



Monterey County

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

Action Minutes - Draft Board of Supervisors

Chair Fernando Armenta - District 1
Vice-Chair Louis R. Calcagno - District 2
Supervisor Simón Salinas - District 3
Supervisor Jane Parker - District 4
Supervisor Dave Potter - District 5

Tuesday, April 9, 2013

9:00 AM

See separate agendas for Monterey County Water Resources Agency and Successor Agency to the Monterey County Redevelopment Agency

Call to Order

The meeting was called to order by Chair Armenta.

Roll Call

Present: 5 - Supervisor Fernando Armenta, Supervisor Louis R. Calcagno, Supervisor Simón Salinas, Supervisor Jane Parker and Supervisor Dave Potter

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) Swain v. Marquez, et al. (Monterey County Superior Court case no. M116382)
 - (2) Constance Murray v. California American Water, County of Monterey, et al (Monterey County Superior Court case no. M120057)
 - b. Pursuant to Government Code section 54957(b)(1), the Board will confer regarding discipline, dismissal, or release of a public employee.
 - c. Pursuant to Government Code section 54957.6, the Board will confer with labor negotiators:
Designated representatives: James May and Brette Neal; Employee Organization: Unit S
 - d. Pursuant to Government Code section 54956.9(e)(3), the Board will confer

with legal counsel regarding liability claims against the County of Monterey.

- (1) City of Carmel-by-the-Sea
- (2) City of Del Rey Oaks
- (3) City of Gonzales
- (4) City of King City
- (5) City of Marina
- (6) City of Monterey
- (7) City of Pacific Grove
- (8) City of Salinas
- (9) City of Sand City
- (10) City of Seaside
- (11) City of Soledad

e. Pursuant to Government Code section 54956.9(d)(2), the Board will confer with legal counsel regarding ~~one matter~~ two matters of significant exposure to litigation. (REVISED VIA SUPPLEMENTAL)

f. Pursuant to Government Code section 54957(b)(1), the Board will provide performance

evaluations for the following public employee positions:

- (1) County Administrative Officer
- (2) County Counsel

(ADDED VIA ADDENDUM)

Public comment: Jill Telfer, Esq.

a. Pursuant to Government Code section 54956.9(d)(1), the Board will confer with legal counsel regarding existing litigation:

(1) Swain v. Marquez, et al. (Monterey County Superior Court case no. M116382)

(2) Constance Murray v. California American Water, County of Monterey, et al (Monterey County Superior Court case no. M120057)

CLOSED SESSION REPORT: The Board took no reportable actions on items 1.a.(1) and (2).

b. Pursuant to Government Code section 54957(b)(1), the Board will confer regarding discipline, dismissal, or release of a public employee.

CLOSED SESSION REPORT: The Board conferred and pursuant to the Memorandum of Understanding with the bargaining unit, voted unanimously to reject the arbitrator's decision; and to consider the full record of the arbitration on its own and to make its own decision which may in the end uphold, reject in total or modify that decision and come to its own conclusion to take place at a future meeting.

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

Designated representatives: James May and Brette Neal; Employee

Organization: Unit S

CLOSED SESSION REPORT: The Board voted unanimously to approve a new Memorandum of Understanding (MOU) with Unit S and staff will return at a future date for final ratification of the MOU. The Board voted today to approve the MOU.

d. Pursuant to Government Code section 54956.9(e)(3), the Board will confer with legal counsel regarding liability claims against the County of Monterey.

- (1) City of Carmel-by-the-Sea
- (2) City of Del Rey Oaks
- (3) City of Gonzales
- (4) City of King City
- (5) City of Marina
- (6) City of Monterey
- (7) City of Pacific Grove
- (8) City of Salinas
- (9) City of Sand City
- (10) City of Seaside
- (11) City of Soledad

CLOSED SESSION REPORT: The Board took no reportable actions on items 1.d.(1) through (11).

