

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

OFFICIAL MINUTES OF THE BOARD OF SUPERVISORS MEETING HELD OCTOBER 18, 2011

The Honorable Board of Supervisors of Lake County, California, met in regular session this 18th day of October, 2011, there being present Supervisors Jeff Smith, Denise Rushing, Anthony Farrington, Rob Brown and Jim Comstock, 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 Comstock. Following a moment of silence, Assistant Clerk of the Board Mireya Turner 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-6, with the exception of Consent Agenda Item C-4, which will be taken up immediately following the Consent Agenda.

Approve Minutes of the Board of Supervisors meeting held on October 11, 2011.

Approve Agreement to provide local matching funds to the East Lake and West Lake Resource Conservation Districts (\$10,000 per year for the next three years), and authorize the Chair to sign.

Adopt Resolution setting rate of pay for Election Officers for the November 8, 2011 General District Election pursuant to Section 12310 of the Elections Code.

Consent Agenda Item C-4 - Approve Tenth Amendment to Agreement between the County of Lake and MRO Engineers for engineering services for the Soda Bay Bridge Replacement project over Cole Creek, an increase of \$10,761.04, and authorize the Chair to sign - This item was taken up immediately following the Consent Agenda.

Adopt Resolution authorizing the Public Works Director to sign a Notice of Completion for work performed under Agreement dated August 2, 2011 (Morgan Valley Road PM 4.14 to 4.15 Storm Damage Repair, Lower Lake, Bid No. 10-09).

Adopt Resolution authorizing the Public Works Director to sign a Notice of Completion for work performed under Agreement dated September 14, 2011 (Morgan Valley Road PM 5.34 Storm Damage Repair, Lower Lake, Bid No. 10-10).

Consent Agenda Item C-4 - Approve Tenth Amendment to Agreement between the County of Lake and MRO Engineers for engineering services for the Soda Bay Bridge Replacement project over Cole Creek, an increase of \$10,761.04, and authorize the Chair to sign - Citing a possible conflict of interest, Supervisor Farrington recused himself.

On motion of Supervisor Brown and by vote of the Board (4 ayes, Supervisor Farrington ABSTAIN), approved the Tenth Amendment to Agreement between the County of Lake and MRO Engineers for engineering services for the Soda Bay Bridge Replacement project over Cole Creek, an increase of \$10,761.04, and authorized the Chair to sign.

2. **ITEM A-2 - Presentation of animals that are available for adoption at the Lake County Animal Care and Control Shelter** - Animal Control Officer Allison Mewborn presented a feline currently available for adoption.

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

Extra #1 - (a) Consideration of request to authorize retroactive expense of \$8,499, for the emergency repair of the boiler in Phase I of the Lake County Jail/Hill Road Facility; and (b) Consideration of proposed Agreement between the County of Lake and Tanknot for the purchase and installation of two tankless water heaters for Phase I of the Lake County Jail/Hill Road Facility - On motion of Supervisor Brown and by vote of the Board (5 ayes), approved taking up this item as an extra.

This item was taken up for the following reason: After the posting of the agenda, the single operational boiler at the Jail failed. It was repaired temporarily, but requires additional repairs and the installation of a second boiler before the next meeting.

County Administrative Officer Kelly Cox presented the staff report.

On motion of Supervisor Brown and by vote of the Board (5 ayes), approved the retroactive expense of \$8,499, for the emergency repair of the boiler in Phase I of the Lake County Jail/Hill Road Facility and approved the Agreement between the County of Lake and Tanknot for the purchase and installation of two tankless water heaters for Phase I of the Lake County Jail/Hill Road Facility, in the amount of \$38,872.41, and authorized the Purchasing Agent to sign.

Extra #2 - (a) Consideration of request to waive the formal bidding process and make a determination that competitive bidding would produce no economic benefit to the County; and (b) Consideration of proposed Agreement between the County of Lake and R.F. MacDonald for the emergency repair and maintenance of the two boilers in the Courthouse - On motion of Supervisor Brown and by vote of the Board (5 ayes), approved taking up this item as an extra.

This item was taken up for the following reason: After the posting of the agenda, the need for an emergency repair of the courthouse boiler was identified and it is imperative the repair be completed as quickly as possible.

Public Services Director Caroline Chavez presented the staff report.

(a) On motion of Supervisor Brown and by vote of the Board (5 ayes), waived the formal bidding process, making a determination that competitive bidding would produce no economic benefit to the County.

(b) On motion of Supervisor Brown and by vote of the Board (5 ayes), approved the Agreement between the County of Lake and R.F. MacDonald for the emergency repair and maintenance of the two boilers in the Courthouse, in the amount of \$17,481, and authorized the Public Services Director/Assistant Purchasing Agent to sign.

Another extra item was taken up later in the day.

CITIZEN'S INPUT - Mike Raffanelli spoke regarding the regulation of marijuana cultivation in Rural Residential (RR) zoning.

