

BOARD OF SUPERVISORS

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

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

Lew C. Bauman
County Administrative Officer

Charles J. McKee
County Counsel

Gail T. Borkowski
Clerk of the Board
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REVISED ACTION MINUTES

January 28, 2014

MONTEREY COUNTY BOARD OF SUPERVISORS MONTEREY COUNTY WATER RESOURCES AGENCY

**TUESDAY, FEBRUARY 7, 2012
9:00 A.M.**

9:30 A.M.

CLOSED SESSION

ROLL CALL

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

1. Additions and Corrections for Closed Session: None.
2. Closed Session under Government Code section 54950, relating to the following items:
 - a. Pursuant to Government Code section 54956.9(b), the Board will confer with legal counsel regarding two matters of significant exposure to litigation.
CLOSED SESSION REPORT: The Board took no reportable action on this matter.
 - b. Pursuant to Government Code section 54956.8, the Board will confer with real property negotiators.
 - (1) Property: 26 Central Avenue; Salinas, California Negotiators: Gene Rogers for the County of Monterey Under negotiation: Price and terms
CLOSED SESSION REPORT: The Board took no reportable action on this matter.

c. Pursuant to Government Code section 54957.6(a), the Board will confer with legal counsel regarding existing litigation:

- (1) LandWatch Monterey County, et al. v. County of Monterey, et al. (Monterey County Superior Court case no. M113552) Acting as the Board of Supervisors of the Monterey County Water Resources Agency: CLOSED SESSION

CLOSED SESSION REPORT: The Board took no reportable action on this matter.

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

- (1) In the Matter of the Application of California-American Water Company (Application 04-09-019)

CLOSED SESSION REPORT: The Board took no reportable action on this matter.

- (2) Ag Land Trust v. Monterey County Water Resources Agency, et al. (Monterey County Superior Court case no. M110691)

CLOSED SESSION REPORT: The Board took no reportable action on this matter.

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

CLOSED SESSION REPORT:

f. Pursuant to Government Code section 54956.9(c), the Board will confer with legal counsel regarding one matter of potential initiation of litigation.

CLOSED SESSION REPORT: The Board took no reportable action on this matter.

g. Pursuant to Government Code section 54956.9(b), the Board will confer with legal counsel regarding liability claims against the Monterey County Water Resources Agency.

- (1) RMC Water & Environmental, Inc.

CLOSED SESSION REPORT: The Board conferred with legal counsel and voted to deny the claim of RMC Water and Environmental, Inc.

10:30 A.M. RECONVENED

ROLL CALL

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

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

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

Adjourn in memory of Marcia Hovick

Motion by Supervisor Calcagno, seconded by Supervisor Parker. ALL AYES

5. CONSENT CALENDAR - REGULAR (See Supplemental Sheet)

Motion by Supervisor Parker, seconded by Supervisor Armenta to approve the Consent Calendar - Regular. ALL AYES

Recessed

Convene as the Board of Directors of the Pajaro County Sanitation District

PAJARO COUNTY SANITATION DISTRICT

ROLL CALL

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

6. CONSENT CALENDAR - PAJARO COUNTY SANITATION DISTRICT (See Supplemental Sheet)

Motion by Director Armenta, seconded by Director Salinas to approve the Consent Calendar – Pajaro County Sanitation District. ALL AYES

Adjourned

Convened as Successor Agency to the Redevelopment Agency of the County of Monterey (Added via Addendum)

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY

ROLL CALL

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

- 6.1 CONSENT CALENDAR - SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY (See Supplemental Sheet Item 31)

Motion by Supervisor Parker, seconded by Supervisor Armenta to approve the Consent Calendar – Successor Agency to the Redevelopment Agency of the County of Monterey. ALL AYES

