

MINUTES

County of Inyo Board of Supervisors

December 11, 2012

The Board of Supervisors of the County of Inyo, State of California, met in regular session at the hour of 9:00 a.m., on Tuesday, December 11, 2012, in the Board of Supervisors Room, County Administrative Center, Independence, with the following Supervisors present: Chairperson Marty Fortney presiding, Linda Arcularius, Susan Cash, Rick Pucci, and Richard Cervantes. Supervisor Cervantes provided the Invocation, and Supervisor Pucci led the Pledge of Allegiance.

- Public Comment The Chairperson announced the public comment period and there was no one from the public wishing to address the Board.
- County Department Reports The Chairperson announced the County Department Report period. Ms. Jean Turner, Director of Health and Human Services, updated the Board on the CalWorks program, health realignment and changes to health care services, and Bishop Tribe child welfare services.
- Introduction Mr. Jim Tatum, the new Deputy Public Works Director was introduced to the Board.
- Emerg. Serv./Oak Creek Mud Flows Moved by Supervisor Cervantes and seconded by Supervisor Cash to continue the local emergency as a result of the Inyo Complex Oak Creek Mud Flows. Motion carried unanimously.
- CAO-Info Serv./Info Tech Policy Moved by Supervisor Cervantes and seconded by Supervisor Cash to approve the Information Technology Initiative Policy. Motion carried unanimously.
- D.A./Victim Witness Grant Moved by Supervisor Cervantes and seconded by Supervisor Cash to approve the Inyo County Victim Witness Assistance Unserved/Underserved Victim Advocacy and Outreach Program Grant from Cal-EMA for the period of October 1, 2012 through September 30, 2013; and authorize the District Attorney to sign any documentation to accept and utilize the grant. Motion carried unanimously.
- HHS-ESAAA/
Denevi Contract Moved by Supervisor Cervantes and seconded by Supervisor Cash to approve the Contract between the County of Inyo and Catherine Denevi, a licensed attorney, to provide legal assistance to the older adult population targeted through Eastern Sierra Area Agency on Aging (ESAAA) in an amount not to exceed \$69,096, for the period of December 2, 2012 through June 30, 2016, contingent upon the Board's adoption of future budgets and subject to annual renewals based on performance; and authorize the Chairperson to sign. Motion carried unanimously.
- Planning-Yucca Mt./ AULG Certification of Funds Moved by Supervisor Cervantes and seconded by Supervisor Cash to certify that \$129,755.66 in funds provided to Inyo County as an Affected Unit of Local Government (AULG) under the Nuclear Waste Policy Act, as amended, have been expended in accordance with the provisions of that Act, Public Law 97-425, and the 2010 Energy and Water Development and Related Agencies Appropriations Act; authorize the Chairperson to sign the certification; and direct staff to submit the certification to the U. S. Dept. of Energy. Motion carried unanimously.
- Rd. Dept./Coso Paving Project Equipment Rentals The Interim Public Works Director, Mr. Doug Wilson, explained that because of the age of several pieces of County road equipment that broke down during paving, the Department was forced to rent equipment to complete the Coso Road paving project.

Moved by Supervisor Cervantes and seconded by Supervisor Pucci to A) ratify and approve (a) the agreement to rent paving machine from McMurtrie-Tanskley, Inc. and approve the payment of \$27,720; (b) the agreement to rent pavement rollers from United Rentals and approve the payment of \$7,594.93 (c) the agreement for trucking to deliver asphalt paving materials to Coso Paving Project and approve the payment of \$16,720 to Nite Owl Transportation and \$32,195 to Construction Specialty; and B) amend the FY 2012-13 Road Budget Unit 034600 by increasing appropriations in Equipment Rental (*Object Code #5281*) by \$35,315, and Professional Services (*Object Code #5265*) by \$48,915; and decreasing appropriations in Equipment (*Object Code #5650*) by \$84,230. Motion carried unanimously.

