

MONTEREY COUNTY



BOARD OF SUPERVISORS

Fernando Armenta
Louis R. Calcagno
Simón Salinas
Jane Parker
Dave Potter

1st District
2nd District
3rd District (Chair)
4th District (Vice-Chair)
5th District

Lew C. Bauman
County Administrative Officer

Charles J. McKee
County Counsel

Gail T. Borkowski
Clerk of the Board
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ACTION MINUTES MONTEREY COUNTY BOARD OF SUPERVISORS MONTEREY COUNTY WATER RESOURCES AGENCY

TUESDAY, MARCH 23, 2010
9:00 A.M.

9:00 A.M.

ROLL CALL:

Present: Supervisors Salinas (Chair), Armenta, Calcagno, Parker, and Potter.

1. Additions and Corrections for Closed Session: There were no additions or corrections.

CLOSED SESSION

2. Closed Session under Government Code section 54950, relating to the following items:
 - a. Pursuant to Government Code section 54957, the Board provided a performance evaluation for the Natividad Medical Center CEO.
CLOSED SESSION REPORT: The Board discussed goals and directed Mr. Weis to return with further goals for the Board to consider.
 - b. Pursuant to Government Code section 54957, the Board conferred regarding recruitment for the position of Equal Opportunity Officer.
CLOSED SESSION REPORT: The Board heard from a consultant on applicants and appointed an Ad Hoc Committee of Supervisor Parker and Supervisor Armenta to assist in screening applicants and conducting potential interviews.

- c. Pursuant to Government Code section 54956.9(b), the Board conferred with legal counsel regarding ~~three~~ two items of significant exposure to litigation. (one item removed via Addendum)

CLOSED SESSION REPORT: In one matter the Board authorized a settlement with a potential claimant against the County and once the settlement is approved, any member of the public may obtain a copy of that settlement agreement through the office of the County Counsel. The vote was 4-1 with Supervisor Armenta dissenting. In the other matter the Board provided direction to Counsel on how to proceed.

- d. Pursuant to Government Code section 54956.9(a), the Board conferred regarding existing litigation.

(1) Clifford L. Jackson v. Monterey County Jail, et al. (USDC Case No. C07-01202)

CLOSED SESSION REPORT: The Board authorized the retention of Randy Willoughby of Willoughby, Stuart & Bening to handle prosecution of the case.

(2) Dorsami Reddy v. Skanska USA Building, Inc., et al. (MCSC Case No. M81383)

CLOSED SESSION REPORT: The Board authorized the retention of Randy Willoughby of Willoughby, Stuart & Bening to handle prosecution of the case.

(3) County of Monterey v. Nova Partners, et al. (MCSC Case No. M96829)

CLOSED SESSION REPORT: The Board authorized the retention of Randy Willoughby of Willoughby, Stuart & Bening to handle prosecution of the case.

~~(4) In the Matter of the Application of California American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates (PUC A.04 09 019) PRIVILEGED AND CONFIDENTIAL SETTLEMENT DISCUSSIONS SUBJECT TO RULE 12.6 OF THE CPUC RULES OF PRACTICE AND PROCEDURE, CALIFORNIA EVIDENCE CODE SECTION 1152, RULE 408 OF THE FEDERAL RULES OF EVIDENCE, AND ALL OTHER SETTLEMENT PROTECTIONS SUBJECT TO THE ATTORNEY CLIENT PRIVILEGE, THE WORK PRODUCT DOCTRINE, AND JOINT DEFENSE PRIVILEGE, AND THE COMMON PURPOSE DOCTRINE (Removed via Addendum)~~

(5) SEIU Local 521 v. County of Monterey (PERB UPC No. SF-CE-696-M)

CLOSED SESSION REPORT: The Board authorized Counsel to retain the firm of Renne Sloan Holtzman & Sakai LLP to defend the County in the case.

(6) M. Sapiens Group Grievance (SEIU Case No. 57501-521; State Mediation and Conciliation Service Case No. ARB-09-0308)

CLOSED SESSION REPORT: The Board authorized Counsel to retain the firm of Renne Sloan Holtzman & Sakai LLP to defend the County in the case.

(7) Joseph Palazzolo (WC)

CLOSED SESSION REPORT: The Board approved a tentative settlement and if that settlement is approved by all parties it will be available through the office of County Counsel

- e. Pursuant to Government Code section 54957.6, the Board conferred with labor negotiators

(1) Designated representatives: Keith Honda and Patricia Covert; Employee organizations: All Units

CLOSED SESSION REPORT: The Board provided direction to Lew Bauman to provide information to Keith Honda regarding labor negotiations for all units.

