

MINUTES OF A REGULAR MEETING OF THE BOARD OF SUPERVISORS,  
COUNTY OF CALAVERAS, STATE OF CALIFORNIA  
HELD ON NOVEMBER 22, 2011

PRESENT: Thomas Tryon, Chair; Gary Tofanelli, Vice-Chair; Steve Wilensky, Merita Callaway and Darren Spellman, Supervisors; David Sirius, Assistant County Counsel (9:00 Am to 12:50 PM), Janis Elliott, County Counsel (2:00 PM to 5:40 PM), Jeanne Boyce, County Administrative Officer and Diane Severud, Supervising Board Clerk.

Digital Recorder 20111122 BOS

Chair Tryon called the meeting to order at 9:00 AM.

CONSENT AGENDA

Consent Agenda Item 3 was pulled by Supervisor Spellman. The balance of the Consent Agenda was approved, as presented.

Moved: Tofanelli                      Second: Wilensky                      Approved: Unanimous

1. MINUTES OF NOVEMBER 8, 2011.
2. CORRESPONDENCE:      OCTOBER 31 - NOVEMBER 10, 2011 (SEE ATTACHED).
4. RESOLUTION 11-161 ESTABLISHING THE CALWORKS MAINTENANCE OF EFFORT SPECIAL REVENUE FUND.
5. RESOLUTION 11-162 ACCEPTING THE CANVASS OF THE CONSOLIDATED DISTRICTS SPECIAL ELECTION CONDUCTED NOVEMBER 8, 2011 AND DECLARING CERTAIN CANDIDATES ELECTED.
6. MINUTE ORDER RESCINDING APPROVAL OF AMENDMENT NUMBER 1 TO THE AGREEMENT BETWEEN THE DEPARTMENT OF THE ARMY AND CALAVERAS COUNTY FOR THE COSGROVE CREEK, CALIFORNIA SECTION 205 FEASIBILITY STUDY EXECUTED JULY 26, 2011 AND APPROVING A REPLACEMENT AMENDMENT NUMBER 1 TO THE AGREEMENT.

3. COUNTY COUNSEL.

Supervisor Spellman stated that he pulled the item to bring attention to the details of the Conflict of Interest Code adopted by the Assessment Appeals Board.

Moved: Callaway                      Second: Tofanelli                      Approved: Unanimous

RESOLUTION 11-163 APPROVING ADOPTION OF CONFLICT OF INTEREST CODE AND APPENDIX OF DESIGNATED POSITIONS FOR CALAVERAS COUNTY ASSESSMENT APPEALS BOARD.

REGULAR AGENDA

7. PUBLIC COMMENTS. (Digital Recording 20111122 BOS Index 1)  
Donna Farr, employee, stated that she has experienced a reduction in her take home pay since 2008. Last year, at least she received furlough days along with the 4.6% reduction in pay. This has created great strains on her budget. She understands that revenues are down; however, believes that business policies need to be modified to encourage businesses, retail and big box stores to come to the county in an effort to increase sales tax revenues.  
Peter Racz, Rancho Calaveras, asked where property tax lobbying money goes. He would rather see money go to county employees than to elected officials and lobbyists in Washington, DC.  
Lisa Snyder, employee and county resident, stated that she seeks understanding and support from the Board. She is not looking for personal gain, simply

survival. The recent layoffs have created increased workloads for the remaining staff, who already receive lower pay than employees in other counties. She noted that the County employees donated 3,000 pounds of food and \$2,000 to the food bank even though they experienced a year of furloughs.

Bonnie Newman, Double Springs, mentioned the "Occupy San Andreas" demonstration last week. She made several comments regarding the differences between men and women. She pointed out that Trigger cuts are coming and home care is going to be devastated by the cuts. She wished all a Happy Holiday.

Cathryne Darmer, employee and county resident, explained that she is very disheartened regarding the process to get a contract approved between the Union and the County. She stated that she would like to be able to say that she makes as much now as she did in 1999 when she started working at the County, but does not.

David Maladra, employee, stated that it has been three and a half years since a COLA has been given to employees and he is bringing home less every year. He commented that there is no more "fat" to trim from his personal budget.

