

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

MINUTES OF THE BOARD OF SUPERVISORS MEETING HELD JUNE 1, 2004

The Honorable Board of Supervisors of Lake County, California, met in regular session this 1st day of June, 2004, there being present Supervisors Ed Robey, Jeff Smith, Gary Lewis, Anthony Farrington and Rob Brown, Administrative Officer Kelly Cox, County Counsel Cameron Reeves and Assistant Clerk of the Board Georgine Hunt.

The meeting was called to order at 9:01 a.m. by Chair Brown, following a moment of silence, Assessor-Recorder Doug Wacker led the salute to the flag of the United States of America.

1. **ITEM A-1 - APPROVAL OF CONSENT AGENDA** - On motion of Supervisor Smith and by vote of the Board (5 ayes), approved Consent Agenda Items C-1 through C-13.

Adopted proclamation designating the month of June 2004, as Community Action Month in Lake County.

Adopted Resolution No. 2004-81, declaring County property surplus to the needs of the County and authorizing Purchasing Agent to sell said Property (one (1) 1972 Caterpillar D6-C and its accompanying implement).

Approved Agreement between the County of Lake and the State Department of Finance, for the State-County Property Tax Administration Grant Program, and authorized the Chair to sign.

Authorized the County Elections Official to render all services necessary to conduct a special election on Tuesday, August 31, 2004, for the Clearlake Oaks Fire Protection District for special tax proposal.

Adopted Resolution No. 2004-82, approving State Department of Health Services' Agreement 03-75372 A01 for the Preventive Health Care for the Aging Program, and authoring the Director of Health Services to sign.

Waived the 900 hour limit for extra-help Office Assistant Margaret Lewis.

Adopted Resolution No. 2004-83, approving submission of an application to the State Department of Health Services for Children's Dental Disease Prevention Program funding for Fiscal Years (FYs) 2004 through 2007 and authorizing the Health Services Director to sign said application and state approved contracts.

Adopted Resolution No. 2004-84, approving the Agreement between the County of Lake and the State of California for Services to provide alcohol and/or drug services for Fiscal Years FY 2004/2005, FY 2005/2006, FY 2006/2007 and FY 2007/2008 and authoring the Health Services Director to sign.

Approved Minutes of the Board of Supervisors meetings held on May 4, 11 and 18, 2004.

Waived the 900 hour limit for extra-help Staff Services Analyst Jarrod Car.

Approved Fifth Amendment to the Calworks County Plan, and authorized the Chair to sign.

Approved Claims for Payment of Excess Proceeds from Tax Sale #141 per Section 4675 of the Revenue and Taxation Code, as recommended in Memorandum dated May 13, 2004, from Treasurer-Tax Collector Kay Lytton.

Sitting as the Board of Directors of Kelseyville County Waterworks District No. 3, approved Mainline Extension Agreement between the Kelseyville County Waterworks District No. 3 and Marr B. Olsen (Oak Tree Court), for capacity mitigation measures and connection limitations, and authorized the Chair to sign.

2. **ITEM A-13 - CONSIDERATION OF REQUEST FROM THE CLEAR LAKE ADVISORY SUBCOMMITTEE TO APPOINT TWO (2) MEMBERS OF THE BOARD OF SUPERVISORS TO MEET WITH THE CLEAR LAKE ADVISORY SUBCOMMITTEE AND THE CITIES OF LAKEPORT AND CLEARLAKE REGARDING PUBLIC ACCESS TO CLEAR LAKE AND POTENTIAL DEVELOPMENT OF LAKESIDE PROPERTIES** - After discussion of this item, Chair Brown will contact the Council members of the Cities of Lakeport and Clearlake, to make arrangements to set a date for a joint meeting with the Board of Supervisors, for further discussion of this item.

This item was continued to a later date.

3. **CITIZEN'S INPUT** - Mr. Jim Henderson made a request to speak during Citizen's Input regarding Community Development, Building and Safety Division, and Chair Brown stated that Mr. Henderson has previously spoke on these same issues numerous times during Citizen's Input, and the Board also set a timed item on the agenda that allowed Mr. Henderson to express his concerns. Chair Brown asked County Counsel Cameron Reeves if this was appropriate to allow a person to speak on the same issue every week. Before Mr. Reeves could respond to Chair Brown's question, Mr. Henderson proceeded to express his concerns and issues that he has with Community Development.

