

STATE OF CALIFORNIA, COUNTY OF SIERRA

BOARD OF SUPERVISORS

*** MINUTES ***

REGULAR MEETING

The Sierra County Board of Supervisors met in regular session commencing at 9:00 a.m. on April 6, 2010 in the Board of Supervisors' Chambers, Courthouse, Downieville, 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, Chair, Supervisor, District #4
Pat Whitley, Supervisor, District #5
Bill Nunes, 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
Laura Marshall, Assessor-Solid Waste Fee Administrator
John Evans, Sheriff-Coroner

APPROVAL OF CONSENT AGENDA

At the request of County Counsel Consent Items E and F were pulled from the Agenda.

- E. Agreement with Caterpillar Financial for Lease Purchase Financing Agreement for purchase of two (2) Caterpillar 416E Backhoes. (PUBLIC WORKS)
- F. Agreement with Holt of California for the Acquisition of Equipment and Guaranteed Repurchase of two (2) Caterpillar 416E Backhoes. (PUBLIC WORKS)

The Board moved to approve the Consent Agenda as amended.

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

CONSENT AGENDA

- A. Resolution approving for Sierra County entering into a contract for HAVA Section 301 Voting Systems Program Grant Funds. (ELECTIONS)

ADOPTED, Resolution 2010-053

APPROVED, Agreement 2010-032

- B. Authorization to waive formal bid requirements for migrating to a new Election Management Information System with DFM Associates, Inc. pursuant to Sierra County Code Section 5.04.090.50 (B) Exemptions. (ELECTIONS)
- C. Resolution of intent to utilize \$21,354 of old Title III funding for an educational program through the local Sierra Plumas Joint Unified School District. (PUBLIC WORKS)

ADOPTED, Resolution 2010-054

- D. Resolution affirming Sierra County opposition to Assembly Bill 1409 which will limit the County's ability to utilize force account. (PUBLIC WORKS)

ADOPTED, Resolution 2010-055

- G. Resolution authorizing the Auditor to implement changes to the Fiscal Year 2009/2010 Solid Waste Budget moving \$3,000 from Professional Services-Tire Removal into Transportation. (PUBLIC WORKS)

ADOPTED, Resolution 2010-056

- H. Resolution proclaiming April 11-17, 2010 as Safety Seat Checkup Week. (CHAIR GOICOECHEA)

ADOPTED, Resolution 2010-057

- I. Resolution declaring the month of April 2010 as National County Government Month. (CHAIR GOICOECHEA)

ADOPTED, Resolution 2010-058

- J. Minutes of the Regular Meeting held on March 2, 2010. (CLERK/RECORDER)
- K. Approval of Contract Change Order Number 1, in the amount of \$794.34, on the Structured Data Cabling Project in the Sierra County Courthouse. (INFORMATION SYSTEMS)

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APPROVAL OF REGULAR AGENDA

The Board moved to approve the Regular Agenda.

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

9:05 A.M. – PUBLIC COMMENT OPPORTUNITY

At 9:01 a.m. Chairman Goicoechea opened and closed the public comment opportunity with no persons addressing the Board.

COMMITTEE REPORTS & ANNOUNCEMENTS

Supervisor Whitley reported that there will be a joint Area 4 Agency on Aging meeting in Sacramento on Friday and also reported on the Community Action Agency meeting.

Supervisor Adams reported that the Clerk distributed the summary from the RCRC meeting.

Supervisor Whitley questioned if the Director of Transportation has any pull with Caltrans as the road over the pass was not sanded. The Director responded explaining that he believes Caltrans has had layoff many of their part-time employees and is struggling.

Chairman Goicoechea reported on the Sierra County Children's Health Summit meeting and a meeting with Supervisor Whitley, the Director of Public Works, members of the City Council and the Superintendent of Schools pertaining to the tentative use of the Loyalton Middle School.

In response to public inquiry, Chairman Goicoechea explained that nothing specific was discussed at the meeting pertaining to the Loyalton Middle School.

Supervisor Whitley added that there were a number of ideas discussed.

In response to public inquiry, Chairman Goicoechea clarified that they were also looking at the auditorium to utilize it for a recreation center.

Supervisor Adams clarified that this is not a County project it is a School District and City of Loyalton project. The only involvement of the County is the Department of Health and Human Services as a lessor of part of the building.

Following further discussion, County Counsel clarified that the \$280,000 of Proposition 40 funds is no longer the County's money and this matter should be agendized if the Board wants to continue this discussion.

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DEPARTMENT MANAGERS' REPORTS & ANNOUNCEMENTS

The Auditor reported that the County's budget situation is the same from the last meeting and we are waiting to see what the State does. The County will be healthy until the State decides whether or not to balance the budget on our backs.

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

Mr. Craig Wilson, Acting District Ranger provided an update to the Board on various projects in the District.

