



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

September 9, 2008



Time _____ Description

9:06 a.m. Meeting Called to Order at the Mariposa County Government Center

Pledge of Allegiance
Introductions

Approval of Consent Agenda (See End of Summary of Proceedings)

NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair's discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.

BOARD ACTION: Supervisor Aborn pulled items 2 and 5. Supervisor Bibby pulled items 3 and 6. (M)Pickard, (S)Aborn, items 1 and 4 were approved/Ayes: Unanimous.

Chair Turpin;

Proclaim September 17-23, 2008 as "Constitution Week"

BOARD ACTION: (M)Pickard, (S)Bibby, the Proclamation was approved and presented to Connie Waldron/Ayes: Unanimous. Connie Waldron advised that the Proclamation will be on display in the Library and that pocket Constitutions are also available; and she thanked the Board on behalf of the Merced River Chapter of the Daughters of the American Revolution.

Consider Items Removed from the Consent Agenda

Item 2 – Supervisor Aborn suggested that there be lights on the mural so that it can be seen at night. (M)Aborn, (S)Bibby, item 2 was approved/Ayes: Unanimous.

Item 3 – Supervisor Bibby initiated discussion with Marilyn Lidyoff/Administration-Business Development Coordinator, relative to the project. (M)Aborn, (S)Pickard, item 3 was approved. Supervisor Bibby requested that status reports be provided as this project progresses. Ayes: Unanimous.

Item 5 – Supervisor Aborn initiated discussion with Dana Hertfelder, Public Works Director, relative to the project and clarified that no General Fund dollars are required. (M)Pickard, (S)Aborn, item 5 was approved/Ayes: Unanimous.

Item 6 – Supervisor Bibby initiated discussion relative to considering agreements after the Final Budget Hearing that are paid for from the General Fund; and she requested that the lobbyist provide a presentation to the Board. (M)Pickard, (S)Bibby, item 6 was approved with direction to staff to bring back a more thorough discussion of handling those agreements that are attached to General Fund or other discretionary dollars/Ayes: Unanimous.

Public Presentation: For Items within the Jurisdiction of the Board and not on Today's Agenda.

Tony Radanovich advised that on July 24th, the Rural Media Arts and Education Project received the 1.3 million dollar grant from the California Cultural and Historical Endowment; and he thanked the Board for its support of the two-year restoration project for the Old Masonic Hall.

Len McKenzie, Mariposa County Resource Conservation District, thanked the Board for its action to establish a line of credit so the District could make payments pending receipt of their grant funds, and for the letter of support for their grant application on the September 2nd agenda. He provided clarification and advised that the District was not involved in the flyer that was distributed concerning the falling oaks – their recommendation is for citizens to contact a certified arborist or a registered professional forester if they have questions.

Jim Middleton, Deputy Fire Chief, advised that BLM has completed their assessment of their area burned by the Telegraph Fire. He advised of work by the State Emergency Assessment Team and advised that members John Munn/representing the State Environmental Assessment Team and Kevin Nagata/Emergency Services Coordinator representing OES were present. John Munn provided input on their work to identify post-fire hazards and advised that they are working with representatives from other agencies. Supervisor Turpin asked that the Board be provided with a copy of the assessment report from BLM.

MaryAnn Huff, Mariposa County Chamber of Commerce, invited everyone to the business mixer at River Rock Inn that is being hosted by Golden State Cellular this evening. She presented a new copy of the Chamber's newsletter, the Link, and commented on their statistics for July. She advised of coordination with VFW and the Contractors' Association to build restrooms at the Visitors Center.

Mike McCreary stated he would like to see financial information included in the agenda titles relative to the net County cost.

Paul Chapman referred to the Board's action to pay the volunteer firefighters in advance of receiving reimbursement and commented on recent amounts that were paid and stated he feels that there should be an audit of the Fire Department.

Eleanor Keuning provided input on recycling efforts and suggested that collapsible bags would be more user friendly than separating trash into trash cans. Supervisor Turpin commented on the Solid Waste Task Force Committee's work on recycling. Supervisor Pickard stated he hopes that the new County website will be helpful in educating citizens on the services that are available.

Board Information

Supervisor Fritz advised that she plans to attend the CSAC Board of Directors meeting on September 11th in Sacramento, and she hopes to be back for the Telegraph Fire public workshop.

Supervisor Pickard advised that he plans to attend the Yosemite/Sequoia Resource Conservation and Development meeting on Thursday in North Fork. He plans to attend the Solid Waste Local Task Force meeting with Supervisor Turpin on Wednesday.

Supervisor Bibby advised that she attended the First 5 meeting on Monday, and attended a meeting with the Fire Chiefs' Association. She asked the County Administrative Officer to include financial impact information for the agenda items in the titles on the agenda.

