

MONTEREY COUNTY

BOARD OF SUPERVISORS



Fernando Armenta
Louis R. Calcagno
W. B. "Butch" Lindley
Jerry Smith
Dave Potter

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

Lew C. Bauman
County Administrative Officer

Charles J. McKee
County Counsel

Darlene Drain
Clerk to the Board
P. O. Box 1728
Salinas, CA 93902

Phone: (831) 755-5066
FAX: (831) 755-5888
Home Page: www.co.monterey.ca.us

ACTION MINUTES

**MONTEREY COUNTY BOARD OF SUPERVISORS
MONTEREY COUNTY REDEVELOPMENT AGENCY
MONTEREY COUNTY WATER RESOURCES AGENCY
TUESDAY, DECEMBER 19, 2006
9:30 A.M.**

9:30 a.m.:

1. Pledge of Allegiance
The Pledge of Allegiance was led by Supervisor Smith.
- 6300.000 2. Additions and Corrections to the Agenda.

The Clerk to the Board will announce Agenda corrections and proposed additions, which may be acted on by the Board as provided in section 54954.2 of the California Government Code. There were no additions or corrections.
3. CONSENT CALENDAR – REGULAR (See Supplemental Sheet)

APPOINTMENTS:

Upon motion of supervisor Armenta, and seconded by Supervisor Lindley, and carried, the Board approved the following appointment, except as noted:

- 0803.150 4. **Appointed** Jerry Smith to the Monterey Regional Waste Management District for a term ending December 31, 2010. (Full Board)

OTHER BOARD MATTERS:

- 6300.000 5. Board Comments and Referrals
- a. Supervisor Armenta: Attended the Monterey County Joint Gang Task Force Steering Committee. Prior to their next meeting of January 22, 2007, the Supervisor would like the County Budget Committee to review the budget to address the possible shortfall in finances that the Joint Task Force is facing. The Supervisor would like all of the members to know whether or not this can be addressed. The Supervisor advised that the City of Salinas would also like to know.
 - b. Supervisor Smith: Advised that they continue to work with the Board of Trustees at NMC and look forward to a presentation that will be made sometime in the month of January.

- 6300.000 6. Update on Board Referrals
There were none.

- 0600.025 7. CAO Comments
There were none.

- 2050.000 8. Public Comments (Limited to 3 minutes per speaker)
- a. Mayor Ortiz: The Mayor of Soledad submitted a letter to the Board that is also signed by two other Mayors.
 - b. Mayor Pereira: Is one of the signatures of the above referenced letter to the Board of supervisors. He is the Mayor of King City.
 - c. Tom Carvey (of Common Ground): Spoke to the Board in support of the submitted letter.

County Counsel interjected to advise that there is special consideration being taken for those who cannot attend this afternoon to speak to S-3, other wise comments toward S-3 need to be made this afternoon.

Supervisor Potter concurred advising procedurally such comments are premature.

Chair Smith invited any members of the Public that would not be able to return this afternoon: No further individuals came forward. Chair Smith reminded that this was also open for public comment of any item not on today's agenda but no further individuals came forward.

SCHEDULED MATTERS:

6300.000 S-1 Closed Session under Government Code 54950, relating to the following items:

a. Pursuant to Government Code section 54956.8, the Board of Directors of the Redevelopment Agency will confer with real property negotiators regarding the following:

1. The East Garrison portion of the former Fort Ord;
Negotiator: Jim Cook for the County of Monterey.

BOARD ACTION: This matter should be removed from the Agenda. This matter was not discussed.

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

BOARD ACTION: The Board met with Counsel and gave direction on how to resolve one item of significant exposure. The Board met with Counsel and gave authority to retain outside counsel on a second item of significant exposure.