Sheriff/Position Request

Moved by Supervisor Arcularius and seconded by Supervisor Pucci to find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the Correctional Officer positions comes from the General Fund, as certified by the Sheriff, and concurred with by the County Administrator and the Auditor-Controller; B) where internal candidates meet the qualifications for the position of Correctional Officer, the positions could possibly be filled through an internal recruitment, however an open recruitment would be more appropriate to ensure the positions are filled with the most qualified applicants; and C) approve the hiring of two Correctional Officers at Range 64 (\$3,590 – \$4,363). Motion carried unanimously, with Supervisors Arcularius, Pucci, Fortney and Cervantes voting yes and with Supervisor Cash abstaining.

HHS-Soc. Serv./ Position Request

Moved by Supervisor Arcularius and seconded by Supervisor Pucci to find that consistent with the adopted Authorized Position Review Policy: A) the availability of funding for a Health and Human Services Supervisor position exists, as certified by the Director of Health and Human Services, and concurred with by the County Administrator and the Auditor-Controller; B) where internal candidates meet the qualifications for the position of Health and Human Services Supervisor, the position could possibly be filled through an internal recruitment, however an open recruitment would be more appropriate to ensure a sufficient number of qualified applicants apply; if one is not found on an existing list; and C) approve the hiring of one Health and Human Services Supervisor, at Range 66 (\$3,757 – \$4,574). Motion carried unanimously with Supervisors Arcularius, Pucci, Fortney and Cervantes voting yes and with Supervisor Cash abstaining.

HHS-EMS/Multi-Agency MOU

The request by the Health and Human Services Department for approval of the Memorandum of Understanding (MOU) between the counties of San Bernardino and Inyo, and the Death Valley National Park for the purpose of providing a mutual aid plan to be effective when the demands within a Party's jurisdiction will exceed or likely exceed the available resources to be able to respond effectively to emergencies that may result from a disaster within the limit of the two counties and provide for those situations in which emergencies occur where a non-county asset may provide the most effective life-saving medical treatment, was pulled from consideration at the request of the Department.

HHS-ESAAA/ Advisory Council Appointments

Ms. Jean Turner, Director of Health and Human Services, explained that the new ESAAA Advisory Council By-laws preclude employees of subcontractors to the program from serving as Advisory Council Members. She went on to explain that Ms. Balliet who is an employee of Mono County had submitted a request for appointment and since Mono County is technically considered a subcontractor providing services to the program, Ms. Balliet is precluded from serving per the by-laws and she had not been recommended for membership on the Advisory Council for this reason. Moved by Supervisor Cash and seconded by Supervisor Arcularius to appoint the following to the Eastern Sierra Agency on Aging Advisory Council representing the categories and initial staggered terms as recommended by Staff: Rachel Lober of Bishop; Mary Jefferson of Lone Pine; Roger Rasche of Lone Pine, Jim Copeland of Benton, Phyllis Mikalowsky of Lone Pine, Selma Calnan of Bishop, Saul Sanabria, Inyo Mono VSO, Christie Martindale of Toiyabe Indian Health Project; and one member of the Board of Supervisors. Motion carried unanimously.

HHS-ESAAA/Issues Update

Ms. Jean Turner, Director of Health and Human Services, updated the Board on ESAAA issues, informing the Board of an upcoming meeting at the Walker congregate meal site. She told the Board that she is working on transitioning to a new Mono County Social Services Director and talked about research into new methodology being conducted by the California Department of Ageing on frontier and remote county services.

Treasurer/Tax-Default Land Auction Moved by Supervisor Cervantes and seconded by Supervisor Cash to authorize conducting a public auction, via the internet, to offer for sale to the highest bidder certain tax-defaulted parcels of land that are subject to the Tax Collector's Power to Sell. Motion carried unanimously.