Supervisor Aborn commented on the Telegraph Fire meeting scheduled for Thursday. He referred to comments in the Gazette about the County's spending, and he advised that he plans to bring an agenda item to the Board for discussion with the Auditor and the County Administrative Officer to set up a program that monitors County expenses.

Supervisor Turpin advised that he attended the Upper Merced River Watershed information meeting at Briceburg on Wednesday. He advised that the Board met on Thursday to interview applicants for the Building Director. He met with Michelle Shelton on Friday relative to the high-speed internet project with the five counties. The Coulterville Community Club met on Monday. He plans to attend the Solid Waste Local Task Force meeting on Wednesday. He advised that this meeting will be continued for the Board to hold a public workshop relative to the Telegraph Fire on Thursday.

Supervisor Pickard and Jim Wilson, Fire Chief;

Approve a New Land Lease Agreement with Yosemite Mountain Ranch (YMR) for Fish Camp Fire Station Site and Direct the Public Works Director to Seek Bid Proposals for Construction of a Fire Station on the Leased Property in Fish Camp

BOARD ACTION: Supervisor Pickard presented the request. Discussion was held with Jim Wilson/Fire Chief, and Dana Hertfelder/Public Works Director, relative to the project and timeframes

and costs, the proposed land lease agreement and the use of the fire station, and relative to the bid process. Thomas P. Guarino/County Counsel responded to questions relative to the liability for damages section in the agreement and relative to other questions on the language in the agreement. Rick Benson/County Administrative Officer, responded to questions relative to the insurance requirements for the agreement. Supervisor Turpin clarified that General Fund dollars would not be used in developing the bid proposals.

Input from the public was provided by the following:

Mike McCreary referred to the lease agreement and his experience that unless something is specifically stated in the agreement, you do not get to do it. He feels the allowed uses of the fire station should be specifically stated and that the agreement should include the sublease/assignment for a joint powers agreement with the Forest Service, and that the definition of "continually" for staffing of the station should be included.

Ruth Shane stated she feels the idea of leasing property and constructing a building becomes messy at the end of the lease; and she suggested that consideration be given to the powers of eminent domain.

Jeanetta Phillips stated she agrees that all of the wording should be included in the agreement. She expressed concern that this project is being considered in light of the recent Proposition 218 process and the need for fire equipment. She noted that other fire stations are falling apart and the station for Yaqui Gulch area has not progressed. She expressed concern with the liability with fire fighters living at the station.

Further discussion was held. (M)Pickard, (S)Fritz, Res. 08-436 was adopted approving the land lease agreement with the following changes: 1) under 5. Use – "...or any other reason involving non safety related public assembly or recreation." and 2) under 13. Exemption of Lessor from Liability – replace "member" with "lessee" and direction was given to Public Works to seek bid proposals for construction of a fire station on the leased property/Ayes: Aborn, Turpin, Fritz, Pickard; Noes: Bibby.

11:26 a.m. Recess

11:40 a.m. Supervisor Fritz;

Adopt a Resolution Regarding Establishment of French Camp Road Zone of Benefit within Countywide County Service Area No. 1 and Initiating Proceedings for Fees and set Public Hearing for Tuesday, October 28, 2008 at 10:00 a.m.

BOARD ACTION: Supervisor Fritz presented the request and discussion was held relative to the formation costs. Dana Hertfelder responded to questions relative to maintenance for the Zones of Benefit. Supervisor Bibby asked that this be considered after the Final Budget Hearing because of the subsequent request to approve a loan if the Zone of Benefit is approved.

Input from the public was provided by the following:

Mike McCreary referred to an article in the *Gazette* relative to overspending and discussion that occurred earlier this morning relative to fiscal issues and concerns about the budget. He stated he feels there should be a public policy focus to make sure that we do not have a cash flow problem and he feels that the potential budget deficit situation should be addressed. He stated he would like to see more discussion on the impacts of these decisions and he feels that the Board should be saving wherever it can.

Ruth Catalan stated she feels that we are spending money before we have it and if more Zones of Benefits are approved it could have a one million dollar impact. She does not feel that the County should be in the banking business, and she feels that there should be additional charges to cover the administrative fee. She feels the Board needs to stop spending money.

Paul Chapman agreed with the input that has been provided, and he does not feel that the County can afford to loan money. He stated he feels that Supervisor Fritz's daughter and son-in-law live on the road and would benefit and that she should recuse herself from voting on this matter.

Ron Kennedy stated he is part of the Zone of Benefit proposal and he appreciates the work done by the Public Works Director and the County Administrative Officer; and he commented on the request. He stated he feels that the County should address how to handle requests for Zones of Benefit.