In response to Supervisor Whitley's inquiry, Mr. Wilson noted that the new District Ranger will start on May 10, 2010.

Supervisor Adams expressed frustration with the Land Management meeting in Sacramento being set for the first Tuesday of the month.

Chairman Goicoechea questioned if forest thinning projects have been identified for removal. Mr. Wilson explained they have been and will hopefully go to the Loyalton Co-generation plant.

2. Resolution and letter to the State of California for the Regional Water Quality Control Board requesting inclusion of an upper watershed low impact option for the long-term irrigated lands regulatory program.

Following a brief discussion with Ms. Carol Dobbas, Executive Director of the Upper Feather River Watershed Group, the Board moved to adopt the resolution and letter to the State of California for the Regional Water Quality Control Board requesting inclusion of an upper watershed low impact option for the long-term irrigated lands regulatory program.

ADOPTED, Resolution 2010-059. Motion: Whitley/Nunes/Unanimous Roll Call Vote: 5/0

13. Authorization for the Sierra County Chamber of Commerce to represent Sierra County at the 2010 California State Fair and approval of funding request in the amount of \$3,620 to help cover expenses. (CHAIR GOICOECHEA)

Ms. Jan Koettle, Treasurer, Sierra County Chamber of Commerce addressed the Board explaining that there is no charge for the County to be represented at the fair and the Chamber would like to put a booth at the fair with the Board's approval. They are also requesting the Board to help out with the funding of expenses. Ms. Koettle continued to review the expenses the Chamber is requesting help with.

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In response to the Auditor's inquiry, Ms. Koettle explained they need the funding to be allocated out of this Fiscal Year.

The Auditor explained that he Board could move the unused funding out of either the Ag Commissioner's, Farm Advisor's or the Ambulance budgets.

Supervisor Adams commented that the Chambers were cut this year and he would like to see the Board fund this.

The Board moved to approve the Sierra County Chamber of Commerce to represent Sierra County at the 2010 California State Fair and made a motion of intent to approve the funding request in the amount of \$3,620 to help cover expenses. Direction was also made to staff to bring back a resolution for the transfer of funds at the next meeting.

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

1. Resolution approving Sierra-Tahoe Integrated Regional Water Management Plan (IRWMP) and appointing representative and alternate to the organization.

The Director of Planning addressed the matter explaining that in order for the County to be included as a stakeholder with this IRWMP, the plan needs to be approved. He is interested in staying with this group as there is a commitment from the Group for the match necessary to provide funding for the Little Truckee Bridge which is a substantial contribution from the Group. This will only provide us what we want to invest in it.

In response to Supervisor Adams' inquiry, the Director clarified that there is no downside that he is aware of in doing this.

The Board moved to adopt the resolution approving Sierra-Tahoe Integrated Regional Water Management Plan (IRWMP) and appointing representative and alternate to the organization and to appoint Supervisor Goicoechea as the Board Representative and Supervisor Adams as the Alternate.

ADOPTED, Resolution 2010-060. Motion: Huebner/Nunes/Unanimous Roll Call Vote: 5/0

The Director continued to note that a lot of the seed money for this will come from Proposition 84 depending on the election and there are only two IRWMPS so this group will only be competing with one other group for these funds.

In response to Supervisor Nunes's inquiry, the Director explained that if the Proposition 84 funding stream goes away there is still funding available from previous programs.

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PUBLIC WORKS AND TRANSPORTATION – Tim Beals

3. Report on Operational Area Emergency Council and direction to staff of the 2009/2010 and 2010/2011 County Office of Emergency Services budgets particular to the Emergency Management Performance Grant component of those budgets.
4. Discussion/direction to staff regarding impending change in NORCAL EMS (Emergency Medical services) and direction to staff for Fiscal Year 2010/2011 and following.

The Director of Public Works reported that the OAEC (Operation Area Emergency Council) met last week. There were two primary discussions at the meeting, the NORCAL Emergency Medical Systems Agency for Sierra County and the allocation of funds under a series of grants that are available to the OES program. With respect to the grants there are three Homeland Security grants. The 2006 Homeland Security Grant has been completed for the generator for Sheriff's Substation, and the 2007, 2008 and 2009 grants all have approximately \$105,000 available each year. They have requested that the OAEC review and restructure the priorities for these grants. These grants do not require a match and allow the County to outfit agencies with emergency services supplies. The OAEC's recommendation for the 2007 grant is \$80,000 towards the Spillman Computer Software for the Sheriff's office and the Reverse 911 System in the amount of \$15,000 with a training component of \$10,000; the 2008 grant recommendation is \$45,000 for a command vehicle, \$25,000 for a new repeater at Oregon Peak, \$25,000 for the balance of the Spillman Computer Software, \$10,600 for training; the 2009 grant recommendation is \$60,000 or \$70,000 to be expended in one year for a complete revision of the County's Emergency Operations Plan. The OAEC will meet again and make a recommendation on the remainder of the 2009 grant. He will confirm these priorities for the Board at the April 20, 2010 meeting.