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

CLOSED SESSION REPORT: The Board took no reportable actions.

f. Pursuant to Government Code section 54957(b)(1), the Board will provide performance

evaluations for the following public employee positions:

- (1) County Administrative Officer
 - (2) County Counsel
- (ADDED VIA ADDENDUM)

CLOSED SESSION REPORT: The Board took no reportable actions on items 1.f.(1) & (2).

10:30 AM Reconvene

Roll Call

Present: Charlie Steves, Interpreter

Supervisor Potter was present in Closed Session and arrived on the dais at 10:43 a.m.

Present: 5 - Supervisor Fernando Armenta, Supervisor Louis R. Calcagno, Supervisor Simón Salinas, Supervisor Jane Parker and Supervisor Dave Potter

Pledge of Allegiance

The Pledge of Allegiance was led by Chair Armenta.

Additions and Corrections

Due to the need for immediate consideration by the Board of matters which arose after the posting of today's agenda, as provided in Section 54954.2 of the California Government Code the Board is asked to make the following additions and corrections:

Remove from Consent Calendar – Natividad Medical Center

15. Authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute Renewal and Amendment No. 1 to the Agreement with MD Buyline for Membership Services at NMC, extending the Agreement to August 31, 2017 and adding \$99,995 for a revised total Agreement amount not to exceed \$199,990 in the aggregate.

Adjourn In Memory of – Arthur Richard Brusa

A motion was made by Supervisor Jane Parker, seconded by Supervisor Simon Salinas to approve Additions and Corrections. 4-0 (Supervisor Potter Absent)

Consent Calendar- (See Supplemental Sheet)

- 2.** Approval of the Consent Calendar - Regular (See Supplemental Sheet)

Supervisors Parker and Calcagno pulled item 30 for questions and comments. Marti Noel and Jacqueline Onciano responded.

A motion was made by Supervisor Jane Parker, seconded by Supervisor Dave Potter to approve the Consent Calendar-Regular. ALL AYES

Ceremonial Resolutions

- 3.** Adopt a resolution commending Stanley R. Chan Supervising Mechanic to the Department of Public Works for his dedicated service of more than 27 years to the County of Monterey upon his retirement. (Supervisor Armenta)

A motion was made by Supervisor Dave Potter, seconded by Supervisor Simón Salinas to adopt Resolution No. 13-099 commending Stanley R. Chan Supervising Mechanic to the Department of Public Works for his dedicated service of more than 27 years to the County of Monterey upon his retirement. (Supervisor Armenta). ALL AYES

- 4.** Adopt Resolution commending “Undisclosed Recipient” as the Monterey County Cattlemen’s Association Cattlewoman of the Year Award Recipient for 2013. (Supervisor Calcagno)

A motion was made by Supervisor Dave Potter, seconded by Supervisor Simón Salinas to adopt Resolution No. 13-106 commending Ann Bloom as the Monterey County Cattlemen’s Association Cattlewoman of the Year Award Recipient for 2013. (Supervisor Calcagno) ALL AYES

- 5.** Adopt Resolution commending “Undisclosed Recipient” as the Monterey County Cattlemen’s Association Cattleman of the Year Award Recipient for 2013. (Supervisor Calcagno)

A motion was made by Supervisor Dave Potter, seconded by Supervisor Simón Salinas to adopt Resolution No. 13-107 commending James Carroll Capps as the Monterey County Cattlemen’s Association Cattleman of the Year Award Recipient for 2013. (Supervisor Calcagno) ALL AYES

- 5.1** Adopt Resolution commending Cecilia Preciado Burciaga for her lifetime of service and advocacy creating greater educational opportunities for women and minorities. (Supervisor Parker) (ADDED VIA ADDENDUM)

A motion was made by Supervisor Dave Potter, seconded by Supervisor Simón Salinas to adopt Resolution No. 13-108 commending Cecilia Preciado Burciaga for her lifetime of service and advocacy creating greater educational opportunities for women and minorities. (Supervisor Parker) (Added via Addendum) ALL AYES