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

1. In re Monterey County Initiative Matter (Melendez vs. Board of Supervisors, Madrigal vs. County of Monterey)
2. Rangel and Buell vs. County of Monterey, et al.
3. Rancho San Juan Opposition Coalition vs. Board of Supervisors
4. Water World Resorts, Inc. vs. County of Monterey, et al.
5. Lake San Antonio Resorts, Inc. vs. County of Monterey, et al.
6. Patricia Bernardi, et al. vs. County of Monterey

BOARD ACTION: The Board received an update and gave direction on items 1, 2, and 3. The Board approved tentative settlement language that still needed to be finalized and negotiated on matters 4, and 5. The Board conferred with Counsel on matter 6.

10:30 a.m.:

- 3150.000 S-2 a. **Resolution No. 06-366; Considered** a revised Initial Study and adopt a revised Mitigated Negative Declaration; and
- b. **Reconsidered** in light of newly discovered evidence and in accordance with a Court order the previously approved Combined Development Permit consisting of: 1) Standard Subdivision Vesting Tentative Map for the subdivision of an existing, approximately 218-acre parcel into 12 residential lots of approximately 6.8 to 16.9 acres in size and 4 open space parcels totaling approximately 99 acres; 2) Use Permit for development on slopes greater than 30% for the construction of an access road; 3) Use Permit for removal of approximately 193 protected oak trees; 4) **Ordinance No. 5055** Zoning Reclassification to reclassify 11 existing lots in the Oakshire subdivision of the Carmel Valley Ranch from "MDR/5-D-S" (Medium Density Residential/5 Units per Acre, with Design and Site Review overlays) to "O-D-S" (Open Space with Design Control & Site Review Overlays); and 5) **Ordinance No. 5056** Assignment of the "LDR/B-6-D-S" zoning classification (Low Density Residential with Building Site, Design and Site Review overlays) to the residential portion of the proposed subdivision and the "O-D-S" zoning classification (Open Space with Design and Site Review Overlays) to the open space portions of the subdivision; and
- c. **Adopted** a revised Mitigation Monitoring/Condition Compliance Reporting Plan.

(Combined Development Permit/Standard Subdivision - PLN020280 / Carmel Valley Ranch LLC. 1 Old Ranch Road, Carmel Valley Master Plan Area.)

BOARD ACTION: Upon motion of Supervisor Potter, with the addition of a condition that a final analysis of water availability (absolute proof of water) is conducted, after staff reviews the new information submitted prior to recordation of the map. In addition tolling will be granted to the applicant for the time that this matter was in litigation. The motion was seconded by Supervisor Lindley, and carried 5/0. (Applicant – Anthony Lombardo advises that his client is in agreement with the recommended changes to No. 28, and also appreciative of the tolling which is also provided for in the Map Act.)

Applicant: Anthony Lombardo represents and spoke for the applicant. Mr. Lombardo reminded the Board that over a year ago the courts ruled in favor and upheld all of the Board of Supervisor's prior decisions on this matter. Mr. Lombardo disputes any such new evidence as alleged by the

Plaintiff stating that other than allegations, no such new information has been submitted.

Molly Erickson, Land Use Planner with the offices of Michael Stamp speaks next. Ms. Erickson references three (3) letters that were submitted to the Board. The first two are dated December 18, 2006 and faxed at 16:33 and at 17:20. The third letter dated December 19, 2006 was submitted to the Clerk of the Board prior to the hearing. Ms. Erickson addressed the Board concerning issues of Lots of record and information regarding the water allocation for the project.

Public Comment:

- a. Mike Weaver: Mr. Weaver addressed the Board regarding the water issue to advise that there is no common sense being utilized.
- b. Dale Williams: Mr. Williams spoke on behalf of the Carmel Valley Ranch Homeowners Association in support of this project.
- c. Stephanie Pinar: Ms. Pinar is an employee of the Monterey County Peninsula Water Management District. Ms. Pinar addressed the Board on a number of topics including the use of the words "allocation" and "Credit" interchangeably by staff.

STAFF:

Al Mullholland: Water Resources Agency, advised the Board that there is sufficient water available for this project.

Applicant: Anthony Lombardo for the applicant refutes the letter by the water district.

The Board Recessed into closed session at 12:00 and therefore S-3 was not heard until 1:30 p.m.

