposed under Use Permit 1011-08.

USE PERMIT NO. 1011-08 REQUEST: The applicant is requesting a Use Permit for a seasonal flea market with 50 vendor booths, chemical toilets, hand-washing stations, a food truck and a beverage stand. The flea market may be held in conjunction with the rodeo proposed under Use Permit 1010-08.

APPLICANT: Robert and Araceli Rodriguez. **LOCATION:** 1370 Shore Road, Hollister, CA (015-040-007). **ZONING:** Agricultural Productive.

The uses will also share one parking area with 212 parking spaces. For a complete description of the proposed uses, please refer to the use permit applications on file with the Clerk of the Board.

Board action may include granting, denying or taking other action on the appeal.

Chairman Monaco began by outlining the procedure that would take place at this public hearing.

Assistant Planning Director Byron Turner presented staff report stating that the issue at hand is regarding two use permit applications located at 1370 Shore Road in Northern San Benito County. Mr. Turner noted that according to the applicant the Rodeo application is now being withdrawn however this is one of the applications that was denied by the Planning Commission in December 2009.

Mr. Turner stated that the Traffic Study prepared for these projects addressed both the rodeo and flea market and anticipate a maximum of 400 shoppers on any particular day for a maximum attendance of 460 people for the flea market and the rodeo anticipating drawing 300 spectators a day with

additional participants for a maximum attendance of 320; therefore, a total of 780 people potentially visiting the project site at any given time. There is no lighting proposed for this project.

Mr. Turner reported that planning staff did prepare an Initial Study and a Mitigated Negative Declaration for these projects and circulated them for public review from October 27 to November 27, 2009. During this period the Planning Department received 24 comment letters and a petition containing over 200 names expressing opposition to the project based on concerns such as traffic, noise and crime. Additionally 29 speakers provided comments during the public hearing portion of the December 2, 2009 Planning Commission meeting. Mr. Turner stated that at this meeting the Planning Commission voted 4-1 to deny both Use Permits. The applicant has appealed this decision and the appeal states that the Planning Commission for the denial were unjustified. Mr. Turner stated that in response to that statement, in order to approve a Use Permit, the Planning Commission must be able to make two findings: Finding #1 that the proposed use is properly located in relation to the General Plan and to the community as a whole and to other land uses, transportation and service facilities in the vicinity. Finding #2 that the proposed use, if complies with all of the conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard or nuisance to persons or property.

Mr. Turner stated during the December 2, 2009 Planning Commission meeting, the Commission reviewed the staff report and attachments provided by Planning staff, including the Mitigated Negative Declaration prepared to satisfy the requirements of the California Environmental Quality Act (CEQA). After consideration of the record and comments received during the public hearing, the Planning Commission voted to deny both Use Permit requests. Mr. Turner indicated that this appeal has been properly appealed to the Board of Supervisors. Mr. Turner stated that at this time Planning staff recommends that the Board of Supervisors take the following actions. 1) Open and conduct a public hearing then close the public hearing and deliberate on this matter and 2) recommended that Board direct staff to develop and bring back a resolution to the Board as directed, either granting the appeal, denying the appeal or directing other specified action as may be determined by the Board such as remanding the matter to the Planning Commission for further action.

Supervisor Barrios and Supervisor De La Cruz asked for clarification with regards to the applicant pulling the first permit.

Mr. Turner answered that he was notified the day before the hearing today that it was the applicant's intent to not pursue the rodeo application.

County Counsel Matt Granger explained that the Board was not absolutely legally bound to send the matter back to the Planning Commission because it was now only one Use Permit being considered. County Counsel Granger stated because it was two separate Use Permits that were both considered by the Planning Commission and both of which were studied in the Mitigated Declaration then he believed that the Board of Supervisors could make a decision today on just the Use Permit regarding the flea market assuming the applicants position to pull the one permit application.

Appellant Robert Rodriguez displayed a map of the proposed flea market project.

Mr. Rodriguez stated that due to the concerns raised by the people on Shore Road he is willing to pull his application for the rodeo venue and although he believes that the Mitigated Declaration and the staff report adequately addressed all of the issues raised by the opponents he has agreed to withdraw that application at this time. Mr. Rodriguez stated he was asking the Board of Supervisors to focus on the permit concerning the Flea Market and grant his appeal on the Use Permit.

Mr. Rodriguez addressed issues of concern such as garbage and referred to photos he had previously submitted for the Board's packet showing the property when he first purchased it and how it has been cleaned up since that time. Mr. Rodriguez stated that there is not a problem with earth/dirt movement or erosion again referring to the photos submitted. Mr. Rodriguez also referred to photos of the pond that he put it out there noting it was fun to have there and it has no bearing on this appeal as it was a separate approved permit application.

Mr. Rodriguez further noted that he collected over 2100 signatures in favor of this project which shows there is a need for this type of venue.