The Director continued to note that in addition to these discussions the OAEC has also discussed the NORCAL EMS contract understanding that NORCAL is going through some organizational issues. Mr. Dan Spiess came to the OAEC and presented NORCAL's situation and he would like to make a presentation to the Board on April 20, 2010 to answer questions. In addition to this the EMCC (Emergency Medical Care Committee) has scheduled a meeting for April 14, 2010 and will be forwarding a recommendation to the Board on this issue on April 20, 2010.

County Counsel expressed the need to make a determination by the end of month based on the contract.

Supervisor Adams noted that Mr. Spiess has indicated that he would be willing to extend the contract by 30 days if necessary. County Counsel recommended getting this in writing.

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5. Resolution committing funding in the amount of \$14,000 to the Alleghany Community services building project, matching a USDA grant in the amount of \$80,000.

The Board moved to adopt the resolution committing funding in the amount of \$14,000 to the Alleghany Community services building project, matching a USDA grant in the amount of \$80,000.

ADOPTED, Resolution 2010-061. Motion: Nunes/Huebner/Unanimous Roll Call Vote: 5/0

6. Resolution allocating \$240,000 in Proposition 40 funding toward the Smithneck Creek Park. (SUPERVISOR WHITLEY & GOICOECHEA)

The Board moved to adopt the resolution allocating \$240,000 in Proposition 40 funding toward the Smithneck Creek Park.

ADOPTED, Resolution 2010-062. Motion: Nunes/Adams/Unanimous Roll Call Vote: 5/0

7. Resolution allocating \$35,000 in Proposition 40 funding toward the Alleghany County Park. (SUPERVISOR ADAMS)

The Board moved to adopt the resolution allocating \$35,000 in Proposition 40 funding toward the Alleghany County Park.

ADOPTED, Resolution 2010-063. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

8. Resolution allocating \$25,000 in Proposition 40 funding toward the Alleghany Community Hall Project. (SUPERVISOR ADAMS)

The Board moved to allocating \$25,000 in Proposition 40 funding toward the Alleghany Community Hall Project.

ADOPTED, Resolution 2010-064. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

10:00 A.M. – GRIEVANCE HEARING

18. Conduct hearing on personnel grievance filed by Jodi Benson pursuant to Sierra County Code Section 3.11.020.

County Counsel provided background on the County grievance procedures outlined in the Sierra County Code.

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At 10:04 a.m. Chairman Goicoechea opened the grievance hearing.

Mr. Rick Davis, Operating Engineers Business Representative noted under third step of the grievance procedures he is requesting this matter be heard under closed session. County Counsel responded explaining that this type of grievance does not qualify under the Brown Act to be heard under closed session. His advice is that the Board proceed in open session.

Chairman Goicoechea noted that based on the request by County Counsel, Mr. Davis's request is denied and the Board will proceed.

Mr. Davis explained that he filed this grievance on behalf of the employee as the employee was not being compensated for the class she was working in; she was a Social Worker II and doing the work of a Social Worker III. A week later the employee was promoted to a Social Worker III and he is not sure if this is a coincidence. Mr. Davis further reviewed an email by the Auditor explaining that if an employee qualifies as a Social Worker III they should be compensated as a Social Worker III. He realizes that Merits System can be a bit of a hassle as it dictates when and how someone can be promoted. The person that held the position of a Social Worker III left back in April 2009, so there was an opening for this position; however, there was a freeze on promotions. He doesn't think there is a question that the employee was doing the work of a Social Worker III and would submit that it doesn't affect the General Fund. When talking to the employee she could have been a Social Worker III as of July 1, 2009 and would like to be paid back to July 1, 2009. The Board needs to go back to the day they can compensate the employee for this and he believes this should be April 2009 but the employee is willing to make it July 2009.

Ms Jodi Benson, Grievant addressed the Board noting this is very hard work physically and emotionally and is distressed that this is not a closed hearing as she considers this a personnel issue. Ms. Benson continued to express concerns pertaining to the memo from the Auditor having gone out in the packet and had negative remarks about another Social Worker. Ms. Benson continued to note that she wants to take the opportunity to explain that morale is low and she would like the County to consider the type of work they do. This is not just Social Workers, but also the fiscal workers, the Mental Health workers and she would like the Board to know that she is proud to be part of this agency as they are all hard workers. This is very difficult work and they want to be compensated for their work. She doesn't want to ask for money that goes back two years ago as she feels this money can go somewhere else.

Supervisor Whitley questioned what the distinct difference is between a Social Worker II and a Social Worker III. She would also like to know if Ms. Benson was directed by the Director to do the work of a Social Worker III. Ms. Benson responded noting she was directed to do the work of a Social Worker III by the Assistant Director.