- 1350.000 S-3 **Continued** public hearing on 2006 General Plan Update (PLN050045)
- a. Receive staff presentation on the Area Plans and Wine Corridor components of the Draft 2006 General Plan update, including review of the Planning Commission recommendation and the Draft EIR; and
 - b. Receive report from staff regarding 12-19 Board referral pertaining to a) estimated cost and time to translate the 2006 General Plan and environmental documents into Spanish; 2) outreach efforts and 3) General Plan policies on farm worker and low-income housing;
 - c. Receive staff presentation re options for an Interim Ordinance
 - d. Receive public comment on each of these issues; and
 - e. Provide direction to staff for completing the Final 2006 General Plan.

12:00 p.m.

Recess to Lunch. The Board continued with Closed Session during lunch.

1:30 p.m.:

- Continuation of S-3
- 1350.000 S-3 Continued public hearing on 2006 General Plan Update (PLN050045)
- a. Receive staff presentation on the Area Plans and Wine Corridor components of the Draft 2006 General Plan update, including review of the Planning Commission recommendation and the Draft EIR; and

BOARD:

Supervisor Potter: Recommended to staff to take horses out of 2.6.

Public Comment:

- a. Richard Hewett: Addressed the Board concerning two handouts that were also distributed to each Board member at this time. Both addressed the Toro Area Plan supplemental policies – planning staff recommendations and the other LUAC plan.
- b. Janet Brennan: Ms. Brennan advised that she was somewhat confused over what was presented because both the Land use Advisory Committee and the Planning Commission had submitted recommendations.
- c. Tom Carvey: Addressed the Board concerning issues within the Cachagua – Area Plan - and the maps. Mr. Carvey advises that the critical view shed should be removed also that Carmel Valley road is not in the Cachagua area. It should be dealt with in the Carmel Valley area plan instead.
- d. Brian Finnegan: Addressed the Board on Trails. Mr. Finnegan highlighted 3.9, 3.19 and 3.12 as the policies and that in each it says “may be required” which is not consistent with the Boards original direction. They should be voluntary.
- e. Julie Engell: Addressed the Board as a resident of North Monterey County. Ms. Engell advised that trails have been designated in their maps for many years. Further, that “may be required” is not the same as “required”, rather it is as a possible condition.
- f. Bob Perkins: Executive Director of the Monterey County Farm Bureau. Mr. Perkins addressed the Board on the Trails issue because it is always a concern. A lot of the land use is agricultural and that Trails is an issue of safety.

- g. Mike Weaver: Secretary to Toro Land use Advisory Committee. Mr. Weaver addressed the Board concerning figure 43 v. Laurels Grade.
- h. Chris Bunn Jr.: Addressed the Board advising that his family has had farm land on River Road for a long time. The bulk of River Road is Agricultural and there is a great deal of cattle as well. Mr. Bunn advised that there is no interest by the residents there to have River Road designated as scenic.
- i. John Bridges: Addressed the Board on 1.28 (not on the list discussed today). Mr. Bridges wished to further argue for the Hatton's. Mr. Bridges did not want to take no for the final answer.

STAFF:

Alana Knaster: Staff had considered the LUAC proposals but still recommends the Planning Commission Recommendations.

Trails: would be up to the Board but that the language is presently consistent and consistent with state law.

2.6 – can delete horses as recommended by Supervisor Potter. However, staff recommends keeping it in.

Toro 3.6 – Staff does not interpret as staying in grazing for all time. But also advised that there was no harm in deleting it if desired.

Critical View shed on Toro – it does have land where critical view shed is dedicated.

BOARD ACTION: Upon motion of Supervisor Potter and seconded by Supervisor Armenta, and carried 5/0 the Board approved staff's recommendations for the Wine Corridors and Area Plans as well as T-2.6 & T-2.8 to re-include River Road.

