

STATE OF CALIFORNIA, COUNTY OF SIERRA

BOARD OF SUPERVISORS

*** MINUTES ***

CONTINUED REGULAR MEETING

The Sierra County Board of Supervisors met in continued regular session commencing at 9:00 a.m. on April 20, 2010 in the Loyalton Social Hall, in the Loyalton City Park, Loyalton, CA.

This meeting is recorded. To listen to the discussion for a particular item please visit the Board of Supervisors' webpage at www.sierracounty.ws or by requesting an audio CD from the Clerk to the Board. The audio is now available on the webpage by either reviewing the minutes and/or clicking on the audio page.

PLEDGE OF ALLEGIANCE: Led by Supervisor Goicoechea

ROLL CALL

- Present:** Lee Adams, Supervisor, District #1
Peter W. Huebner, Supervisor, District #2
Dave Goicoechea, Supervisor, District #4
Pat Whitley, Supervisor, District #5
Bill Nunes, Chair, District #3
- Staff:** Heather Foster, County Clerk-Recorder
Jim Curtis, County Counsel
Van Maddox, Auditor
Tim Beals, Director of Planning and Transportation
Carol Roberts, Director of Health and Human Services

APPROVAL OF CONSENT AGENDA

At the request of Supervisor Nunes, Consent Item H was moved to the Regular Agenda as Item 25-H.

- H. Resolution amending approved project specifications for Loyalton 4th Street Sidewalk Project to allow C-8 licensed contractors to competitively bid on the project. (PUBLIC WORKS)

At the request of County Counsel, Consent Item L was pulled from the agenda.

- L. Professional Services Agreement with James Crippen, Architect, for Public Facility Project in Alleghany. (BUILDING)

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The Board moved to approve the Consent Agenda as amended.

APPROVED as amended. Motion: Huebner/Whitley/Unanimous Roll Call Vote: 5/0

CONSENT AGENDA

- A. Agreement for Indemnification and Reimbursement for Extraordinary Costs for, Richard Maddalena, applicant and landowner; for consideration of a parcel merger of two lots within one assessor parcel number. The project site, identified as APN 015-023-002, is located at 212 Battelle Street, Sierraville. (PLANNING)

APPROVED, Agreement 2010-035

- B. Agreement with Caterpillar Financial for lease Purchase Financing Agreement for purchase of 2 Caterpillar 938 Loaders. (PUBLIC WORKS)

APPROVED, Agreement 2010-036

- C. Agreement with Holt of California for the Guaranteed Repurchase of 2 Caterpillar 938 Loaders. (PUBLIC WORKS)

APPROVED, Agreement 2010-037

- D. Resolution approving budget expenses for the 2007 Homeland Security Grant (\$106,000). (PUBLIC WORKS)

ADOPTED, Resolution 2010-067

- E. Resolution approving budget expenses for the 2008 Homeland Security Grant (\$106,000). (PUBLIC WORKS)

ADOPTED, Resolution 2010-068

- F. Resolution approving budget expenses for the 2009 Homeland Security Grant (\$103,000). (PUBLIC WORKS)

ADOPTED, Resolution 2010-069

- G. Professional Service Agreement with Associated Engineering Consultants, Inc. for construction management and oversight for the 4th Street Sidewalk Project. (PUBLIC WORKS)

APPROVED, Agreement 2010-038

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- I. Resolution approving Proposition 1 B work program, authorizing submission of a claim to the State of California, and directing Auditor to itemize road department claim filed for Prop 1 B funds in the preliminary and final road budget for 2010-2011 for the purpose of displaying allocation of funds and tracking of expenditures. (PUBLIC WORKS)

ADOPTED, Resolution 2010-070

- J. Resolution rescinding Resolution 2010-061 and adopting new resolution committing matching funding in the amount of \$20,000 to the Alleghany Community Services Building Project, funded by a USDA Grant in the amount of \$80,000. (PUBLIC WORKS)

ADOPTED, Resolution 2010-071

- K. Resolution approving grant agreement with USDA Rural Development, and authorizing Director of Transportation to execute all documents necessary to administer the grant for the Alleghany Community Services Building. (PUBLIC WORKS)

ADOPTED, Resolution 2010-072

APPROVED, Agreement 2010-039

- M. Resolution approving the submittal of an application for the CalRecycle Grant and authorization for Carol Roberts, Director of Human Services to execute the necessary application for securing of grant funds. (HEALTH)

ADOPTED, Resolution 2010-073

- N. Resolution supporting changes for the In-Home Supportive Services (IHSS) Advisory Board. (SOCIAL SERVICES)

ADOPTED, Resolution 2010-074

- O. Amendment to Agreement 2009-124, Eligibility Worker and Employment Services Training Agreement between Sierra County and The Regents of the University of California, Davis for Fiscal Year 2009/2010. (SOCIAL SERVICES)

APPROVED, Agreement 2010-040

- P. Resolution authorizing the Auditor to transfer funds from the Social Services Realignment Account to the Mental Health and Public Health Realignment Accounts. (MENTAL HEALTH)

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ADOPTED, Resolution 2010-075

- Q. Resolution approving the Negotiated Net Amount (NNA) Agreement, 07-NNA46 (AMD. 2) for Fiscal Year 2009/2010 between the State of California, Department of Drug/Alcohol and Sierra County Drug/Alcohol. (DRUG/ALCOHOL)

ADOPTED, Resolution 2010-076

APPROVED, Agreement 2010-041

- R. Resolution approving the Negotiated Net Amount (NNA) Agreement, 10-NNA-46 for Fiscal Years 2010/2011, 2011/2012, and 2012/2013 between the State of California, Department of Drug/Alcohol and Sierra County Drug/Alcohol. (DRUG/ALCOHOL)

ADOPTED, Resolution 2010-077

APPROVED, Agreement 2010-042

- S. Resolution authorizing the Auditor to make certain changes to the 2009/2010 Final Budget to aid the Sierra County Chamber of Commerce with the County's State Fair Exhibit. (AUDITOR)

ADOPTED, Resolution 2010-078

- T. Minutes of the Continued Regular Meeting held March 16, 2010. (CLERK-RECORDER).

APPROVAL OF REGULAR AGENDA

At the request of Supervisor Huebner, Regular Agenda Item 1C was added to the agenda as the information was received yesterday and the deadline to respond is April 22, 2010.

