



MENDOCINO COUNTY BOARD OF SUPERVISORS

ACTION MINUTES – NOVEMBER 15, 2011

MENDOCINO
COUNTY
BOARD OF
SUPERVISORS

CARRE BROWN
FIRST DISTRICT

JOHN McCOWEN
SECOND DISTRICT
VICE-CHAIR

JOHN PINCHES
THIRD DISTRICT

KENDALL SMITH
FOURTH DISTRICT
CHAIR

DAN HAMBURG
FIFTH DISTRICT

CARMEL J. ANGELO
CHIEF EXECUTIVE
OFFICER/
CLERK OF THE
BOARD

JEANINE B. NADEL
COUNTY COUNSEL

BOARD RESOURCE
INFORMATION:

OFFICE: (707) 463-4221
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ACTION MINUTES
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BEFORE THE BOARD OF SUPERVISORS COUNTY OF MENDOCINO • STATE OF CALIFORNIA FAIR STATEMENT OF PROCEEDINGS (PURSUANT TO CALIFORNIA GOVERNMENT CODE §25150)

☒ REGULAR MEETING ☐ SPECIAL SESSION ☐ PLANNING MATTERS

AGENDA ITEM NO. 1 – OPEN SESSION (ROLL CALL AND PLEDGE OF ALLEGIANCE – 9:03 A.M.)

Present: Supervisors Carre Brown, John McCowen, John Pinches, Kendall Smith, and Dan Hamburg. Chair Smith presiding.

Staff Present: Ms. Carmel J. Angelo, Chief Executive Officer/Clerk of the Board; Ms. Jeanine B. Nadel, County Counsel; and Mr. Tim Mitchell, Deputy Clerk of the Board.

Pledge of Allegiance: Ms. Valerie Frey.

AGENDA ITEM NO. 3 – PUBLIC EXPRESSION

Presenter/s: Ms. Melanie Lightbody, County Librarian; Mr. Benj Thomas, Library Advisory Board; Ms. Valerie Frey, Library Advisory Board; Mr. Jim Bassler; Mr. Lee Howard, North Coast Builders Exchange; and Professor Ping Pong.

Board Action: No action taken.

T1-595

AGENDA ITEM NO. 4 – APPROVAL OF MINUTES

Presenter/s: Chair Smith.

Board Action: Upon motion by Supervisor McCowen, seconded by Supervisor Brown, and carried unanimously; IT IS ORDERED that the minutes of the October 18, 2011, and November 1, 2011, meeting, are approved as presented.

AGENDA ITEM NO. 5 – CONSENT CALENDAR

Presenter/s: Consent Calendar items 5(c and f) removed for separate consideration.

Board Action: Upon motion by Supervisor McCowen, seconded by Supervisor Brown, and carried unanimously; IT IS ORDERED that Consent Calendar items 5(a, b, d, e, and g) are approved as follows:

- (a) BOS No. 11-146 Approval of Agreement with Ukiah Community Center, Inc. in the Amount of \$51,414 to Provide Intensive Case Management for Clients Enrolled in the Access to Treatment and Housing Opportunities in the AT HOME Program in Fiscal Year 2011/12 -- Approved and the Chair is authorized to sign same;
- (b) BOS No. 10-193 A2 Approval of Amendment to BOS Agreement No. 10-193 with Ukiah Community Center, Inc. Increasing the Wraparound Services Case Management Allocation by \$5,117 -- Approved and the Chair is authorized to sign same;
- (d) Adoption of Resolution Approving Parcel Map for Minor Subdivision No. MS 10-2007 (Prather) and Accepting on Behalf of the Public Parcel A, as Designated on Said Map for the Purposes Specified Thereon, Located in Covelo, Lying West of Henderson Lane, CR 337N, Just North of Its Intersection with Howard Street, CR 334D (Covelo Area) -- Adopted and the Chair is authorized to sign same;