Treasurer/Land Auction Services Contract With regard to a tax default land auction, Mr. Larry Levy of Tecopa asked if a notice of the auction was going to be published in the newspaper. Ms. Alisha McMurtrie, Treasurer-Tax Collected, informed Mr. Levy that the auction would be noticed in the Inyo Register as required by law, and subsequent notices would be posted in the southeastern portion of the County. Moved by Supervisor Cash and seconded by Supervisor Arcularius to declare Bid4Assets, Inc., a sole source provider of land tax-default land auction services and approve the Agreement between the county of Inyo and Bid4Assets, Inc. for on-line, internet, tax-defaulted land auction services; and authorize the Treasurer-Tax Collector to sign, contingent upon the appropriate signatures being obtained. Motion carried unanimously.

CAO/Position Request Moved by Supervisor Arcularius and seconded by Supervisor Pucci to A) find that consistent with the adopted Authorized Position Review Policy: (a) the funding for the Deputy County Administrator position comes from the General Fund and, possibly, certain Non-general Fund departments depending on the job responsibilities and associated budget allocations, as certified by the County Administrator and concurred with the Auditor-Controller; (b) the vacancy could possibly be filled by internal candidates meeting the qualifications for the position, however an open recruitment is appropriate to ensure the position is filled with the best qualified candidate; and (c) approve the hiring of one Deputy County Administrator at Range 88 (\$6,370 - \$7,740) up to a Step E, OR a Senior Deputy County Administrator at Range 92 (\$7,026 - \$8,540) depending on the qualifications of the selected candidate as determined by the County Administrator; and B) designate and authorize the County Administrator to sign a personal services contract with the successful candidate for the Deputy County Administrator or Senior Deputy County Administrator position at the salary range corresponding with the level of the position(s) approved by your Board. Motion carried unanimously, with Supervisors Arcularius, Pucci, Fortney and Cervantes voting yes and with Supervisor Cash abstaining.

Planning/Brownfields Update Mr. Josh Hart, Planning Director, provided an update on the status of the Brownfields Assessment Coalition Grant. The Board and staff discussed the area just north of Charlie's Butte that has never recovered from a fire that was the result of a traffic accident many years ago that may qualify as a brownfield sight. The Board agreed with staff's recommendation to continue to pursue this project.

Planning/Forest Plan Update Mr. Josh Hart, reviewed the information regarding coordination with Forest Service staff concerning the Inyo National Forest Plan Update/Revision. He said that the Forest Service staff has agreed to allow the County the opportunity to comment and provide input on the science synthesis prior to its release to the public. The Board postponed further discussion on this item to later in the meeting.

Recess/Reconvene The Chairperson recessed the regular meeting at 10:15 a.m., to reconvene in open session at 10:35 a.m., with all Board Members present.

CAO-Planning-CC/Bright Source Sales & Use Tax Agreement The County Administrator prefaced the discussion regarding the Sales Tax Agreement proposed by BrightSource Energy (BSE) for the Hidden Hills Solar Energy Generating System Project by providing background information on the project. He said that the County has been working on developing an agreement to ensure that the construction and operation of the HHSEGS project does not negatively impact county services nor cost the County money. He went on to say that ideally it is hoped that the project will generate economic benefit for the County as well as the community. He explained the California Energy Commission's roll in the process, specifically, its ultimate sole permitting authority, as well as the timeline for negotiations of this agreement with BSE.

Mr. Carunchio explained that BSE and staff have been focusing recently on developing some sort of Sales Tax Agreement. He said that after the last meeting between the parties the County staff had developed an Agreement that BSE had disagreed with which resulted in the red lined version of the Agreement that BSE is requesting the Board consider today.

Mr. Carunchio provided further clarification on the Staff's recommendation that the Board approve the Sales Tax Agreement drafted by County staff, saying that by approving the County staff recommended agreement, it will signal to the CEC, BSE, State officials, and the public that Inyo County is willing to enter into a reasonable agreement with BSE and will prevent BSE from suggesting to the same audiences that it tried to get a Sales Tax Agreement with Inyo County but that the County was unreasonable. He said that he believes that the parties are close to reaching agreement and believes there are still nuances that can be explored for incorporation into any sales agreement. He noted one that is not in any of the drafts presented today which is to accept the guaranteed sales tax amount as mitigating the first \$7.8 or \$8.8 million dollars in impacts to County programs and services, with assurances from BSE built in that any documented costs over and above that amount would be covered by BSE.