4. **ITEM A-4 - 9:06 A.M. - PUBLIC HEARING - INTENTION TO NAME AN EXISTING ROAD "OLIVE HILL LANE" BEGINNING AT THE INTERSECTION OF OLD LONG VALLEY ROAD IN CLEARLAKE OAKS, CA** - County Surveyor Steve Farr was present.

On motion of Supervisor Lewis and by vote of the Board (5 ayes), approved naming an existing road "Olive Hill Lane," beginning at the intersection of Old Long Valley Road in Clearlake Oaks, California.

5. **ITEM A-12 - CONSIDERATION OF THE CONSULTANT SELECTION BOARD'S RECOMMENDATION TO AWARD THE BID FOR THE LAKE AQUATIC HERBICIDE SPRAY PROGRAM TO CLEAN LAKE, INC., TO TREAT NINE COUNTY PARK LOCATIONS FOR A SUM NOT TO EXCEED \$21,328** - Public Services Director Kim Clymire was present.

On motion of Supervisor Lewis and by vote of the Board (5 ayes), approved the Consultant Section Board's recommendation to award the bid for the Lake Aquatic Herbicide Spray Program to Clean Lakes, Inc., to treat nine County park locations, for a sum not to exceed \$21,328, and authorized the Chair to sign the purchase order.

6. **ITEM A-5 - 9:15 A.M. - HEARING - NOTICE OF NUISANCE ABATEMENT - 10280 MULLBERRY STREET, LOCH LOMOND, CA (APN 050-022-16 - DANIEL AND KATHY MACK)** - Code Enforcement Manager Ann Foglestrom and Code Enforcement Officer Dana McDonald were present and sworn in by the Clerk.

Neither the property owner nor a representative was present.

Mr. McDonald gave a brief overview describing the conditions of the property, which included open and outdoor storage of junk, miscellaneous vehicle parts, garbage, tires, appliances, public nuisance vehicles and other miscellaneous items on a vacant lot creating a health and safety hazard and a public nuisance.

Ms. Foglestrom gave a power-point presentation showing the conditions of the property.

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On motion of Supervisor Lewis and by vote of the Board (5 ayes), adopted the order to complete abatement of the nuisance within thirty (30) days and authorized staff to abate the nuisance, if it is not voluntarily abated, all cost associated with this case will become a charge against the property.

7. **ITEM A-6 - 9:30 A.M. - PUBLIC HEARING - PLANNING COMMISSION'S RECOMMENDATION FOR APPROVAL OF A TWO YEAR EXTENSION OF TIME FOR THE APPROVED TENTATIVE SUBDIVISION MAP FOR TEN (10) RESIDENTIAL PARCELS; FOR DARRELL MILLS; LOCATED AT 15330 SPRUCE GROVE ROAD, MIDDLETOWN, CA (APN 136-101-09) -** Community Development Director Mary Jane Fagalde was present and gave a brief background report. The applicant is requesting a two (2) year extension of time in order to complete the necessary improvement requirements of a tentative subdivision map (SD 01-04), and file the final map. There has not been any development on this property that is inconsistent with the approved tentative map. The tentative map was approved on February 14, 2002, to allow a subdivision of approximately 54 acres into 10 parcels. The applicant has completed a number of the conditions of the tentative map, including engineering and excavation for the roads. The final map application has already been submitted to the Department of Public Works, additional time is needed to pave the roads and set monuments.

On motion of Supervisor Robey and by vote of the Board (5 ayes), approved an extension of time for SD 01-04 for a period of two-years to February 14, 2005, with the findings listed in the Board Memorandum dated May 5, 2004.

After a short recess, the Board reconvened at 10:03 a.m.

8. **ITEM A-7 - Continued From May 18, 2004 - 10:00 A.M. - PUBLIC HEARING - APPEAL (AA 04-02) OF BARRY SMITH, REPRESENTATIVE FOR THE CASSIL FAMILY, JENSEN FAMILY, SMITH FAMILY, VAN HORN FAMILY, DECKER FAMILY, CARRICK FAMILY, MILLER FAMILY AND HELENIUS FAMILY OF PLANNING COMMISSION'S DENIAL OF AN ADMINISTRATIVE APPEAL OF THE DECISION TO ISSUE A LAKEBED ENCROACHMENT PERMIT TO JANE KUNDE FOR A ROOF OVER AN EXISTING ELECTRIC BOATLIFT.; PROJECT LOCATED AT 3306 SOUTHLAKE DRIVE, KELSEYVILLE, CA - APN 044-273-14 -** Community Development Director Mary Jane Fagalde, Assistant Resource Planner Melissa Banks, and Clear Lake Lands Coordinator Skip Simkins were present.