RESOLUTION NO. 11-167

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS APPROVING PARCEL MAP FOR MINOR SUBDIVISION NO. MS 10-2007 (PRATHER) AND ACCEPTING ON BEHALF OF THE PUBLIC PARCEL A, AS DESIGNATED ON SAID MAP FOR THE PURPOSES SPECIFIED THEREON, LOCATED IN COVELO, LYING WEST OF HENDERSON LANE, CR 337N, JUST NORTH OF ITS INTERSECTION WITH HOWARD STREET, CR 334D (COVELO AREA)

- (e) Approval of Transfer of Appropriations from Interest Pool (2410-760524) to Fixed Assets (1130-864370) in the Amount of \$49,998.69 in Order to Purchase Remittance Processing System from RT Lawrence Corporation -- Approved;
- (g) Authorization for the District to Modify the Motor Vehicle Program Grant Contract with Department of Transportation for the Calpella Elementary School to Include Project Planning – Approved.

AGENDA ITEM NO. 5 – CONSENT CALENDAR – REMOVED FOR SEPARATE CONSIDERATION:

- (c) Approval of a Five-Year Revenue Contract Between Sheriff's Office and Legacy Inmate Communications; and Authorization for the Sheriff to Sign the Additional Three One-Year Extensions

Presenter/s: Supervisor Pinches.

Board Action: No action taken.

AGENDA ITEM NO. 5 – CONSENT CALENDAR – REMOVED FOR SEPARATE CONSIDERATION:

- (f) Approval of the Air Quality Management District's Request to Purchase a New Hybrid Vehicle and Authorization for the Appropriation of Funds from the District's Fund Balance to Cover the Cost of the Purchase

Presenter/s: Supervisor Pinches.

Board Action: No action taken.

AGENDA ITEM NO. 6D – DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF A WORK PLAN FOR DEVELOPMENT OF THE CENTRAL COAST TRANSFER STATION

Presenter/s: Mr. Mike Sweeney, Solid Waste Director.

Board Action: Upon motion by Supervisor Hamburg, seconded by Supervisor McCowen, and carried unanimously; IT IS ORDERED that the Board of Supervisors approves the Transfer Station Work Plan and authorize Solid Waste Director to implement in cooperation with City of Fort Bragg and Caspar Joint Coordinating Committee.

T1-1505

AGENDA ITEM NO. 6E – BOS No. 11-008 A1 DISCUSSION AND POSSIBLE ACTION REGARDING APPROVAL OF FIRST AMENDMENT TO CASPAR TRANSFER STATION OPERATIONS AGREEMENT & LEASE [BOS No. 11-008] TO CAUSE RECYCLING COMMODITY VALUE CREDIT TO BE ALLOCATED EXCLUSIVELY AGAINST GATE FEE FOR RECYCLABLE YARD WASTE, WOOD, AND METAL

Presenter/s: Mr. Mike Sweeney, Solid Waste Director.

Board Action: Upon motion by Supervisor Hamburg, seconded by Supervisor Brown, and carried unanimously; IT IS ORDERED that the Board of Supervisors approves the first amendment to Caspar contract (BOS No. 11-008).

T1-1745

AGENDA ITEM NO. 5 – CONSENT CALENDAR – REMOVED FOR SEPARATE CONSIDERATION (CONTINUED FROM EARLIER):

- (c) BOS No. 11-147 Approval of a Five-Year Revenue Contract Between Sheriff's Office and Legacy Inmate Communications; and Authorization for the Sheriff to Sign the Additional Three One-Year Extensions

Presenter/s: Supervisor Pinches.

Public Comment: Captain Tim Pearce.

Board Action: Foregoing introduced by Supervisor Pinches, seconded by Supervisor Hamburg, and carried unanimously.

T1-1850

AGENDA ITEM NO. 5 – CONSENT CALENDAR – REMOVED FOR SEPARATE CONSIDERATION (CONTINUED FROM EARLIER):

- (f) Approval of the Air Quality Management District's Request to Purchase a New Hybrid Vehicle and Authorization for the Appropriation of Funds from the District's Fund Balance to Cover the Cost of the Purchase

Presenter/s: Supervisor Pinches.

