



County of Inyo Board of Supervisors

December 9, 2014

The Board of Supervisors of the County of Inyo, State of California, met in regular session at the hour of a.m., on, in the Board of Supervisors Room, County Administrative Center, Independence, with the following Supervisors present: Chairperson Rick Pucci presiding, Linda Arcularius, Jeff Griffiths, Mark Tillemans and Matt Kingsley.

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

- Closed Session The Chairperson recessed open session at 8:35 a.m., to convene in closed session with all Board Members present to discuss and take action as appropriate on Agenda Items No. 2. **REAL PROPERTY NEGOTIATIONS - CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Pursuant to Government Code §54956.8)** – Property – APN010-490-08, Bishop, California – Negotiating Parties – County Administrator, Kevin Carunchio, Sr. Deputy County Administrator, Pam Foster, and Public Works Director, Clint Quilter, and Joseph Enterprises - Negotiating Parties, Steve Joseph, Scott Piercey, Wayne Lamb and Jeff Shepard – Negotiations – Terms and Conditions, and No. 3. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Pursuant to Government Code §54956.9(c))** – decision whether to initiate litigation (two case).

- Recess/
Reconvene The Chairperson recessed closed session at 10:05 a.m., to convene in open session at 10:15 a.m., with all Board Members present.

- Pledge Supervisor Kingsley 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.

- BofS/Presentation of Proclamations Supervisor Arcularius presented framed copies of the proclamation “*Commemorating the 100 Mules Walking the Los Angeles Aqueduct*” adopted by the Board of Supervisors on December 17, 2013 to Lauren Bon of the Metabolic Studio, and Lee and Jennifer Roeser, who were the parties responsible for this event.

- Report on Closed Session The Deputy County Counsel, Mr. David Nam, reported that with regard to Agenda Item No. 2 **REAL PROPERTY NEGOTIATIONS - CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Pursuant to Government Code §54956.8)** – Property – APN010-490-08, Bishop, California – Negotiating Parties – County Administrator, Kevin Carunchio, Sr. Deputy County Administrator, Pam Foster, and Public Works Director, Clint Quilter, and Joseph Enterprises - Negotiating Parties, Steve Joseph, Scott Piercey, Wayne Lamb and Jeff Shepard – Negotiations – Terms and Conditions, instructions were given to the negotiators on how to move forward.

- Planning/Munro Valley Project The County Administrator explained that with regard to an item on today’s agenda concerning the Munro Valley Solar Project, a letter had been received from the Native American Heritage Commission on Friday, December 5, 2014 notifying the Board of the Commission’s decision to proceed with litigation regarding the Munro Valley Solar Project, and requesting the Board take specific actions to achieve compliance with CEQA. Mr. Carunchio explained that the request for action was received after the agenda for today’s meeting was posted and there is a need for the Board to take action on the item prior to the next regularly scheduled meeting. Moved by Supervisor Arcularius and seconded by Supervisor Tillemans to make the appropriate findings concerning a request received from the Native American Heritage Commission relative actions being considered during today’s meeting regarding the Munroe Valley Solar Project, and adding the item to today’s agenda as Agenda item No. 10A. Motion carried unanimously.

