

# Monterey County

*Monterey County Government Center  
Board Chamber  
168 W. Alisal St., 1st Floor  
Salinas, CA 93901*



## Action Minutes - Final

**Tuesday, September 29, 2015**

**9:00 AM**

**See separate agenda for other Board governed Agencies and  
Special Districts.**

## Board of Supervisors

*Chair Simón Salinas - District 3  
Vice Chair Jane Parker - District 4  
Supervisor Dave Potter - District 5  
Supervisor Fernando Armenta - District 1  
Supervisor John M. Phillips - District 2*

**9:00 A.M. - Call to Order**

The meeting was called to order by Chair Salinas.

**Roll Call**

**Present:** 5 - Supervisor Simón Salinas, Supervisor Jane Parker, Supervisor Fernando Armenta, Supervisor Dave Potter and Supervisor John M. Phillips

**Additions and Corrections for Closed Session:**

There were no additions or corrections to Closed Session.

**Closed Session**

1. Closed Session under Government Code section 54950, relating to the following items:
  - a. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:
    - (1) 926 North Ardmere Avenue, LLC v. County of Los Angeles, et al. (Court of Appeal, Second Appellate District case no. B248536)
    - (2) Landwatch v. County of Monterey, et al. (Monterey County Superior Court case no. M109434)
    - (3) The Open Monterey Project v. County of Monterey, et al. (Monterey County Superior Court case no. M109441)
  - b. Pursuant to Government Code section 54956.9(d)(2), the Board will confer with legal counsel regarding one matter of significant exposure to litigation.
  - c. Pursuant to Government Code section 54957.6, the Board will confer with labor negotiators:
    - (1) Designated representatives: Manuel Gonzalez and Brette NealEmployee Organization(s): All Units
  - d. Pursuant to Government Code section 54956.9(d)(2), the Board will confer with legal counsel regarding one matter of significant exposure to litigation. (ADDED VIA ADDENDUM)

**CLOSED SESSION REPORT**

**Closed Session under Government Code section 54950, relating to the following items:**

- a. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:
  - (1) 926 North Ardmere Avenue, LLC v. County of Los Angeles, et al. (Court of Appeal, Second Appellate District case no. B248536)

**CLOSED SESSION REPORT: The Board conferred with counsel and approved Monterey County's participation Amicus Curaie in the case, in support of the**

County of Los Angeles.

(2) Landwatch v. County of Monterey, et al. (Monterey County Superior Court case no. M109434

CLOSED SESSION REPORT: The County took no reportable action on item 1. a. (2).

(3) The Open Monterey Project v. County of Monterey, et al. (Monterey County Superior Court case no. M109441)

CLOSED SESSION REPORT: The Count took no reportable action on item 1. a. (3).

b. Pursuant to Government Code section 54956.9(d)(2), the Board will confer with legal counsel regarding one matter of significant exposure to litigation.

CLOSED SESSION REPORT: The Board took no reportable action on item 1.b.

c. Pursuant to Government Code section 54957.6, the Board will confer with labor negotiators:

(1) Designated representatives: Manuel Gonzalez and Brette Neal

Employee Organization(s): All Units

CLOSED SESSION REPORT: The Board took on reportable action on item 1. c. (1).

d. Pursuant to Government Code section 54956.9(d)(2), the Board will confer with legal counsel regarding one matter of significant exposure to litigation.

(ADDED VIA ADDENDUM)

CLOSED SESSION REPORT: The Board took no reportable action on item 1.d.

**10:30 A.M. - Reconvened**

**Roll Call**

Present: 5 - Supervisor Simón Salinas, Supervisor Jane Parker, Supervisor Fernando Armenta, Supervisor Dave Potter and Supervisor John M. Phillips

**Pledge of Allegiance**

The Pledge of Allegiance was led by Supervisor Phillips.

**Additions and Corrections**

There were no additions or corrections to the agenda.