(It was noted that the appellants requested that any person who was going to speak, including staff, be sworn in, which the Clerk so did).

Ms. Banks gave a brief overview of the appeal. The appellants are appealing the decision by the Planning Commission on February 26, 2004, to deny the appeal of the decision by Lakebed Management and the Planning Division to issue a Lakebed Encroachment Permit to Jane Kunde to construct a 10' x 22' roof over an existing electric boatlift on lands held in trust by the County of Lake. A permit for an uncovered boatlift was issued on November 8, 2002. There was a misunderstanding between the contractor and Lakebed Management as to whether the structure was to have a roof. The permit was issued for an uncovered boatlift and a covered one was built. When the discrepancy was discovered during an inspection, the contractor and owner were notified. Subsequently, an application was submitted for the roof structure and adjoining landowners were again given notice.

Mr. Barry Smith, representing the appellants, was present, and gave an overview and a power-point presentation addressing their positions as to why this structure is in violation of the Clear Lake Shoreline Ordinance.

Chair Brown opened the public hearing and the following persons spoke: Mr. Gary Miller and Mr. Greg Andre.

Ms. Sue Michaelson, attorney for Jane Kunde, stated that the roof over the boatlift conforms with the size and height requirements and standards of the Clear Lake Shoreline Ordinance.

Mr. Simkins stated that there are approximately 520 covered boatlifts lake wide, and it is estimated that every tenth structure along Eastlake Drive has some form of a cover. Also, most of the docks on Westlake Drive are covered.

Chair Brown asked if anyone else wished to speak on this issue, no one else was present wishing to speak and the public hearing was closed.

On motion of Supervisor Lewis and by vote of the Board (5 ayes), made an intended decision to deny the appeal (AB 04-01), of the Kunde covered boatlift, and directed County Counsel to prepare proposed Findings of Fact.

9. **ITEM A-9 - 11:00 A.M. - PRESENTATION OF PROCLAMATION DESIGNATING THE MONTH OF JUNE 2004, AS COMMUNITY ACTION MONTH IN LAKE COUNTY -** Supervisor Robey read the proclamation into the record. The proclamation was presented to Paula Dickson, Director of the Lake County Community Action Agency.

10. **ITEM A-14 - CONSIDERATION OF THE CONSULTANT SELECTION BOARD'S RECOMMENDATION TO AWARD THE BID FOR THE COURTHOUSE COFFEE KIOSK TO ANGELINA'S BAKERY OF LAKEPORT, AND DISCUSSION OF DISQUALIFIED ISSUES -** Administrative Analyst Jennifer Hammond was present.

Ms. Nina DeFinome, owner of Angelina's Bakery was also present.

Chair Brown asked if anyone present wished to speak on this item and Mr. John Roddy spoke. No one else was present wishing to speak and the public portion of this item was closed.

On motion of Supervisor Lewis and by vote of the Board (5 ayes), directed staff to prepare an agreement with Angelina's Bakery of Lakeport, and bring back the proposed agreement at a later date for further consideration.

11. **ITEM A-8 - 10:30 A.M. - DISCUSSION REGARDING LEGAL PARCELS OF RECORD AND THE CERTIFICATE OF COMPLIANCE PROCESS, AND THE EFFECTS THAT THIS PROCESS HAS HAD AND IS CURRENTLY HAVING ON PORTIONS OF PRIME FARM LAND IN LAKE COUNTY -** Community Development Director Mary Jane Fagalde was present.

Director of the Lake County Farm Bureau Chuck March was present and gave a background report. Preservation of agricultural land is a cornerstone of the Lake County General Plan and has been a fundamental principal of land use policies for decades. There have been a number of instances in Lake County where the Certificate of Compliance process has been used to undermine this principle by allowing the creation of small legal lots of record in land zoned agricultural without going through the normal zoning and subdivisions process, in direct contradiction to the Lake County General Plan. The purpose of the Certificate of Compliance process is to enable owners of parcels that were not created properly by today's standards, to make those parcels legal lots of record.