- f. Pursuant to Government Code section 54956.9(c), the Board conferred with legal counsel regarding potential initiation of one litigation case.

CLOSED SESSION REPORT: The Board approved counsel initiating litigation in this matter, however due to the sensitivity of the matter and the possible effect of the county's position, the facts of this case will not be made available to the public until the case is filed in court. At that point any member of the public can request a copy of the filing.

- g. Pursuant to Government Code section 54956.8, the Board will confer with real property negotiators.

(1) Property: 312 East Alisal Street, Salinas County negotiator: Wayne Tanda, RMA Director Negotiating parties: The County of Monterey and the City of Salinas Under negotiation: Price and terms

CLOSED SESSION REPORT: The Board provided direction to Wayne Tanda regarding price and terms in negotiations with the City of Salinas.

- h. Pursuant to Government Code section 54956.9(b), the Board will confer with legal counsel regarding the following item of significant exposure to litigation/liability claim:

(1) Claim of Maryellen Stanton

CLOSED SESSION REPORT: The Board approved settlement of this matter and the settlement agreement will be available in Counsel office for any member of the public once fully executed.

- i. (Added via Addendum) Pursuant to Government Code section 54956.9(a), the Board of Supervisors of the Water Resources Agency will confer with legal counsel regarding existing litigation.

(1) In the Matter of the Application of California-American Water Company (U 210 W) for a Certificate of Public Convenience and Necessity to Construct and Operate its Coastal Water Project to Resolve the Long-Term Water Supply Deficit in its Monterey District and to Recover All Present and Future Costs in Connection Therewith in Rates (PUC A.04-09-019) PRIVILEGED AND CONFIDENTIAL - SETTLEMENT DISCUSSIONS - SUBJECT TO RULE 12.6 OF THE CPUC RULES OF PRACTICE AND PROCEDURE, CALIFORNIA EVIDENCE CODE SECTION 1152, RULE 408 OF THE FEDERAL RULES OF EVIDENCE, AND ALL OTHER SETTLEMENT PROTECTIONS - SUBJECT TO THE ATTORNEY-CLIENT PRIVILEGE, THE WORK PRODUCT DOCTRINE, AND JOINT DEFENSE PRIVILEGE, AND THE COMMON PURPOSE DOCTRINE

CLOSED SESSION REPORT: The Board of Supervisors of the Water Resources Agency conferred with counsel and received an update from counsel on the Water Resources Agency General Manager on how to proceed in these cases of litigation.

ROLL CALL:

Present: Supervisors Salinas (Chair), Armenta, Calcagno, Parker, and Potter. Supervisor Calcagno arrived to the dais as indicated.*

3. The Pledge of Allegiance was led by Supervisor Parker.

NOTE: Mayor Donahue addressed the Board and requested the Board create and appoint Board members to an Ad Hoc Committee regarding Carr Lake and the associated reclamation area which was agreed upon during a previous City Counsel meeting.

NOTE: * Supervisor Calcagno arrived on the dais.

4. Additions and Corrections: The Clerk of the Board announced agenda corrections which were acted on by the Board as provided in Sections 54954.2 of the California Government Code.

Under Other Board Matters Item 14 should renumbered as 13.1

Adopt Resolution in recognition of D'Arrigo Bros.Co., of California and their commitment to a partnership with The Breast Cancer Research Foundation in New York to raise \$1 million to help fund the fight against breast cancer. (Supervisor Calcagno)

5. CONSENT CALENDAR - REGULAR (See Supplemental Sheet)

Public Comment: Hans Jongens commented on Items 19 and 21.

· Charles McKee, County Counsel comment on item 19.

· Lew Bauman, CAO, comment on item 21.

· Supervisor Salinas announced Supervisor Calcagno's arrival on the dais.

Motion by Supervisor Armenta, seconded by Supervisor Parker. All Ayes

6. CONSENT CALENDAR - MONTEREY COUNTY REDEVELOPMENT

AGENCY (See Supplemental Sheet)

Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes

OTHER BOARD MATTERS:

7. Board Comments

- Supervisor Armenta announced the Veteran's mobile outreach van from the Santa Cruz Veterans Center will be at the One-Stop Center at 1:00 p.m. on Wednesday, March 24, 2010.
- Supervisor Parker announced she attended a conference for the Local Government Commission in Yosemite.
- Supervisor Calcagno announced he attended the State Transportation Commission meeting in Sacramento.