Mr. Davis reviewed the County job descriptions for a Social Work II and III explaining that the Social Worker III is assigned to more complex cases and has to prepare court reports. A Social Worker III works more with the courts than a Social Worker II and has less supervision. In talking to the Auditor and the Director everyone is doing the work of a Social Worker III.

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The Director of Human Services noted that this is a Merits System classification and within Merits System a promotion from Social Worker II to a Social Worker III is not automatic. A person must apply for an open Social Worker III position, be certified through the Merits System certification process, interview and appointed into the position. This can be an internal recruitment within the County or open to everyone in the State. In order for Ms. Benson to have been promoted into the Social Worker III position they had to have an open recruitment. When the Social Worker III resigned in April 2009 the position was placed into the budget. Unfortunately, the County had a hiring freeze, so they didn't have the in house open recruitment. The first opportunity for an open recruitment came when the Board allowed her to open the position in November. At that time Ms. Benson applied for the position, qualified and was promoted on December 20, 2010.

Supervisor Whitley questioned who required the employee to do the work of a Social Worker III. The Director responded noting that Ms. Benson has the experience and ability to do the work; again is not an automatic promotion from a II to a III and all of the Social Workers are cross trained.

The Auditor noted that the job descriptions of a Social Worker II and III are very similar and we have this problem with freezes and no promotions. We have people who are working historically out of class. This situation is not a unique situation and almost every department has this issue. The Auditor further clarified that there was nothing in him memo that was meant to be derogatory.

The Director noted that she would have promoted Ms. Benson to a Social Worker III had promotions and hiring not been frozen.

Supervisor Adams questioned why the employee was allowed to work out of class. The Auditor responded that we need to have the work done.

The Director explained that this is the result of having promotions frozen.

Mr. Larry DeVita, Sattley addressed the Board noting that he would like the investigation done by someone else.

Supervisor Huebner questioned why the Auditor was involved in this grievance.

The Auditor explained that he was involved because all things that deal with personnel fall under Risk Management and he was contacted by the Personnel Director to get involved. He made no decisions in this matter; this was only informational.

Mr. Davis noted that he believes everyone is in agreement that Ms. Benson has been doing the work of a Social Worker III and she is requesting to be paid for this.

The Director noted she understands that all are in agreement that Ms. Benson has the ability and knowledge to be a Social Worker III; however, there is no Merits System requirement to promote, there has to be an open position. Realizing that because promotions and hiring was

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frozen as of July 1st the out of class issue is a County issue and not a Merits System issue; the promotion is not mandated by Merits Systems.

County Counsel noted it is important that everyone understands the County operates under a Personnel Code and has a Merits System structure functionally similar to a civil service structure. One of the underpinnings of those systems is to avoid public officials from hiring and firing anyone they wanted to. It was deemed that legislatively in California appropriate to develop a structure that had a personnel set of rules adopted and within these rules is open competition for people and protection for employees. The Board as the legislative body makes the determination through the budget process as to what positions need to be authorized within the county structure. Within the County's budget every year is an approved staffing pattern and department heads are bound to honor this structure as well as the employees. While there is a fundamental issue of fairness, they have the potential to entirely undermine and circumvent the Merits System or civil service structure by having a department head or subordinate manager delegating the hire level of work with the expectation of compensation. He has heard that there may be multiple cases of this going on throughout the entire County. This is potentially a very inflammatory statement for the Board both politically and legally. Currently under the County's system the Department Heads are not free to ignore the assigned staffing pattern. A department head must go before the Board for approval; it cannot be made on a case by case basis by a department head. County Counsel continued to review the difference between the job descriptions and if a department head feels they don't have the resources it is up to the department to continue to make the case to the Board. We have within the County structure clear statements of the Boards authority to arrange the salaries and compensation plan as part of our process. County Counsel further reviewed provisions of the Sierra County Code and the case law *Snow vs. Administration*.

Mr. Davis referred to Sacramento County explaining that if we are going strictly by Merits System a Social Worker II would never prepare court reports as they have Social Worker III's doing the work, but that is not the case here. Ms. Benson has been doing the work of a Social Worker III for two years.

The Director noted that she is not disagreeing with Mr. Davis but when you compare the Social Worker II and Social Worker III job classifications the examples of important and essential duties are identical. The Social Worker II position does state that this position prepares and files petitions, court reports and appears in court to testify.

County Counsel suggested that the Board engage in a discussion about where they want to head with this matter and at the conclusion of their discussion the Board needs to make a motion of intent and provide him with their instructions so he can prepare the written finding and bring them back in two weeks.

Supervisor Adams explained that he has sympathy for all involved in this and realizes that it is hard at times to get things done with limited funding. He believes we put the Auditor in a difficult role as he had a having family member within the agency. The bottom line for him is after hearing County Counsel recite the County's standards and State law; to do anything else is just suggesting anarchy and he is willing to make a motion to deny the grievance.