Lynette Layland, employee, has been and employee for twelve years and has lived in the county for 25 years. Last year, as a result of the 4.6% pay reduction, she had to make a choice between purchasing medication for herself and food for her grandchildren. She has been a Food Bank recipient and has received church assistance, but there is none left. Fellow employees have offered their vacation and sick time to allow her to stay in her home. She asked the Board to do no more harm. She is the face of the employees and wanted the Board to know the effects the proposed cuts have on her.

8. CODE COMPLIANCE. (Digital Recording 20111122 BOS Index 2)

Todd Barr, Code Compliance, explained that his office has been aware of this property, in the Diamond XX subdivision, since 2002 and all attempts to contact the bank have been ignored.

Moved: Callaway

Second: Wilensky

Approved: Unanimous

MINUTE ORDER UPHOLDING CODE COMPLIANCE ADMINISTRATIVE CITATION #11-31, REGARDING U.S. BANK C/O OCWEN LOAN SERVICING LLC, AUTHORIZING ABATEMENT OF ALL REMAINING CODE VIOLATIONS, AND THE ASSESSMENT OF A LIEN ON THE SUBJECT PROPERTY FOR THE RECOVERY OF ADMINISTRATIVE COSTS, ADMINISTRATIVE FINES, AND ABATEMENT COSTS.

9. PLANNING. (Digital Recording 20111122 BOS Index 3)

Supervisor Callaway stated that she owns a lot and lives in Forest Meadows and represents the constituents that live there. She stated her understanding that there may be a perception of a conflict of interest; however, she has chosen not to recuse herself because she would have no financial gain.

Chair Tryon opened the Public Hearing.

Staff comments: Darcy Goulart, Planner, stated that all six items have the same secondary access issues. There are over 1,000 entitled lots within Forest Meadows, some of which are currently occupied. Staff recommends that all six projects be denied if no secondary access can be provided. Tom Garcia, Director of Public Works, stated that the current access to the subdivision is woefully inadequate.

Applicant comments: Gene Deaver, Mother Lode Engineering and representative of all six projects, stated that the original Forest Meadows project was approved in 1970 with all lots on public water and sewer and all roads privately

maintained. The project approval was based upon 1,123 lots with one access. A dirt road that served as the project access and was initially intended to become a secondary access; however, it was denied by Caltrans. There was discussion regarding the consideration of alternative secondary and/or emergency access through Heather Drive and Wild Ridge Road, the proposed Unit 5 in Forest Meadows and the original dirt road. Also considered were improvements to the single access, main entrance to the subdivision which would prove to be very costly. Mr. Deaver continued that he believes that a commitment was made by the County to the developer in the early 1970's when the Master Plan was approved and believes that the County has changed its position since that time. Rebecca Willis, Planning Director, explained that when the project was initially approved in the early 1970's, CEQA was in its infancy and became law in 1971. She stated that it is not the County changing position on the matter, it is the CEQA requirements. The proposed projects are all new and have not been previously mapped, therefore CEQA compliance is required.

Public comments: Al Segalla, Calaveras Tax Payers Association, expressed the Association's concern regarding property rights and the effect on the economy. He stated his belief that paving all emergency access roads would benefit all property owners in Forest Meadows, not just the new proposed lots. Eric Davis, Dave Turner and Bob Nethery, Forest Meadows residents, made comments regarding the influx of people accessing the subdivision in the summer months, gates on existing emergency access roads and the need for a secondary access. Concerns regarding the impact additional homes would have to existing infrastructure were also raised

Chair Tryon closed the public comment portion of the hearing.

Applicant closing comments: Mr. Deaver commented that 21 lots have replaced one of the original condo projects, thus reducing the number of proposed lots. He also reiterated that the developer continues to look for a secondary access without success. The developer does feel that the two proposed emergency accesses will provide safety for the residents.

Staff closing comments: Tom Garcia commented that the westerly access issues are slope and sight distance and there are options for access that would most likely accommodate Caltrans; however, would be quite costly.

Board comments: Supervisor Callaway asked who would maintain the proposed emergency access roads, if an easement had been granted and quoted County Code stating that all emergency access must be accessible by a two wheel drive vehicle. Lou Papias, developer, responded that it was his belief a floating easement had been granted by Norby Wilson. Supervisor Callaway stated that she could not support waiving a secondary access requirement.