Public Comment: Mr. Chris Brown, Air Pollution Control Officer and Mr. Louis Bigfoot.

Board Action: Upon motion by Supervisor Hamburg, seconded by Supervisor Brown, and carried unanimously; IT IS ORDERED that the Board of Supervisors approves the Air Quality Management District's request to purchase a new hybrid vehicle and authorize the transfer of up to \$40,000.00 from the District's Fund Balance to cover the cost of the purchase.

THE BOARD OF SUPERVISORS WILL NOW CONVENE AS THE AIR QUALITY MANAGEMENT DISTRICT BOARD OF DIRECTORS

T1-2560

ITEM NO. 10A – NOTICED PUBLIC HEARING – APPROVAL OF THE AIR QUALITY MANAGEMENT DISTRICT'S REQUEST TO EXPEND FUNDS FROM THE DISTRICT'S AB 923 MOTOR VEHICLE PROGRAM FUND BALANCE FOR SCHOOL BUS REPLACEMENT AND AUTHORIZATION FOR THE DISTRICT TO ENTER INTO A CONTRACTUAL AGREEMENT WITH EACH OF THE APPLICANTS THAT OUTLINES THE REQUIREMENTS ASSOCIATED WITH THESE FUNDS

Presenter/s: Mr. Chris Brown, Air Pollution Control Officer.

Public Comment: Mr. Lee Howard and Professor Ping Pong.

Board Action: Upon motion by Director Hamburg, seconded by Director Pinches, and carried unanimously; IT IS ORDERED that the Air Quality Management District Board of Directors approves expenditure of AB 923 Motor Vehicle Funds as outlined in Table 2; authorizes the District to enter into a contractual agreement with each of the applicants; authorizes the appropriation of AB 923 funds from the District's Fund Balance to cover the cost of each approved project; directs staff to review charges made by DMV; and authorizes staff to work directly with DMV on this matter.

RECESS: 10:31 – 10:42 A.M.

THE BOARD OF SUPERVISORS WILL NOW RECONVENE AS THE BOARD OF SUPERVISORS

T1-3542

AGENDA ITEM NO. 6A – CHIEF EXECUTIVE OFFICER'S REPORT

Presenter/s: Ms. Carmel J. Angelo, Chief Executive Officer.

Board Directive: GENERAL CONSENSUS OF THE BOARD that staff is hereby directed to review the Courthouse EIR to the limited purpose of making sure that appropriate comments are made to protect the County's interests.

Board Action: No action taken.

T2-1150

AGENDA ITEM NO. 7A – UPDATE ON STATUS OF RETIREE HEALTH PLAN AND DISCUSSION AND POSSIBLE ACTION ON ASSOCIATION OF MENDOCINO COUNTY RETIRED EMPLOYEES (AMCRE) REQUEST TO FURTHER EVALUATE OPTIONS FOR PROVIDING HEALTH CARE FOR QUALIFYING NON-MEDICARE ELIGIBLE RETIREES INCLUDING BLENDING INTO THE ACTIVE EMPLOYEE HEALTH PLAN (SPONSOR: HUMAN RESOURCES)

Presenter/s: Ms. Carmel J. Angelo, Chief Executive Officer; Ms. Pat Meek, Human Resources Director; and Ms. Sue Goodrick, Human Resources Manager.

Public Comment: Ms. Sue Thornhill; Ms. Marsha Wharff; Mr. Richard Shoemaker; and Ms. Carol Mordhorst.

Board Action: Upon motion by Supervisor Hamburg, seconded by Supervisor McCowen, and carried (4/1, with Supervisor Pinches dissenting); IT IS ORDERED that the Board of Supervisors directs staff to discontinue Non-Medicare Eligible Retiree Health Plan effective upon a 90-day notice; directs staff to form a committee with meetings open to the public, along the lines of the committee requested through the AMCRE letter to the Board of Supervisors, dated October 24, 2011; and directs staff to bring the item back to the Board within 60 days for further discussion and possible action.