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Supervisor Whitley expressed concerns of other employees working out of class and not being approved by the Board.

Following further discussion the Board made a motion of intent to deny the grievance filed by Ms. Jodi Benson and directed County Counsel to prepare the written findings.

INTENT TO DENY. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

County Counsel noted that he will have written findings back before the Board on April 20, 2010.

9. Discussion/direction to staff on the proposed Sierra Nevada Conservancy “Sustainable Sierra Initiative” and draft resolution of the Conservancy.

Following brief review of the background letter the Director of Planning explained that the deadline for comments for the initiative isn’t until June. The Director continued to note that he is concerned about what the Conservancy is reaching for and would like an opportunity to assess this before the Board considers any comments.

Supervisor Nunes explained that he would like to get a joint response from the Board and would direct the Board’s attention to the nine items in the original Sierra Nevada Conservancy legislation outlined in the Public Resources Code when making their responses.

County Counsel reviewed Public Resource Code Section 33320 with respect to the Sierra Nevada Conservancy.

Supervisor Nunes continued to explain that he believes we need to make sure the Conservancy is fulfilling these nine items.

Following further discussion and by consensus, the Board directed each member to provide their comments to Supervisor Nunes.

11:00 A.M. – CSAC PRESENTATION

19. Presentation/update by California State Association of Counties Senior Legislative Analyst Farrah McDaid Ting.

Ms. Ting addressed the Board explaining that she is here today to give an update on what is going on in Sacramento. Ms. Ting continued to comment that CSAC likes to communicate with the Board and have all of the other departments so when CSAC testifies in Sacramento they can state the important issues. Ms. Ting continued to review the good, the bad, and the ugly of what is going on in Sacramento. The good is that there are good revenue projections for February; the bad is the State is still looking at a \$20 billion deficit and the ugly is that the legislature is having their eighth extraordinary session, so it is difficult to get any movement on the budget right now in Sacramento. The Governor now has the ability to release the budget on

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June 10th in order to see what the April tax revenues are. Even if the revenues are up CSAC has to remind the legislature that this is a structural budget deficit and this is not going to get them out of this deficit. The budget gridlock will probably continue due to it being an election year. Ms. Ting further reviewed the packet of material she distributed to the Board pertaining to various publications CSAC puts out to county supervisors.

Discussion ensued pertaining to CSAC having their own specific proposals for balancing the budget and potentially having the counties start something from the ground up with respect to the State budget.

Following further discussion the Board recommended that Supervisors Adams and Nunes attend CSAC's legislative conference to be held on June 2-3, 2010.

11:30 A.M. – SOLID WASTE APPEAL HEARING

- 20A. Appeal of Solid Waste Assessment Fees filed by Mr. Wayne DeLisle, APN 006-130-024, 500 Pike City Road.
- 20B. Appeal of Solid Waste Assessment Fees filed by Mr. Wayne DeLisle, APN 006-130-025, 133 Pike Short Cut Road.

At 11:32 a.m. Chairman Goicoechea opened the Solid Waste Appeal hearing.

County Counsel reviewed the provisions within the County's comprehensive Solid Waste Ordinance.

The Solid Waste Administrator reviewed Mr. DeLisle's properties noting that both properties are classified as residential use. The Solid Waste Appeals were received by the Solid Waste Fee Administrator on December 1, 2009 and Mr. DeLisle was notified on December 22, 2009 of the decision to deny the appeals based on the fact that both properties are considered residential properties under the County's Solid Waste system.

County Counsel commented that the Solid Waste fee for residential properties has been estimated on a survey conducted by the Department in prior years. The Solid Waste Fee Administrator noted that the last sample was in 2008 and they used 266 residential pickups which indicated an average of 17.29 cubic yards of waste generation per residence.

Mr. Wayne DeLisle, Appellant addressed the Board noting that "use" isn't considered in determining the fee and he didn't do this, the Board did, and did so on the presumption that he is doing something he is not. He objects strenuously to it and would request the Board do their constitutional duty and instruct the Fee Administrator to support the presumptions with evidence. The County has the burden of proof and not him.