There was discussion of placing a building moratorium on Forest Meadows until a secondary access could be identified; however, Rebecca Willis explained that once a building moratorium has been placed, there is a two year deadline. She does not believe that the matter will be resolved within the two years and suggested that the County, the developer and the Homeowners Association work together to research all possible options. Further discussion included the need for emergency access roads that are of ample size to accommodate vehicles traveling in and out, the consideration of three emergency access roads and improvements to the main access.

Supervisor Callaway made a motion to adopt the six resolutions denying the projects as proposed. The motion died for lack of a second.

Supervisor Spellman made a motion to accept Wild Ridge Road and Heather Drive as secondary access. Counsel Sirius stated that this could not be done with due process. Supervisor Spellman withdrew his motion.

Supervisor Wilensky made a motion to continue the item to February 28, 2012 and re-open the public hearing at that time. The motion was seconded by Supervisor Tofanelli.

Moved: Wilensky            Second: Tofanelli            Approved: Unanimous

NOTICED PUBLIC HEARING PURSUANT TO GOVERNMENT CODE § 65090, ET SEQ.; DISCUSSION AND POSSIBLE ACTION TO ADOPT RESOLUTIONS TO DENY: 2004-039 FOREST MEADOWS UNIT 2F, 2004-098 FAIRWAY VILLAGE UNIT 2, 2005-086 LAKE VISTA ESTATES, 2005-103 H.P. DEVELOPMENT, 2008-055 CANTERWOOD ESTATES, 2008-056 FOREST LAKE SUBDIVISION WAS CONTINUED TO THE MEETING OF FEBRUARY 28, 2012 AND RE-OPEN THE PUBLIC HEARING.

The Board recessed at 12:50 PM and reconvened at 2:00 PM.

10. PUBLIC WORKS. (Digital Recording 20111122 BOS Index 4)

Tom Garcia, Director, gave an overview of the list of projects to be considered when applying for grant funding. There was discussion regarding a future overpass that would allow pedestrians and bicycles to cross Highway 4 near Michelson School in Murphys and the left-hand turn lane near Poker Flat in Copperopolis. Mr. Garcia also explained the difference between a Tier 1 project that is being actively pursued for funding and a Tier 2 project that is an alternative for a project that is removed from the list.

Moved: Spellman            Second: Tofanelli            Approved: Unanimous

RESOLUTION 11-164 APPROVING AND PRIORITIZING THE FY 2012/13 COUNTY SUBMITTAL FOR TRANSPORTATION-RELATED PROJECTS AND OVERALL WORK PROGRAM (OWP) PROJECTS FOR FUNDING THROUGH THE CALAVERAS COUNCIL OF GOVERNMENTS (CCOG).

11. REVIEW OF CORRESPONDENCE, REPORTS AND VARIOUS MATTERS OF CONCERN.

(Digital Recording 20111122 BOS Index 5)

Supervisor Tofanelli had nothing to report.

Supervisor Callaway reported that she will attend the CSAC conference in San Francisco next week, the Ebbetts Pass Property Owners Council and the Area 12 on Aging meeting.

Supervisor Wilensky announced a meeting with FEMA to prove that there were no homes built in the middle of the Mokelumne River, as the FEMA maps indicate. He will be attending the Sierra Nevada Conservancy meeting and the Commission on Aging Holiday Luncheon.

Supervisor Spellman announced that he will host his regular constituent hours this evening.

Chair Tryon had nothing to report.

CAO Boyce ascertained if the Board would like to forego a second meeting in December, as there is only one item slated for the December 27 meeting. It was the consensus of the Board to have the December 13 meeting and not meet again until January 10, 2012, unless there is an urgency item.

Counsel Elliott had nothing to report.

Clerk Severud announced the December 2<sup>nd</sup> Commission on Aging Holiday Luncheon and offered to RSVP on behalf of the board members and the Administration office.

Rebecca Willis announced that the Planning Commission will be changing their meetings from the first and third Thursdays of each month to the second and fourth Thursdays.