The Board moved to add Item 1C to the Regular Agenda.

- 1C. Discussion/direction HR 4888 establishing cabin user and transfer fees for summer home tracts on national forest system lands and authorization for a letter of support be forwarded to Congressman McClintock by April 22, 2010.

APPROVED. Motion: Huebner/Nunes/Unanimous Roll Call Vote: 5/0

The Board moved to approve the Regular Agenda as amended.

APPROVED as amended. Motion: Huebner/Adams/Unanimous Roll Call Vote: 5/0

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9:05 A.M. – PUBLIC COMMENT OPPORTUNITY

At 9:04 a.m. Chairman Goicoechea opened the public comment opportunity.

Ms. Heather Kenny, Attorney addressed the Board noting she is representing five individuals who are interested in introducing a ballot initiative to the County. They appreciate everything the County has done with respect to the High Water Line issue; however, the citizens have grown tired of High Sierra Rural Alliance's (HSRA) tactics and rather than waiting to see whether or not HSRA is going to sue to the County they want to introduce a ballot initiative to pass the High Water Line definition as their project. She believes County Counsel can explain that voter initiatives are exempt from CEQA. They would like to obtain the required signatures and request the Board to adopt the initiative or place the initiative on the November ballot. The proponents are Paul Marciniak, Brooks Mitchell, Greg Bullanti, Milt Holstrom and Jerry McCaffrey. The definition is similar to the one proposed to the Board and this is their way of taking back the power HSRA has tried to exercise over the County.

COMMITTEE REPORTS & ANNOUNCEMENTS –

Supervisor Adams reported that the Resource Advisory Committee (RAC) met on April 14, 2010 and will meet again on May 10, 2010. The RAC has received approximately eighteen requests for funding. Supervisor Adams continued to report that there is an RCRC meeting tomorrow if there is anything the Board or public wishes him to carry forward. Supervisor Adams further expressed frustration with Consent Item R with respect to a half million dollars a year of funding for Drug and Alcohol programs.

C-4 Administrative Office of the Courts Press Release – New Downieville Courthouse Project Receives Funding Authorization.

Supervisor Adams explained that Judge Pangman requested guidance on the new courthouse project at the last Finance Committee meeting. This is an additional facility to house the Superior Court and the Judge was looking for an interface with the Board. It was suggested that the Government Committee would be appropriate.

Supervisor Nunes requested Supervisor Adams to carry forward to RCRC the possibility of having the counties originating some kind of solution to the state budget problem.

Chairman Goicoechea recommended referring the courthouse project to the Government Committee.

Supervisor Whitley reported that there is a Transportation Commission meeting tomorrow at noon at the Loyalton Social Hall.

Chairman Goicoechea added that the Commission will be finalizing the Draft Transportation Plan at tomorrow's meeting.

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DEPARTMENT MANAGERS' REPORTS & ANNOUNCEMENTS –

The Director of Health and Human Service reported that she attended the School Board meeting regarding the Proposition 40 funds between the City of Loyalton, the School District and the County. The Director continued to explain that there were two motions made at this meeting. The first motion was to allow the Superintendent to move forward and continue discussions with the City regarding the plan to add a bathroom, locker facility and handicap access ramp into the gymnasium. The second motion was to allow the Department of Health and Human Services to move forward with the concept of putting a teen center in the middle school building.

The Director of Planning reported on a series of upcoming meetings including a bike race meeting to be held Friday which involves 15 agencies; the Tahoe Sierra Integrated Regional Water Management Group will meet on April 30th to prioritize funding under Proposition 84; the Northern Sierra Air Quality District meeting will be held on May 3rd in Loyalton; the Solid Waste Committee will meet on May 3rd and will result in a recommendation to the Board and the completion of work under the Rural Development Grant for the Solid Waste Management Study; the LTC meeting will be held on Wednesday; and the QLG and Truckee River working group will meet on April 22nd.

The Director continued to report that the ARRA funds for transportation related projects has been withdrawn and they will now have to go through the normal STIP cycle which is difficult to compete for. The Business and Economic Development Committee meeting for Wednesday has also been cancelled.

The Director continued to follow up on a meeting tonight to continue discussion on the Proposition 40 funds for the Loyalton Middle School. This is not a public meeting but is sponsored by the School District to discuss architectural and funding issues. The Director continued to express concerns about a letter sent to the Editor of the Sierra Booster on April 3rd. The letter indicated that he, without direction from the City, contacted Mr. Mason at the State and set up a meeting with members of his choosing and limiting attendance without notice to the public or the press. This gives an image that something weird was going on. He wants to give the Board the facts. The City requested his assistance at their last meeting and the Board gave him the consent to move forward. The City requested that he contact the project officer, Mr. John Mason and he did so. The City appointed two members of the public to interface with the City Council with respect to the Proposition 40 funding. These individuals were invited to attend this meeting. He also contacted one City Councilmember about the meeting who thought the meeting was a good idea so she contacted the Mayor. The Mayor declined to attend the meeting and suggested City Councilmember Shelton attend in his absence. The meeting included two members of the Board of Supervisors, two members of the City Council, the School Superintendent, the Director of Health and Human Services, and the two public members appointed by the City Council to explore the options available for the Proposition 40 funds. This was not a public meeting and there was no notice required. This meeting was intended to help the City Council with respect to the Proposition 40 funds.

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The Director of Health and Human Service reported that the County was authorized for \$12,000 for additional FEMA funding for this coming year.

FOREST SERVICE UPDATE – Update by Sierraville District Ranger on items that may affect the County of Sierra.

Mr. Bruce Troedson, Timber Management Officer provided an update to the Board on various projects in the District.

9:30 A.M. – SPI BIOMASS PLANT

13. Presentation by Jim Turner and discussion regarding the SPI (Sierra Pacific Industries) Biomass Plant at Loyalton.

Mr. Jim Turner provided a brief report to the Board pertaining to the fuel situation at the Biomass Plant in Loyalton. Mr. Turner also noted there will be a meeting held on May 3rd with the Northern Sierra Air Quality Management District and he would encourage anyone with a wood stove to attend this meeting.

Supervisor Adams congratulated Mr. Turner on his award from the Sierra Business Council.

Chairman Goicoechea presented Mr. Turner with a Certificate of Appreciation.