- b. Received report from staff regarding 12-19 Board referral pertaining to a)estimated cost and time to translate the 2006 General Plan and environmental documents into Spanish; 2) outreach efforts and 3) General Plan policies on farm worker and low-income housing; and**

Public Comment:

- a. Mary Mecartney: Ms. Mecartney addressed the Board as the National Vice President of the United Farm Workers Union. Ms. Mecartney urged her support of having the General plan and the FEIR translated into Spanish.
- b. Raul Villaseñor: Addressed the Board in support of having the General Plan and the FEIR translated into Spanish.
- c. Ranalda Sacarias: Addressed the Board in support of having the General Plan and the FEIR translated into Spanish.
- d. Rogalio Aroyo: Addressed the Board in support of having the General Plan and the FEIR translated into Spanish. Mr. Aroyo also wished to "Thank" the Board for the opportunity to speak to this issue.

- e. Salvador Vega: Addressed the Board in support of having the General Plan and the FEIR translated into Spanish.
- f. Bob Perkins: Addressed the Board in support of having the General Plan and FEIR translated into Spanish.
- g. Chris Bunn Jr.: Addressed the Board to advise that it was great to see the participation but requested that the UFW representatives, who have been at the meeting over the past years, explain why they are now making such a request?

BOARD ACTION: Upon motion of Supervisor Armenta, and seconded by Supervisor Potter and carried, the Board approved having the full text of the General Plan and the FEIR translated into Spanish and deferred to staff in regard to the turn around time for this.

Roll Call Vote:

- District 1: Yea
- District 2: Yea
- District 3: Yea
- District 5: Yea
- District 4: Yea

CULMULATIVE WATERSHED OS-3.9; S-3.7 – Attachment C in the Board Report: LU-2.24; LU – 9.5.

Public Comment:

- a. Bob Perkins: Addressed the Board to advise that although he has not had time to review what was just submitted, his first impression of it is favorable.

BOARD ACTION: Upon motion of Supervisor Lindley, and seconded by Supervisor Armenta and carried 5/0, the Board approved staffs recommendations with Supervisor Potters noted objection to the designation of Butterfly Village as a Community.

- c. **Received** staff presentation re options for an Interim Ordinance; and Staff: The staff will draft for the Board an interim ordinance to be brought back for the January 3, 2007 Board meeting.
There was no public comment:
- d. **Received** public comment on each of these issues; and
- e. **Provided** direction to staff for completing the Final 2006 General Plan.

BOARD ACTION: Upon motion of Supervisor Calcagno, and seconded by Supervisor Smith and carried 5/0 the Board approved the following: That this matter be placed on the agenda for the January 3, 2007 meeting for the following actions to be considered: (a.) Certification of the 2006 General Plan Environmental Impact Report and adoption of the 2006 General Plan subject to approval by the voters at the next appropriate election. This motion includes

direction to staff to take all necessary steps to place the Plan on the ballot and direct the Registrar of Voters to translate the plan and EIR into Spanish consistent with the long standing past practice for all ballot measures and pursuant to the Voting Rights Act. (b.) In addition, direct County Counsel and appropriate staff to work with the parties in the Monterey County Initiative Federal Court lawsuit to determine the legal steps necessary to place the citizen circulated General Plan Initiative, officially titled "Amendment of the 1982 General Plan and North County Land Use Plan," on the election ballot, if legally possible, and to translate the Initiative General Plan into Spanish. Counsel to report to the Board on January 3, 2007 on alternatives and feasibility of placing the Initiative on the ballot.

Roll Call Vote:
District 1: Yea
District 2: Yea
District 3: Yea
District 5: Yea
District 4: Yea

Supervisor Armenta then made a motion to have his earlier motion regarding the Translation of the General Plan and EIR reconsidered to clarify that it was his intent that this be done and distributed prior to the final adoption. The motion died with no second.