12. INFORMATIONAL BRIEFING ON THE CALAVERAS COUNTY FY 2011-12 FIRST QUARTER FINANCIAL REPORT - ADMINISTRATION. Jeanne Boyce, CAO, introduced the presentation for the first quarter financial report by explaining that the report provides an overview of the revenues and expenditures and how those factor into the ability to stay within the budget. Clay Hawkins, Chief Assistant CAO, and Shirley Ryan, Assistant CAO, gave a PowerPoint presentation giving the highlights and lowlights of the first quarter. Mr. Hawkins reviewed the operating expenditures at 18.5%, 6.5% under the first quarter estimate; AB443 Revenues at 26.8%; Consumer Spending Revenues at 25.9%; Property Transfer Tax at 28.3%; Proposition 172 at 36.0% and Sales Use Tax at 26.6%. The beginning cash carry increased to \$1,651,581, up from \$685,566 last year; Beginning contingencies increased to \$1,343,624, which was up from \$725,797 from last year and new construction revenue are at 32.4% based upon 388 permits. He continued that operating revenues are at 7.7%, 195 roll corrections were processed during the first quarter reducing budgeted revenues by \$58,990 with additional roll corrections anticipated. General liability costs are 27.8%; new construction valuation declined from \$12,437,540 in FY 2010/11 to \$9,156,698 in FY 2011/12, discounting Adult Detention Facility/Sheriff's Office building which was equivalent to \$22.7 million; State revenue subventions are 24.0%; intergovernmental revenues are 19.2% with State Grant revenue at 13.5%. The presentation noted the effects of unemployment and comparisons of General Fund cash carry, contingencies, property taxes and VLF revenues for previous years to this year. Overall revenues, as well as, expenditures were also compared to previous years. In summary, departments must invoice timely to collect all revenues budgeted for the year; the need to monitor revenues monthly is needed to offset any shortfalls by adjusting expenditures and if revenues are not realized and expenditures not adjusted, the use of General Fund cash to cover the shortfall. The loss of budgeted revenue has a multiplying effect by reducing year-end cash, requiring higher borrowing for cash flow during the year and reducing contingencies. In closing, Mr. Hawkins reported that the Legislative Analyst Office (LAO) outlook for FY 2011/12 for California states that October 2011 is \$810.5 million or 16.3% below expectations. The Governor will implement \$2 billion of Tier 1 and Tier 2 "trigger" reductions and even with the reductions, the State will still face a \$13 billion shortfall in FY 2012/13 with a \$3 billion deficit at the end of FY 2011/12.

13. REFINEMENTS TO THE GENERAL PLAN PREFERRED LAND USE MAP - PLANNING. Rebecca Willis, Director, provided a PowerPoint presentation outlining the General Plan and areas of concern that still need to be addressed. She explained the overall build out for the county is approximately 200,000 lots of which 26,000 are already built, 3,500 are vacant subdivision lots, 27,000 are existing legal lots, 4,500 are approved subdivisions and 4,200 are pending applications. She noted that not all will be built in the next 20 years, but a plan is needed to anticipate the potential growth. Areas that can effect potential growth and development are Williamson Act land, timber land, BLM, mining, utility owned property and PAWS, to name a few. When these are considered, it reduces the amount of land that could house population and focus growth in community centers, preventing sprawl. Tom Garcia, Public Works, expressed his concern regarding where population and growth will occur. Ms. Willis stated that areas with State highways that do not have the ability to expand to four lanes have a cap on the amount of population build out in that area. There was discussion regarding the Resource Production land use designation and its effect on properties, a preliminary map depicting the properties with the

designation and the possible need for transitional areas between areas affected by the Natural Resource Element of the General Plan.

Members of the public commented on items ranging from individual property rights, smart growth and Agenda 21 to wetlands inventory. The public consensus was that this time the process is much more open and transparent than the discussion in past years.

The intent of the study session was to ascertain the direction the Board would like the Planning Department to proceed and the Board was polled by Chair Tryon on the following items:

1. Identify factors and assumptions in Land Use Plan. The Board unanimously agreed.
2. Address existing unimproved lots. The Board unanimously agreed.
3. Increase number of land use designations. The Board unanimously agreed.
4. Incorporate transition areas, clustering and density transfers in Resource Production Lands. Rebecca Willis expressed concern with the 40 acre minimum and would like to see more flexibility. Supervisors Wilensky, Callaway and Tryon agreed. Supervisors Tofanelli and Spellman disagreed.
5. Conduct outreach in Community Plan areas. The Board unanimously agreed.
6. Incorporate local knowledge. The Board unanimously agreed.
7. Bring back preferred land use plan. The Board unanimously agreed.