PLANNING/BUILDING INSPECTION – Tim Beals

- 1A. Resolution finding that the High Water Line Ordinance is statutorily exempt from CEQA under CCR Section 15061 (b)(3).

The Director of Planning noted the Board has received a proposed resolution and ordinance with respect to the hearing regarding the High Water Line and the recommendation from the Planning Commission was to support and uphold the proposed definition. The Board made a tentative approval of the ordinance and resolution following the public hearing. He feels comfortable with the conclusions, details and findings within the resolution and believes this adequately bridged the decision with the record. This would authorize the filing of the notice of exemption and approve the zone amendment. He believes the Board is in the position to adopt the resolution and move forward with the ordinance.

County Counsel requested amending, for consistency, the first sentence of Finding 3 of the proposed resolution to state “The *proposed definition* is consistent with the districts, goals and policies of the Sierra County General Plan”.

The Board moved to adopt the resolution finding the High Water Line Ordinance is statutorily exempt from CEQA under CCR Section 15061 (b)(3) as amended.

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Supervisor Adams questioned in light of the public comments received today pertaining to a ballot initiative is the Board good to move forward.

County Counsel explained that this presents an interesting development. Ms. Kenny's statement to the Board is correct that the courts have determined the citizen's right to an initiative is not subject to CEQA as this could nullify the entire initiative power to the public. County Counsel continued to review the difference between an initiative and a referendum noting every ordinance adopted has a thirty day referendum period.

ADOPTED as amended, Resolution 2010-079. Motion: Nunes/Huebner/Unanimous Roll Call Vote: 5/0

- 1B. Introduction and first reading of the High Water Line Ordinance adding Section 15.08.365 to the Sierra County Code.

The Board moved to waive the first reading of the High Water Line Ordinance adding Section 15.08.365 to the Sierra County Code.

County Counsel noted the public hearing on the ordinance has been closed.

Mr. Milt Holstrom, Sierraville addressed the Board explaining it was brought to their attention if HSRA sues over the County's definition there is the potential that the County will have a burden of approximately \$10,000 for even backing out of the suit, so they tried to find a way to insulate the County and still voice their opinions. They started this process as a way to show how they feel and that they are not going to be held hostage by threats of litigation, but they certainly feel okay with the Board ratifying whatever they feel is the best language.

Supervisor Adams explained that this language is taking two tracks; if one gets kicked off by litigation the other continues.

APPROVED. Motion: Huebner/Nunes/Unanimous Roll Call Vote: 5/0

- 1C. Discussion/direction HR 4888 establishing cabin user and transfer fees for summer home tracts on national forest system lands and authorization for a letter of support to be forwarded to Congressman McClintock by April 22, 2010.

Supervisor Huebner explained he received notice from a cabin user in the County about this bill and he is requesting a letter of support to be forwarded to Congressman McClintock by April 22nd.

The Board moved to approve a letter in support of HR 4888 and forward the letter to Congressman McClintock by April 22, 2010.

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In response to Supervisor Nunes inquiry, Mr. Tim Holabird, Field Representative for Congressman McClintock, explained that the rental rates have not been adjusted for many years. Several years ago when the real estate was at its peak it raised everything. The Lassen Forest took it upon themselves to reappraise the cabins and rather than going up 200% they raised the rates by 40 to 60%. It is his understanding that the Tahoe Forest has not addressed this issue and believes they need to. This creates a hardship on a lot of people.

The Director of Planning explained this bill softens what was at one time going to be a high annual fee. This bill sets up cabin user fees based on five tiers based on appraisals and also imposes a permit transfer fee. The fees have been made more reasonable and it appears that the cabin holders support this bill.

Mr. Brooks Mitchell, Loyaltan questioned if there is an appeal process with the Federal Government. The Director responded explaining there is no appeal provision within the bill language.

APPROVED. Motion: Huebner/Nunes/Unanimous Roll Call Vote: 5/0

PUBLIC WORKS AND TRANSPORTATION – Tim Beals

2. Review and approval of County comments to the Sierra Nevada Conservancy's Sustainable Sierra Initiative Draft Resolution.

Chairman Goicoechea questioned if anyone in the audience had comments pertaining to this matter.

Mr. Larry DeVita, Sattley noted that he read the remarks from SFAC (Sustainable Forest Action Coalition) and they are highly focused on maintaining the infrastructure of the woods rather than biomass. The Sierra Nevada Conservancy has a very broad focus and if the County was to rely on either group to do some predictive trends for what the future economy will be, it would not be SFAC as they have a very backward looking approach. He would encourage the Board not to alter the phrase that acknowledges rural areas having to look at new industry and ways of using the woods.

Chairman Goicoechea noted that the Board's comments will be directed almost exclusively to the Sierra Nevada Conservancy's proposal and there is support for many of the aspects of the Sierra Nevada's proposed initiative.

Ms. Anne Eldred, Sierraville noted that she supports what Mr. DeVita stated. Ms. Eldred continued to express concerns about comments made by SFAC on several levels including the biological level when talking about sustainable logging. She believes biomass is very important and she is sure the SNC understands the checkerboard area we live in. The biological impacts of the checker boarding with respect to broken up management is terrible. With regards to the political level she unfortunately sees this group of fifteen counties creating a

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new layer of government between the State and the counties and doesn't believe we want this and it worries her.

Supervisor Nunes clarified that the SFAC letter was in the packet for informational purposes only. What they are discussing on the agenda today is comments by the Board to the SNC regarding their initiative. The SFAC is not the main focus of this item.

In response to Ms. Eldred's inquiry, Supervisor Nunes responded noting that the SNC came up with a proposal last year to draft the Sustainable Sierra Initiative. Both Sierra and Plumas County asked the SNC if they could put this over to June in order to comment on the initiative. The SNC now has a public comment opportunity period between now and May 1st. There is a separate organization that has been formed, the SFAC. The SFAC are also involved in doing what is best for the forest and they made comments to the SNC on the Sustainable Sierra Initiative and that background was included for today's discussion.

The Director of Public Works explained this is the only letter received to date on the initiative and that is why it is in the packet. It was not intended for the County to endorse that particular letter.

10:00 A.M. – ROTARY PARK

14. Discussion/direction regarding naming the County Park commonly known as the Rotary Park. (SUPERVISOR WHITLEY)

Supervisor Whitley explained she received several calls about different names about the park commonly known as the Rotary Park. There has been some discussion about formally naming it Smithneck Creek which the County has used when applying for grants. The park has never been formally named and has always been known as the Rotary Park. She wanted to give the public an opportunity to speak to this since there was some interest.