Board Directive: BY ORDER OF THE CHAIR the Board will adjourn to Closed Session and a working lunch, and will reconvene in Open Session at 1:30 p.m.

ADJOURNED TO CLOSED SESSION AND WORKING LUNCH: 12:57 P.M.

AGENDA ITEM NO. 12F – PURSUANT TO GOVERNMENT CODE SECTION 54956.9(A) - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION: REGENTS OF THE UNIVERSITY OF CALIFORNIA V. MENDOCINO COUNTY, MENDOCINO COUNTY SUPERIOR COURT CASE NO. CPF-09-509289

AGENDA ITEM NO. 12G – PURSUANT TO GOVERNMENT CODE SECTION 54956.9(C) - CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION: ONE CASE (LIGHT V. CALIFORNIA STATE WATER RESOURCES CONTROL BOARD) (CONTINUED FROM 11/8/11)

RECONVENED IN OPEN SESSION: 1:41 P.M.

T3-1600

AGENDA ITEM NO. 12 – REPORT OUT OF CLOSED SESSION

Presenter: Chair Smith.

Board Action: No action taken.

AGENDA ITEM NO. 7B – NOTICED PUBLIC HEARING – DISCUSSION AND POSSIBLE ACTION ON APPEAL OF PLANNING COMMISSION DECISION TO APPROVE USE PERMIT RENEWAL 49-1985/2009 AND USE PERMIT NO. U 15-2009 (OWNER: DAVID AND KATHRYN LOWE; APPLICANT: KATHRYN LOWE FOR NORTH AMERICAN ORGANICS; APPELLANT: PAMELA RICETTI; LOCATION: HELD ROAD, REDWOOD VALLEY AREA) (SPONSOR: PLANNING AND BUILDING SERVICES)

Presenter/s: Mr. Roger Mobley, Chief Planner and Mr. Dusty Duley, Planner II.

Public Comment: Ms. Rose Zoia, representing the Appellant; Mr. Matthew Cotton, Integrated Waste Management Consulting, representing the Applicant; Ms. Kathy Lowe, owner; Mr. Dave Lowe, owner; Mr. Jim Johnson; Ms. Julia Coppola; Ms. Rose Zedicher; Mr. Steve Scalmanini; Mr. Marc Imerone; and Mr. Merle Reuser.

Board Action: Motion by Supervisor Brown, seconded by Supervisor Pinches, that the Board of Supervisors upholds the Planning Commission's decision and approves Use Permit Renewal No. UR 49-1985/2009 and Use Permit No. U 15-2009 making the following findings:

- **Environmental Finding:** That mitigation measures required for the project will reduce potentially significant impacts to a less than significant level and that a Mitigated Negative Declaration be adopted.

- General Plan Consistency Finding: The project is consistent with the applicable goals and policies of the Mendocino County General Plan.

With a modification to item no. 21 of the Mendocino County Planning Commission's Recommended Conditions of Approval, hereby discontinuing business operation on Sundays.

(Motion fails, 3/2, with Supervisors McCowen, Smith, and Hamburg dissenting)

RECESS: 4:03 – 4:17 P.M.

Board Action: Upon motion by Supervisor McCowen, seconded by Supervisor Hamburg, and carried (4/1, with Supervisor Pinches dissenting); IT IS ORDERED that the Board of Supervisors upholds the Planning Commission's decision and approves Use Permit Renewal No. UR 49-1985/2009 and Use Permit No. U 15-2009 making the following findings:

- Environmental Finding: That mitigation measures required for the project will reduce potentially significant impacts to a less than significant level and that a Mitigated Negative Declaration be adopted.
- General Plan Consistency Finding: The project is consistent with the applicable goals and policies of the Mendocino County General Plan.