CAO-Personnel/ Holiday Schedule	Moved by Supervisor Griffiths and seconded by Supervisor Kingsley to designate Friday, February 13, 2015 as the Lincoln's Birthday Holiday for the County of Inyo. Motion carried unanimously.
P.W./CBC Internet Access Service Agreement	Moved by Supervisor Griffiths and seconded by Supervisor Kingsley to A) approve a Services Agreement between California Broadband Cooperation (CBC) and the County of Inyo – Road Department for the delivery of Internet access service for a period of 5-years commencing on the date the service is installed in an amount not to exceed \$2,080 annually (\$12,840 over five years) contingent upon the Board's adoption of future budgets; and B) authorize the Public Works Director to sign. Motion carried unanimously.
P.W./Bishop Airport Aviation Fuels Contract	Moved by Supervisor Griffiths and seconded by Supervisor Kingsley to approve the Contract between the County of Inyo Bishop Airport and Shell Aviation/Eastern Aviation Fuels, Inc., for aviation fuel for a term of five years beginning January 1, 2015; and authorize the Public Works Director to sign and County Counsel to serve as the witness. Motion carried unanimously.
Planning/Forest Plan Update	The Planning Director updated the Board about coordination with Forest Service staff regarding the Inyo National Forest Plan Update/Revision since the Department's last update.
Planning/Fisher Listing Letter	The Planning Director, Mr. Josh Hart reviewed a proposed rule to list the West Coast Distinct Population Segment of Fisher as threatened pursuant to the Federal endangered Species Act. He said at this time the designation is limited to threatened, and there is no critical habitat proposal at this time. He went on to say that he did not believe this would be a big deal to Inyo County, but in looking at the maps, its hard to tell, and he felt it would be better to error on the side of caution so staff had prepared draft correspondence requesting clarification of the mapping, reiterating the County request for a presentation from U.S. Fish and Wildlife on all of the proposals, and addressing the County's concerns with socio-economics and cumulative effects. Moved by Supervisor Arcularius and seconded by Supervisor Kingsley to approve the letter regarding the proposed rule to list the West Coast Distinct Population Segment of Fisher, and authorize the Chairperson to sign. Motion carried unanimously.
Planning/Munro Valley Solar	<p>Mr. Josh Hart, Planning Director, and Mr. Greg James, Special Legal Counsel, provided the Board with a copy of the letter from the Native American Heritage Commission dated December 5, 2014, wherein the County is notified of the Commission's intention to proceed with litigation regarding the Munro Valley Solar Project and a copy of draft correspondence responding to the letter. Mr. Hart explained that the Commission's letter raises issues regarding compliance with CEQA Guidelines Section 15064.5 and recommends the County, basically, restart its process. He said that the draft correspondence responds to those allegations, describing how the County did comply with the CEQA Guidelines, how the mitigation for cultural resources was developed and how it is appropriate, and describing the correspondence received from the Native American Heritage Commission in response to the public review period for the Mitigated Negative Declaration that seemed to confirm the approach. He went on to say that the Board was going to discuss in the next item concerning the Munro Project that the mitigation for cultural resources includes curation and/or avoidance, and pointed out that regardless of whether or not any cultural resources on the site are deemed historic or not, the mitigation would most likely be the same. He also explained that the correspondence indicates that the County did assume that the resources on the site were not historic resources but, for worst case environmental analysis purposes, identified mitigation measures to address them.</p> <p>In providing further explanation Mr. James said the Native American Heritage Commission's letter claims that the County has violated Section 15064.5 of the CEQA Guidelines, and the issue comes down to the question of whether, when a project will impact an archeological site the Lead Agency shall first determine whether the site is a historical resource as defined in the law. He said that the Mitigated Negative Declaration doesn't make a declaration as to whether or not the artifacts found on the site were historic resources, but the County, because there were artifacts located and there was an awareness that they existed, went forward and adopted mitigation measures that protect the resources to the same extent whether they were historical or not historical. He said it was his understanding that the project applicant actually has an archeologist on site doing further investigations, and should they find anything, the mitigation measures come into effect, which would cause further investigation, stoppage of work, and relocating the project, or preserving the artifacts. He went on to say that the letter reflects what the County has actually done in response to the cultural resources, and hopefully, it will result in a decision by the Commission to not commence the litigation because the mitigation is in place to protect the resources. The Board and staff discussed the Commission's request and the draft letter responding to the Commission in detail and at length.</p>

In responding to questions from the Board, Mr. Allen Bacock, representing the Big Pine Tribe, confirmed that the relief the Tribe is looking for is they would like to see the Board of Supervisors rescind their decision of November 12, 2014 so that the cultural resource survey can be done prior to certifying any Mitigated Negative Declaration for the project.

Moved by Supervisor Kingsley and seconded by Supervisor Tillemans to approve the correspondence responding to the Native American Heritage Commissions, letter of December 5, 2015, notifying the County of their intention to proceed with litigation; and authorize the Chairperson to sign. Motion carried unanimously.

Recess/
Reconvene

The Chairperson recessed the regular meeting at 11:15 a.m., to reconvene in open session at 11:25 a.m., with all Board Members present.