Mr. Brooks Mitchell, Rotary Club President addressed the Board noting in 1967 they renamed the park the Alvin Powers Memorial Rotary Park and there is a plaque located at the park honoring Mr. Powers. The Rotary Club would like to request the Board to officially name the park the Alvin Powers Memorial Rotary Park.

Supervisor Whitley questioned if they change the name what this does about to possessory interest to the park. County Counsel explained it is just a name and the Rotary doesn't have exclusive control and use as it is still a county park.

Mr. Mitchell provided history on the park noting that when Occidental was developing the Sierra Brooks development they offered the property to the Rotary Club for a park. The Rotary denied the offer as they didn't want any assets. At that time the Rotary worked with the County on an agreement to take over the park.

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Supervisor Whitley noted she has no problem changing the name of the park.

Chairman Goicoechea recommended continuing this discussion to look at the parks future development with the groups that have formed to discuss this.

Mr. Mitchell noted the Rotary Club voted to have the park name changed.

Chairman Goicoechea responded explaining this is not opposition to changing the name, but he would like to take this to the group for further discussion about the park.

Supervisor Huebner questioned if this will delay the Proposition 40 application.

The Director of Planning responded explaining that he will continue to use Smithneck Creek Park on the application he sends to the State for procedural purposes only. This is not committing the County or the State to the name; it only makes the process easier so it appears that this is not a new or different park.

Chairman Goicoechea continued to note this issue has stirred a lot of interest and would recommend without opposing anything, to work through this process. He believes this can be brought out for discussion to everyone in the County and community.

Mr. Mitchell explained that the Rotary Club would like to be notified when someone is using the park so they can make sure the park is left in good condition.

Chairman Goicoechea noted that the Rotary's efforts are recognized and appreciated. The Rotary has assumed a tremendous amount of responsibility, but he would recommend going through this process a little further to get everyone's input.

Supervisor Whitley commented on the things the Rotary has done to sustain the park and make sure the people who were using it had liability insurance, so this hasn't been a small project but has been over 40 years.

Mr. Mitchell further noted that the Rotary Club is officially requesting to maintain the name as the Alvin Powers Memorial Rotary Park.

County Counsel addressed Mr. Mitchell's comments noting that if the Rotary Club is going to exercise management control of the park they may need to create a management agreement with the County to determine who has the right to exercise authority and control of the property.

Mr. Mitchell noted that the Rotary would be happy to sit down and work on an agreement for maintaining the Rotary Park.

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10:15 A.M. – PRESENTATION - FRANK STEWART

15. Presentation by Frank Stewart on his recent testimony before Senator Keho's Joint Committee on Emergency Management.
16. Professional Services Agreement with Frank Stewart for forestry services planning efforts to reduce or mitigate the impact of development on adjacent federal lands and to increase the protection of people and property from wildfires.

Mr. Frank Stewart provided an update to the Board on the Quincy Library Group project and the Sierra County Fire Safe Council Fire Plan.

Following Mr. Stewart's presentation, Supervisor Nunes noted that he appreciated Mr. Stewart's testimony in front of the Sierra Nevada Conservancy and his strong pitch for the Fire Safe Councils.

Mr. Stewart noted that he has reviewed the Sierra Sustainable Initiative explaining one of the things that needs to be looked at is the forest reserve revenues as the Secured Rural Schools bill comes off in 2011. It is critical for the Conservancy to understand these revenues and how they affect the counties.

The Director noted that the first page of the agreement states it is a Joint Powers Agreement and needs to be removed.

The Board moved to approve the Professional Services Agreement with Frank Stewart for forestry services planning efforts to reduce or mitigate the impact of development on adjacent federal lands and to increase the protection of people and property from wildfires as amended.

APPROVED as amended, Agreement 2010-043. Motion: Nunes/Adams/Unanimous Roll Call Vote: 5/0

17. Resolution authorizing use of old Title III funding toward County Forester in the amount of \$7000 for calendar year 2010.

The Board moved to adopt the resolution authorizing the use of old Title III funding toward County Forester in the amount of \$7,000 for calendar year 2010.

ADOPTED, Resolution 2010-080. Motion: Adams/Nunes/Unanimous Roll Call Vote: 5/0

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10:30 A.M. - NORCAL EMS PRESENTATION

18. Presentation by Mr. Dan Spiess, Chief Executive Officer for Northern California Emergency Medical Services, Inc. (NORCAL EMS) on local EMS designation.
19. Presentation of Emergency Medical Care Committee (EMCC) and Operational Area Emergency Council (OAEC) and action on recommendation on local EMS designation.

Mr. Dan Spiess addressed the Board presenting a power point presentation on NORCAL EMS. Following the presentation Mr. Spiess noted he believes NORCAL has done a decent job in providing services, but he feels they have not kept the Board informed enough.

County Counsel questioned if Mr. Spiess would address the ongoing issue of some of the counties leaving NORCAL EMS and how this affects their viability. Mr. Spiess noted that when he went before the Shasta County Board of Supervisors they felt backed into a corner due to the increase in fees. Although they approved the contract for the current year, it was with the stipulation that they would look at other alternatives. As a result there were several County Administrative Officers that met on this matter. He believes the momentum of looking at other options became a snowball effect that resulted in Shasta and Tehama contracting with another entity. He believes the smaller counties Modoc, Glen, Plumas and Sierra are very supportive of continuing to work with NORCAL. Based upon the preliminary numbers from the state he believes they can make it work with the four smaller counties.

County Counsel noted while NORCAL will have to constrict to some degree due to some counties leaving they are not anticipating a cost increase to the County. Mr. Spiess concurred that they have gone on recorded that the fees will not increase.

County Counsel continued to comment that the contract has a provision to provide notice by the end of this month if the County is not going to continue with NORCAL. He is aware that the Director has coordinated a letter to extend this contract.

Mr. Spiess noted that he can leave a copy of the signed document stating this.

Mr. Lee Brown, OES Coordinator addressed the Board explaining that Plumas County's EMCC met and voted to stay with NORCAL and are making a recommendation to the Plumas County Board of Supervisors today to continue with NORCAL. They are also asking other counties to send letters advising that Plumas is going to stay with NORCAL as all counties are looking to each other on what to do. Mr. Brown continued to explain that the Siskiyou medical staff has requested Siskiyou County to join SSV and that will be determined today.