Mr. Carunchio identified the primary reasons that staff could not support the red line version of the agreement being that BSE insisted the County drop all its socio-economic impact claims with the CEC in exchange for sales tax dollars that the Company will have to pay anyway.

Additionally, Mr. Carunchio noted that neither agreement addressed other, non-socioeconomic concerns of the County including:

- (a) not addressing groundwater impacts;
- (b) reclamation of the project site;
- (c) public roads abandonment; and
- (d) mitigation for siting which could result in the project site occupying close to 8% of the private land in Inyo County instead of the original 3% identified by BSE.

Mr. Carunchio went on to explain how County Department Heads had arrived at its estimate of \$92.9 million dollars of impacts over the life of the project. The County's socio-economic Consultants, Claude and Nina Gruen of Gruen + Gruen Associates, provided additional information and justification for the estimates of costs of the project on Inyo County.

Mr. Christopher Moore, Vice President for BrightSource Energy, Inc., made a power point presentation to the Board that outlined the assumptions the Company used to establish its estimates of the costs of the project on Inyo County. Mr. Moore noted the differences between the County's estimates of costs and those identified in the Aspen Report that was prepared for the CEC. Mr. Moore confirmed that only five of the approximate 100 jobs to be created will be in Inyo County. He talked about property tax estimates expected to be received by the County, noting that the major differences between the County's and BSE's estimates appear to be in two areas, that of public works costs for roads and the sheriff costs for law enforcement.

The Board, Mr. Moore and staff continued to discuss the differences in the two agreements including:

- (a) the large disparity between BSE's estimate of plus \$65.8 million in benefits and the County's estimate of minus \$21 million dollars over the life of the project;
- (b) the inconsistency of BSE's willingness to accept and guarantee the estimate of the costs of impacts identified in the Aspen Report and unwillingness to guarantee the estimate of revenues to be generated to the County by the project identified in the report;
- (c) the sheriff's assessment of the requirements needed to provide adequate 24/7 public safety for a project of this magnitude for not only the residents of the area, but also the employees and assets of the BSE at the project site;
- (d) the very conservative estimate for rehabilitating Old Spanish Trail instead of reconstructing the road;
- (e) BSE's reluctance to provide specific compelling arguments as to why the County's estimate of impacts are not correct and why the Board should not take staff recommendation to approve the County's draft of the Agreement;

(f) the fact that the County's estimates are based on the expertise of its Department Heads who are responsible for providing the services;

(g) County staff's ability to identify the unique challenges Inyo County experiences in providing services, i.e., its remoteness, its topography, the location of security facilities, roadways and conditions, etc., which are essential in providing more accurate estimates of costs of expected impacts;

(h) caveats noted in the Aspen Report concerning the 170,000 large billboard sized mirrors identified for the project possibly being exempt from sales tax that was not addressed in the BSE agreement;

(i) the Board of Supervisors support for this solar project and other projects like it;

(j) that the County and its residents should not have to be burdened with paying for the costs of the impacts of this project being located in Inyo County; and

(k) that basically the BSE red line agreement is asking the Board to reject County's staff's assessment of costs and to accept 10 cents on the dollar to mitigate those costs.

The Assistant Clerk of the Board read into the record a letter from Ms. Amy Noel, a Tecopa Resident, opposing the project and acknowledged a letter the Board received from Ms. Cindy McDonald opposing the Agreement. The following members of the public addressed the Board to support the project: Mr. Jim Stroh of Independence; Mr. John Zellhoefer, trustee of Tecopa who affirmed his intent to open a bar to cater to the construction workforce, Mr. Steven Scow representing the Mary Wiley Trust which is the landowner of the property where the project is located; and Mr. Kelly Bradley a real estate developer from Las Vegas that holds the exclusive rights to sell over 120 parcels of land in Charleston View.