**Consent Calendar- (See Supplemental Sheet)**

2. Approval of Consent Calendar (See Supplemental Sheet)

A motion was made by Supervisor Dave Potter, seconded by Supervisor Fernando Armenta to approve the Consent Calendar. (See Supplemental Sheet)

ALL AYES

**Ceremonial Resolutions**

3. Adopt Resolution commending Linda Rotharmel, Administrative Secretary, on her retirement with 30 years of dedicated public service to Monterey County. (Supervisor Armenta)
- A motion was made by Supervisor Jane Parker, seconded by Supervisor John M. Phillips to adopt Resolution No. 15-255 commending Linda Rotharmel, Administrative Secretary, on her retirement with 30 years of dedicated public service to Monterey County. (Supervisor Armenta) ALL AYES**
4. Adopt Resolution congratulating Mary Hutton upon her 90th birthday and thanking her for her dedicated service to the Monterey County Free Libraries. (Full Board)
- A motion was made by Supervisor Jane Parker, seconded by Supervisor John M. Phillips to adopt Resolution No. 15-256 congratulating Mary Hutton upon her 90th birthday and thanking her for her dedicated service to the Monterey County Free Libraries. (Full Board) ALL AYES**
5. Adopt Resolution commending Edward A. Muniz, Management Analyst II for the Resource Management Agency- Public Works, for his dedicated service of more than 35 years to the County of Monterey upon his retirement. (Supervisor Parker)
- A motion was made by Supervisor Jane Parker, seconded by Supervisor Fernando Armenta to adopt Resolution No. 15-257 commending Edward A. Muniz, Management Analyst II for the Resource Management Agency- Public Works, for his dedicated service of more than 35 years to the County of Monterey upon his retirement. (Supervisor Parker) ALL AYES**

### Appointments

6. Appoint Raymond Torres to the In-Home Supportive Services Advisory Committee to fill an unscheduled vacancy with a term ending June 30, 2016. (Full Board)
- A motion was made by Supervisor Dave Potter, seconded by Supervisor Fernando Armenta to appoint Raymond Torres to the In-Home Supportive Services Advisory Committee to fill an unscheduled vacancy with a term ending June 30, 2016. (Full Board) ALL AYES**
- 6.1 Appoint Ramona Montoya to the Soledad Cemetery District to fill an unscheduled vacancy with a term ending February 1, 2016. (Supervisor Salinas)
- A motion was made by Supervisor Dave Potter, seconded by Supervisor Fernando Armenta to appoint Ramona Montoya to the Soledad Cemetery District to fill an unscheduled vacancy with a term ending February 1, 2016. (Supervisor Salinas) ALL AYES**

### Other Board Matters

7. Board Comments

Supervisor Potter thanked the eight departments that came out to the Cachagua General Store last Wednesday night and met with the community to advise of the services they offer for the recovery after the Tassajara/Cachagua fire. He thanked PG&E, Sherrie Collins and Michael Jones, owner of the Cachagua General Store for turning his birthday into a fundraising event that was extremely well attended. There will be a meeting at Terecitas School to let the community know of services that are available. He appreciated the community response and support for this natural disaster and their skill in effectively responding.

Supervisor Armenta announced he was invited and attended the 50th Anniversary of the United Farmworkers Organizing committee and the famous grape strike march from Delano to Sacramento of 1965. The event was attended by local legislators Congresswoman Loretta Sanchez, Bobby Kennedy, Jr. and Kris Kristofferson. It was about 100 degrees in Delano, California and he was able to stay for half the day.

Supervisor Parker thanked the Monterey Peninsula Chamber of Commerce for hosting their annual Leadership Luncheon last week at the Hyatt Regency. They invite elected representatives from the Peninsula cities, City of Salinas, and the County Board of Supervisors who have constituents on the Monterey Peninsula. It was well attended and very informative. She was pleased to see Districts 2, 4 and 5 were represented at the event, as well as most of the cities on the peninsula.

8. CAO Comments and Referrals

There were no CAO comments or referrals.

9. General Public Comment

Kent Knowle; Joe Vierra; Hans Jongens.

