



MINUTES COUNTY OF LAKE BOARD OF SUPERVISORS

OFFICIAL MINUTES OF THE BOARD OF SUPERVISORS MEETING HELD SEPTEMBER 1, 2009

The Honorable Board of Supervisors of Lake County, California, met in regular session this 1st day of September, 2009, there being present Supervisors Jim Comstock, Jeff Smith, Anthony Farrington, Rob Brown and Denise Rushing, Administrative Officer Kelly Cox, County Counsel Anita Grant and Assistant Clerk of the Board Mireya Turner.

The meeting was called to order at 9:00 a.m. by Chair Rushing. Following the moment of silence, County Counsel Anita Grant led the salute to the flag of the United States of America.

1. **ITEM A-1 - APPROVAL OF THE CONSENT AGENDA** - On motion of Supervisor Smith and by vote of the Board (5 ayes), approved Consent Agenda Items C-1 through C-11, with the exception of C-11, which will be taken up later in the day.

Approved Minutes of the Board of Supervisors meetings held on August 4, 11 and 18, 2009.

Adopted Proclamation designating the month of September 2009 as National Alcohol and Drug Addiction Recovery Month in Lake County.

Adopted Proclamation supporting the designation of State Highway 53 in its entirety from the junction with State Highway 29 in Lower Lake to the junction of State Highway 20 in Clearlake Oaks, as a Veterans Memorial.

Approved letter to Congressman Thompson and members of the U.S. House of Representatives Transportation and Infrastructure Committee, opposing proposal to eliminate the Federal Off-System Bridge Program and authorized the Chair to sign.

Adopted Resolution No. 2009-151 fixing tax rates for local agencies, General Obligation Bonds, and other voter approved indebtedness for Fiscal Year 2009/2010.

Adopted Resolution No. 2009-152 approving the final subdivision map for Red Mountain Ranch Subdivision.

Approved Facility Use Agreement between the County of Lake and Friends of Locally Owned Water (FLOW), for temporary gardening privileges on County property located at 6279 and 6280 East Highway 20, Lucerne (APNs 034-191-16 and 034-191-17), for an annual rental rate of one dollar (\$1.00), and authorized the Chair to sign.

Approved Plans and Specifications for Soda Bay Road MPM 7.68-7.70 storm damage repair and authorized Public Works Director/Assistant Purchasing Agent to advertise for bids.

Approved Plans and Specifications for storm damage site on Elk Mountain Road PM 33.3 and authorized Public Works Director/Assistant Purchasing Agent to advertise for bids.

Approved Agreement between the County of Lake and Regents of the University of California, Davis, for training services in the amount of \$55,200 (funded by State and Federal funds in the amount of \$46,920 and an In-Kind Match by UCD of \$8,280), and authorized the Chair to sign.

2. **ITEM A-3 - CONSIDERATION OF ITEMS NOT APPEARING ON THE POSTED AGENDA :**

EXTRA #1 - Consideration of proposed Budget Transfer in the amount of \$6,100, for purchase of surplus boat from the Kelseyville Fire Protection District for use in the Algae Abatement Program - Supervisor Smith introduced the item.

On motion of Supervisor Brown and by vote of the Board (5 ayes), approved taking up this item due to the fact that the need arose after the posting of today's agenda.

This item was taken up by the Board for the following reason:

Since the posting of the last agenda, it came to the attention of Supervisor Smith that the Kelseyville Fire Protection District has a boat for sale which could be very helpful to the County's efforts in combating the algae problems we are experiencing in Clear Lake. Due to the immediate need for this equipment to help address the algae problem, as well as the possibility that the boat could be sold to someone else, it is requested the Board consider this item before the next scheduled Board meeting.

On motion of Supervisor Smith and by vote of the Board (5 ayes), approved Budget Transfer #B-006, in the amount of \$6,100, for the purchase of one surplus boat from the Kelseyville Fire Protection District for use in the Algae Abatement Program, and authorized the Chair to sign.

EXTRA #2 - Conference with Legal Counsel - Significant Exposure to Litigation pursuant to Government Code Section 54956.9, subdivision (b)(3)(E): One potential case - This item was taken up later in the day.