8. CAO Comments and Referrals

- Lew Bauman acknowledged Len Foster, Director of Health and Allen Stroh, Environmental Health Director upon their retirement.
- Supervisor Armenta congratulated and announced a retirement dinner for Len Foster at the Embassy Suites in Seaside this evening at 6:30 p.m.
- Supervisor Salinas congratulated Len Foster and Allen Stroh.

9. Public Comment

- Julie Engle, Lyndia Zendejas, and Zuleima Arevalo

RESOLUTIONS: Items 10 through 13.1 were heard concurrently

10. Adopted Resolution No. 10-057 honoring Robert S. Brower on being named the 2009 Hospitality Professional of the Year by the Monterey County Hospitality Association. (Full Board)

Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes

11. Adopted Resolution No. 10-058 of support for Assembly Bill 1791, which would permit redevelopment agencies with jurisdiction over portions of the former Fort Ord to use tax increment funds to support certain commercial projects. (Full Board)

Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes

12. Adopted Resolution No. 10-059 honoring Pastor Herb and Margo Valero in recognition of their outstanding contributions over the last 20 years to Victory Outreach. (Supervisor Salinas)

Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes

13. Adopted Resolution No. 10-060 proclaiming the week of March 22 through 26, 2010, as "Tsunami Awareness and Preparedness Week" in Monterey County.

Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes

- 13.1. Adopted Resolution No. 10-050 in recognition of D'Arrigo Bros.Co., of California and their commitment to a partnership with The Breast Cancer Research Foundation in New York to raise \$1 million to help fund the fight against breast cancer. (Supervisor Calcagno)
Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes

APPOINTMENTS: 14 through 15.1 were heard concurrently

14. Reappointed Mario Salazar and John Pinio to the Commission on Disabilities, terms ending December 31, 2012. (Full Board)
Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes
15. Appointed Esther Rubio to the Monterey County Children and Families Commission, term ending March 23, 2011. (Full Board)
Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes
- 15.1 Appointed David Tavares to the Pajaro-Sunny Mesa Community Services District, term ending November 30, 2011. (Supervisor Calcagno)
Motion by Supervisor Calcagno, seconded by Supervisor Parker. All Ayes

SCHEDULED MATTERS:

- S-1 a. Considered and continued approval of the response to the Monterey County Civil Grand Jury 2009 Final Report to April 6, 2010 to;
b. Direct the County Administrative Officer to file the approved response with the Presiding Judge of the Superior Court, County of Monterey, by April 9, 2010; and
c. Received an informational copy of the response by the Auditor-Controller and the Sheriff to the Monterey County Civil Grand Jury 2009 Final Report. There were no changes made to either the Board Report or Order. Please find the final Board response to the 2009 Civil Grand Jury Report, which includes revisions to Section 2 (Notation added via Addendum)

Public Comment: None

Motion by Supervisor Armenta, seconded by Supervisor Calcagno to receive the Grand Jury report, directed staff to receive comments provided by the Board members and incorporate them into the recommendation and return on April 6, 2010. All Ayes

- S-2 a. Approved a Supervisorial Redistricting Work Program for the purpose of redistricting in 2011 and directed staff to implement the program;
b. Approved formation of a Citizen Redistricting Advisory Committee and Citizen Redistricting Advisory Committee By-laws; and
c. Considered approval and directed the Auditor-Controller to transfer appropriations of \$30,167 from General Fund Contingencies to County Administrative Office (CAO) Intergovernmental & Legislative Affairs Division (4/5th vote required).

Public Comment: None

Motion by Supervisor Potter, seconded by Supervisor Calcagno. All Ayes

- S-3 Acting as the Board of Supervisors of the Water Resources Agency of the County of Monterey:
Receive the Monterey County Water Resources Agency Board of Directors July through December Quarterly Reports for Fiscal Year 2009-10.
Public Comment: Julie Engell
Motion by Supervisor Potter, seconded by Supervisor Calcagno to decline receipt of quarterly reports; and directed staff to return with a summary of the actions in the quarterly report and provide a more standardized report format for the future. All Ayes

Recessed to Lunch - Continued Closed Session

1:30 P.M. RECONVENED

ROLL CALL:

Present: Supervisors Salinas (Chair), Armenta, Calcagno, Parker, and Potter.