Appointments

6. Reappoint Margaret Robbins and Wayne Ross to the Housing Advisory Committee, terms ending April 9, 2015. (Supervisor Potter)
- A motion was made by Supervisor Jane Parker, seconded by Supervisor Dave Potter, that these Reappointments be approved. ALL AYES**
7. Appoint Richard Garza to the Military & Veterans Affairs Advisory Commission, term ending January 1, 2016. (Supervisor Calcagno)
- A motion was made by Supervisor Jane Parker, seconded by Supervisor Dave Potter, that this Appointment be approved. ALL AYES**

Other Board Matters

8. Board Comments
- Supervisor Potter commended Supervisor Salinas on his performance at the Panetta Lecture Series and for aptly representing the immigration issues affecting Monterey County. He held his own in this large arena with the political "big people" from Washington D.C.**
- Supervisor Parker also commended Supervisor Salinas for his performance at the Panetta Institute Lecture Series. She highlighted that the Panetta Lecture series rarely features a locals to discuss topics. She was pleased that Supervisor Salinas was able to participate.**
- Supervisor Salinas advised he was very impressed by the level of engagement and participation of the students in attendance at the lecture. He commended the Panetta Institute for bringing high caliber, expert speakers to this forum.**
- Supervisor Calcagno also commended the Panetta Institute for selecting Supervisor Salinas to speak on the panel as he understands the immigration debate better than most.**
- Supervisor Armenta thanked Supervisor Salinas for his participation and representation in the Panetta Lecture Series. He also recognized his colleagues and others that participated in the immigration march that occurred a few weeks ago, with Congressman Sam Farr in attendance.**
9. CAO Comments and Referrals
- There were no CAO comments or referrals.**
10. General Public Comment

Hazel Thompkins, Lynda Campos; Joe Vierra; Steve Ecklund; Hans Jongens;
Gail Smith; Bud Reiwerts.

10:30 A.M. - Scheduled Matters

11. Accept and Approve the Community Restorative Justice Commission 2012 Annual Report.

Public comment: Joe Vierra; Connie White.

A motion was made by Supervisor Simón Salinas, seconded by Supervisor Dave Potter to accept and approve the Community Restorative Justice Commission 2012 Annual Report. ALL AYES

12. a. Accept the 2011-2012 Annual Report of First 5 Monterey County (a.k.a. The Monterey County Children and Families Commission); and
b. Adopt a Resolution declaring 2013 the Year of the Child.

Public comment: Joe Vierra.

A motion was made by Supervisor Simón Salinas, seconded by Supervisor Jane Parker to:

- a. Accept the 2011-2012 Annual Report of First 5 Monterey County (a.k.a. The Monterey County Children and Families Commission); and
b. Adopted Resolution No. 13-111 declaring 2013 the Year of the Child. ALL AYES**

- 12.1 a. Close a Public Hearing on Monterey County's Community Development Block Grant (CDBG) Program Income Reuse Plan with Jurisdictional Certifications; and
b. Direct Staff to Re-Notice a New Public Hearing on the CDBG Program Income Reuse Plan at an Appropriate Time. (ADDED VIA ADDENDUM)

A motion was made by Supervisor Simón Salinas, seconded by Supervisor Dave Potter to: a. Close the Public Hearing on Monterey County's Community Development Block Grant (CDBG) Program Income Reuse Plan with Jurisdictional Certifications; and

b. Direct Staff to Re-Notice a New Public Hearing on the CDBG Program Income Reuse Plan at an Appropriate Time. (ADDED VIA ADDENDUM). ALL AYES

12:00 PM Recess to Lunch - Continued Closed Session

1:30 PM Reconvene

Roll Call

Present: Charlie Steves, Interpreter

Present: 5 - Supervisor Fernando Armenta, Supervisor Louis R. Calcagno, Supervisor Simón Salinas, Supervisor Jane Parker and Supervisor Dave Potter

1:30 P.M. - Scheduled Matters

13. Receive a report on the implementation of the Affordable Care Act (ACA) in Monterey County, and provide direction to staff.

Public comment: Nina Beety; Tyler Williamson.