**10:30 A.M. - Scheduled Matters**

10. Receive a presentation on the East-West Wing Renovation Project.

**Public comment: Dean Flippo; Ron Holly; Judge Lydia Villareal; Joe Vierra. A motion was made by Supervisor Dave Potter, seconded by Supervisor Jane Parker to receive a presentation on the East-West Wing Renovation Project. ALL AYES**

11. Adopt a Resolution to:

- a. Establish a Road Fund Advisory Committee; and
- b. Adopt the Road Fund Advisory Committee Bylaws.

**Public comment: Joe Vierra.**

**A motion was made by Supervisor Dave Potter, seconded by Supervisor Fernando Armenta directing staff to return to the Board with this item after addressing the expressed concerns. AYES**

11.1 Report back to the Board of Supervisors regarding discussions with Monterey

County Employees concerning proposals for the Election of Cash Out of Vacation /Annual Leave/ Paid Time Off (PTO) and provide direction to staff. (ADDED VIA ADDENDUM)

**A motion was made by Supervisor Dave Potter, seconded by Supervisor Jane Parker to:**

- a. Receive a presentation on additional consultations with Monterey County Employees on approaches to avoid constructive receipt by creation of a "Stand Alone" Program for the Election of Cash out of Vacation /Annual Leave/ Paid Time Off (PTO);**
- b. Direct that staff return with a recommendation to amend the County's Personnel Policies and Practices Resolution to add provisions for the Election of Cash Out of Vacation /Annual Leave/ Paid Time Off (PTO) that provides immediate protection from constructive receipt; and**
- c. Direct that staff pursue an Internal Revenue Service (IRS) Private Letter Ruling on the validity of an emergency provision request, developed as much as possible with bargaining units and unrepresented units, to the Cash Out of Vacation/Annual Leave/PTO Stand Alone Program. ALL AYES**

### **12:00 P.M. - Recess to Lunch**

### **1:30 P.M. - Reconvene Monterey County Board of Supervisors**

#### **Roll Call**

**Present:** 5 - Supervisor Simón Salinas, Supervisor Jane Parker, Supervisor Fernando Armenta, Supervisor Dave Potter and Supervisor John M. Phillips

### **1:30 P.M. - Scheduled Matters**

- 12.** Adopt an ordinance to amend Chapter 2.04 of the Monterey County Code to permit the Board of Supervisors, and its standing and advisory committees, to hold regular meetings at locations other than the county seat (Salinas, California) (Referral 2015.03).

**Public comment: Joe Vierra.**

**A motion was made by Supervisor Jane Parker, seconded by Supervisor Fernando Armenta to Adopt Ordinance 5257 to amend Chapter 2.04 of the Monterey County Code to permit the Board of Supervisors, and its standing and advisory committees, to hold regular meetings at locations other than the county seat (Salinas, California) (Referral 2015.03) ALL AYES**

- 12.1** Public hearing to consider:
- a. Denying the appeal by Nina Beety of the Monterey County Planning Commission's adoption of a Mitigated Negative Declaration and approval of a Combined Development Permit (Elkhorn Slough National Estuarine Research Reserve /PLN100351);
  - b. Certifying that the County has considered the Mitigated Negative Declaration adopted by the California Department of Fish and Wildlife; and
  - c. Approving the Combined Development Permit consisting of: 1) a Coastal Development Permit to allow oak woodland and freshwater habitat

- restoration within 100 feet of an environmentally sensitive habitat; and 2) a Coastal Development Permit to allow the removal of 1,225 existing Eucalyptus trees (ranging in size from 6 to over 37 inches in diameter).
- d. Adopting a Mitigation Monitoring and Reporting Plan.  
(Appeal of the Combined Development Permit Approval - PLN100351/ Elkhorn Slough National Estuarine Research Reserve, 1700 Elkhorn Road, Royal Oaks, North County Land Use Plan)