SCHEDULED MATTERS:

- S-4 Received a presentation from youth researchers involved in the Office for Employment Training 2009 Summer Youth Employment Program - Youth in Focus Action Research Project.
Public Comment: None
Motion by Supervisor Potter, seconded by Supervisor Parker. All Ayes
- S-5 Received an oral presentation from the Health Department's Clinic Services Director highlighting the County's Federally Qualified Health Center Look-Alike Clinics.
Public Comment: None
Motion by Supervisor Parker, seconded by Supervisor Armenta. All Ayes
- S-6 Public hearing to consider:
a. Granted the appeal by Marjorie Kay from the Minor Subdivision Committee's adoption of a Mitigated Negative Declaration and approval of a Coastal Development Permit PLN080185 (ZA06672/Jehovah Witnesses South Spanish Congregation); and
b. Denied Coastal Development Permit (PLN080185/Jehovah Witnesses South Spanish Congregation) consisting of a Tentative Parcel Map creating four parcels of 3 acres, 3 acres, 3 acres, and 11 acres. (Appeal - PLN080185/Jehovah Witnesses South Spanish Congregation, 125 Sill Road, Las Lomas) (Continued from Tuesday, March 24, 2009)
Public Comment:
· Eva Renteria and Margie Kay
Motion by Supervisor Armenta, seconded by Supervisor Calcagno to grant the appeal, to be held in stay for one year until the Coastal Commission hears and makes a ruling; if the Coastal Commission does not make a ruling

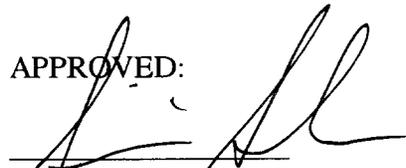
on the other projects, this project will be placed on the list and this appeal takes-effect. 3 -2 (Supervisors Potter and Parker dissented)

CLOSED SESSION REPORT: (See 2. a-i)

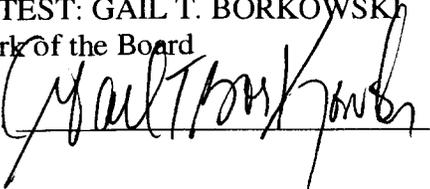
NOTE: Lew Bauman, CAO, reported an Ad Hoc Committee was created to participate with the City of Salinas on reviewing Carr Lake and associated land use and drainage improvements. Supervisors Armenta and Salinas appointed to the Ad Hoc Committee by minute order. (See item 2.b.)

**ORDER FOR ADJOURNMENT
In memory of Walter B. Alsky**

APPROVED:


SIMON SALINAS, CHAIR
BOARD OF SUPERVISORS

ATTEST: GAIL T. BORKOWSKI
Clerk of the Board

BY 

(Supplemental Sheet)

CONSENT CALENDAR

HEALTH AND SOCIAL SERVICES:

16. Agreement No. A-11664
 - a. Authorized the Director of Health to sign an Agreement with Community Hospital of the Monterey Peninsula, Inc., with a term from March 30, 2010 to March 29, 2013, to authorize Adrian L. Strand, M.D. to provide professional services at the Outpatient Immunology Services Department on a part-time basis in an amount not to exceed \$148,200; and
 - b. Authorized the Director of Health to approve up to three (3) future Amendments to this Agreement where the Amendments do not exceed ten percent (10%) of the annual amount, and do not significantly alter the scope of work or result in an increase to Net County Contributions.

17. Agreement No. A-11665
 - a. Approved and authorized the Director of Health to sign a Mental Health Services Agreement with Daystar Residential, Inc. for the provision of day treatment medication support, and mental health services for Monterey County's youth in the annual amount of \$58,400 for Fiscal Year (FY) 2010-11, FY 2011-12, and FY 2012-13, for a total contract amount of \$175,200; and
 - b. Authorized the Director of Health to sign up to three future amendments to this Agreement where the amendments do not exceed five percent (5%) of the original contract amount and do not significantly change the scope of work.

GENERAL GOVERNMENT:

18. Approved Action Minutes of the Board of Supervisors meetings of Tuesday, February 9, 2010; Friday, February 26, 2010; and Tuesday, March 2, 2010.