Reconvened as the Monterey County Board of Supervisors

MONTEREY COUNTY BOARD OF SUPERVISORS

CEREMONIAL RESOLUTIONS 7 through 9 heard concurrently

7. Adopted **Resolution No. 12-023** recognizing the 100th anniversary of the Monterey County Free Libraries. (Supervisor Potter)
Motion by Supervisor Parker, seconded by Supervisor Armenta. ALL AYES
8. Adopted **Resolution No. 12-024** honoring Gill Campbell as recipient of the Coalition of the Monterey County Chambers of Commerce Economic Leadership Award. (Supervisor Potter)
Motion by Supervisor Parker, seconded by Supervisor Armenta. ALL AYES
9. Adopted **Resolution No. 12-025** recognizing the generous donation by the Monterey County United Veterans Council of a 2005 Mazda van to the County for use by the Office of Military and Veterans Affairs in the provision of services and assistance to local Veterans. (Supervisor Potter)
Motion by Supervisor Parker, seconded by Supervisor Armenta. ALL AYES

APPOINTMENTS 10 through 12 heard concurrently

10. Appointed Rosie Martinez to the Domestic Violence Coordinating Council to fill an unexpired term ending January 13, 2013. (Supervisor Parker)
Motion by Supervisor Salinas, seconded by Supervisor Parker. ALL AYES
11. Reappointed John Sargenti to the Fish & Game Advisory Commission, term ending February 1, 2015. (Supervisor Calcagno)
Motion by Supervisor Salinas, seconded by Supervisor Parker. ALL AYES
12. Reappointed Frank D. Pierce to the Historical Advisory Commission, term ending February 1, 2016. (Supervisor Calcagno)
Motion by Supervisor Salinas, seconded by Supervisor Parker. ALL AYES

OTHER BOARD MATTERS

13. Board Comments
 - Supervisors Armenta announced the first Monterey County Homeless Veterans Stand-Down at the Salinas Rodeo grounds on June 19-21. Contact Tom Griffin of Military and Veterans' Affairs for more information.
 - Supervisor Potter welcomed Supervisor Calcagno back after his surgery.
 - Supervisor Calcagno said it's great to be back after heart surgery and thanked everyone for their well wishes.
 - Supervisor Salinas also welcomed Supervisor Calcagno back.

14. CAO Comments and Referrals
CAO welcomed Supervisor Calcagno back.
CAO introduced Mike Rodriguez Chief Building Official joined back in January 2012.
15. Public Comment
Jayne Haines; Rex Keyes; and Nina Beety

SCHEDULED MATTERS

- S-1 Received a presentation and approve the Monterey County Workforce Investment Board's (MCWIB) Annual Report for Program Year 2010-2011
Motion by Supervisor Calcagno, seconded by Supervisor Salinas. ALL AYES
- S-2
 - a. Conducted a public hearing under the requirements of Tax Equity and Financial Responsibility Act (TEFRA) and the Internal Revenue Code of 1986, as amended; and,
 - b. Adopted Resolution 12-034 approving the issuance of up to \$13,300,000 in Private Activity Bonds by the California Municipal Finance Authority (CMFA) for the benefit of MP Manzanita Associates, Limited Partnership to provide for the financing of the Project.**Motion by Supervisor Armenta, seconded by Supervisor Salinas. ALL AYES**
- S-3 Accepted an oral presentation from the Health Officer and Project Coordinator regarding the "Striving to Reduce Youth Violence Everywhere through Local Public Health Leadership," funded by an Award from the Department of Health and Human Services, Centers for Disease Control and Prevention, in the amount of \$225,000.00 for Federal Fiscal Year (FFY) 2011-12
Motion by Supervisor Calcagno, seconded by Supervisor Salinas. ALL AYES

12:00 P.M. RECESSED TO LUNCH

1:30 P.M. RECONVENED

MONTEREY COUNTY BOARD OF SUPERVISORS

ROLL CALL

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

SCHEDULED MATTERS

- S-4 Public hearing held to consider:
 - a. Appeal by Warren Wayland from the Planning Commission's decision denying the application for a Combined Development Permit (Wayland/PLN070366) consisting of:

- 1) a Minor Subdivision Vesting Tentative Map to allow the division of a 38-acre parcel into four parcels of 9.7 acres (Parcel 1), 5.3 acres (Parcel 2), 9.3 acres (Parcel 3), 5.2 acres (Parcel 4) and a remainder parcel of 8.8 acres;
 - 2) Use Permit for development on slopes in excess of 25 percent for roadway improvements;
 - 3) Use Permit for development in a visually sensitive area ("VS" District); and
 - 4) Use Permit to allow the removal of approximately 39 oak trees; and
- b. Appeal by Susan Merrill from the Planning Commission's decision denying the application for a Combined Development Permit (Merrill/PLN070376) consisting of:
- 1) a Minor Subdivision Vesting Tentative Map to allow the division of a 37.8 acre parcel into three parcels of 10.5 acres (Parcel 1), 13.8 acres (Parcel 2), 7.5 acres (Parcel 3) and a remainder parcel of 6.0 acres; and
 - 2) Use Permit for development in a visually sensitive area ("VS" District). (Appeal, PLN070366/Wayland Minor Subdivision, 24975 Boots Road, Monterey)

(Appeal, PLN070376/Merrill Minor Subdivision, 24915 Boots Road, Monterey)
[Continued from January 10, 2012 hearing]

David Mack, of the Planning Department, advised applicant's attorney submitted memo requesting the Wayland application be withdrawn. No action is required on that application.

Brian Finnegan addressed the Board on behalf of the applicant Susan Merrill.

Public Comment: Amy White; Michael Weaver; Eric Peterson; Jan Mitchell

Motion No. 1: by Supervisor Parker, seconded by Supervisor Potter to approve staff recommendation to deny the appeal of Susan Merrill from the Planning Commission's decision denying the application for a combined Development Permit (Merrill/PLN070376). 2 - 2 (Supervisors Armenta, Salinas and Calcagno dissented) MOTION FAILED

Motion No. 2: by Supervisor Salinas, seconded by Supervisor Armenta to remand the Merrill project back to the Planning Commission for further project review and environmental analysis, with a focus on the stability of arsenic levels, water quality and quantity, identification of specific building envelopes and impacts to view issues and landscape as a whole. 4 - 1 (Supervisor Parker dissented)

S-5 Public hearing held to consider:

- a. Denial of the appeal by the Aguajito Property Owners Association and Eric and Teresa Del Piero from the Minor Subdivision's approval of a Lot Line adjustment between two legal lots of record;
- b. Adopt the Negative Declaration prepared for the project; and
- c. Approval of the application of a Lot Line Adjustment between two legal lots of record of approximately 4.6 acres [portion of Assessor's Parcel Number 103-061-015-000 Certificate of Compliance Document No. 2004079692 (the

northerly parcel)] and 4.3 acres [portion of Assessor's Parcel Number 103-061-015-000 Certificate of Compliance Document No. 20040795684 (the southerly parcel)], resulting in two newly reconfigured lots of 4.6 acres (westerly Parcel A) and 4.3 acres (easterly Parcel B) respectively.

(Appeal of Lot Line Adjustment - PLN080454/Steuck, 570 and 570-a, Aguajito Road, Greater Monterey Peninsula Area Plan)

Supervisor Calcagno recused himself because owns property with the appellant. Supervisor Calcagno left the room.

Aaron Johnson addressed the Board on behalf of the applicant Dr. Steuck.

Public comment: David Hughes; Teresa Del Piero; Ed Mitchell

Motion No. 1: by Supervisor Parker, seconded by Supervisor Potter to grant the appeal and restore the site as originally intended pursuant to the zoning ordinance, prior to any new development. 2 - 2 (Supervisor Armenta and Supervisor Salinas dissented; Supervisor Calcagno recused himself as he owns property with the appellant.) MOTION FAILED

Motion No. 2: by Supervisor Parker, seconded by Supervisor Potter confirming failed motion due to split vote and the Board declined to adopt the Negative Declaration and declined approval of the Lot Line Adjustment. 4-0 (Supervisor Calcagno recused himself as he owns property with the appellant)

Supervisor Calcagno returned to the dais.