A motion was made by Supervisor Dave Potter, seconded by Supervisor Jane Parker to Receive a report on the implementation of the Affordable Care Act (ACA) in Monterey County, and provide direction to staff; further directed staff to increase legislative advocacy efforts, and raise the issue that provider counties like Monterey should be treated differently when considering the 1991 Realignment funds, given the greater responsibility for the uninsured. ALL AYES

14. Public hearing continued from March 19, 2013 to consider adoption of resolutions to:
- a. Deny an appeal by Constance Murray from the decision of the Resource Management Agency - Director of Planning approving a Design Approval to correct a code violation (11CE00134) and to allow the placement of a 20 foot high communication antenna within a water tank easement to serve a California-American Water Company water tank; and
 - b. Find the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301; and
 - c. Approve the Design Approval to correct a code violation (11CE00134) and to allow the placement of a 20 foot high communication antenna within a water tank easement to serve a California-American Water Company water tank; and
 - d. Grant Appellant's request to waive the appeal fee and authorize the RMA-Planning Director to refund the appeal fee.
- (Appeal of a Design Approval - PLN120817 California-American Water Company, 10 Oak Meadow Lane, Carmel Valley, Carmel Valley Master Plan)

Anthony Lombardo addressed the Board.

Mark Bloom addressed the Board on behalf of the appellant.

Public comment: Nina Beety.

A motion was made by Supervisor Dave Potter, seconded by Supervisor Simón Salinas and held a Public hearing continued from March 19, 2013 and adopted Resolution No. 13-135: 1. Denying an appeal by Constance Murray from the decision of the Director of Resource Management Agency – Planning approving a Design Approval (California American Water Company/PLN120817) to correct a code violation (11CE00134) and allow the placement of a twenty foot high communication antenna within a water tank easement to serve a California-American Water Company water tank.; and 2. Finding the project categorically exempt from CEQA pursuant to CEQA Guidelines Section 15301; and 3. Approving the Design Approval (California American Water Company/PLN120817) to correct a code violation (11CE00134) and allow the placement of a twenty foot high communication antenna within a water tank easement to serve a California-American Water Company water tank. [PLN120817, California-American Water Company, 10 Oak Meadow Lane, Carmel Valley, Carmel Valley Master Plan (APN: 187-031-025-000)]; adopted Resolution No. 13-136 to: Grant the request to waive the appeal fee and authorize the RMA-Planning Director to refund the appeal fee. (PLN120817, California-American Water Company); and adopted Resolution No. 13-137 to: 1.

Set aside the decision of the Resource Management Agency – Planning Director’s approval of the Design Approval to correct a code violation (11CE00134) allowing for the placement of a twenty foot high wireless communication antenna within a water tank easement to serve a California-American Water Company water tank; and

2. Remand the application to the Zoning Administrator to render a decision on the proposed alternative design of a wireless communication antenna; and
3. Render this action as the final decision on the Murray appeal. ALL AYES

Adjournment

APPROVED:

**FERNANDO ARMENTA, CHAIR
BOARD OF SUPERVISORS**

ATTEST:

**BY: _____
GAIL T. BORKOWSKI
CLERK OF THE BOARD**

Supplemental Sheet, Consent Calendar

Natividad Medical Center

15. Authorize the Purchasing Manager for Natividad Medical Center (NMC) to execute Renewal and Amendment No. 1 to the Agreement with MD Buyline for Membership Services at NMC, extending the Agreement to August 31, 2017 and adding \$99,995 for a revised total Agreement amount not to exceed \$199,990 in the aggregate.

Approved - Agreement No. A-12431

Health and Social Services

16. Adopt a resolution amending Article I.E. of the Monterey County Master Fee Resolution effective July 1, 2013, to add and adjust certain fee categories relating to oversight and services provided by the Health Department's Environmental Health Bureau pursuant to the attached Fee Schedule.