**David Felice addressed the Board on behalf of the Applicant.**

**Appellant Nina Beety addressed the Board.**

**Public comment: Mark Silverstein; Chris Orman; Hans Jongens; Andrea Wolfolk.**

**A motion was made by Supervisor John M. Phillips, seconded by Supervisor Dave Potter to adopt Resolution 15-286 to:**

- a. Deny the appeal by Nina Beety of the Monterey County Planning Commission's adoption of a Mitigated Negative Declaration and approval of a Combined Development Permit (Elkhorn Slough National Estuarine Research Reserve /PLN100351);
- b. Certify that the County has considered the Mitigated Negative Declaration adopted by the California Department of Fish and Wildlife;
- c. Approve the Combined Development Permit consisting of: 1) a Coastal Development Permit to allow oak woodland and freshwater habitat restoration within 100 feet of an environmentally sensitive habitat; and 2) a Coastal Development Permit to allow the removal of 1,225 existing Eucalyptus trees (ranging in size from 6 to over 37 inches in diameter), subject to Conditions of Approval; and
- d. Adopt a Mitigation Monitoring and Reporting Plan (Exhibit 1). **ALL AYES**

- 13.** Item 13 renumbered to 11.1 and moved to 10:30 AM Scheduled Matters via the Supplemental.

**14. (Continued from September 22, 2015)**

- a. Receive, review and approve the Board of Supervisors Strategic Initiatives Policy Area Milestone Updates; and
- b. Provide direction to staff as appropriate.

**A motion was made by Supervisor Fernando Armenta, seconded by Supervisor Jane Parker to: a. Receive, review and approve the Board of Supervisors Strategic Initiatives Policy Area Milestone Updates; and b. Provided direction to staff as appropriate (Continued from September 22, 2015). ALL AYES**

- 14.1** Public Hearing to consider further continuance of public hearing regarding:
- a. Addendum No. 3 to the Final Environmental Impact Report for the 2010 Monterey County General Plan together with (#7-01, SCH #20071212001) ("FEIR"); and
  - b. Amendments to the 2010 Monterey County General Plan to implement litigation settlement agreements with Land Watch Monterey County and The Open Monterey Project. (REF150010/General Plan Amendment No. 3) (ADDED VIA ADDENDUM)

**A motion was made by Supervisor Jane Parker, seconded by Supervisor Fernando Armenta to continue the public hearing to November 10, 2015**

regarding the proposed amendments to the 2010 Monterey County General Plan ("General Plan") that would implement a settlement of litigation regarding the General Plan. ALL AYES

**Adjournment**

**APPROVED:**

/s/ Jane Parker

**JANE PARKER, CHAIR  
BOARD OF SUPERVISORS**

**ATTEST:**

**BY:** /s/ Gail T. Borkowski

**GAIL T. BORKOWSKI  
CLERK OF THE BOARD**

**APPROVED ON** 03-08-2016

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**Supplemental Sheet, Consent Calendar****Natividad Medical Center**

15. a. Authorize the Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute the First Amendment to the Professional and Call Coverage Services Agreement with Monterey Spine and Joint, PC, a California professional corporation to provide neurosurgery services at NMC effective October 1, 2015, extending the term by twenty-four months and adding \$500,000 for a revised not to exceed amount of \$1,750,000 for the full term of the Agreement October 1, 2014 to September 30, 2017; and
- b. Authorize the Deputy Purchasing Agent for NMC or his designee to sign up to three (3) amendments to this Agreement where the total amendments do not extend the term by more than twelve (12) months, do not exceed 10% of the original contract amount and do not significantly change the scope of work.

**Approved - Agreement No. A-12752**

16. Authorize Deputy Purchasing Agent for Natividad Medical Center (NMC) or his designee to execute the First Amendment to the Professional Services Agreement with Ian Atkinson, M.D. to provide family medicine services at NMC effective October 1, 2015, extending the term to December 31, 2016 and adding \$100,000 for a revised not to exceed amount of \$200,000 for the full term of the Agreement November 1, 2014 to December 31, 2016.

**Approved - Agreement No. A-12947**

**Health Department**

17. a. Amend Fiscal Year (FY) 2015-16 Health Department Budget 4000-HEA003-8124 to delete one (1) 0.80 FTE Public Health Nurse II and add four (4) 0.20 FTE Public Health Nurse II to each of four (4) existing .80 FTE Public Health Nurse II positions as reflected in Attachment A; and
- b. Authorize the County Administrative Office to reflect approved changes in the FY 2015-16 Adopted Budget.