- S-6 Public hearing held and:
- a. Considered Addendum No. 2 to previously certified EIR No. 84-007 for the Monterra Ranch Subdivision;
 - b. Approved of the modification to the York Highlands Combined Development Permit (PLN100020/Resolution No. 11-342) to:
 - 1) change the access from York Highlands Road 1 to the existing Monterra Ranch Subdivision entrance at Highway 218;
 - 2) re-designate the approximately 1,400 foot long section of York Highlands Road 1 between State Highway 68 and York Highlands Road 2 from a 60-foot wide road and utility easement to a 50-foot wide emergency access and public utility easement;
 - 3) designate the 50-foot wide, approximately 1,200-foot long fire access road between Monterra Ranch Phase 6 and York Highlands as a 60-foot wide private road and public utility easement;
 - 4) modify Condition No. 52 (Board of Supervisors Resolution No. 11-342) to eliminate the requirement for specific improvements to Highway 68 at the York Highlands Road 1 entrance; and
 - 5) amend the vesting tentative map to create a 1.79-acre open space parcel (Parcel T), thereby reducing Ranch Lot 1, and to merge a 0.48 acre portion of Parcel H (Monterra Phase 10, Scenic Easement Parcel) with an existing well parcel to create one water utility parcel; and
 - c. Adopted an amendment to the Mitigation Monitoring and Reporting Plan to incorporate amended conditions. (Modification to Combined Development

Permit - PLN120024/Banker's Development Group, LLC (York Highlands), South of the intersection of York Road and Highway 68, Greater Monterey Peninsula Area Plan)

Alan Williams, addressed the Board on behalf of the applicant.

Public comment: Henry Brown, Richard McLean and Mike Weaver.

Motion by Supervisor Salinas, seconded by Supervisor Armenta. ALL AYES

S-7 Public hearing held: **Motion by Supervisor Salinas, seconded by Supervisor Armenta approving staff recommendation to:**

Adopt Resolution No. 12-039 to: 1) certify the Environmental Impact Report; 2) adopt Findings and 3) adopt Statement of Overriding Considerations;

Adopt Resolution No. 12-040 to:

- a. Deny the Appeal by Omni Resources LLC from the January 26, 2011 decision of the Monterey County Planning Commission; and
- b. Approve the Combined Development Permit for the project consisting of 1) Use Permit; 2) General Development Plan; 3) Design Approval for development of a 99,970 square foot retail center known as the Corral de Tierra Neighborhood Retail Village; and 4) Lot Line Adjustment to modify the lot line between two existing parcels (5.6 acres and 5.38 acres in area) to create Parcel A (1.12 acres) and Parcel B (9.86 acres), as shown on the Plans included in Attachments 2 and 3, based upon the Findings and Evidence and subject to the conditions of approval contained in the attached Mitigation Monitoring and Reporting/Condition Compliance Plan attached hereto as Exhibit 1 and incorporated herein by reference;
- c. Adopt the Mitigation Monitoring and Reporting/Condition Compliance Plan (Attachment 1); and

Adopt Resolution No. 12-387 Denying the Request to remove the B-8 Zoning Overlay from the property at the corner of Corral de Tierra Road and Hwy 68 (Omni Enterprises LLC (PLN020344), 5 Corral de Tierra Road, Toro Area Plan (APN: APN161-571-003-000, 161-581-001-000)

Mike Novo advised there is a typographical error on Exhibit C, and it incorrectly references a parcel number owned by Curtis Weeks.

Testimony: Brian Finnegan on behalf of Omni Resources and Eric Phelps.

Public comment: James Eagle; Lauren Kennan; Bill Carothers; Terry Vogel; Max Pearlman; Dwight Stump; Carrie Williams; Kent Tivino; Ray Borzini; John Vorwick; Mike Weaver; Noel Fieldman; Beverly Bean; Larry Daniels; Marilyn Pinto; Hans Jongens; Jim Lavachek; Jan Mitchell; Tom; Ed Mitchell; Amy White; Carl Freeze; Gerald Stone; Molly Erickson

3 - 2 (Supervisor Parker and Supervisor Potter dissented)

Close Session Report: (See 2.a through g.)