Adopted Resolution No. 13-113 amending Article I.E. of the Monterey County Master Fee Resolution effective July 1, 2013, to add and adjust certain fee categories relating to oversight and services provided by the Health Department's Environmental Health Bureau pursuant to the attached Fee Schedule. ALL AYES

Criminal Justice

17. a. Ratify authorization for the Chief Probation Officer to sign a Coalition Involvement Agreement grant application to Sun Street Centers for the Preventing Alcohol Related Trauma in Salinas (P.A.R.T.S.) program during Fiscal Year 2013-14; and
b. Authorize the Chief Probation Officer to sign the Grant Agreement with Sun Street Centers.

Approved

18. Approve yearly update to the application, criteria and disqualifiers recommended by the Probation Department for the Supervised Home Confinement Program, as mandated by Penal Code §1203.016(d)(1).

Approved

19. a. Approve and authorize the Contracts/Purchasing Officer to execute a three year Lease Agreement, effective on or around April 15, 2013, with the International Church of the Foursquare Gospel, dba Harvestland Foursquare Church for 30 parking spaces located at 327 Pajaro Street, in Salinas, California, for use by the Probation Department;
b. Authorize the Auditor-Controller to make lease payments of \$900.00 per

month and in accordance with the terms of the agreement; and

c. Authorize the extension of the Lease Agreement for two additional one-year periods under the same terms and conditions, and make minor revisions to the Lease Agreement if deemed by the Contracts/Purchasing Officer to be in the best interests of the County.

Approved

General Government

20. a. Approve and authorize the Director of Information Technology to execute a non-standard Agreement with Questys Solutions in the annual amount of \$92,513.50 for FY 2013-14, FY 2014-15, and FY 2015-16 for a total aggregate amount not to exceed \$277,541 for the provision of software support as needed;
- b. Accept non-standard liability provisions as recommended by the Director of Information Technology, and
- c. Authorize the Contracts/Purchasing Officer to issue purchase orders on an as needed basis in an amount not to exceed \$92,514 yearly.

Approved

21. a. Award annual construction contract to Nor-Cal Contractor, lowest, responsive bidder, in an amount not to exceed \$150,000 for the annual maintenance of park roadways at Laguna Seca Recreation Area, for the calendar year ending December 31, 2013, Bid No.10407;
- b. Reject the bid protest by Don Chapin Company; and
- c. Authorize the Chair of the Board to sign the contract on behalf of the County.

Approved - Agreement No. A-12428; Construction No. 2013-001

22. a. Approve and authorize the Contracts/Purchasing Officer to execute a three year Lease Agreement, effective retroactively on September 1, 2012, with 417 Salinas Road, LLC, for approximately 2,848 rentable square feet of space located at 417-C Salinas Road, Watsonville, California (Monterey County), for use by the Agricultural Commissioner's Office;
- b. Authorize the Auditor-Controller to make lease payments of \$2,420 per month and in accordance with the terms of the agreement; and
- c. Authorize the extension of the Lease Agreement for one additional two-year periods under the same terms and conditions, and make minor revisions to the Lease Agreement if deemed by the Contracts/Purchasing Officer to be in the best interests of the County.

Approved

23. Adopt Resolution to:
Approve the amendment of Article II of the Monterey County Master Fee Resolution to adjust fees for phytosanitary inspection, crop sampling, crop

inspection, Certified Farmers Markets, Certified Producers and organic certification activities pursuant to the attached Fee Schedule, effective July 1, 2013.

A motion was made by Supervisor Jane Parker, seconded by Supervisor Dave Potter to adopt Resolution No. 13-126 to:

Approve the amendment of Article II of the Monterey County Master Fee Resolution to adjust fees for phytosanitary inspection, crop sampling, crop inspection, Certified Farmers Markets, Certified Producers and organic certification activities pursuant to the attached Fee Schedule, effective July 1, 2013. ALL AYES

24. a. Approve and authorize the Contracts/Purchasing Officer to sign an Agreement between the County of Monterey and The Gordian Group for the provisions of providing the County with a Job Order Contracting (JOC) System, effective from the date of execution through and including April 1, 2016; and
- b. Approve and authorize the Contracts/Purchasing Officer to exercise the option to extend the Agreement for two (2) additional one-year (1) terms.