Discussion was held. Rick Benson responded to the input and advised that the overhead includes administrative costs in the budget and he advised of the Code allowance for charging interest. Supervisor Pickard asked that information be provided on the amount that has been repaid on Zones of Benefit loans to the General Fund. Further discussion was continued for a recess for Supervisor Fritz to discuss with the property owners that were attendance whether they were agreeable with continuing this matter until after the Final Budget Hearing.

12:30 p.m. Recess

12:38 p.m. Supervisor Fritz stated she would like for the Board to take action to approve starting the formation process for the Zone of Benefit and hopefully when it comes time to make the decision on the request for the \$80,000 loan, we will have a State budget and things will be better. She advised that her daughter and son are renting and they do not get a vote. (M)Fritz, (S)Aborn, Res. 08-437 was adopted initiating proceedings to establishment the French Camp Road Zone of Benefit within Countywide County Service Area No. 1 with fees and setting Public Hearing for Tuesday, October 28, 2008 at 10:00 a.m./Ayes: Aborn, Turpin, Fritz, Pickard; Noes: Bibby.

12:48 p.m. Lunch

2:08 p.m. Discussion and Possible Further Action Regarding Continuation of the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park (County Administrative Officer)

BOARD ACTION: Rick Benson recommended that the local emergency be continued until there is full restoration for access; and he advised that he is following up with CalTrans to schedule a status report for the Board. The next PDT meeting is scheduled for next Tuesday. (M)Bibby, (S)Aborn, Res. 08-438 was adopted finding the local emergency due to the landslides on Highway 140 enroute to Yosemite National Park continues to exist, and continuing the local emergency based on the findings/Ayes: Unanimous.

Discussion and Possible Further Action Regarding Continuation of the Local Emergency Due to the Recent Fires, Oliver Fire (County Administrative Officer)

BOARD ACTION: Rick Benson recommended that the local emergency be continued until such time as full reimbursement is received. (M)Pickard, (S)Fritz, Res. 08-439 was adopted finding the local emergency due to the Oliver Fire continues to exist, and continuing the local emergency based on the findings/Ayes: Unanimous.

Discussion and Possible Further Action Regarding Continuation of the Local Emergency Due to the Recent Fire, Telegraph Fire (County Administrative Officer)

BOARD ACTION: Rick Benson recommended that the local emergency be continued, and he advised that the engineers are reviewing the watershed and erosion issues. A public meeting is scheduled for Thursday to discuss the County's response to the fire and he advised that this workshop is intended to obtain feedback from the public. (M)Fritz, (S)Aborn, Res. 08-440 was adopted finding the local emergency due to the Telegraph Fire continues to exist, and continuing the local emergency based on the findings/Ayes: Unanimous.

2:18 p.m. MARIPOSA COUNTY WATER AGENCY

(Chair – Director Aborn; Vice-Chair – Director Turpin)

A. Public Presentation – none.

B. Adopt a Resolution Authorizing the Chairman to Sign Contract for Services with Mariposa Public Utility District (MPUD) to Provide Consultation and Advisory Services to the Water Agency Regarding Merced Irrigation District (MID) FERC Re-licensing and Related Water Issues. (County Counsel)

AGENCY ACTION: Discussion was held with County Counsel. (M)Pickard, (S)Turpin, Water Agency Res. 08-5 was adopted approving the contract as recommended/Ayes: Unanimous.

2:21 p.m. Review and Approval of the Pre-application Document (PAD) for the Merced Irrigation District's Merced River Hydroelectric Project Re-licensing (County Administrative Officer/Personnel/Risk Manager)

BOARD ACTION: Rick Benson advised that the County will be submitting a PAD and that the Water Agency Advisory Board addressed this issue at their meeting on Thursday and decided to have more review and input from the departments and they will submit their recommendations for the Board meeting on September 23rd. Discussion was held as to whether this should be a Board of Supervisors or a Water Agency item for action. County Counsel advised that although the two are distinct entities, both are covered under the agenda and that one response could be submitted.

Input from the public was provided by the following:

Michael Martin, Merced River Conservation Committee, advised of the presentation they made to the Water Agency Advisory Board requesting consideration of the historic cultural resources in the County and the possibility of considering an information center - pre and post-gold rush, development and maintenance of a trail recreational access, and the reintroduction of a fish species in the River. He requested that the PAD include these considerations. Discussion was held as to whether this would make any changes on the water flow.

Paul Chapman stated he feels this matter should come to the Water Agency versus the Board of Supervisors. He feels the fish proposed to be reintroduced is a new species and he is concerned that MID might balk at this subject.

Michael Martin provided input on the original territory of the Steelhead Salmon and the Chinook Salmon, and he advised of a lawsuit relative to the planting of trout.

Further discussion was held relative to submitting the PAD from the Water Agency and/or from the Board of Supervisors. Supervisor Bibby asked for a copy of the comments that were previously submitted by the County. County Counsel advised that he would review the obligations of the 1960 agreement with MID. The matter was continued to September 23rd to receive a report from the Water Agency Advisory Board.