**Approved**

18. Authorize the Director of Health to execute a no extension Amendment No. 1 to Mental Health Services Agreement A-12522 with Fred Finch Youth Center, effective June 1, 2015, to decrease Fiscal Year (FY) 2014-15 amount from \$50,472 to \$27,889 (a decrease of \$22,583); increase FY 2015-16 amount from \$50,472 to \$211,257 (an increase of \$160,785); for a revised total Agreement amount not to exceed \$289,618.

**Approved - A-12522**

### **Department of Social Services**

19. Approve and authorize the Director of the Department of Social Services to sign a Memorandum of Understanding (MOU) between the California Department of Child Support Services (CDCSS) and Monterey County Department of Social Services (DSS) for on-line access to the California Child Support Automated Systems (CCSAS) for a period of 36 months.

**Approved**

### **General Government**

20. a. Approve and authorize the Contract Purchasing Officer or his designee to sign Amendment Number 2 to the Contractual Agreement No. A 13-291 expanding the Scope of Work to include Investment and Financial Advisory Services, and to extend the Agreement for an additional two years between the County of Monterey and PFM Asset Management LLC (PFM), dated December 3, 2013, in an amount not to exceed \$300,000 a year under a new pricing methodology for the period October 1, 2015 through October 31, 2017.
- b. Authorize the Treasurer-Tax Collector to execute all necessary additional institutional standard financial documentation/authorizations with PFM and applicable financial institutions to facilitate performance under the Agreement as amended.

**Approved - Agreement No. A13-291**

21. Approve the Monterey County Board of Supervisors Draft Action Meeting Minutes for the following dates: Tuesday, March 24, 2015, Tuesday, May 19, 2015 and Tuesday, June 2, 2015.

**Approved**

22. Approve the Special Joint Meeting of the Board of Supervisors of the Monterey County Water Resources Agency and the Monterey County Water Resources Agency Board of Directors Draft Action Meeting Minutes for Tuesday, April 7, 2015.

**Approved**

23. Approve the Draft Action Meeting Minutes for the Special Triple Joint Meeting of the Monterey County Board of Supervisors, the Board of Supervisors of the Water Resources Agency & the Water Resources Agency Board of Directors for Tuesday, October 21, 2014, Tuesday, December 9, 2014, Tuesday, February 10, 2015 and Tuesday, April 7, 2015

**Approved**

- 24.
- a. Approve and Authorize the Monterey County Library Director to enter into an Agreement with CENIC (Corporation for Education Network Initiatives in California) on behalf of the County of Monterey to connect Monterey County Free Libraries to the internet through the high speed CENIC network for a period of 5 years at the one-time cost of One Thousand Dollars (\$1,000.00).
  - b. Accept the non-standard terms and conditions contained in the Agreement, including but not limited to Liability and Indemnification Provisions pursuant to the recommendation of the Monterey County Library Director.

**Approved - Agreement No. A-12951**

### **RMA - General**

- 25.
- a. Approve a Professional Services Agreement with California Code Check, Inc. (CCC) to provide construction building inspection services for the California Flats Solar Project in South County, under Request for Qualifications (RFQ) #10336, in the amount of \$531,800 with the Contingency amount of \$250,000, for a total amount not to exceed \$781,800, for a term of October 1, 2015 through July 1, 2018; and
  - b. Approve a Funding Agreement with California Flats Solar, LLC to allow funding to Monterey County for costs incurred by CCC to provide construction building inspection services for the California Flats Solar Project in South County, under RFQ #10336, in the amount of \$531,800 with the Contingency amount of \$250,000, and costs for County departments to provide services associated with construction building inspection services in the amount of \$218,200 with the County fee of \$3,424, for a total amount not to exceed \$1,003,424, for a term of October 1, 2015 through July 1, 2018; and
  - c. Approve an increase in Appropriations and Estimated Revenues in the amount of \$316,976 for Fiscal Year 2015 - 2016 Adopted Budget for Fund 001-3000-8170-RMA011 Building Services where the Financing Source is Permit Revenue drawn down from the California Flats Solar Project Deposit Account 019-2611-CLFT (4/5 vote required); and
  - d. Authorize the Auditor-Controller's Office to Amend the FY 2015-16 Building Services adopted budget, Fund 001, Appropriation Unit RMA011, to increase estimated revenue and appropriation by \$316,976 (4/5 vote required); and
  - e. Authorize the Contracts/Purchasing Officer or his designee to execute the Professional Services Agreement, Funding Agreement and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreements amounts.