Approved - Agreement No. A-12434

25. Authorize the Auditor-Controller to amend the FY 2012-13 Office of Emergency Services General Fund 001 CAO05 Budget to increase estimated revenue and appropriation in the amount of \$25,564 (4/5th vote required).

Approved

26. Approve and authorize the Information Technology Department to exercise the first of the three five (5) year extension options of the existing Wireless Communications Site Lease Agreement for the period of June 1, 2013 through May 31, 2018.

Approved - Agreement No. A-11217

27. Approve the Action Minutes of the Monterey County Board of Supervisors for Tuesday, July 10, 2012; Tuesday, July 24 2012 and Tuesday, July 31, 2012.

Approved

- 27.1 Approve and authorize the CAO to Execute a Funding Agreement between the Monterey County Water Resources Agency and the County of Monterey for Phase II of the Pajaro River Bench Excavation Project. (ADDED VIA ADDENDUM)

This General Agenda Item was approved

RMA - Planning

28. a. Approve a Professional Services Agreement with Rincon Consultants, Inc.

where the Base Budget is \$208,945.00 and the Contingency budget is \$73,130.75, for a total amount not to exceed \$282,075.75 to provide an Environmental Impact Report (EIR) for the California Flats Solar Project (PLN120294) in South County, for a term effective March 13, 2013 through December 31, 2014; and

b. Approve a Funding Agreement with California Flats Solar, LLC where the Base Budget is \$208,945.00, the Contingency budget is \$73,130.75, and the County contract administration fee is \$3,170.00, for a total amount not to exceed \$285,245.75 to allow funding to Monterey County for costs incurred by Rincon Consultants, Inc. and County departments to provide an EIR for the California Flats Solar Project (PLN120294) in South County, for a term effective March 13, 2013 through December 31, 2014; and

c. Authorize the Director of Planning 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 Agreement amounts.

(PLN120294/Environmental Impact Report for the California Flats Solar Project, in South County)

Approved - Agreement Nos. A-12432 (Rincon Consultants, Inc.); A12433 (California Flats Solar)

29.

a. Approve a Professional Services Agreement with AMEC Environment & Infrastructure, Inc. where the Base Budget is \$121,759.75 and the Contingency budget is \$18,263.96, for a total amount not to exceed \$140,023.71 to provide an Environmental Impact Report (EIR) for the Huckleberry Hill Public Safety Radio Site/Wireless Telecommunications Facility (PLN100516) in the Del Monte Forest area, for a term through January 31, 2014; and

b. Authorize the Contracts/Purchasing Officer to execute the Professional Services Agreement and future amendments to the Agreement where the amendments do not significantly alter the scope of work or change the approved Agreement amount.

(Agreement - REF130018/AMEC Earth and Environment, Inc. (NGEN/PLN100516), County-wide)

Approved - Agreement No. A-12430

30.

a. Accept the Annual Progress Report for the 2010 General Plan implementation pursuant to Government Code Section 65400;

b. Accept the Annual Progress Report for the 2009-2014 Housing Element implementation to comply with the State Department of Housing and Community Development requirements; and

c. Authorize the Resource Management Agency - Director of Planning to submit the progress reports as required.

(REF130009/Annual Progress Report for the 2010 General Plan Implementation)

Approved

RMA - Public Works

31. a. Find that the Modular #3 District Attorney - Tenant Improvements, 320 Church Street, Salinas, CA, Project No. 8778, Bid Package No. 10405, is Categorically Exempt under California Environmental Quality Act Guidelines, Section 15301 (Existing Facilities);
- b. Adopt Plans and Special Provisions for the Modular #3 District Attorney - Tenant Improvements, 320 Church Street, Salinas, CA, Project No. 8778, Bid Package No. 10405;
- c. Authorize the Director of Public Works to advertise the “Notice to Contractors” in the *Monterey County Weekly*; and
- d. Direct the Director of Public Works to file a Notice of Exemption under California Environmental Quality Act with the County Clerk.

Approved - Construction No. 2013-005