Mr. Larry Levy of the Southern Inyo Fire Protection District, addressed the Board to talk about concerns he has with increased traffic and the potential for more traffic accidents that will adversely impact the District and require law enforcement, likely Sheriff's deputies to be on scene of every accident. Mr. Levy also confirmed that the District is negotiating independently with BSE on its issues.

The Board Members went on to reiterate their support for solar projects in Inyo County, their individual concerns that no evidence has been presented by BSE to refute the County's estimates of costs of impacts of the project on County services as developed by the County's Department Heads and Elected Officials, and their individual hope that the issues can be resolved by the County and BSE as opposed to having the CEC resolve the issues.

Moved by Supervisor Cash and seconded by Supervisor Cervantes to accept staff's recommendation and not endorse the Sales and Use Tax Agreement proposed by BrightSource Energy for the Hidden Hills Solar Energy Generating System Project, and authorize the Chairperson to sign the Agreement originally proposed by staff to BrightSource Energy, and on which BSE's proposed agreement is based, contingent upon all of the signatures being obtained by December 30, 2012. Motion carried unanimously.

Public Comment

The Chairperson announced a public comment period. Ms. Margaret Woods, Inyo National Forest, addressed the Board to thank outgoing Supervisors Susan Cash, Marty Fortney, and Richard Cervantes, for their public service. She presented the Supervisors with a memento of the Forest Service.

Recess/
Reconvene

The Chairperson recessed the regular meeting at 12:35 p.m., to reconvene in open session at 1:35 p.m., with all Board Members present.

E. Hlth./Public
Hearing Ordinance
Modifying Fees

The Chairperson opened the public hearing at 1:35 p.m. on an ordinance titled "An Ordinance of the Board of Supervisors of the County of Inyo, State of California, Repealing Inyo County Ordinance Number 1132, Repealing Chapter 7.52 of the Inyo County Code and Enacting a New Chapter 7.52 of That Code Relating to Service and Permit Fees of the Inyo County Department of Environmental Health Services;" which will modify the Environmental Health Services fee schedule in water laboratory and retail food fees as it pertains to community events, temporary good facilities and the newly established cottage food industry and provide for annual adjustments to the fees based on the CPI. Mr. Marvin Moskowitz, Director of Environmental Health, reviewed the changes proposed to the ordinance and discussed the CPI increases to the fees with the Board.

Ms. Julie Fought addressed the Board to support the ordinance. Ms. Cynthia Meinke addressed the Board to support the ordinance. Supervisor Fortney said that he was opposed to the CPI increase. Supervisor Cash requested that the word consecutive be inserted on page four. County Counsel reiterated the discussion concerning changes to the ordinance that had been discussed is that there are no changes to the CPI language at all (the increase stays in, only change is in the rates if CPI increases, with no cap) and the only change is on wording on page four with the inclusion of multiple consecutive days as far as community events. The Chairperson closed the public hearing at 2:25 p.m. Moved by Supervisor Cash and seconded by Supervisor Pucci to waive the first reading of the Ordinance as amended to reflect today's discussion, and schedule the enactment for 11:30, December 18, 2012 in the Board of Supervisors Room, at the County Administrative Center, in Independence. Motion carried on a four-to-one vote with Supervisors Arcularius, Cash, Pucci and Cervantes voting yes and with Supervisor Fortney voting no.