Discussion ensued pertaining to the reduction of funding from the state to NORCAL EMS due to the other counties leaving.

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In response to Chairman Goicoechea's inquiry, Mr. Brown noted that the EMCC recommended unanimously to stay with NORCAL EMS. He believes NORCAL will remain viable next year; however it is the following year that there may be concerns.

The Board moved to continue with NORCAL EMS as Sierra County's local EMS provider with the understanding that if anything changes with regards to the dynamics NORCAL will notify the County.

APPROVED. Motion: Adams/Nunes/Unanimous Roll Call Vote: 5/0

11:00 A.M. – SOLID WASTE APPEAL – ARATA

20. Appeal of Solid Waste Assessment Fees filed by Mr. Joe Arata.

County Counsel briefly reviewed the Solid Waste appeal procedures.

The Clerk entered the following documents submitted by the Solid Waste Fee Administrator into the record:

- Exhibit 1 – Documents contained in the Board of Supervisors Packet – Agenda Item 20
- Exhibit 2 – Chapter 8.05 of the Sierra County Code – Solid Waste System Fees and Charges
- Exhibit 3 – 1 page document entitled “Determination of Annual Residential Waste Generation 2004-2005”
- Exhibit 4 – 1 page document entitled “Determination of Annual Residential Waste Generation 2007-2008 Pickup Year”
- Exhibit 5 – Sierra County Resolution 2008-142 – Resolution certifying Results of the Proposition 218 Protest Proceedings Re: County Solid Waste Fees
- Exhibit 6 – Sierra County Resolution 2009-084 – Resolution amending Resolution 2008-088 establishing Solid Waste Fees for the 2009-2010 Fiscal Year
- Exhibit 7 – Email dated December 15, 2008 from Tim Beals to Joe Arata regarding the Solid Waste Fees – Sierra City
- Exhibit 8 – Draft Ordinance amending Section 8.05.020(b) pertaining to properties that qualify as “No Use” properties for purpose of the County's Solid Waste System charges
- Exhibit 9 – Portion of Sierra County Board of Supervisors' February 15, 2005 minutes – Item 7 – Appeal by Tom Dotta on Solid Waste Fees

The Solid Waste Fee Administrator addressed the Board explaining that Mr. Arata has appealed his solid waste fees to the Board in 2005/06, 2006/07, 2007/08, 2008/09 and currently 2009/10. Mr. Arata has continued to dispute the property classification of a residential property. The Solid Waste Fee Administrator continued to note that it has been explained to Mr. Arata multiple times that the fee is based on property type and not use. After review by their office this

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property is properly classified as an 848 square foot single family residence located at 18 Lake Street, Sierra City. In 2007 the previous Solid Waste Fee Administrator met with Mr. Arata at the property and in a letter to Mr. Arata the Solid Waste Fee Administrator noted that “he thinks they both agree that the property is capable of being occupied as a single family residence and no changes have been made to the property to warrant the reclassification of the property”.

The Solid Waste Fee Administrator continued to refer to Exhibits 3 and 4 pertaining to the sampling of user pickups in Fiscal Years 2004/05 and 2007/08 which indicated an average of 17 loose cubic yards generated by a single family residence each year. In July 2008 the County adopted the increased solid waste fees and also conducted proceedings pursuant to Article VIII D, Section 6 of the California Constitution. Sierra County Resolution 2009-084 states the single family residence benefit assessment fee for Fiscal Year 2009/10 is \$231.03 per year. Mr. Arata has noted that he intends to use the property as a storage/workshop and in order to facilitate a change in use, a physical change is required.

The Solid Waste Fee Administrator further reviewed the e-mail from the Director of Public Works; the draft ordinance outlining the actions required to change the property classification to storage; and the February 15, 2005 minutes wherein the Board denied Mr. Dotta’s appeal and recommended he that obtain a building permit to make the required changes. The Solid Waste Fee Administrator continued to explain that Mr. Dotta made the required physical changes and the County removed the fee. At the February, 7 2006 solid waste appeal hearing for Mr. Arata, the Board denied his appeal and instructed him to obtain a building permit to make the required changes; this did not happen. The County does not annually measure the amount of waste generated by Mr. Arata’s use of his single family residential property and has correctly assessed the solid waste fee and find no basis for adjusting the fee applied to the single family residence owned by Mr. Arata at this time.

Mr. Joe Arata, Appellant addressed the Board noting he is a 40 year part-time resident of the County and is lucky to spend three months a year in the County. This is his fifth appearance before the Board to request a solid waste fee exemption for his adjacent property which he uses for storage and nothing else. Mr. Arata continued to explain that he has provided evidence of no water, no power consumption, a letter from his neighbor that this is an unoccupied dwelling, and a sworn affidavit that this dwelling is not a residence. The Board has dismissed or ignored this evidence. In addition to this three different Assessors, Supervisor Huebner and the Director of Public Works have all done a walk through on this property and not one of them have spoken honestly or factually of what they have seen nor has the Board asked them what they have seen. The Board also failed to adopt a document that he could use to change the property to a no use classification. Consequently over the last five years he has been forced to pay \$1000 for non existent garbage and has been forced to pay another \$1000 for his other property for the few months he stays there. The Board is forcing him to pay for non existent garbage and not allowing him a defense against it.

Mr. Arata continued to note that last summer he requested Supervisor Huebner to do a one on one with him at the property. Following his walk through of the property he questioned

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Mr. Huebner if the Sierra County Code was a legal and binding document and why he can't access the provision in it that seems to be written specifically for his situation and ends in the words "shall be exempt". Mr. Huebner couldn't or wouldn't answer the question and requested a letter to County Counsel. This letter is in the packet along with the letter from his attorney to County Counsel. Mr. Arata continued to explain that County Counsel stated the Board rejected the request based on a presumption of someone living in the house and the presumption of solid waste being created. Since when does presumption rule over facts; why hasn't the evidence he has provided to the Board override the presumption.

Mr. Arata continued question the Board if there is anything else he can do or say to change their minds. Mr. Arata suggested a letter from Sierra City Water when there is a water connection to the property, requiring him to fill out an exemption request annually along with the PG&E bills from the property, or allowing a minimal reduction in the solid waste fee.