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On motion of Supervisor Robey and by vote of the Board (5 ayes), directed Community Development staff to pursue options regarding amendments to the Subdivision Ordinance, that would prohibit using the Certificate of Compliance process to create small legal lots of record in land zoned agricultural, and bring back recommendations at a later date.

The Board recessed for lunch at 11:59 a.m. and reconvened at 1:30 p.m.

12. **ITEM A-10 - Continued From May 18, 2004 - 1:30 P.M. - DISCUSSION/CONSIDERATION AS TO WHETHER OR NOT TO PURSUE A BALLOT MEASURE TO INCREASE THE TOT BY 1% ON THE NOVEMBER 2004 BALLOT, TO PROVIDE AN ONGOING SOURCE OF LONG TERM FUNDING FOR THE CLEAR LAKE AQUATIC WEED ERADICATION PROGRAM -** Assistant Director of Public Works Bob Lossius and Sheriff Rodney Mitchell were present.

Mr. Lossius gave an overview of alternative financing methods for the Clear Lake Aquatic Weed Program as follows: (1) an increase of transaction and use tax (sales tax); (2) an increase of general sales tax; (3) an increase of special sales tax; (4) an increase of TOT tax; (5) the initiation of a boat launch fee; (6) the levying a special assessment (formation of a county service area or a community service district) and/or (7) the initiation of boat use fees. Also, the Board could consider the concept of seeking special legislation to form a separate entity, similar to the Flood Control District, for the protection and enhancement of Clear Lake. The Board would sit as the Board of Directors or establish a separate governing board. The powers of the district could include funding methods such as fees, special taxes and assessments levied in accordance with existing law. Any increase of taxes would require voter approval and an increase of special sales tax would require special legislation and voter approval. The Boating and Waterways grant allows for a reasonable boat launch fee, not to exceed \$5.00, on those facilities where grant funds were used to build the facility. Enforcement of fee collection would be cost prohibitive and could exceed revenue generated. The County could consider an honor system by placing fee envelopes at the public launch ramps. The fee would apply only to County ramps in the unincorporated area. Private ramps (resorts and privately owned) would be exempt as well as those located in the city limits unless the cities chose to participate in the program. The initiation of a boat use fee would not require voter approval, however, it would require an amendment to Chapter 15 of the Lake County Code or staff could prepare a new ordinance that would include a requirement of Lake Use Permit and the establishment of initial fees. The Sheriff's Department would provide permit monitoring. If it would not be feasible to use the Sheriff's Department, and if this monitoring was to be provided by Lakebed Management, staffing would have to be increased.

Sheriff Mitchell gave an overview of the costs that would be associated with boat use fees. These costs included patrol costs, citation costs, administrative court costs and collection of unpaid citation costs leveyed by the courts.

Chair Brown asked if anyone present wished to speak on this item and the following persons spoke: Mr. John Roddy and Ms. Melissa Fulton. No one else was present wishing to speak and the public portion of this item was closed.

Supervisor Farrington made a motion to direct staff to pursue a ballot measure to increase the TOT by 1% on the November 2004 ballot; motion failed due to lack of second.

Supervisor Robey made a motion to direct staff not to pursue a ballot measure to increase the TOT by 1% on the November 2004 ballot; motion failed due the vote (2 ayes, Supervisors Smith, Lewis and Farrington NO).

(This item will be brought back to the Board on June 22, 2004, for further discussion).

13. **ITEM A-15 - CLOSED SESSION - 1. Conference with Labor Negotiator, (a) County Negotiators: A. Grant and J. Hammond, (b) Employee organizations: LCEA, LCSDA, LCCOA and DDA; and 2. Conference with Legal Counsel - Anticipated Litigation - Significant exposure to Litigation Pursuant to Subdivision (b) of Section 54956.9: One Potential Case -** Chair Brown announced that the Board will now go into Closed Session for the reasons stated on the agenda.

The Board reconvened into Regular Session with no action taken.

There being no further business, the Board adjourned at 3:40 p.m.


Chair - Lake County Board of Supervisors

KELLY F. COX
Clerk of the Board



By: 
Georgine Hunt
Assistant Clerk of the Board