**Adjournment in Memory of
Walter Griva
Marcia Hovick
Jean Draper**

Laurence Phillip Horan

APPROVED:

/s/ Louis R. Calcagno
LOUIS CALCAGNO, CHAIR
BOARD OF SUPERVISORS

ATTEST: GAIL T. BORKOWSKI
Clerk of the Board

BY: /s/ Gail T. Borkowski

Approved: January 28, 2014

(Supplemental Sheet)

CONSENT CALENDAR

NATIVIDAD MEDICAL CENTER

16. Authorized the Purchasing Manager for Natividad Medical Center (NMC) to execute the Professional Services **Agreement No. A-12177** with Monterey Bay Oncology Associates to provide Hematology Oncology and Business Consulting Services at NMC in an amount not to exceed \$300,000 for the period February 1, 2012 to January 31, 2013.

HEALTH AND SOCIAL SERVICES

17. Approved and authorized the Director of Health to sign and execute Amendment No. 2 to **Agreement No. A-11610** for the second one (1) year Agreement extension with American Medical Response - West (AMR) for the period of February 01, 2016 through January 31, 2017.
18.
 - a. Approved and authorized the Director of Social & Employment Services to implement a CalWORKs Wage Subsidy program; and
 - b. Approved and authorized the addition of 1.0 FTE Workforce Investment Board Employment Programs Supervisor; and
 - c. Authorized the Auditor-Controller to amend appropriations and estimated revenues in SOC009 by \$424,000 and in SOC005 by \$424,000 (4/5ths vote required); and
 - d. Authorized the County Administrative Office and the Auditor-Controller to amend the position count in SOC009.
19. Authorized the Auditor-Controller to increase estimated appropriations and revenues in Special Revenue Fund 022 by \$12,736,000 for AB118 realignment programs (4/5ths vote required).

CRIMINAL JUSTICE

20. Authorized the Auditor-Controller to increase estimated state and federal revenues and related appropriations totaling \$2,632,135 in Probation's Budget PRO001 during Fiscal Year (FY) 2011-12 (4/5ths vote required).
21. **Resolution No. 12-026** Approved an amendment to the membership bylaws of the Community Restorative Justice Commission.

GENERAL GOVERNMENT

22.
 - a. Approved and authorized the Emergency Services Manager to accept a grant from the Federal Department of Homeland Security (DHS) in the amount of \$630,723; and
 - b. Authorized the Auditor-Controller to approve amending the Fiscal Year (FY) 2011-12 budget for the Office of Emergency Services, Appropriation Unit CAO005, to increase estimated revenues and appropriations in the amount of \$309,100. (4/5ths vote required)

23.
 - a. Approved Amendment No. 4 (**Agreement No. A-08150**) to the Concession Agreement between Monterey County Parks Department and Sports Car Racing Association of the Monterey Peninsula (SCRAMP) at the Laguna Seca Recreation Area, extending the current term one additional year through February 8, 2013; and
 - b. Authorized the Chair of the Monterey County Board of Supervisors to sign the Amendment.

24. Adopted **Resolution No. 12-027** to extend the Administrative Proclamation of Local Emergency due to the conditions of high surf and rising river levels at the Carmel Lagoon casing conditions of extreme peril to the safety of persons and property along Scenic Road and adjoining neighborhoods signed by the Administrative Officer on November 16, 2011 for an additional thirty days in accordance with California Government Code 8630 (4/5ths vote required).