Chairman Goicoechea recommended that Mr. Arata follow Mr. Dotta's actions. Mr. Arata responded explaining that he would do this if it only meant disconnecting some of the facilities; however, if he did this he would potentially subject himself to numerous building code violations.

Supervisor Huebner questioned why Mr. Arata doesn't rent the property. Mr. Arata noted he has a need to use the property the way he uses it and to him it is important.

The Solid Waste Fee Administrator responded to comments made by Mr. Arata pertaining to none of the Fee Administrators giving him an honest answer. The Solid Waste Fee Administrator in 2007 stated that he thinks they both agree that it can be occupied as a single family residence. Mr. Arata's specific use is not what they are looking at; they are looking at property type. The Solid Waste Fee Administrator continued to explain the reason they require a building permit is because without it they would have no means of knowing when to increase the fee on the property and would have to rely on the taxpayers to provide this information.

Supervisor Whitley noted she is partial to Mr. Arata's position and the Board has seen the light bills for five years which indicated there was no charge for power. Somewhere the Board has to look beyond what they see in writing and use common sense. Supervisor Whitley continued to note it is obvious that no one is using or living in the property.

Supervisor Adams noted he has great sympathy for this situation; however, his issue is the availability and what do we do about the other part-time residents in the County. This is about the availability of the services.

County Counsel addressed the matter explaining that after reviewing the letter from Mr. Arata's attorney it has caused him to rethink the structure of the present ordinance. This ordinance is ten or twelve years old which probably causes the Board to go back and fine tune the ordinance. While the ordinance states the presumption of use, the County does not have a fluid or ongoing method to determine the starting or stopping of waste generation of a property.

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So, we make a presumption and the law allows for this. Nonetheless, the Board needs to recognize that they did add a provision in the ordinance for “no use” when there is adequate evidence that the property is not used during the year. County Counsel continued to explain there is a need for making adjustments to the ordinance to further clarify how this system is going to be operated. Under the law when the word presumption is used it connotes a right to prove evidence that reasonably negates the presumption. County Counsel further suggested following the disposition of this matter that the Board go back and make some changes to create an ability to recognize that there are going to be exceptional cases where the property is just not used in anyway during the year to generate waste. The Board needs to really define what constitutes sufficient evidence when establishing that a property isn’t used at all. The issue about updating the building if Mr. Arata decommissions the building and decides to reactivate the property back to residential could be a horrific cost in order to bring the property back into compliance with the current building codes. County Counsel further noted that the Board needs to make a decision for the basis of this year, but should go back and look at further amendments to update the Sierra County Code.

The Solid Waste Fee Administrator responded that if the Board makes changes to the ordinance based on individual use, there is the potential of waste going into the system without a fee in the event the property is sold after an exemption is granted. County Counsel responded noting the Board needs to address the fact that the County has a statement in the ordinance of “no use”.

Mr. Don Russell, Downieville noted that he is in the same position as Mr. Arata. He has two addresses and pays solid waste on both properties and treats this as the price to keep the property available. Furthermore, he knows that the solid waste fee does not cover the looming cost of the closure of the landfill.

County Counsel recommended the Board make a motion of intent and he will prepare suggested findings and bring them back to the Board for approval at a subsequent meeting.

The Director of Public Works addressed the matter explaining that none of the requirements outlined in his email (Exhibit 7) are difficult to obtain and are not onerous requirements. This is a decision the property owner needs to make. If they want to turn the residential use into storage occupancy, a building permit classification has to be changed and to do this there has to be a clear indication of disconnected utilities, so it cannot be occupied. If someone wants the best of both worlds, it isn’t that easy as they have to get a reclassification permit and if the codes have changed during this time period they are obligated to meet the building codes at the time of the change. This is a simple solution to a very simple problem.

The Board made a motion of intent to deny Mr. Arata’s Solid Waste Appeal.

Supervisor Nunes commented that right now the County is in the process of evaluating the Solid Waste System and these fees cover the cost of a system that they are going to have for

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the next 30 years. The whole purpose of this fee was not to have gate fees, but to assess a parcel fee based on usage.

INTENT TO DENY. Motion: Adams/Huebner/Passed Roll Call Vote: 4/1 (Supervisor Whitley NO)

Mr. Arata further commented that he is prepared to take this to the Superior Court to challenge the Board's failure to apply the exemptions of this ordinance to his situation. He will seek the past five years of solid waste fees against this property and his attorney fees. The Board has given him no other choice of a viable option. He would rather lose in court than be forced especially when the Sierra County Code fees and charges documents clearly state he shall be exempt.

11:30 A.M. – CHILD ABUSE PREVENTION UPDATE

21. Update on child abuse prevention by Ms. Carolyn Widman, Sierra County Child Abuse Council Executive Director and adoption of resolution proclaiming the month of April 2010 as Child Abuse Prevention Month.

Ms. Carolyn Widman provided brief history of the Sierra County Child Abuse Prevention Council noting that April is the month of child abuse prevention. The community has just gone through some very tragic times and she wants to emphasize how important it is to be supportive of our children. There is always one more thing that can be done for them including helping someone with a utility bill, providing parenting education, sports and extra activities for the kids. They are trying to take the lead to show the positive aspects of the community.

Following brief discussion the Board moved to adopt the resolution proclaiming the month of April 2010 as Child Abuse Prevention Month.

ADOPTED, Resolution 2010-081. Motion: Nunes/Goicoechea/Unanimous Roll Call Vote: 5/0

NOON RECESS

The Board took the noon recess from 12:03 p.m. to 1:25 p.m. and reconvened with all members present.

3. Resolution approving Renewal Letter, for Pacific Bell Land Lease 15 Busch Street in Sierra City, located at the Sierra City Park, and authorizing Director of Transportation to execute renewal letter on behalf of Sierra County.

The Board moved to adopt the resolution approving the Renewal Letter, for Pacific Bell Land Lease 15 Busch Street in Sierra City, located at the Sierra City Park, and authorizing Director of Transportation to execute renewal letter on behalf of Sierra County.

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County Counsel noted that it appears to assume that they are operating under the base lease which provided for an initial ten year term and gave the phone company the automatic right to have a renewal for subsequent ten year periods so long as they made the request six months prior to the expiration. The current request has not been made within the six month period and the Board is not bound to the automatic renewal.