Resol. #2014-58/
Amending 2014-54
Approving GPA
2013-01/Munro
Valley Solar

Ms. Elaine Kabala, Associated Planner, reviewed the request for the Board to approve a resolution amending Resolution No. 2014-54, certifying and adopting the Mitigated Negative Declaration of Environmental Impact concerning the Munro Valley Solar Project. She provided the Board with revised copies of pages 10 and 11 of the resolution which contained last minute revisions to those pages. Ms. Kabala went on to review the staff report by commenting that Resolution 2014-54 was adopted by the Board of Supervisors on 11-12-14 approving the Munro Valley Solar Project with enhanced mitigations measures associated with the project's effects as identified in the MND and for cultural resources and aesthetics, and specifying that required archeological studies are required before the issuance of a building permit. She explained that the proposed resolution memorializes the enhanced mitigation measures pursuant to CEQA, and includes a provision adopting the Mitigation Monitoring Program (MMP) which now includes the enhanced mitigation measures required by the Board during the 11-12-14 approval of the project. Ms. Kabala noted that the MMP is included as a separate document from the Renewable Energy Permit which also includes the enhanced mitigation measures and additional provisions for monitoring. She went on to say that the "amended resolution further orders that Resolution 2014-54 shall have no force nor effect following the adoption of this amendment and the amended resolution directs staff to withdraw the Notice of Determination filed with the State Clearinghouse in the Inyo County Clerk Recorder's Office and submit an updated Notice of Determination to reflect the adoption of the enhanced mitigation measures," which will be posted for 30 days with the Clerk-Recorder and begin the 30 day period for litigation. Ms. Kabala reviewed the various public outreach steps that staff took to ensure that the public was aware of the actions the Board would be considering to amend Resolution 2014-54, which included notices being sent to property owners within 300 feet of the proposed project, notice in the Inyo Register on December 6, 2014; and a press release issued in the Inyo Register.

The Board and staff discussed the proposed amended resolution and heard from Olanca residents Ms. Jael Huffmann and Mr. Jeffrey Bohl, who encouraged the Board to not approve the amended resolution and not approve the project. The Board, Staff and members of the audience including the applicant, Mr. Chris Little, had a lengthy discussion about the proposed amendments to Resolution 2014-54, what effect the actions the Board was considering today had on the Board's previous approval of the project, and the Board's ability to amend the resolution further to allow the project applicant to have the flexibility to change the project design. In providing clarity of the actions being requested of the Board, the Planning Director Mr. Josh Hart, and Mr. Greg James, Special Legal Counsel, confirmed that the Board was not conducting a public hearing with regard to the project, that should the Board choose to not approve the amended resolution, Resolution No. 2014-54 would remain in force, and that a substantial change in the project description would trigger CEQA requirements for a new environmental review. Mr. Chris Little, representing the applicant said that the applicant is not interested in anything that would change the project to require another environmental review. Supervisor Griffiths expressed a desire to further amend the language of the amended resolution to provide the applicant the ability to redesign the project layout.

On a motion by Supervisor Kingsley and a second by Supervisor Arcularius, Resolution No. 2014-58 was approved amending Resolution No. 2014-54, certifying and adopting the Mitigated Negative Declaration of Environmental Impact concerning and making certain findings with respect to and approving General Plan Amendment #2013-01/Munro Valley Solar, LLC; motion passed and adopted on a four-to-one vote, with Supervisors Arcularius, Pucci, Tillemans and Kingsley voting yes and with Supervisor Griffiths voting no. At the conclusion of vote, Supervisor Griffiths explained that his no vote should not be construed that he did not support the project, but was because of his desire to provide for greater flexibility in the project design.

Planning/Brownfields Coalition Update	The Board received a presentation on the status of the Rural Desert Southwest Brownfields Coalition activities across the Coalition area and in Inyo County from Mr. Levi Kryder of Nye County. The Board and Mr. Kryder discussed the Final Report, as well as some possible projects in Inyo County. Moved by Supervisor Tillemans and seconded by Supervisor Kingsley to approve the Final Report as submitted. Motion carried unanimously.
Planning/Desert Southwest Brownfields Coalition	Moved by Supervisor Tillemans and seconded by Supervisor Arcularius to approve Memorandum of Agreement (MOA) confirming Inyo County's intent to participate in the rural Desert Southwest Brownfields, Coalition for the period of October 1, 2014 through September 30, 2017, and authorize the Chairperson to sign.
Recess/Reconvene	The Chairperson recessed the regular meeting a 1:20 p.m., to reconvene in open session at 2:05 p.m., with all Board Members present.
BofS/ESTA Update	The Board received an updated on the Eastern Sierra Transit Authority 2013-14 Annual Report from Mr. John Helm, Executive Director.
County Department Reports	The Chairperson announced the County Department Report period and there were no reports forthcoming.
Public Comment	The Chairperson announced the public comment period. Mr. Earl Wilson of Lone Pine addressed the Board to comment on the Munro Valley items.
Board Members and Staff Reports	The Board Members reported on their activities during the preceding week, including REGPA meetings in Lone Pine and Tecopa, a meeting with ICEMA representative from San Bernardino County, the upcoming RCRC Board of Directors meeting, a County/City of Bishop Liaison Meeting; a Bishop City Counsel Meeting, a Veterans outreach, various holiday events, the Standing Committee Meeting, and a PILT funding update.
Adjournment	The Chairperson adjourned the regular meeting at 2:50 p.m., to 8:30 a.m., on Tuesday, December 16, 2015 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