RMA - BUILDING DEPARTMENT

25.
 - a. Approved Amendment No. 5 to Professional Services **Agreement No. A-11957** with California Code Check, Inc. (CCC) to continue to provide services associated with plan check, inspection and related services to the Monterey County Building Services Department, in the amount of \$165,000 for a total amount not to exceed \$552,446 through June 30, 2012; and
 - b. Approved Amendment No. 3 to Professional Services **Agreement No. A-12103** with CSG Consultants, Inc. (CSG) to continue to provide services associated with plan review services to the Monterey County Building Services Department, in the amount of \$105,000 for a total amount not to exceed \$307,446 through June 30, 2012; and
 - c. Authorized the Contracts/Purchasing Officer to execute the Amendments to the Professional Services Agreements and future amendments that do not significantly alter the scope of work or change the approved Agreement amounts.

RMA - PUBLIC WORKS

26. **Construction No. 2012-003**
 - a. Approved Plans and Special Provisions for the Slurry Seal 2012 Project, Contract No. 12-551222; and
 - b. Authorized the Director of Public Works to advertise the "Notice to Bidders" in The Californian.

27.
 - a. Approve Amendment No. 1 to Wireless Communication Site Lease **Agreement No. A-12178** with New Cingular Wireless PCS, LLC, 1410 Natividad Road, Salinas, California, to correct the legal description of real property and correct and establish a description of the Lease Area consistent with its actual location and square footage and location of installed equipment; and
 - b. Authorized the Contracts/Purchasing Officer to execute Amendment No. 1 to Wireless Communication Site Lease Agreement with New Cingular Wireless PCS, LLC, 1410 Natividad Road, Salinas California.

28. **Construction No. 2012-004**
 - a. Approved Plans and Special Provisions for the Crack Seal 2012 Project, Contract No. 12-551225; and
 - b. Authorized the Director of Public Works to advertise the "Notice to Bidders" in The Californian.

29. Adopted **Resolution No. 12-028:**
 - a. Declaring County-owned real property located at 26 Central Avenue in Salinas, California (former Monterey County Free Libraries Administration Building), APN 002-164-020 as surplus real property and no longer necessary for county or other public purposes;
 - b. Declaring intent to sell the property at public auction to the highest responsible bidder, for cash;
 - c. Directing all interested parties to appear on February 21, 2012 at 11:00 a.m. in the Monterey Conference Room at 168 West Alisal Street, Second Floor, Salinas, CA pursuant to Government Code Section 25363 (4/5th vote required);
 - d. Establishing the minimum bid price at \$500,000;
 - e. Authorizing the Contracts/Purchasing Officer or his designee to receive oral and written bids using the procedures outlined in this report, open written bids, call for oral bids, accept the highest responsible bid and close the auction on the date, place and approximate time as set forth above; and
 - f. Authorizing the Contracts/Purchasing Officer to execute a Quitclaim Deed transferring the property after the sale has been reported to and confirmed by the Board.

PAJARO COUNTY SANITATION DISTRICT

30. Acting as the Board of Directors of the Pajaro County Sanitation District:
- a. Approve Amendment No. 7 to Operations and Services **Agreement No. A-10766** with the Pajaro/Sunny Mesa Community Services District to continue to provide tasks associated with operational and maintenance services for the wastewater collection system in the Pajaro County Sanitation District in the amount of \$168,000 for a total amount not to exceed \$1,086,000 and extend the term through February 9, 2013; and
 - b. Authorized the Chair of the Board to execute Amendment No. 7 to Operations and Services Agreement No. A-10766 and future amendments that do not significantly alter the scope of work or change the approved Agreement amount.

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE COUNTY OF MONTEREY (Added via Addendum)

31. Acting as Successor Agency to the Redevelopment Agency of the County of Monterey
- a. Received information related to the assumption of responsibility for budget and obligations in accordance with ABx1 26;
 - b. Affirmed the Annual Budget adopted by the former Redevelopment Agency for Fiscal Year 2011-12 and authorize the transfer of appropriations remaining at February 1, 2012 to the County as Successor Agency (4/5ths vote);
 - c. Authorized the County Administrative Office and Auditor/Controller to transfer the remaining appropriations to the County as Successor Agency;
 - d. Authorized the Auditor/Controller to make payments required to meet enforceable obligations; and
 - e. Eliminated five vacant positions in the Economic Development Department, (4/5ths vote).

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