The Clerk entered the following documents submitted by Mr. DeLisle into the record:

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- Exhibit A – Recorded Notice of Power to Sell Tax-Defaulted Property, Sierra County Official Record 2006145994 – APN 006-130-0250
- Exhibit B – Defaulted Tax Notice dated 01/15/2010
- Exhibit C – 2000-01 Secured Tax Roll Display – DeLisle, Wayne – APN 006-130-0250
- Exhibit D – 2001-02 Sierra Secured Display Tax Bills – DeLisle, Wayne – APN 006-130-0240
- Exhibit E – 2003-04 Sierra Secured Display Tax Bills – DeLisle, Wayne – APN 006-130-0240
- Exhibit F – 2004-05 Sierra Secured Display Tax Bills – DeLisle, Wayne – APN 006-130-0240
- Exhibit G – 2002-03 Sierra Secured Display Tax Bills – DeLisle, Wayne – APN 006-130-0240
- Exhibit H – 2006-2007 Sierra County Secured Property Tax Bill – DeLisle, Wayne – APN 006-130-024
- Exhibit I – Back page of property tax bill
- Exhibit J – 2007-2008 Sierra County Secured Property Tax Bill – DeLisle Wayne – APN 006-130-0250
- Exhibit K – 1 page document entitled “Endorsement Instructions” signed by Wayne DeLisle
- Exhibit L – Claimant’s Copy State of California Certificates of Eligibility Property Tax Postponement – Fiscal Year 07/08 – Wayne DeLisle
- Exhibit M – 2007-08 Sierra Secured Change Tax Bills – DeLisle, Wayne – APN 006-130-0240
- Exhibit N – Sierra County Tax Summary Payment Page dated 12/4/2007 – APN 006-130-0250
- Exhibit O – Letter from Stephanie Levings, Sierra County Assistant Treasurer-Tax Collector dated 12/5/2007
- Exhibit P – 1 page document – DeLisle, Wayne pertaining to an Installment Plan – APN 006-130-0250
- Exhibit Q – Sierra Co Secured Abstract – Account Maintenance 1/28/08 – DeLisle, Wayne – APN 006-130-0240
- Exhibit R – Sierra Co Secured Abstract – Account Maintenance 12/05/07 – DeLisle, Wayne – APN 006-130-0250
- Exhibit T – 2007-2008 Sierra County Secured Property Tax Bill – DeLisle, Wayne – APN 006-130-0250

Mr. DeLisle continued explain that there is an exception in the County’s ordinance to anyone who isn’t consistent with the classification; it allows for the option of paying gate fees. The exception is in the ordinance, but the Board hasn’t made any rule or regulation to enact it or allow the public to access it. It appears that it is solely there to keep from a frontal attack on the constitutionality of the County’s ordinance. He would like this issue addressed this time. He insists that the Board put evidence in that shows he is consistent with the classifications; which the Board can’t do. He is one guy with two pieces of property and the County is busting him on two properties. The Board’s solution to this is to either rent it or sell it. This makes it a tax on

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the ownership of the property and does not make it proportionate to any service that the County provides.

Mr. DeLisle continued to review Article VIII D, Section 6 (b) of the California Constitution expressing concerns of having to pay for people who generate more waste than he does; that any legal action contesting the validity of a fee or charge, the burden shall be on public agency to demonstrate compliance; that this fee is a benefit assessment fee and not a property related charge; and the County taking the benefits of putting this on the bill as a benefit assessment fee for years and not fulfilling any responsibilities of putting it on this way.

In response to Mr. DeLisle's inquiry, the Solid Waste Administrator explained that she supports the classification based on the Ordinance adopted by the Board.

Mr. DeLisle noted that this is a presumption.

Supervisor Adams reviewed Article VIII D, Section 6 of the California Constitution noting that he stands by his opinion that this is an "or" situation with respect to no fee or charge may be imposed for a service unless that service is actually used by "or" immediately available to the owner of the property in question. Mr. DeLisle objected noting that this is referring to whether or not there can be, or exist, a fee or charge.

County Counsel provided clarity to this annual exercise explaining that Mr. DeLisle's objection is that he believes the County is miss-applying Proposition 218; specifically that it is characterized as an assessment under Proposition 218 and is governed by Section 4. The County has followed the provisions of Section 6, Article VIII D of the California Constitution. County Counsel continued to review Sierra County Resolution 2009-084, noting that it was following the provisions of Section 6 of property related fees. He would suggest that the courts recognize that it's not the label that is used; it's the substance of it. Mr. DeLisle has noted that under Section 6, one of the components is that the amount of fee or charge imposed upon the parcel shall not exceed the proportional cost of the amount of the service attributable to the parcel. The Solid Waste Administrator has performed a survey in 2005 and 2008 which came up with the statistical average based on residential use of approximately 17 cubic yards. Commercial properties are charged directly based upon their use from the prior year. The County does not have a flow meter on each parcel in the County and nor do counties have water meters on properties in many parts of the State. For example, to apply Proposition 218 to water use or sewer use the courts have recognized that a reasonable classification, in this case a single family residence, is a way of meeting the requirements under Proposition 218 of proportionality. Mr. DeLisle believes the County should have a precise measurement upon the refuse generation on each parcel, but this is not the system that is in place. The County is currently in court with Mr. DeLisle and the courts will determine whether the County's reading of proportionality is correct.