HHS-Mental Hlth. Serv./Fee Increase Ordinance The Chairperson opened the public hearing at 2:25 p.m., on a proposed ordinance titled "An Ordinance of the Board of Supervisors of the County of Inyo, State of California, Revising Inyo County Community Mental Health Services Fees," that will repeal current Ordinance No. 1051. Ms. Jean Turner, Director of Health and Human Services reviewed the staff report and recommendation regarding the changes in the mental health services fees. The Chairperson closed the public hearing at 2:35 p.m. Moved by Supervisor Cash and seconded by Supervisor Cervantes to waive the first reading of the ordinance and schedule the enactment for 11:30 a.m., Tuesday, December 18, 2012 in the Board of Supervisors Room, at the County Administrative Center, in Independence. Motion carried unanimously.

Recess/ Reconvene The Chairperson recessed the regular meeting at 2:35 p.m., to reconvene in open session at 2:45 p.m., with all Board Members present.

Forest Serv/Planning Rule The Board resumed its previous discussion regarding the Forest Plan Update. Mr. Hart provided the Board with a copy of the letter County Counsel had amended regarding the science synthesis. After reviewing the letter and in light of Mr. Hart's previous acknowledgement that the Forest Service has verbally indicated they will allow the County to comment on the science synthesis, the County Administrator suggested that the last sentence of the first paragraph be changed to read that "...the region has indicated it may consider excluding..." and that the second paragraph be split at the word "During" to create two paragraphs. Supervisor Arcularius requested that the reference to "California" in front of Regional Council of Rural Counties be deleted. Mr. Hart proceeded to review the draft Collaboration and Communication Plan, providing the Board with an amended letter regarding the draft plan, noting the changes are underlined. Supervisor Cash requested that we make sure that with regard to out of the area workshops that the participation level goes both ways. Mr. Hart went on to ask the Board for direction regarding Forest Service staff wanting to define the County's areas of expertise. The Board and Mr. Hart discussed identifying the General Plan as well as identifying the County's constitutional authority to govern as its expertise on all matters involving the County and to use the General Plan and other documents to substantiate its expertise and authority. Moved by Supervisor Arcularius and seconded by Cash to approve the correspondence regarding the Science Synthesis and the Collaboration and Communication Plan as amended to reflect today's discussion. Motion carried unanimously.

Board Members and Staff Reports The Board Members reported on their activities during the preceding week including an RCRC Meeting, a SNC meeting, an LTC meeting, a Foster Care presentation, and a Unified Command Meeting. The County Administrator reported on a recent Department Head meeting.

Public Comment The Chairperson announced public comment and there was no one from the public wishing to address the Board.

Closed Session The Chairperson recessed open session at 3:40 p.m., to convene in closed session with all Board Members present to discuss and take action as required on Agenda Items No. 24. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [Pursuant to Government Code §54956.9(C)].** – decision whether to initiate litigation (one case); No. 25. **PERSONNEL [Pursuant to Government Code §54957]** - Public Employee Performance

Evaluation - Title – Regional Director, Eastern Sierra Child Support Services; and No. 26. **CONFERENCE WITH LABOR NEGOTIATOR (Pursuant to Government Code §54957.6)** – Instructions to Negotiators re: wages, salaries and benefits – Title: Regional Director, Eastern Sierra Child Support Services – Negotiator – as designated by the Board of Supervisors.

Report on Closed Session The Chairperson recessed closed session at 6:00 p.m., to reconvene in open session to receive a report on closed session. County Counsel reported there were no actions taken in closed session, which are required by law to be reported on in open session.

Adjournment The Chairperson adjourned the regular meeting at 6:00 p.m., to 9:00 a.m., Tuesday, December 18, 2012, in the Board of Supervisors Room, at the County Administrative Center, in Independence.

Chairperson, Inyo County Board of Supervisor

Attest: *KEVIN D. CARUNCHIO*
Clerk of the Board

by: _____
Patricia Gunsolley, Assistant

NOTE: THESE MINUTES WERE NOT APPROVED DUE TO LACK OF QURAM OF THOSE PRESENT. SUPERVISORS ARCULARIUS AND PUCCI VOTE TO APPROVE, WITH SUPERVISORS CASH, FORTNEY AND CERVANTES NO LONGER IN OFFICE.