With modifications to the Mendocino County Planning Commission's Recommended Conditions of Approval as follows:

- Item no. 5 to read, "The applicant shall develop a kennel waste management plan that is acceptable to the Division of Environmental Health and provide the Department of Planning and Building Services with a letter from the Division noting their satisfaction with the plan."
- Item no. 9 to read, "With the exception of non-odorous amendments as approved by Planning and Building Services, only stabilized compost, as defined by the California Department of Resources and Recycling Recovery (CalRecycle), that has been cured to the extent that the compost is no longer producing foul odors, may be accepted and stored on-site. No raw grape pomace shall be allowed on-site. Violation of this condition shall be grounds to revoke the Use Permit."
- Item no. 12 to read, "A maximum of 15,000 cubic yards of total materials shall be permitted on-site at any given time. Failure to maintain compliance with this limitation shall be grounds for revocation of the Use Permit."
- Item no. 21 to read: "Hours of operation shall be limited to between 7 a.m. and 8 p.m. on weekdays and Saturdays. Sunday operations are prohibited. Use of heavy equipment shall be limited to the hours of 8 a.m. to 7 p.m. on weekdays and Saturdays."

T5-520

AGENDA ITEM NO. 6C – DISCUSSION AND POSSIBLE ACTION REGARDING THE 1ST QUARTER BUDGET REPORT ON THE STATUS OF COUNTY DEPARTMENTAL BUDGETS FOR FISCAL YEAR 2011-2012, INCLUDING DISCUSSION AND POSSIBLE ACTION ON RECOMMENDATIONS RELATED TO COUNTY POLICY 38, AND RECOMMENDATIONS ON BUDGETARY ADJUSTMENTS

Presenter/s: Ms. Carmel J. Angelo, Chief Executive Officer; Mr. Kyle Knopp, Deputy Chief Executive Officer; and Mr. Lloyd Weer, Assistant Auditor-Controller.

Board Action: Upon motion by Supervisor Hamburg, seconded by Supervisor McCowen, and carried unanimously; IT IS ORDERED that the Board of Supervisors accepts the 1st Quarter Report on the status of departmental spending on personnel line items for Fiscal Year 2011.

T5-1890

AGENDA ITEM NO. 7C – PRESENTATION AND REQUEST FOR APPROVAL OF THE 2011-12 COMMUNITY CORRECTIONS PARTNERSHIP AB109 CRIMINAL JUSTICE REALIGNMENT EXPENDITURE PLAN (SPONSOR: PROBATION)

Presenter/s: Mr. Jim Brown, Chief Probation Officer and Ms. Heidi Dunham, Administrative Services Manager II.

Board Action: Upon motion by Supervisor McCowen, seconded by Supervisor Brown, and carried unanimously; IT IS ORDERED that the Board of Supervisors approves the 2011-12 Community Corrections Partnership AB109 Criminal Justice Realignment Expenditure Plan.

AGENDA ITEM No. 6B – DISCUSSION AND POSSIBLE ACTION INCLUDING REVIEW, ADOPTION, AMENDMENT, CONSIDERATION OR RATIFICATION OF LEGISLATION PURSUANT TO THE ADOPTED LEGISLATIVE PLATFORM

Presenter/s: Ms. Kristi Furman, Deputy Chief Executive Officer.

Board Action: No action taken.

T5-2738

AGENDA ITEM No. 8A – SUPERVISORS' REPORTS

Presenter/s: Board members.

Board Action: No action taken.

T1-

AGENDA ITEM No. 8B – REPORT FROM MENDOCINO COUNTY EMPLOYEE'S RETIREMENT BOARD MEETING - NOVEMBER 9, 2011 (SPONSOR: SUPERVISOR SMITH)

Presenter/s: Supervisor Smith.

Board Action: No action taken.

Board Directive: BY ORDER OF THE CHAIR the Board will adjourn to Closed.

ADJOURNED TO CLOSED SESSION: 5:28 P.M.