**Approved - Agreement Nos. A-12941 (California Code Check, Inc.); Agreement No. A-12942 (California Flats Solar, LLC)**

26. a. Approve a Standard Agreement with BMI Imaging Systems, Inc. to provide microfiche digital conversion services for the Resource Management Agency (RMA) - Building Services in an amount not to exceed \$135,901, for a term from October 1, 2015 to October 1, 2016; and
- b. Authorize the Contracts/Purchasing Officer or his designee to execute the Standard Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount.

**Approved - Agreement No. A-12952**

27. Adopt an ordinance adding Chapter 18.17 to the Monterey County Code to establish an expedited, streamlined permitting process for small residential rooftop solar energy systems in the unincorporated area of Monterey County.

**A motion was made by Supervisor Dave Potter, seconded by Supervisor Fernando Armenta to adopt Ordinance No. 5258 adding Chapter 18.17 to the Monterey County Code to establish an expedited, streamlined permitting process for small residential rooftop solar energy systems in the unincorporated area of Monterey County. ALL AYES**

### **RMA-Planning**

28. a. Set a public hearing for October 13, 2015 at 1:30 PM to Consider County-initiated Notices of Non-Renewal for portions of thirteen (13) Williamson Act Agricultural Preserve Land Conservation Contracts due to not meeting Williamson Act Program and County Land Conservation Contract requirements and/or at the Property Owner's request.
- b. Direct the Clerk of the Board of Supervisors to publish Notice of Hearing for the Public Hearing to take place on October 13, 2015 at 2:15PM, for County-initiated Notices of Non-Renewal for portions of thirteen (13) Williamson Act Agricultural Preserve Land Conservation Contracts due to not meeting Williamson Act Program and County Agricultural Preserve and Land Conservation Contract requirements and/or at the Property Owner's request.
- (REF150064 - County initiated Notices of Non-Renewal 2016 - Portions of Williamson Act Agricultural Preserve Land Conservation Contracts)

**Approved**

29. a. Approve Amendment No. 3 to Professional Services Agreement No. A-12432 with Rincon Consultants, Inc. where the Base budget is increased by \$314,723 to \$618,548 and the Contingency budget is increased by \$110,153 to \$233,069, for a total amount not to exceed \$851,617 to complete new additional tasks associated with the Mitigation Monitoring Reporting Program (MMRP) for the California Flats Solar Project

- Environmental Impact Report (EIR) (PLN120294) in South County, and extend the term to December 31, 2018; and
- b. Approve Amendment No. 3 to Funding Agreement No. A-12433 with California Flats Solar, LLC where the Base budget is increased by \$314,723 to \$618,548, the Contingency budget is increased by \$110,153 to \$233,069, and the County Contract Administration Fee is unchanged at \$3,170, for a total amount not to exceed \$854,787 to allow funding to Monterey County for costs incurred by Rincon Consultants, Inc. and County departments to complete new additional tasks associated with the MMRP for the California Flats Solar Project EIR (PLN120294) in South County, and extend the term to December 31, 2018; and
  - c. Authorize the Director of Planning to execute Amendment No. 3 to Professional Services Agreement No. A-12432, Amendment No. 3 to Funding Agreement No. A-12433 and future amendments to the Agreements where the amendments do not significantly alter the scope of work or change the approved Agreement amounts.  
(REF150085/Rincon Consultants, Inc. and PLN120294/EIR for the California Flats Solar Project, in South County)

**Approved - Agreement Nos. A-12432 (Rincon Consultants); A-12433 (California Flats Solar, LLC)**