It was stated that this is the County's first exposure to this as it came with the purchase of the Sierra City Park last year.

County Counsel clarified that he is not saying don't approve this, but the Board is not obligated to.

Supervisor Whitley questioned how much money this is and where the money would go. The Director of Planning noted that the amount of money collected can go to the General Fund or be reinvested back into the Park.

Supervisor Huebner recommended having this go to the Sierra City Park.

Following further discussion and by consensus the Board recommended continuing this matter to allow further review by County Counsel and the Risk Manager.

4. Discussion regarding budget expenses for the 2010/2011 Emergency Management Performance Grant/OES Budget.

The Director of Transportation addressed the matter explaining that the EMPG funding won't pay for anything outside the scope of what the OES functions will qualify for and won't pay for more than 50% of the costs, so it is important to make the OES budget as clear as possible. The Director continued to explain that the existing budget needs to be amended to reflect a number of expenses not in the current budget in order to leverage as much reimbursement from the EMPG. The Director continued to review the proposed changes to the budget including an allocation of 10% of his time as a contribution towards the OES budget; reimbursement of administrative costs from the Road Fund; the purchase of a computer; and a vehicle to service OES, Public Works and Roads. He would like to put forward a budget amendment including these costs to maximize the County's return on the grant. The funding for this year is \$80,000 and what the County doesn't use is returned. Next year the funding increases to \$125,000 and the County's costs won't increase. The County has an opportunity to expand the OES budget to include costs that would otherwise be expended out of the General Fund. The Director continued to review expenditures he sees as opportunities including offsetting the costs of a position in the Assessor's office for GIS. The other side of this is to expand this funding to go beyond county departments and use it to fund purchases within fire departments and emergency services organizations.

Chairman Goicoechea noted that he agrees with the Director's recommendations.

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Supervisor Adams noted that he appreciates the creativity and would recommend that the standard be to fill the County's needs first and if there is funding left over, allow it to be used by the other organizations. He would also suggest setting a minimum limit so the County isn't chasing disposable items and can be fully accountable to the State.

By consensus, the Board recommended using the EMPG funds as recommended by the Director of Transportation and to fill the County's needs first.

5. Resolution amending 2009/2010 Final Budget for the Office of Emergency Services in order to accurately reflect the Emergency Management Performance Grant (EMPG) and the cost of the match.

The Auditor noted he needs a change in wording that the Board is authorizing him to move the \$15,000 from the Road Fund.

By consensus, the Board authorized the Auditor to move the \$15,000 from the Road Fund.

The Board moved to adopt the resolution amending 2009/2010 Final Budget for the Office of Emergency Services in order to accurately reflect the Emergency Management Performance Grant (EMPG) and the cost of the match.

ADOPTED, Resolution 2010-082. Motion: Nunes/Huebner/Unanimous Roll Call Vote: 5/0

COUNTY COUNSEL – James A. Curtis

6. Resolution denying Mr. Wayne DeLisle's Solid Waste Appeals.

The Board moved to adopt the resolution denying Mr. Wayne DeLisle's Solid Waste Appeals.

Supervisor Whitley noted the difference between this appeal and Mr. Arata's appeal is that Mr. DeLisle never proved his "no use".

It was stated that Mr. Arata did not prove his "no use" as well.

ADOPTED, Resolution 2010-083. Motion: Huebner/Nunes/Unanimous Roll Call Vote: 5/0

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7. Second reading and adoption of an ordinance adding Section 3.08.050 to the Sierra County Code pertaining to residency requirements for designated employees.

Following brief discussion the Board moved to waive the second reading and adopt the ordinance adding Section 3.08.050 to the Sierra County Code pertaining to residency requirements for designated employees.

ADOPTED, Ordinance 1020. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

BOARD OF SUPERVISORS

8. Appointment of Gloria Ray to the Cemetery District #2. (CHAIRMAN GOICOECHEA)

The Board moved to appoint Gloria Ray to the Cemetery District #2.

APPROVED. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

9. Appointment of Tricia Valene to In-Home Supportive Services Advisory Board. (CHAIRMAN GOICOECHEA)

The Board moved to appoint Tricia Valene to In-Home Supportive Services Advisory Board.

APPROVED. Motion: Whitley/Huebner/Unanimous Roll Call Vote: 5/0

10. Approval of disposition regarding Benson Grievance. (CHAIRMAN GOICOECHEA)

The Board moved to approve the disposition regarding Benson Grievance.

APPROVED. Motion: Nunes/Huebner/Unanimous Roll Call Vote: 5/0

11. Approval of letter to Governor Schwarzenegger requesting the restoration of the \$38 million in Williamson Act Subvention funding in the May revision of the State budge that was previously eliminated from the proposed budget in January. (CHAIRMAN GOICOECHEA)

The Board moved to approve a letter to Governor Schwarzenegger requesting the restoration of the \$38 million in Williamson Act Subvention funding in the May revision of the State budge that was previously eliminated from the proposed budget in January.

APPROVED. Motion: Adams/Huebner/Passed Roll Call Vote: 4/0/1 (Chairman Goicoechea ABSTAINED)

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HUMAN SERVICES – Carol Roberts

12. Resolution approving the recruitment and hiring to fill vacancy for Assistant Director of Human Services.

The Director of Health and Human Services noted that she has an employee who has submitted their resignation effective in June and this is a vital position to the Department.

The Board moved to adopt the resolution approving the recruitment and hiring to fill vacancy for Assistant Director of Human Services.

ADOPTED, Resolution 084. Motion: Nunes/Adams/Unanimous Roll Call Vote: 5/0

- 25-H. Resolution amending approved project specifications for Loylton 4th Street Sidewalk Project to allow C-8 licensed contractors to competitively bid on the project. (PUBLIC WORKS)

Supervisor Nunes noted that he received a question by a contractor in his District as to why this project was not opened to Class B contractors.

The Director of Public Works explained that the specifications were adopted by the Board in February 2010 and the specifications specified a Class A contractor which is a general engineering contractor. He was contacted by two C-8 contractors who are concrete contractors. They have requested that the Board expand the licensure to include C-8 contractors in addition to the Class A contractors. This will expand the bidding pool and give the County a better opportunity to look at a series of competitive prices. The request to open this up to Class B contractors is a request he can't support or the engineering consultant. The reason they can't support this is a Class B contractor is someone whose principle business is building a structure or other specialties. We are in an environment where we could receive a lot of bidders who don't have the experience in concrete work and be forced to go with the lowest bidder who may not be qualified to do this type of work. The Board is free to do what they want, but he can't support opening this up to Class B contractors for this type of project.