AGENDA ITEM No. 12A – SITTING AS THE IHSS PUBLIC AUTHORITY GOVERNING BOARD: PURSUANT TO GOVERNMENT CODE SECTION 54957.6 - CONFERENCE WITH LABOR NEGOTIATOR - AGENCY NEGOTIATORS: CARMEL J. ANGELO, PAT MEEK, STACEY CRYER, AND MARYLOU LEONARD; EMPLOYEE ORGANIZATION(S): IHSS PROVIDERS

AGENDA ITEM No. 12B – PURSUANT TO GOVERNMENT CODE SECTION 54957.6 - CONFERENCE WITH LABOR NEGOTIATOR - AGENCY NEGOTIATORS: CARMEL J. ANGELO, PAT MEEK, AND RICK HAEG; EMPLOYEE ORGANIZATION(S): ALL

AGENDA ITEM No. 12C – PURSUANT TO GOVERNMENT CODE SECTION 54956.9B(3)(A) - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: SIGNIFICANT EXPOSURE TO LITIGATION - ONE CASE (CONTINUED FROM 11/8/11)

AGENDA ITEM No. 12D – PURSUANT TO GOVERNMENT CODE SECTION 54956.9 - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION: COUNTY OF MENDOCINO V. SEIU, MENDOCINO COUNTY SUPERIOR COURT CASE No. SF-CO-263-M

AGENDA ITEM No. 12E – PURSUANT TO GOVERNMENT CODE SECTION 54956.9 - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION: SEIU V. COUNTY OF MENDOCINO, MENDOCINO COUNTY SUPERIOR COURT CASE No. SF-CE-834-M (CONTINUED FROM 11/8/11)

AGENDA ITEM No. 12H – PURSUANT TO GOVERNMENT CODE SECTION 54956.9(C) - CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION: ONE CASE

AGENDA ITEM No. 12I – PURSUANT TO GOVERNMENT CODE SECTION 54957 - PUBLIC EMPLOYEE APPOINTMENT - AGRICULTURE COMMISSIONER

RECONVENED IN OPEN SESSION: 6:50 P.M.

T5-2997

AGENDA ITEM No. 12 – REPORT OUT OF CLOSED SESSION

Presenter: Chair Smith and Jeanine B. Nadel, County Counsel.

Board Action: Counsel Nadel reported that in regards to item 12(h), Initiation of Litigation, the Board agreed to appoint an ad hoc committee to assist staff in the matter. The ad hoc committee will consist of Supervisors McCowen and Hamburg. Motion by Supervisor Hamburg, seconded by Supervisor Brown, and carried unanimously. With respect to all other litigation items, direction was given to staff.

AGENDA ITEM No. 14 – COMMUNICATIONS RECEIVED AND FILED

- (a) Protest of Non-Renewal of Agriculture Preserve Contract - Owner: Maria Mangini for Black Oak Ranch

THERE BEING NOTHING FURTHER TO COME BEFORE THE BOARD, THE MENDOCINO COUNTY BOARD OF SUPERVISORS ADJOURNED AT 6:52 P.M.

Attest: TIM MITCHELL
Deputy Clerk of the Board

KENDALL SMITH, Chair

Draft

NOTICE: PUBLISHED MINUTES OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS MEETINGS

- Effective March 1, 2009, Board of Supervisors minutes will be produced in “action only” format. As an alternative service, public access to recorded Board proceedings will be available on the Board of Supervisors’ website in indexed audio format
- LIVE WEB STREAMING OF BOARD MEETINGS is now available through Mendocino Access Television: www.mendocinoaccess.org Requires Windows Media Player (Version 9+). If technical assistance is needed, please contact Mendocino Access Television at (707) 357-0624
- Minutes are considered draft until adopted/approved by the Board of Supervisors
- The Board of Supervisors’ action minutes are also posted on the County of Mendocino website at: www.co.mendocino.ca.us/bos
- To request an official record of a meeting of the Mendocino County Board of Supervisors, please contact the Executive Office at (707) 463-4441
- Please reference the departmental website to obtain additional resource information for the Board of Supervisors and Clerk of the Board: www.co.mendocino.ca.us/bos

Thank you for your interest in the proceedings of the Mendocino County Board of Supervisors