ORDER FOR ADJOURNMENT

APPROVED:

Dave Potter
Chair

ATTEST:
LEW C. BAUMAN, Clerk of the Board

By: [Signature]
Deputy

(Supplemental Sheet)

CONSENT CALENDAR

BOARD ACTION: Upon motion of Supervisor Potter, and seconded by Supervisor Armenta and unanimously carried, the Board approved the following actions, unless otherwise noted:

RMA-PLANNING:

- 0125.000 9. a. **Agreement No. A-10096; Approved** Amendment No. 1 to extend the term to August 31, 2007 of the Professional Services Agreement with Jones & Stokes Associates, Inc. for preparation of a Subsequent Environmental Impact Report (SEIR) for the Carmel Valley Master Plan (PLN050133) Carmel Valley Master Plan area; and
- b. **Agreement No. A-10104; Approved** Amendment No. 1 to extend the term to August 31, 2007 of the Funding Agreement with Rancho Canada Community Partners, LLC to reimburse Jones & Stokes Associates, Inc. for preparation of a SEIR for the Carmel Valley Master Plan; and
- c. **Authorized** the Interim Director of Planning to execute Amendment No. 1 to the Professional Services Agreement, Amendment No. 1 to the Funding Agreement, and future amendments that do not significantly alter the scope of work or change the approved agreement amounts.
- 0125.000 10. a. **Agreement No. A-10097; Approved** Amendment No. 1 to extend the term to August 31, 2007 of the Professional Services Agreement with Jones & Stokes Associates, Inc. for preparation of an Environmental Impact Report (EIR) for the Rancho Canada Village Subdivision (PLN040061) east of Highway 1 on the south side of Carmel Valley Road; and
- b. **Agreement No. A-10105; Approved** Amendment No. 1 to extend the term to August 31, 2007 of the Funding Agreement with Rancho Canada Community Partners, LLC to reimburse Jones & Stokes Associates, Inc. for preparation of an EIR for the Rancho Canada Village Subdivision; and
- c. **Authorized** the Interim Director of Planning to execute Amendment No. 1 to the Professional Services Agreement, Amendment No. 1 to the Funding Agreement, and future amendments that do not significantly alter the scope of work or change the approved agreement amounts.

0125.000

11. a. **Agreement No. A-10267; Approved** Amendment No. 1 in the amount of \$7,245.00 plus a \$1,086.75 contingency fee for a total amount not to exceed \$8,331.75, for a total of \$154,791.15 of the Professional Services Agreement with Pacific Municipal Consultants (PMC) for preparation of an Environmental Impact Report (EIR) for the Harper Canyon Subdivision (PLN000696) north of San Benancio Road, Salinas; and
- b. **Agreement No. A-10269; Approved** Amendment No. 1 in the amount of \$2,535.75 for surcharge plus \$7,245.00 for the contractor's budget and a \$1,086.75 contingency fee for a total amount not to exceed \$10,867.50, for a total of \$201,901.50 (\$47,110.35 for surcharge plus \$134,601.00 for the contractor's budget and a \$20,190.15 contingency fee) of the Reimbursement Agreement with Harper Canyon Realty, LLC to reimburse PMC for preparation of an EIR for the Harper Canyon Subdivision; and
- c. **Authorized** the Interim Director of Planning to execute Amendment No. 1 to the Professional Services Agreement, Amendment No. 1 to the Reimbursement Agreement, and future amendments that do not significantly alter the scope of work or change the approved agreement amounts.

RMA-PUBLIC WORKS:

- ~~12. a. Approve an Amendment to extend the term of the Agreement with Skanska, U.S.A. Building, Inc. to March 31, 2007 to provide transition construction management services for the County Government Center in Salinas; and~~
- ~~b. Authorize the Public Works Director to execute the amendment and future amendments that do not significantly alter the scope of work or change the approved agreement amount.~~

0602.350

13. a. **Resolution No. 06-365; Adopted** a resolution finding that the closure of the North Wing of the Monterey County Courthouse continues to pose an emergency requiring immediate action; and
- b. **Adopted** a resolution ratifying the execution of emergency contracts and emergency actions taken by the public Works Director or his designee to respond to the emergency. (4/5^{ths} vote required)

Approved 2/13/2007
