

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

OFFICIAL MINUTES OF THE BOARD OF SUPERVISORS MEETING HELD JANUARY 10, 2012

The Honorable Board of Supervisors of Lake County, California, met in regular session this 10th day of January, 2012, there being present Supervisors Jim Comstock, Jeff Smith, Denise Rushing, Anthony Farrington and Rob Brown, 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 Brown. Following a moment of silence, Dennis O'Keefe led the salute to the flag of the United States of America.

1. **ITEM A-2 - 9:05 A.M. - 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-4, with the exception of Consent Agenda Item C-2, which will be taken up immediately following the Consent Agenda.

Approved Minutes of the Board of Supervisors meeting held on January 3, 2012.

Consent Agenda Item C-2 - Approve Agreement between the County of Lake and City of Lakeport for County Financial Contribution toward the operation of Westshore Pool and authorize the Chair to sign - At Supervisor Smith's request, this item was removed from the Consent Agenda.

Adopted Resolution No. 2012-03, approving the application and certification statement for the State Department of Health Care Services, CMS Branch's California Children's Services (CCS) Administration Plan Renewal Grant for FY 2011-2012 and Authorize the Board Chair to sign said Certification Statement.

Approved request to waive 900 hour limit for one extra-help Deputy Probation Officer Michael Lloyd.

Consent Agenda Item C-2 - Approve Agreement between the County of Lake and City of Lakeport for County Financial Contribution toward the operation of Westshore Pool and authorize the Chair to sign - On motion of Supervisor Smith and by vote of the Board (5 ayes), approved the Agreement between the County of Lake and City of Lakeport for County Financial Contribution toward the operation of Westshore Pool and authorized the Chair to sign.

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

Extra #1 - Consideration of request to execute Petition in Support of Further Hearings before the California Public Utilities Commission relating to the Smart Meter Program - On motion of Supervisor Farrington and by vote of the Board (4 ayes, Supervisor Rushing ABSTAIN) approved taking up this item as an extra.

This item was taken up for the following reason: On January 9, staff was informed that a request had been made by Larry Bragman, council member of the Fairfax City Council, that the Board of Supervisors agree to execute a petition urging the CPUC to delay consideration of the proposed decision authored by the CPUC Chair in regard to the Smart Meter Opt Out Program, scheduled for January 12, 2012.

This item will be taken up later in the day.

Extra #2 - Conference with Legal Counsel - Anticipated Litigation (Pursuant to Subdivision (b) of Section 54956.9 a. Significant exposure to litigation pursuant to subdivision (b)(1) of Government Code Section 54956.9 - On motion of Supervisor Farrington 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 regard to potential litigation against the County of Lake, the facts and circumstances of which were unknown to staff until Friday, January 6, and which require discussion of the Board today.

This item will be taken up during Closed Session.

3. **ITEM A-4 - Current Construction Projects - Contract Change Orders:**

Change Order Nos. 7, 8 and 9 - Middletown Senior Center and Library - These change orders address the following: adding back the irrigation sleeving under the parking lot and some of the sidewalks to facilitate future installation of the irrigation system (work removed in Change Order No. 1 as a cost saving measure), modification of the window opening to reflect design intent and providing for the modified plate specified by the Architect and Structural Engineer to substitute the HSS 12x5x1/2 steel beam, which is currently unavailable.

Deputy Redevelopment Director Eric Seely presented the staff report.

On motion of Supervisor Comstock and by vote of the Board (5 ayes), approved Change Order Nos. 7, 8 and 9 - Middletown Senior Center and Library, for an increase of \$10,086, RE West Builders, Inc., and authorized the Chair to sign the Change Orders.

The Board returned to this item later in the day.

PUBLIC INPUT - Tom Slaughter spoke regarding air quality in Lake County.

Anna Thylin spoke regarding threats to Lake County air quality, due to aircraft aerosol spraying.