Mr. Rodriguez also addressed the issue of potential crime stating this venue would not increase crime and would help by giving people something to do.

Mr. Rodriguez said that the project was well planned and would create approximately 110 jobs which is very important in today's economy and it is also a good family event. Mr. Rodriguez said he would like to create a positive event for county residents and would like to generate the most possible income for the property and asked the Board to take consideration in the comments that are coming in today in support of the project.

Larry Hale, Pinnacle Traffic Engineering, presented an overview of his traffic report on behalf of Mr. Rodriguez. Mr. Hale stated that he looked at each individual permit separately and combined. Mr. Hale reported that what he typically does is to go through the process to see what's actually in the application such as number of attendants, vehicle ridership, arrival and departure rates, parking and things of that nature. Mr. Hale stated that he felt the assumptions that he used were reasonable.

Mr. Hale referred to the Mitigation Measures proposed by the County which was subsequently added to and handed out to the Board of Supervisors.

Chairman Monaco asked what was the impact of the announcement by the appellant/application on the issue of withdrawal of the rodeo-concert permit application.

County Counsel Matt Granger explained that obviously issues that are related solely to rodeo are no longer in consideration and explained the procedure that would follow in this hearing. It was noted that the alternate proposed Mitigation Measures document was on record with the Clerk of the Board and copies were available.

It was the consensus of the Board to delay hearing the information with regards to the alternate proposed Mitigation measures and to move ahead with the public hearing.

Chairman Monaco opened the public hearing.

The following members of the public spoke in favor of the proposed Flea Market:

Randy French, Irma E. Rodriguez, Jose Rodriguez, Elvira Z. Robinson, Graciela Garcia, Mike Montuy, Mariano Garcia, Jesse Rivera Jr., Ruben Rodriguez, Melissa Garcia, Albert Digivia III, Angela Fosdick, Eduardo Alfredo

Rocha, Joe Garcia, Benita DeLeon, Gabriel Medina, Ruben Rodriguez (Union Road), Christina Camarillo, Eduardo Navarro, Estevan Guzman, Michelle Barnes, David Contreras, Juan Carlos Gonzalez, Enrique I. Gonzalez, Vicente Avila, Juan Carlos Allfaro, Francisco J. Ramirez, Azael Ponce, Jorge Rodriguez, Jesus J. Rodriguez, Arthur Cantu, Jonathon Ray Bousbon, Fabian DelRio, Raul Garcia Jr.

The following members of the public spoke in opposition to the proposed Flea Market:

Don Brister, Tim J. Pereira, Ray Garabedian, Kim Hawk, Patti Clark, Marie Pera, Penny Morioka, Arthur Culp, Doug Herring, Stanley Mountford, Ralph Noe, Jacob H. Pieterse, Dr. Ellen Pieterse, Ron Jenkins, Joe Perry, Gail Barabedian, Brian Daley, Jim Chapman, Janet Brians, Robert Brians, David Clark, Clay Bentson, Randy Changco, Carlos Azcona, Stacie McGrady, Sheriff Curtis Hill.

County Fire Marshal Jim Dellamonica addressed the Board with regards to what he expressed was a change in the map shown at today's meeting with what he originally reviewed.

The Board adjourned for a break at 4:15 p.m. and reconvened at 4:20 p.m.

Chairman Monaco closed the public hearing at 4:50 p.m. after hearing all testimony stating that the appellant's rebuttals, closing comments from staff and Board of Supervisor's deliberations were continued to February 2, 2010 at 2:30 p.m.

The Board adjourned into Closed Session at 4:55 p.m. and reconvened into Regular Session at 6:00 p.m. re:

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.)

21) **Conference with Legal Counsel-Anticipated Litigation.**

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: Number of Cases: (1)
(Discussion regarding filing small claims actions to recover unpaid debt to County)

The Board of Supervisors declined to initiate the litigation. File #235.6

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

Consider Discipline/Dismissal/Release Matter of a Public Employee

The Board of Supervisors accepted the resignation of the Planning Director effective April 30, 2010. File #235.6

23) **Conference with Real Property Negotiator:**

Property: 2733 John Smith Road, Hollister, CA

Agency Negotiator: Susan Thompson, County Administrative Officer

Negotiating Party: Newlight Technologies

Under Negotiation: Price and terms of Lease

No reportable action. File #235.6

23.1) Urgency Item

Conference with Legal Counsel – Anticipated Litigation

Significant Exposure to litigation pursuant to subdivision (b) of Section 54956.9

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

There being no further business the Board adjourned at 6:00 p.m. to February 2010 at 9:00 a.m. for a regular meeting.

REB MONACO, CHAIRMAN

San Benito County Board of Supervisors

ATTEST:

Linda Churchill, Clerk of the Board

Afternoon Session

Janet Slibsager, Assistant Board Clerk

Morning Session