The Board recessed and convened into Closed Session at 5:15 PM, then reconvened into the Study Session at 5:40 PM. Chair Tryon announced the report of closed session.

14. CLOSED SESSION: pursuant to Government Code Section 54956.9: conference with legal counsel re: existing litigation - (three cases); Michael Nemea and Michelle Nemea v. County of Calaveras, Calaveras Superior Court Case No. CV35775; Michael Nemea and Michelle Nemea v. County of Calaveras, Calaveras Superior Court Case No. CV35721, removed to the United States Bankruptcy Court, Eastern District of California, No. 09-93249-D-11, Adversary No. 09-09088; Michael Nemea and Michelle Nemea v. County of Calaveras, Calaveras Superior Court Case No. CV36297. There was no reportable action.

ADJOURNMENT. There being no further business, the meeting was adjourned at 6:20 PM, with the Board to reconvene at 9:00 AM on Tuesday, December 13, 2011 for a regularly scheduled meeting.

ATTEST: Madalina Kiska  
Clerk

Thomas M. Tryon  
Chair

**CORRESPONDENCE – November 22, 2011**

The Board May Take Action on Any of the Following Items:

**October 31, 2011**

1. From: First 5 Calaveras; re: Nov 4 meeting agenda; Wilensky, Callaway, CAO, Counsel, Post
2. From: CRWQCB – Lahontan Region; re: Request for Public Comment on Proposed Amendments to the Water Quality Control Plan for the Lahontan Region – Pesticide Prohibition with Exemption Criteria, Revised Draft; Board, Cao, Counsel, Post

**November 1, 2011**

3. From: Donna Cooney; re: Request for Consideration of Lot Split; Board, CAO, Counsel, Building
4. From: Galal Kernahan; re: Recognition of Calaveras as one of the First Original Counties in the State; Board, CAO, Counsel
5. From: Delta Stewardship Council; re: Notice of Availability of a Draft Program Environmental Impact Report for the Delta Plan; Board, CAO, Counsel, Env Health, Post
6. From: CalFire: Timber Harvest Plan – SPI; Wilensky, Callaway, CAO, Counsel, Post

**November 2, 2011**

7. From: Jim Branham of sierranevada.ca.gov; re: Update on Healthy Forests Grant Program; Board, CAO, Counsel, Post

**November 3, 2011**

8. From: Bob Reeve; re: Appeal of easement 050-008-020 Assessment appeal 10/11-164; Board, CAO, Counsel

**November 4, 2011**

9. From: Central Sierra Resource Conservation & Development; re: Nov 10 meeting agenda; Spellman, Wilensky, CAO, Counsel, Post
10. From: CCWD; re: Nov 9 meeting agenda; Board, CAO, Counsel
11. From: CSEDD; re: Nov 18 meeting agenda; Spellman, Callaway, CAO, Counsel, Post

**November 7, 2011**

12. From: Domestic Animal Adv Committee; re: Nov 10 meeting agenda; Board, CAO, Counsel, Post

**November 9, 2011**

13. From: Tuolumne Stanislaus IRWMP; re: Nov 16 meeting agenda; Board, CAO, Counsel
14. From: CA Fish and Game; re: Notice of Findings regarding The Cedars buckwheat; Callaway, Tryon, Tofanelli, CAO, Counsel, Post
15. From: Notice of Findings regarding American pika; Callaway, Tryon, Tofanelli, CAO, Counsel, Post

**November 10, 2011**

16. From: Sierra Nevada Conservancy; re: 2010-11 Annual Report; Board, CAO, Counsel
17. From: CalFire; re: Corrected Timber Harvest Notice – SPI; Wilensky, Callaway, CAO, Counsel, Post
18. From: CA Fish and Game; re: CEQA Environmental Filing Fees for 2012; Board, CAO, Counsel, Planning, Post