Mr. DeLisle noted that he objects; Counsel is basing his testimony to the Board on the presumption of an existence of a single family residence in use.

County Counsel continued to review Mr. DeLisle's other issue being the Board's misunderstanding of Section 6, Subsection (b)(4) which reads "no fee or charge may be imposed

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for a service unless that service is actually used by, or immediately available to the property in question” . The County has maintained the position that since the properties can be put into residential use at any time, they are residential properties and the quote “immediate available for use” is met.

Following further review of the matter, County Counsel recommended the Board make a motion of intent and direct him to bring back the written findings.

Mr. DeLisle continued to note that he is paying for two parcels and shouldn't have his appeal time cut. The time allotted for the appeal should be based on the number of parcels.

The Board made a motion of intent to deny the solid waste appeal filed by Mr. Wayne DeLisle, APN 006-130-0240 as the property is classified as residential use.

INTENT TO DENY. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

The Board made a motion of intent to deny the solid waste appeal filed by Mr. Wayne DeLisle, APN 006-130-0250 as the property is classified as residential use.

INTENT TO DENY. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

NOON RECESS

The Board took the noon recess from 12:34 p.m. to 1:31 p.m. and reconvened with all members present.

ASSESSOR – Laura Marshall

12. Resolution authorizing the Assessor to hire an appraiser. (Recommended by the Finance Committee on March 23, 2010)

Following brief review of the matter by the Assessor, the Board moved to adopt the resolution authorizing the Assessor to hire an appraiser effective July 1, 2010.

ADOPTED, Resolution 2010-065. Motion: Huebner/Nunes/Unanimous Roll Call Vote: 5/0

10. Resolution authorizing an application to the Sierra County Resource Advisory Committee (RAC) for a county-wide public information project involving use of the county visitor centers.

The Board moved to adopt the resolution authorizing an application to the Sierra County Resource Advisory Committee (RAC) for a county-wide public information project involving use of the county visitor centers.

Supervisor Adams expressed concerns of not being able to make the connection to Federal land with all three of the visitor centers. The Director of Planning responded noting that

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they are proposing three part time positions between May and December and there is some constraints with the locations as they don't all have power.

ADOPTED, Resolution 2010-066. Motion: Nunes/Huebner/Unanimous Roll Call Vote: 5/0

In response to the Director's inquiry, Supervisor Nunes noted that the contact for the East Sierra Valley Chamber is Mr. Bob Macey who will be covering the informational needs for both visitor centers in Loyalton and Sierraville.

11. Introduction and first reading of an ordinance adding section 3.08.050 to the Sierra County Code pertaining to residency requirements for designated employees.

County Counsel noted that he would encourage discussion on this matter as this is an important policy shift for the Board. There is a list of positions given by the Department Heads; primarily the Director of Transportation and the Sheriff. Under State law the Board cannot mandate that employees of the County live within the County. There is an exception recognized by the courts where there is a legitimate need for an emergency response which is of significance in protecting the public health, safety, and welfare wherein the Board can impose a distance provision.

County Counsel further reviewed case law in Alpine County wherein the County imposed a residency provision which was upheld by the courts as they found that the requirement of living within a certain proximity of the sewer plant was legitimate.

Supervisor Adams expressed concerns of going from no restrictions to a lot, further questioning if all of the positions listed in the proposed ordinance need to be listed or if they could just add the most critical positions. His concern is that for each position added to the ordinance it will restrict the number of applicants for the position.

Mr. Rick Davis addressed the Board noting that in essence the Board is forcing people to live in the County and he believes this limits the employee pool.

Supervisor Adams questioned what a Deputy Sheriff from Nevada City does for the people of Sierra County if there is a bar fight in Downieville.

Mr. Davis expressed concerns of an employee who has been with a department for some years and wants to be promoted but doesn't live within 30 minutes of their base station.

Supervisor Adams responded noting that this doesn't apply to current employees. Mr. Davis noted it does when it comes to promotions.

Supervisor Adams noted they are trying to get a balance to the employees and the citizens who live in Sierra County who expect a certain level of service after hours.

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In response to Supervisor Adams' inquiry with respect to an alternative, Mr. Davis suggested allowing the deputies to have take home cars.

Supervisor Adams expressed concerns of allowing take home cars especially to someone who lives in Grass Valley as this is a cost to the taxpayers of Sierra County.

Following further discussion Mr. Davis continued to express concerns of current employees who live in the County, but cannot promote because they don't live within 30 minutes of their base station.

Ms. Liz Fisher, Downieville addressed the Board noting that she believes all employees who work here should live here and spend their money here; it's a matter of viability. Some counties and cities give incentives to people to help them move into the area. Ms. Fisher continued to note that the County needs to rebuild the population and get young people to live here and not encourage them by giving them a car to live somewhere else. If they don't want to live here then they should get a job where they want to live and let the people who want to live here come here.