CITIZEN'S INPUT - Bill Shields spoke regarding placing the county flags at half mast in memory of Senator Ted Kennedy.

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3. **ITEM A-5 - 9:10 A.M. - Presentation of Proclamation designating the month of September 2009 as National Alcohol and Drug Addiction Recovery Month in Lake County** - Supervisor Comstock read the proclamation into the record and presented it to Substance Abuse Program Administrator Laura Solis, who spoke.

4. **ITEM A-15 - Discussion/consideration of proposed Agreement between the County of Lake and San Sousee, Adult Residential Facility (ARF) for residential care services in the amount of \$115,000, for Fiscal Year 2009/2010** - Mental Health Director Kristy Kelly presented the staff report.

On motion of Supervisor Comstock and by vote of the Board (5 ayes), approved the Agreement between the County of Lake and San Sousee, Adult Residential Facility (ARF) for residential care services in the amount of \$115,000, for Fiscal Year 2009/2010, and authorized the Chair to sign.

The Board of Supervisors adjourned and convened as the Lake County Local Board of Equalization.

The gavel was passed to Lake County Local Board of Equalization Chair Farrington.

5. **ITEM A-6 - 9:15 A.M. - Assessment Appeal Hearing:**

Kevin Pinto - Application No. 03-2009 - Assessment Parcel No. 002-020-170; located at 16072 Elk Mountain Road, Upper Lake, CA - Assessor-Recorder Doug Wacker, Chief Deputy Assessor-Recorder Jim Campbell and Kevin Pinto were sworn in by the Clerk.

Mr. Pinto presented testimony.

Mr. Campbell presented the staff report.

On motion of Member Rushing and by vote of the Board (5 ayes), granted the appeal in part, establishing the land value of \$81,996 and the structural improvements of \$21,000.

The Lake County Local Board of Equalization adjourned and reconvened as the Board of Supervisors.

The gavel was passed to Chair Rushing.

After a brief recess, the Board returned to Regular Session at 10:30 a.m.

6. **ITEM A-19 - Advanced from August 25, 2009 - An Ordinance amending Chapter 6 of the Lake County Code regarding the County's Emergency Organization Management - (Second Reading)** - Supervisor Brown offered Ordinance No. 2907, and it was passed by roll call vote (5 ayes).

7. **ITEM A-14 - Consideration of request for the Board to schedule a time and date for Disciplinary Appeal Hearing** - By Board consensus, the Disciplinary Appeal Hearing was scheduled on October 27, 2009, at 1:30 p.m.

8. **ITEM A-7 - 10:00 A.M. - Consideration of request from Michael Fern for waiver of the Construction Traffic Road Fee in the amount of \$488 for project located at 13200 Ridge Road, Loch Lomond (APN 011-067-43)** - Public Works Director Brent Siemer and Appellant Michael Fern were present.

Mr. Fern presented his appeal to the Board.

Mr. Siemer gave the staff report.

On motion of Supervisor Brown and by vote of the Board (5 ayes), denied the appeal.

9. **ITEM A-8 - 10:15 A.M. - HEARING - Notice of Nuisance Abatement - 13252 Third Street, Clearlake Oaks, CA (APN 035-412-21 - Marvin Massey)** - Community Development Director Rick Coel, Code Enforcement Manager Voris Brumfield, Code Enforcement Officer Allison Garrett, Marvin Massey, Kirk Massey and Mary Francis Trively-Ainsworth were sworn in by the Clerk.

Ms. Brumfield presented the staff report.

Mr. Marvin Massey gave testimony.

Chair Rushing asked if anyone was present wishing to speak and the following people spoke: Mary Francis Trively-Ainsworth and Kirk Massey. No one else was present wishing to speak and the public input portion of this item was closed.

On motion of Supervisor Comstock and by vote of the Board (5 ayes), adopted the order to complete abatement of the nuisance on property located at 13252 Third Street, Clearlake Oaks, California, (APN 035-412-21 - Marvin Massey), 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, and authorized the Chair to sign the abatement order.