Waive Second Reading and Adopt an Ordinance Amending Chapter 9.12 of the Mariposa County Code Entitled "Public Consumption of Alcoholic Beverages" (County Counsel)

BOARD ACTION: Following discussion, (M)Fritz, (S)Aborn, the second reading was waived and Ordinance No. 1047 was adopted as recommended. The Clerk of the Board read the title of the Ordinance into the record. Ayes: Unanimous.

Discussion and Action Regarding Resolution Asserting County Road Rights-Of-Way Created Under United States Revised Statute 2477 Throughout Mariposa County (Supervisor Turpin)

BOARD ACTION: Supervisor Turpin initiated discussion and County Counsel provided input.

Input from the public was provided by the following:

Paul Chapman stated he feels this is a poorly veiled attempt to help Hazel Green, and he feels that this opens issues with miles of old trails, etc.

Discussion was held, and Supervisor Bibby asked how this would work with old trails that were used to cross private property. County Counsel advised that this deals with road rights-of-way on federal government land.

Anita Starchman Bryant, Starchman & Bryant Law Offices, asked for further clarification that this only involves federal land and not private land. County Counsel responded relative to the intent of this action.

(M)Pickard, (S)Fritz, Res. 08-441 was adopted, with a change to reflect Public Works Road Commissioner/Ayes: Aborn, Turpin, Fritz, Pickard; Noes: Bibby.

INFORMATION – No action was necessary on the following:
Informational Report of Liability Claims Rejected by the County Administrative Officer/Personnel/Risk Manager for the Month of August 2008 (County Administrative Officer/Personnel/Risk Manager)

3:30 p.m. CLOSED SESSION: Conference with Real Property Negotiator; Description of Real Property: SPCA Bullion & 10th Streets Property; Name of Party who will Negotiate with County (Not Party's Agent): Thomas P. Guarino; Closed Session will Concern Price and Terms of Lease/Purchase (County Counsel); and
CLOSED SESSION: Conference with Legal Counsel: Existing Litigation: California Government Code Section 54956.9(a); Name of Claimant or Case Number and Name of Adverse Parties: Hazel Green Ranch, LLC v. United States Department of the Interior, et al; Case No. 1:07-CV-00414OWW-SWS; Initiating of Litigation Pursuant to Subdivision (c) of Government Code Section 54946.9; Number of Cases to be Discussed: 1 (County Counsel)
BOARD ACTION: (M)Aborn, (S)Fritz, the closed sessions were held/Ayes: Unanimous.

4:18 p.m. County Counsel announced that the Board authorized the reopening of negotiations with the SPCA with respect to the 10th Street property. The Clerk of the Board announced that this action was taken by a vote of four ayes and Supervisor Bibby voting "no." Chair Turpin announced that information was received relative to the Hazel Green Ranch matter.

CONSENT AGENDA

- CA-1 Approval of Summary of Proceedings of September 2, 2008, Regular Meeting and September 4, 2008, Continued Meeting (Clerk of the Board)
- CA-2 Approve Certificates of Appreciation to Individuals and Organizations that Participated and Contributed to the Mural Depicting Mariposa County's History on the Pizza Factory's Outer Wall (Supervisor Bibby)
- CA-3 Approve a Grant Application to Pacific Gas & Electric (PG&E) in the Amount of \$8,000 for Lot Line Adjustment on Property for an Americans with Disabilities Act (ADA) Compliant, Non-motorized Trail and the Eradication of invasive Flora Along the Mariposa Creek Parkway Trail (County Administrative Officer/Personnel/Risk Manager); Res. 08-433
- CA-4 Appoint Eric Baskind to the Alcohol and Drug Advisory Board for a Term Expiring September 9, 2011 (Human Services Director)
- CA-5 Adopt a Resolution Approving Public Works Solid Waste & Recycling Division's Request to Apply for State Grants from the Department of Conservation Recycling (\$40,496) and the California Integrated Waste Management Grant for Household Hazardous Waste Collection (Maximum \$450,000) (Public Works Director); Res. 08-434
- CA-6 Approve an Agreement with Advocation for Lobbying Activities and Authorize the Board of Supervisors Chair to Sign the Agreement (County Administrative Officer/Personnel/Risk Manager); Res. 08-435, with direction to staff.

4:20 p.m. The Board recessed in memory of Lorraine S. O'Donnell, William "Bill" Bomprezzi, and Joyce M. Madole; and the meeting was continued to Thursday, September 11, 2008 at 6:30 p.m. for a public workshop to discuss the Telegraph Fire and the various agencies' responses to the emergency.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

LYLE TURPIN
Chair, Board of Supervisors