Supervisor Huebner agreed noting that they want to encourage people to move here. He thinks this is a good start and we need to encourage people who make their paycheck here to live here.

Supervisor Whitley noted that the County doesn't have a lot of deputies and there is a lot of miles to cover. We need a response time for the citizens as the deputies are a lifeline in most cases for the citizens.

Mr. Davis continued to express concerns that this ordinance will prevent employees that already live in the County from promoting.

Following further discussion, Supervisor Adams noted that he believes the promotion issue can be dealt with another day, but the Board needs to do something today as the Sheriff has employees he wants to hire full time under this restriction.

The Auditor explained that he believes the promotion issue is critical in order to have this hold up in court.

County Counsel noted that the law is real clear that the Board cannot impose a live in the county residency requirement. The exception here is whether there is a legitimate, substantial reason to require a quick response because of public health and safety concerns. He can't answer whether or not we would undermine ourselves if we exempt promotions.

The Sheriff addressed the matter explaining that the number one priority is public safety including the safety of his staff. This means an adequate response time in an emergency. He disagrees that this will limit the number of individuals who would apply and would submit that a supervisor is someone they want to respond quickly to make sure things are being done correctly.

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The Director of Transportation commented that when looking at the number of positions listed in the ordinance versus the actual number of people it affects, it is significantly lower. The Director also explained that most of everyone that is currently filling the positions on the list lives within the County and there is only one that may be affected by the constraint on promotions. The promotion issue might be a snag and the Board may want to consider differentiating between promotions within a class from a 1, 2 and 3 as compared to a promotion to a supervising position. He supports the proposed ordinance and believes it has merit. He needs these people accountable and available within a specified period of time or the County services and safety are seriously compromised.

Following further discussion pertaining to how this ordinance affects promotions the Board continued this item to later in the meeting to allow County Counsel time to prepare language to differentiate between a promotion from a journeyman level (1, 2 or 3) versus a promotion to a supervising position.

14. Discussion/direction regarding letter from the Sierra County Fish and Wildlife Commission requesting the Board send a letter to the California Fish and Game Commission recommending the Commission consider the Sierra County Fish and Wildlife Commission's recommendations pertaining to the proposed changes to bear hunting regulations. (SUPERVISOR HUEBNER)

Following brief review of the matter the Board moved to authorize a letter to the California Fish and Game Commission.

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

15. Discussion/direction regarding letter from the Sierra County Fish and Wildlife Commission requesting the Board send a letter to the California Fish and Game Commission recommending the current five non-native fish possession limit be removed from Independence Lake making it an unlimited possession limit for the lake. (SUPERVISOR HUEBNER)

The Board moved to authorize a letter to the California Fish and Game Commission recommending the current five non-native fish possession limit be removed from Independence Lake making it an unlimited possession limit for the lake.

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

16. Discussion/direction regarding letter from the Sierra County Fish and Wildlife Commission requesting the Board's support of the Commission becoming part of the RAC partnership with the Feather River Chapter of Trout Unlimited for the rehabilitation of the Little Truckee River system. (SUPERVISOR HUEBNER)

The Board moved to approve a letter supporting the Commission becoming part of the RAC partnership with the Feather River Chapter of Trout Unlimited for the rehabilitation of the Little Truckee River system.

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

17. Appointment of Carol Iman to the In-Home Supportive Services Advisory Board.
(CHAIR GOICOECHEA)

The Board moved to appoint Carol Iman to the In-Home Supportive Services Advisory Board.

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

Item 11 Continued.

County Counsel recommended adding the following wording to the end of subsection (d) of the proposed ordinance:

“notwithstanding the foregoing an employee who would otherwise because of location of his/her domicile as of the date of the adoption of this ordinance and whose position is that of a journeyman series such as a 1, 2 or 3 shall not be subject to the residency requirements if promoted to a hirer position so long as the position is not one of a supervisory nature.”

The Board moved to waive the first reading of the ordinance adding section 3.08.050 to the Sierra County Code pertaining to residency requirements for designated employees as amended.

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

CLOSED SESSION

21. Closed Session pursuant to Government Code Section 54957.6 regarding labor negotiations with County Employees.

CLOSED SESSION STATEMENT

The Board held closed session from 2:44 p.m. to 3:42 p.m. County Counsel reported that he held the initial session with the Board with regards to labor negotiations and there is nothing to report at this time.

CORRESPONDENCE LOG*

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

- C-1 Application for Alcoholic Beverage License submitted by Elizabeth Yvonne Ortiz.

No Action

RECESS TO CONTINUED REGULAR MEETING TO BE HELD ON APRIL 20, 2010.

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At 3:43 p.m., with no further business, Chairman Goicoechea adjourned the meeting.

DAVE GOICOECHEA, CHAIRMAN
BOARD OF SUPERVISORS

ATTEST:

HEATHER FOSTER