4. **ITEM A-5 - 9:15 A.M. - PUBLIC HEARING - (a) Protest hearing for proposed increase of water charges and fees for County Service Area No. 16 - Paradise Valley; and (b) Consideration of proposed Ordinance amending the charges and fees for County Service Area No. 16 - Paradise Valley** - Special Districts Administrator Mark Dellinger and Fiscal Officer Jan Copping were present.

Mr. Dellinger presented the staff report.

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Chair Comstock opened the public hearing and Carol Schepper spoke. No one else was present wishing to speak and the public hearing was closed.

Assistant Clerk of the Board Mireya Turner declared no protests had been received.

On motion of Supervisor Rushing 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 Rushing and by vote of the Board (5 ayes), advanced the ordinance one week, to October 25, 2011.

5. **ITEM A-11 - Consideration of appointments to the following: Upper Lake Cemetery Board of Trustees** - On motion of Supervisor Rushing and by vote of the Board (5 ayes), appointed Donald Clay to the Upper Lake Cemetery Board of Trustees, for a term expiring January 1, 2015, and Bobby "Bo" Robertson to the Upper Lake Cemetery Board of Trustees, for a term expiring January 1, 2016.

6. **ITEM A-14 - Consideration of proposed Amendment No. 5 to Agreement between the County of Lake and Lake Legal Defense Services, Inc., an increase of \$6000 per month, for an additional subcontractor for felony cases** - Supervisors Farrington and Brown recused themselves and were absent at 9:43 a.m.

Chief Deputy Administrative Officer Matt Perry presented the staff report.

On motion of Supervisor Smith and by vote of the Board (3 ayes, Supervisors Farrington and Brown ABSENT), approved Amendment No. 5 to Agreement between the County of Lake and Lake Legal Defense Services, Inc., an increase of \$6000 per month, for an additional subcontractor for felony cases, and authorized the Chair to sign.

Supervisors Farrington and Brown were present at 9:46 a.m.

7. **ITEM A-15 - Consideration of request to waive the \$200 fee to rename Fredericksen Drive, Lower Lake, per staff memorandum dated October 5, 2011** - Chair Comstock introduced this item.

On motion of Supervisor Smith and by vote of the Board (5 ayes), waived the \$200 fee to rename Fredericksen Drive, Lower Lake, per staff memorandum dated October 5, 2011.

After a brief recess, the Board reconvened into Regular Session at 9:51 a.m.

8. **ITEM A-6 - 9:45 A.M. - PUBLIC HEARING - Consideration of proposed Ordinance increasing construction charges and fees (connection and capacity expansion fees) for County Service Area No. 16 - Paradise Valley** - Special Districts Administrator Mark Dellinger and Fiscal Officer Jan Coppinger were present.

Ms. Coppinger presented the staff report.

Chair Comstock opened the public hearing and Carol Schepper spoke. No one else was present wishing to speak and the public hearing was closed.

On motion of Supervisor Rushing 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 Rushing and by vote of the Board (5 ayes), advanced the ordinance one week, to October 25, 2011.

9. **ITEM A-10 - Supervisors' weekly calendar, travel and reports** - On motion of Supervisor Smith and by vote of the Board (5 ayes), authorized out of County travel for Supervisors Rushing and Farrington to travel to Sacramento on November 3, 2011, to meet with Secretary of Resources John Laird regarding the declaration of a state of emergency due to quagga mussels.

10. **ITEM A-7 - 10:00 A.M. - (a) Consideration of recommendation by the Lake County Fish and Wildlife Advisory Committee to provide \$3,800 to the High Sierra Volunteer Trail Crew, to support their illicit Cannabis grows clean up efforts in the Mendocino National Forest; and (b) Consideration of recommendation by the Lake County Fish and Wildlife Advisory Committee to provide \$4,300 to the Lake County Water Resources Department, to support the purchase of new signage for various points in Lake County** - Lake County Fish and Wildlife Advisory Committee Chair Greg Giusti presented the requests.

(a) Chair Comstock asked if anyone was present wishing to speak and Victoria Brandon spoke. No one else was present wishing to speak and the public input portion of this item was closed.

On motion of Supervisor Rushing and by vote of the Board (5 ayes), approved \$3,800 to the High Sierra Volunteer Trail Crew, to support their illicit Cannabis grows clean up efforts in the Mendocino National Forest.

(b) Chair Comstock asked if anyone was present wishing to speak and Victoria Brandon spoke. No one else was present wishing to speak and the public input portion of this item was closed.

On motion of Supervisor Rushing and by vote of the Board (5 ayes), approved \$4,300 to the Lake County Water Resources Department, to support the purchase of new signage for various points in Lake County.

11. **ITEM A-8 - Continued from September 6, 2011 - 10:15 A.M. - (a) Discussion/consideration of proposed addition of an in-house medical clinic to the Animal Care and Control Shelter; and (b) Discussion/consideration of proposed resolution revising appropriations and revenue estimates in the Fiscal Year 2011-12 Adopted Budget (to implement an in-house animal medical clinic)** - Animal Control Director Bill Davidson presented the staff report.