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4. **ITEM A-5 - Continued from August 23 and September 20, 2011 - 9:15 A.M. - (a) PUBLIC HEARING - Consideration of an appeal of the Planning Commission's partial denial of a modified version of the following project: GPAP 11-01, RZ 11-01 and MMU 10-06 proposing a general plan amendment of 0.8 acres from Service Commercial to Community Commercial and 4.2 acres from Agriculture to Service Commercial; a rezone from "C3" Service Commercial to "CH" Highway Commercial and "A" Agriculture to "C3" Service Commercial; and a Minor Modification to existing permits (Res. 69-83, UP 88-42 and MUP 09-23) to allow a convenience store and construction of a 30,000 gallon propane tank; appellant is Westgate Petroleum; project located at 3740 Highland Springs Road, Lakeport (APN 008-002-31); and (b) PUBLIC HEARING - Consideration of request for (a) a General Plan Amendment (GPAP 11-01) of approximately 30,000 square feet from Agriculture to Service Commercial; (b) a rezone (RZ 11-01) from "C3-DR-FF-AA", Service Commercial-Design Review-Floodway Fringe-Airport Approach and "A-SC-AA" Agriculture-Scenic-Airport Approach to "PDC-DR-FF-AA", Planned Development Commercial-Design Review-Floodway Fringe-Airport Approach and "A-SC-AA", Agriculture-Scenic-Airport Approach; (c) a General Plan of Development (GPD 11-01) and Use Permit (UP 11-12) for a specific plan of development for bulk and retail fuel sales, outdoor storage of vehicles and propane, and office and a convenience store; and (d) proposed adoption of a Mitigated Negative Declaration for this project based on Initial Study IS 11-07; project applicant is Westgate Petroleum; project located at 3740 Highland Springs Road, Lakeport, CA (APN 008-022-31) - Community Development Director Rick Coel, Associate Planner Brian Horn, Dennis O'Keefe, Claude Brown and Rob Bartolucci were sworn in by the Clerk.**

(b) Mr. Coel and Mr. Horn presented the staff report.

Chair Brown opened the public hearing and the following people spoke: Greg Scott, Dennis O'Keefe, Claude Brown, Ron Bartolucci, Cheri Holden, Joan Moss and Edwina Young. No one else was present wishing to speak and the public hearing was closed.

On motion of Supervisor Farrington and by vote of the Board (5 ayes), found on the basis of Initial Study No. 11-07 prepared by the Planning Division, that the general plan amendment, rezone and general plan of development as applied for by Westgate Petroleum will not have a significant effect on the environment and, therefore, approved a Mitigated Negative Declaration for the proposed general plan amendment, rezone and general plan of development, which shall be issued with the findings listed in the Board Memorandum dated December 22, 2011.

Supervisor Farrington offered Resolution No. 2012-04, and it was passed by roll call vote (4 ayes, Supervisor Rushing NO).

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

Supervisor Farrington offered Ordinance No. 2967, and it was passed by roll call vote (4 ayes, Supervisor Rushing NO).

On motion of Supervisor Farrington and by vote of the Board (4 ayes, Supervisor Rushing NO), approved the General Plan of Development, based on the reasons listed in the staff memorandum dated December 22, 2011.

After a brief recess, the Board reconvened into Regular Session at 10:36 a.m.

5. **ITEM A-7 - 10:00 A.M. - HEARING - Nuisance Abatement of 12867 East State Highway 20, Clearlake Oaks, CA (APN 035-371-29 - David Moses) - Community Development Director Rick Coel was sworn in by the Clerk.**

Mr. Coel presented the staff report.

Mr. Robert MacKenzie, attorney for David Moses, presented his client's case.

Chair Brown asked if anyone was present wishing to speak and Joan Moss spoke. 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 12867 East State Highway 20, Clearlake Oaks, CA (APN 035-371-29 - David Moses), by January 20, 2012, 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.

6. **ITEM A-6 - 9:45 A.M. - PUBLIC HEARING - Consideration of proposed Resolution approving Resolutions and Capital Fire Facility and Equipment Plans submitted by Lake County Fire Agencies and updating the Lake County Capital Fire Facility and Equipment Plan (including a proposed adjustment in Lake County Fire Protection District's Fire Mitigation Fees structure) - Deputy County Administrative Officer Jeff Rein presented the staff report.**

Supervisor Farrington offered Resolution No. 2012-05, and it was passed by roll call vote (5 ayes).

7. **ITEM A-11 - Carried over from January 3, 2012 - Consideration of Chairman's recommended 2012 committee assignments for members of the Board of Supervisors - Chair Brown presented the item**

Amendments were made to the assignments.

On motion of Supervisor Smith and by vote of the Board (5 ayes), accepted the 2012 committee assignments, as revised.

8. **ITEM A-12 - Advanced from January 3, 2012 - Consideration of proposed Ordinance amending Chapter 4 of the Lake County Code establishing fees for dog and cat licensing, redemptions and other services provided by Lake County Animal Care & Control (SECOND READING) - Supervisor Smith offered Ordinance No. 2968, and it was passed by roll call vote (5 ayes).**

9. **ITEM A-14 - Consideration of pending retirement of the County Administrative Officer and Board direction relative to recruitment of candidates for the position - Each Supervisor expressed his/her appreciation for Mr. Cox's many years of public service.**

On motion of Supervisor Smith and by vote of the Board (5 ayes), accepted Mr. Cox's letter of retirement.

There was Board consensus to direct staff to begin an open recruitment process.