10. **ITEM A-9 - 10:30 A.M. - HEARING - Notice of Nuisance Abatement - 13138 Fourth Street, Clearlake Oaks, CA (APN 035-411-22 - Marvin Massey)** - Community Development Director Rick Coel, Code Enforcement Manager Voris Brumfield, Code Enforcement Officer Allison Garrett, Marvin Massey, Kirk Massey and Mary Francis Trively-Ainsworth were sworn in by the Clerk.

Ms. Brumfield presented the staff report.

Mr. Marvin Massey gave testimony.

Chair Rushing asked if anyone was present wishing to speak and the following people spoke: Mary Francis Trively-Ainsworth and Kirk Massey. No one else was present wishing to speak and the public input portion of this item was closed.

On motion of Supervisor Comstock and by vote of the Board (5 ayes), adopted the order to complete abatement of the nuisance on property located at 13138 Fourth Street, Clearlake Oaks, California, (APN 035-411-22 - Marvin Massey), 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, and authorized the Chair to sign the abatement order.

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BACK TO #1 - ITEM A-1 - APPROVAL OF THE CONSENT AGENDA - CONSENT AGENDA C-11 - Consideration of proposed Commercial Lease Agreement between the County of Lake and Penna Realty Property Management for office space at 16170 Main Street, Lower Lake, in the amount of \$6,940 per month - On motion of Supervisor Smith and by vote of the Board (5 ayes), approved the Commercial Lease Agreement between the County of Lake and Penna Realty Property Management for office space at 16170 Main Street, Lower Lake, in the amount of \$6,940 per month, and authorized the Chair to sign.

11. **ITEM A-10 - 10:45 A.M. - (a) Discussion/consideration of proposed Ordinance creating a curfew for County owned property (creating a curfew from sunset to sunrise, unless launching or retrieving a water vessel, at the Hamilton Boat Ramp located at Lakeshore Boulevard and Crystal Lake Way, Lakeport) - (b) Discussion/consideration of proposed Ordinance amending Article VI of Chapter Fifteen of the Lake County Code restricting the operation of bicycles, skateboard, scooters, roller skates and in-line skates at Nylander Park, Clearlake Oaks Plaza, Hinman County Park, Upper Lake Tennis Court and the Middletown Tennis Court -** Public Works Director Kim Clymire and Sheriff Rod Mitchell were present.

Mr. Clymire presented the staff report.

(a) No Board action was taken on this item.

(b) An amendment was made to the face of the proposed ordinance, removing the locations of Clearlake Oaks Plaza and Hinman County Park (lines 14-19).

On motion of Supervisor Smith and by vote of the Board (5 ayes), waived the reading of the ordinance, to be read in title only. (Clerk so did).

On motion of Supervisor Smith and by vote of the Board (5 ayes), advanced the ordinance one week, to September 8, 2009.

12. **ITEM A-12 - Continued from July 14 and August 18, 2009 - 11:15 P.M. - Consideration of possible Board action in follow-up to review of fiscal and other records provided by the Sheriff's Department relative to administration of the department's DEA grant and an employee's use of contracted helicopter services under said grant -** After brief comments by Supervisor Brown, this item would be taken up again later in the day.

13. **ITEM A-11 - 11:00 A.M. - Presentation of the Lake County Library Advisory Board's Annual Report -** County Librarian Susan Clayton and Library Advisory Board Chair Jo Bennett presented the Annual Report to the Board.

After a lunch recess, the Board reconvened into Regular Session at 1:48 p.m.

BACK TO #2 - ITEM A-3 - CONSIDERATION OF ITEMS NOT APPEARING ON THE POSTED AGENDA :

Extra #2 - Necessity for Extra Closed Session item not on the posted agenda - Supervisor Brown introduced this item.

On motion of Supervisor Brown and by vote of the Board (5 ayes), approved taking up this item due to the fact that the need arose after the posting of today's agenda.

This item was taken up by the Board for the following reason:

Since the posting of the agenda, Supervisor Brown was informed by a Lake County employee whom he trusts and finds credible that another County employee has retained an attorney and is threatening litigation against the County. This threat of litigation is related to decisions this Board may make in response to Item A-12 and should therefore be discussed in Closed Session prior to a public hearing of this item.

After Board discussion, there was consensus to take up this item following Item A-12.