Mr. Greg Premo, Calpine addressed the Board noting he agrees with some of the Directors comments as there are many Class B contractors that aren't qualified to do anything other than build chicken coups. He contacted the State who stated they could not answer him unless they do so in writing which will take two weeks. Based on Tom Archer's comments a C-8 contractor can only do concrete. He agrees with the Director's statements about qualifications. He has done projects that are larger than this County so placing concrete isn't an issue, but to

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leave this open to all Class B contractors is a grey area. He would suggest opening it up to all Class B contractors with a recommendation that they have the qualifications to do this work.

In response to Chairman Goicoechea's inquiry, Mr. Premo explained why he didn't apply for a Class A license.

Supervisor Nunes questioned how the County would determine if a Class B contractor is qualified to do the work. Mr. Premo suggested having the contractor provide examples of similar work with contact information.

Supervisor Nunes further questioned if the Board has the latitude to open up this up to Class B contractors who are qualified. County Counsel responded explaining that public agencies have the right to require contractors to prequalify based upon a statement of experience of project types. County Counsel further explained that this can be a separate source of ground for adding fights with contractors who feel they were rejected inappropriately. The simple way to do this is to identify the appropriate classification for a contract requirement.

The Director explained that it is difficult to prequalify a bidder.

Discussion ensued pertaining to bidding requirements versus requests for proposals.

In response to Supervisor Nunes's inquiry, the Director explained that if the Board wants to include Class B contractors they could issue an addendum. The Director continued to explain that this is a prevailing wage job with a certified payroll requirement, a disadvantage business component and bond requirement. He has found that the bonding requirements and certified payroll is an obstacle for most of the local contractors.

County Counsel further explained that the purpose of bonds for a public works projects.

Supervisor Nunes noted that regardless of what is done today, the Board needs to look at prequalifying contractors for projects in the future.

County Counsel explained that contractors would have to be prequalified for each project and would suggest directing the interest in this process to the Director.

The Director noted that the bottom line is there is a request on the table to include Class B contractors. This is kind of a risk and is not recommended by the consultant, but he doesn't believe the consultant will lie-down in front of a tractor if the Board reverses this. The problem is the bidding deadline is April 29th and if the Board is going to change this they need to send the addendum out right now. There will not be an ability to prequalify a bidder.

Supervisor Nunes noted he understands they don't have time to prequalify contractors for this project, but he would like to look at the possibility of prequalifying contractors in the future so local contractors are in a better position.

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The Director continued to explain that the prequalification is a mind field. It would be better to just open it up to Class B contractors and hold them to it.

Following further discussion the Board moved to adopt the resolution amending approved project specifications for Loyalton 4th Street Sidewalk Project to allow C-8 licensed contractors to competitively bid on the project as amended to include Class B contractors and to extend the bid timeline to May 3, 2010.

ADOPTED as amended, Resolution 2010-085. Motion: Nunes/Whitley/Passed Roll Call Vote: 4/1 (Supervisor Adams NO)

Item 2 continued.

With respect to the Sierra Nevada Conservancy's proposed initiative, Supervisor Nunes recommended commenting on the biomass issue and making sure that the Loyalton plant has a year round supply of biomass chips; request the Conservancy to support funding for local Fire Safe Councils; and Forest Receipts.

The Director of Planning recommended addressing concerns that the Conservancy's resolution didn't give appropriate recognition to sustainable communities and limited forest projects to biomass; implementation of programs should be through the counties and not the Conservancy; the Conservancy being top heavy on grant funding and not wanting the Conservancy to be in the position of handing out grants that only serve the Sustainable Initiative; and the suspicion that the Conservancy is trying to take over what CDF has failed to do so far.

Chairman Goicoechea also recommended adding the concerns with respect to counties with power providers/standalone generation facilities who bring in chips as the chips are just as critical to the sustainability of our community as logs.

Supervisor Nunes noted that all of these concerns would be appropriate for the letter.

The Board moved to approve a letter to the SNC to be signed by the Chairman of the Board working in conjunction with the Director of Planning, County Counsel and Supervisor Nunes.

APPROVED. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

CLOSED SESSION

22. Closed Session pursuant to Government Code Section 54956.9(a) to discuss status of the following litigation: Original Sixteen to One Mine, Inc., v Sierra County, Sierra County Superior Court Case # 7068.

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23. Closed Session pursuant to Government Code Section 54956.9(a) to discuss the following litigation: Golden Sierra Job Training Agency v. County of Sierra, County of Nevada, etal.; Placer County Superior Court Case No. SCV-25102.
24. Closed Session pursuant to Government Code Section 54957.6 to discuss labor negotiations.

County Counsel noted that there is nothing to discuss regarding labor negotiations at this time.

CLOSED SESSION STATEMENT

The Board met in closed session from 2:43 p.m. to 2:57 p.m. County Counsel reported that he briefed the Board on the status of the Original Sixteen to One and Golden Sierra Job Training litigation and there was no action taken.

CORRESPONDENCE LOG*

***(Items to be discussed or acted upon by the Board shall be identified and placed under the regular agenda)**

- C-1 Letter from Irv Christenson of Cal-Ida, complimenting the Sierra County Department of Public Works on their flawless removal of snow.

No Action

- C-2 Letter from Penny Berry resigning from the First 5 Commission, effective May 30, 2010. (Authorization for Clerk to advertise)

No Action

- C-3 Email from Bernark K. Melekian, Director of Community Oriented Policing Services (COPS) regarding the COPS office consideration of Sierra County's application for funding under the 2010 COPS Hiring Program (CHP).

No Action

- C-5 Letter from the Rural Health Joint Powers Authority (RHJPA) informing the County that the RHJPA was officially dissolved as of March 17, 2010.

No Action

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ADJOURN

At 2:57 p.m., with no further business, Chair Goicoechea adjourned the meeting.

DAVE GOICOECHEA, CHAIR
BOARD OF SUPERVISORS

ATTEST:

HEATHER FOSTER
CLERK TO THE BOARD