Chair Comstock asked if anyone was present wishing to speak and Jeff Smith, DVM, Susan Cannon, DVM and Mike Daugherty spoke. No one else was present wishing to speak and the public input portion of this item was closed.

(a) On motion of Supervisor Rushing and by vote of the Board (5 ayes), authorized the clinic plan and directed staff to initiate the necessary procedures.

(b) Supervisor Rushing offered Resolution No. 2011-163, and it was passed by roll call vote (5 ayes).

12. **ITEM A-9 - 10:45 A.M. - Discussion/consideration regarding Elections Official's Certificate of Examination of Referendum Petition protesting the adoption of Lake County Ordinance No. 2956 (Medical Marijuana Dispensaries)** - Registrar of Voters Diane Fridley and Community Development Director Rick Coel were present.

Ms. Fridley presented the staff report.

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Chair Comstock asked if anyone was present wishing to speak and the following people spoke: Herb Gura, Phil Murphy, Melissa Fulton, Gary Olson, Joan Moss and Hiram Dukes. No one else was present wishing to speak and the public input portion of this item was closed.

On motion of Supervisor Brown and by vote of the Board (5 ayes), rescinded Ordinance No. 2956, in its entirety, and directed staff to move forward with appropriate Code Enforcement action.

After a lunch recess, the Board reconvened into Regular Session at 1:35 p.m.

BACK TO #3 - Extra Item #3 - Closed Session - Conference with Legal Counsel - Existing Litigation (Pursuant to Subdivision (a) of Section 54956.9) a. Name of Case: Lake County Correctional Officers' Association v. Francisco Rivero, Sheriff, County of Lake, et al. - On motion of Supervisor Brown and by vote of the Board (5 ayes), approved taking up this item as an extra.

This item was taken up for the following reason: An issue has arisen in regards to the existing litigation which requires the immediate attention of the Board.

This item will be taken up in Closed Session.

13. **ITEM A-13 - Consideration of proposed Findings of Fact in the Appeal of John Nady - AB 10-04** - Community Development Director Rick Coel was present.

County Counsel Anita Grant noted and corrected typographical errors in the proposed Findings of Fact.

Chair Comstock asked if anyone was present wishing to speak and the following people spoke: Herb Gura, Jim Brown, Lisa Kaplan, Haji Wharf, Batsulwain Brown, Francis Howland, Frances Ford, Natalie Nugent, Mike Hardy and Nicole M. No one else was present wishing to speak and the public input portion of this item was closed.

On motion of Supervisor Brown and by vote of the Board (3 ayes, Supervisors Rushing and Farrington NO), approved the Findings of Fact and authorized the Chair to sign.

On motion of Supervisor Brown and by vote of the Board (3 ayes, Supervisors Rushing and Farrington NO), granted the appeal of John Nady - AB 10-04.

14. **ITEM A-12 - CLOSED SESSION - (a) Public Employee Disciplinary Appeal No. EDA 2011-04, Government Code Section 54957; and (b) Continued from September 27, October 4 and 11, 2011 - Public Employee Disciplinary Appeal No. EDA 2011-02, Government Code Section 54957; ITEM A-16 - 1. Conference with Labor Negotiator: (a) County Negotiators: A. Grant, S. Harry, M. Perry and J. Hammond; and (b) Employee Organization: LCEA, DSA, LCCOA and DDAA; AND ITEM A-3 - EXTRA #3 - Conference with Legal Counsel - Existing Litigation (Pursuant to Subdivision (a) of Section 54956.9) a. Name of Case: Lake County Correctional Officers' Association v. Francisco Rivero, Sheriff, County of Lake, et al.** - Chair Comstock announced the Board would now go into Closed Session for the reasons stated on the agenda.

The Board reconvened into Regular Session at 4:12 p.m. and took the following action:

In the matter of Public Employee Disciplinary Appeal No. EDA 2011-02, on motion of Supervisor Brown and by vote of the Board (4 ayes, Supervisor Farrington NO), approved the Findings of Fact, and authorized the Chair to sign.

In the matter of Public Employee Disciplinary Appeal No. EDA 2011-02, on motion of Supervisor Brown and by vote of the Board (4 ayes, Supervisor Farrington NO), adopted the recommendation of the hearing officer as those factual instances of misconduct found to have occurred and rejected the recommendation of the Hearing Officer, as to the level of discipline to be imposed, and upheld the termination of the employee.

In the matter of Public Employee Disciplinary Appeal No. EDA 2011-04, on motion of Supervisor Smith and by vote of the Board (4 ayes, Supervisor Brown ABSTAIN), adopted the recommendation of the hearing officer, upheld the disciplinary action as termination, and denied the appeal.

There being no further business, the Board of Supervisors adjourned at 4:14 p.m.

KELLY F. COX
Clerk of the Board

Chair - Lake County Board of Supervisors

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