BACK TO #12 - ITEM A-12 - Continued from July 14 and August 18, 2009 - 11:15 A.M. - Consideration of possible Board action in follow-up to review of fiscal and other records provided by the Sheriff's Department relative to administration of the department's DEA grant and an employee's use of contracted helicopter services under said grant - County Counsel Anita Grant presented the staff report.

Sheriff Rod Mitchell was present at 2:00 p.m.

Chair Rushing asked if anyone was present wishing to speak and the following people spoke: Donna Christopher, Lenny Mathews, Phil Murphy and Elizabeth Larson. No one else was present wishing to speak and the public input portion of this item was closed.

This item was continued to later in the day.

BACK TO #2 - ITEM A-3 - CONSIDERATION OF ITEMS NOT APPEARING ON THE POSTED AGENDA :

Extra #2 - Conference with Legal Counsel - Significant Exposure to Litigation pursuant to Government Code Section 54956.9, subdivision (b)(3)(E): One potential case - After Board discussion, there was Board consensus to take up this item in Closed Session.

The Board returned to Regular Session at 3:11 p.m.

BACK TO #14 - ITEM A-12 - Continued from July 14 and August 18, 2009 - 11:15 P.M. - Consideration of possible Board action in follow-up to review of fiscal and other records provided by the Sheriff's Department relative to administration of the department's DEA grant and an employee's use of contracted helicopter services under said grant - On motion of Supervisor Farrington and by vote of the Board (5 ayes), directed County Counsel to contact California State Association of Counties (CSAC) and other relevant agencies to obtain referrals for an outside investigator specializing in flight plans, as well as a forensic accountant, to review the DEA grant and an employee's use of contracted helicopter services under said grant. Staff is to bring cost estimates and possible recommended actions to the Board for consideration at a future date.

15. **ITEM A-16 - Consideration of award of Bid No. 10-03 for construction of 2005/2006 Storm Damage Repair: Robinson Road (PM 0.55) -** This item was pulled from the agenda at the request of Public Works Director Brent Siemer, and was carried over one week, to September 8, 2009.

16. **ITEM A-17 - Consideration of award of Bid No. 10-05 for construction of 2005/2006 Storm Damage Repair: Bartlett Springs Road (PM 1.4)** - This item was pulled from the agenda at the request of Public Works Director Brent Siemer, and was carried over one week, to September 8, 2009.
17. **ITEM A-18 - (a) Discussion/consideration of proposed Budget Transfer in the amount of \$100,000, to cover close-out costs of the Main Street Pavement Rehabilitation Project and Accessibility Improvements (from Gunn Street to first Street, Kelseyville); and (b) Consideration of Contract Change Order No. Three for Main Street Pavement Rehabilitation and Accessibility Improvements from Gunn Street to First Street, Kelseyville (an increase of \$27,706.12), Granite Construction Company** - (a) On motion of Supervisor Brown and by vote of the Board (5 ayes), approved Budget Transfer #B-003 in the amount of \$100,000, to cover close-out costs of the Main Street Pavement Rehabilitation Project and Accessibility Improvements (from Gunn Street to first Street, Kelseyville), and authorized the Chair to sign.
- (b) On motion of Supervisor Brown and by vote of the Board (5 ayes), approved Contract Change Order No. Three for Main Street Pavement Rehabilitation and Accessibility Improvements from Gunn Street to First Street, Kelseyville (an increase of \$27,706.12), Granite Construction Company, and authorized the Chair to sign.
18. **ITEM A-20 - 1. Conference with Labor Negotiator: (a) County Negotiators: A. Grant, R. Lambert and M. Perry and (b) Employee Organization: DDAA and LCEA 2. Public Employee Performance Evaluations: Titles: Public Works Director and Special Districts Administrator** - Chair Rushing announced there would be no labor negotiations today, but the Board would now go into Closed Session for the other reasons stated on the agenda.

The Board reconvened into Regular Session with no action taken.

There being no further business, the Board adjourned at 4:45 p.m.

Chair - Lake County Board of Supervisors

KELLY F. COX
Clerk of the Board

By: _____
Mireya G. Turner
Assistant Clerk of the Board