19. Agreement Nos. A-11666; A-11667; A-11668; A-11669; A-11670
 - a. Approved and authorized the Contracts/Purchasing Officer to execute County Master Agreements with Central Coast Sign Language Interpreters (A-11666), Language Line Services, Inc.(A-11667), Language Quest (A-11668), Medialocate (A-11669), and Richard Schneider Enterprises, Inc. (A-11670), for the provision of language translation/interpretation and/or sign language services for the County of Monterey on an as-needed basis for the initial term of two years from the date of execution through and including February 29, 2012, and to include the option to extend the Master Agreements for three (3) additional one (1) year periods in accordance with the terms and conditions set within each Agreement, and, the aggregate amount to be spent for all Agreements issued under RFP No. 10184 shall not exceed \$500,000;

- b. Authorized the Contracts/Purchasing Officer to exercise the options therein for three (3) additional one (1) year periods in accordance with the terms and conditions set within each Agreement and
- c. Authorized the Contracts/Purchasing Officer to execute similar additional Agreements for language translation/interpretation and/or sign language services with qualified contractors who meet the minimum requirements of the County of Monterey.

RMA - PLANNING DEPARTMENT:

- 20. Agreement Nos. A-11225; A-11226
 - a. Approved Amendment No. 4 to Professional Services Agreement No. A-11225 with Denise Duffy & Associates, Inc. (DDA) where the Base Budget is increased by \$66,510 to \$384,840 with a Contingency increase of \$9,977 to \$57,726, for a total amount not to exceed \$442,566 to provide additional services associated with the Environmental Impact Report (EIR) for the Villas de Carmelo (PLN070497) in Carmel, Coastal Zone, for a term through September 30, 2010;
 - b. Approved Amendment No. 4 to Funding Agreement No. A-11226 with Carmel Hospital Development, LLC where the Base Budget is increased by \$66,510 to \$384,840 and the County Surcharge is increased by \$31,307 to \$138,563, with a Contingency increase of \$9,977 to \$57,726, for a total amount not to exceed \$581,129 to allow funding to Monterey County for costs incurred by DDA and County departments to provide additional services associated with the EIR for the Villas de Carmelo (PLN070497) in Carmel, Coastal Zone, for a term through September 30, 2010; and
 - c. Authorized the Director of Planning to execute Amendment No. 4 to Professional Services Agreement No. A-11225, Amendment No. 4 to Funding Agreement No. A-11226 and future amendments to these Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts. (PSA - PD060228/Denise Duffy and Associates)

RMA - PUBLIC WORKS:

- 21. Agreement No. A-10741
 - a. Approved Amendment No. 3 to Professional Services Agreement No. A-10741 with LSA Associates, Inc., to provide additional environmental services to conduct cultural resource studies in order to prepare a Historical Resources Evaluation Report as required by Caltrans and update the Contractor's billing rates for the Davis Road Bridge Replacement Project, County No. 208, at Salinas River, Project No. 360065, Federal Aid Project No. BRLS-5944 (068), including the widening of Davis Road to four lanes between Blanco Road and Reservation Road in Monterey County in the amount of \$20,680 for a total amount not to exceed \$416,925 for a term through March 31, 2011; and

- b. Authorized the Contracts/Purchasing Officer to execute Amendment No. 3 to Professional Services Agreement No. A-10741 and future amendments to this Agreement where the amendments do not exceed ten percent (10%) of the original Agreement amount and do not significantly alter the scope of work.

RMA - MONTEREY COUNTY REDEVELOPMENT AGENCY:

22. Acting as the Board of Directors of the Redevelopment Agency of the County of Monterey:
Board Budget No. 09/10-120; Resolution No. 10-061; 10-062
 - a. Adopted Resolution No. 10-061 certifying the Final EIR, including adopting Mitigation Monitoring and Reporting Plan, CEQA Findings, and a Statement of Overriding Considerations for the Pajaro Park;
 - b. Adopted Resolution No. 10-062 finding that the conveyance of APN 117-221-034 is exempt from CEQA;
 - c. Approved and authorized the Chair to sign a Real Property Acquisition and Donation Agreement with Granite/PBC Pajaro, LLC for conveyance of 5.8 acres of land located at 24 San Juan Road in Pajaro (APN 117-341-002, 117-341-003, 117-331-025, and 117-221-034); Authorize the Director of Redevelopment and Housing to accept and record the Grant Deed conveying the property; and
 - d. Directed the Auditor-Controller to move appropriations within Fund 171, Unit 8210, in the amount of \$200,000 from Object 6613 - Other Professional and Special Services, to Object 7511 - Land.

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