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

Extra #1 - Consideration of request to execute Petition in Support of Further Hearings before the California Public Utilities Commission relating to the Smart Meter Program - Supervisor Rushing recused herself and was absent at 12:03 p.m.

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County Counsel Anita Grant presented the staff report.

On motion of Supervisor Farrington and by vote of the Board (4 ayes, Supervisor Rushing ABSENT), approved the Petition of Support of further hearings before the California Public Utilities Commission relating to the Smart Meter Program, and authorized Supervisors Comstock, Smith, Farrington and Brown to sign the petition.

After a lunch recess, the Board reconvened into Regular Session at 1:30 p.m.

10. **ITEM A-8 - 1:30 P.M. - Presentation and workshop regarding the State response to the threat of dreissenid mussels in the waters of California** - California Department of Fish and Game Representatives Susan Ellis, Cathy Hills and Jason Julienne gave the Department of Fish and Game presentation to the Board.

After a brief recess, the Board reconvened into Regular Session at 2:43 p.m.

Chair Brown asked if anyone was present wishing to speak and the following people spoke: Melissa Fulton, Greg Giusti, Victoria Brandon and Ed Calkins. No one else was present wishing to speak and the public input portion of this item was closed.

This item was informational only. No Board action was taken on this item.

11. **ITEM A-13 - Consideration of the implementation of the local resident zebra/quagga mussel educational program** - Water Resources Director Scott De Leon introduced the item.

Chair Brown asked if anyone was present wishing to speak and the following people spoke: Greg Giusti, Jim Robello, Mike Dunlap, Tony Braitto, Art Carson, Conrad Colbrandt, Paul Breunig, Art Cerini, Olga Martin-Steele, Victoria Brandon, Sarah Ryan, Robert Higgins and Melissa Fulton. No one else was present wishing to speak and the public input portion of this item was closed.

There was Board consensus to direct staff to suspend the administration of the test while working with the Invasive Species Council to finalize test details.

After a brief recess, the Board reconvened into Regular Session at 4:35 p.m. Supervisor Farrington was absent.

12. **ITEM A-9 - 2:15 P.M. - HEARING - Nuisance Abatement of 9781 Point Lakeview Road, Kelseyville, CA (APN 043-551-47 - Quincy Jackson (Triple C Collective), Robert Harvey and Linda Harvey)** - Community Development Director Rick Coel and Angie Dukow were sworn in by the Clerk.

Supervisor Farrington was present at 4:38 p.m.

Mr. Coel presented the staff report.

Ms. Dukow gave testimony.

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 9781 Point Lakeview Road, CA (APN 043-551-47 - Quincy Jackson (Triple C Collective), Robert Harvey and Linda Harvey), by January 22, 2012, 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.

BACK TO #3 - ITEM A-4 - Current Construction Projects - Contract Change Orders:

Change Order #1 - Landfill Gas Migration Project at Eastlake Landfill, Bid No. 11-08 - This change order addresses the addition of an automation direct touch screen for controls for the gas extraction equipment, a credit for a substitution of the type of wellhead for each of the four wells, and changes to the fence and concrete pad as well as adding flexible connections at the carbon vessel.

Public Services Director Caroline Chavaz presented the staff report.

On motion of Supervisor Comstock and by vote of the Board (5 ayes), approved Change Order #1 - Landfill Gas Migration Project at Eastlake Landfill, Bid No. 11-08, Bob Sonn Excavating, for an increase of \$1533.23, and authorized the Chair to sign.

13. **ITEM A-15 - CLOSED SESSION - 1. Conference with Labor Negotiator: (a) County Negotiators: A. Grant, S. Harry, L. Guintivano, M. Perry and J. Hammond; and (b) Employee Organization: DSA, LCCOA and DDAA 2. Public Employee Performance Evaluation: Title: Human Resources Director 3. Conference with Legal Counsel: Existing Litigation pursuant to Government Code Sec. 54956.9(a): 1. California Sportfishing Protection Alliance v. County of Lake, et al. 2. Reynolds v. County of Lake, et al. AND Extra #2 - Conference with Legal Counsel - Anticipated Litigation (Pursuant to Subdivision (b) of Section 54956.9 a. Significant exposure to litigation pursuant to subdivision (b)(1) of Government Code Section 54956.9** - Chair Brown announced the Board would now go into Closed Session for the reasons stated on the agenda.

The Board reconvened into Regular Session at 5:50 p.m. and took the following action:

On motion of Supervisor Smith and by vote of the Board (5 ayes), approved the settlement of the case of Reynolds v. County of Lake in the amount of \$50,000, and authorized the Chair to sign the settlement agreement.

There being no further business, the Board of Supervisors adjourned at 5:51 p.m.

KELLY F. COX
Clerk of the Board

Chair - Lake County Board of Supervisors

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