

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 March 16, 2010 in the Loyaltan Social Hall, in the Loyaltan City Park, Loyaltan, CA.

This meeting is recorded. To listen to the discussion for a particular item, click on the item. Click [*here*](#) to listen to the entire meeting.

PLEDGE OF ALLEGIANCE: Led by Supervisor Huebner

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
Laura Marshall, Assessor
John Evans, Sheriff-Coroner

APPROVAL OF CONSENT AGENDA

At the request of Supervisor Whitley, Consent Item C was moved to the Regular Agenda as Item 25C.

- C. Resolution approving the hiring of an Integrated Case Worker I, a regular full time employee for a limited term for the Sierra County Subsidized Employment Program. (SOCIAL SERVICES)

The Board moved to approve the Consent Agenda as amended.

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

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CONSENT AGENDA

- A. Agreement for Indemnification and Reimbursement for extraordinary costs for Steve Oertel, Applicant and Landowner for consideration of a zone variance from the stream setback and a zone amendment from General Forest to Residential One Family (R-1) District. The project site, identified as APN 002-160-072, is located at 108 Lavezzola Road, Downieville. (PLANNING)

APPROVED, Agreement 2010-028

- B. Lease Agreement for office space in Loyalton between McHenry Family Trust and Sierra County. (HUMAN SERVICES)

APPROVED, Agreement 2010-029

- D. Resolution certifying County roads contained in maintained mileage system for submittal to the State of California. (PUBLIC WORKS)

ADOPTED, Resolution 2010-042

- E. Amendment to Agreement 2008-177 with MGE Engineering for the Project Approval and Environmental Document (PA & ED) Phase of the Ridge Road Rehabilitation Project, to extend term of contract. (PUBLIC WORKS)

APPROVED, Agreement 2010-030

- F. Resolution rescinding Resolution 2010-023 and readopting a resolution amending the 2009/2010 Fiscal Year budget to allocate 10% of Director's salary to Office of Emergency Services (OES), 10% to Plant Maintenance, 40% Planning, and 40% Transportation. (PUBLIC WORKS)

ADOPTED, Resolution 2010-043

- G. Resolution approving Program Supplement Agreement No. 024-N to Administering Agency-State Agreement No. 30-5913R relative to development of a Plan of Action for Scour Critical Bridges. (PUBLIC WORKS)

ADOPTED, Resolution 2010-044

APPROVED, Agreement 2010-031

- H. Minutes of the Regular Meeting held February 2, 2010. (CLERK-RECORDER)
- I. Minutes of the Continued Regular Meeting held February 16, 2010. (CLERK-RECORDER)

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APPROVAL OF REGULAR AGENDA

6. Discussion/direction to staff on February 26, 2010 letter from Northern Sierra Air Quality Management District regarding the Sierra Pacific Industries (SPI) Biomass Plant at Loyalton.

At the request of Chairman Goicoechea, Regular Item 6 was deferred.

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

9:05 A.M. – PUBLIC COMMENT OPPORTUNITY

At 9:05 a.m. Chairman Goicoechea opened the public comment opportunity.

Ms. Marie Silver, Loyalton announced that today between 11 a.m. and 6:00 p.m. there is a blood donor drive at the Loyalton High School.

Ms. Ann Terrasas, Loyalton addressed the Board questioning if it was possible for the Board to reconsider the issue on the pool and put this to the point of the people, potentially for the General Election.

Chairman Goicoechea noted probably not if speaking specifically to having a vote.

Ms. Terrasas continued to note that a lot of people felt they missed the opportunity to vote on this issue.

At 9:08 a.m. Chairman Goicoechea closed the public comment opportunity with no further persons addressing the Board.

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

Mr. Quentin Youngblood provided an update on various projects in the District. Mr. Youngblood further noted that they are looking at the second week of May to get the RAC proposals going and they have received \$300,000.

2. Discussion/direction to staff on Title II grant applications to be submitted to the County Resource Advisory Committee for consideration.

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The Director of Planning reviewed the matter noting the Secretary of Agriculture has confirmed the Resource Advisory Committee (RAC) appointments and this Committee is responsible for funding projects under Title II. The Director reviewed prior projects the RAC has funded explaining that these projects have to show a benefit to federal land. The Director continued to review the only project that was sponsored by the County and approved being a two year program that allowed the Chamber of Commerce to occupy the Downieville Visitor Center and provided funds to pay for a part-time individual who essentially answered funds and directed visitors to the community of the resources available countywide. The Director further questioned if the Board wanted to write the same grant application and either limit the application to the prior scope or increase the scope to include expanding to the east side visitor centers located in Sierraville and Loyaltan. This is 100% funding and there is no required match. The Director continued to explain that the Forest Service outlined a time table for applications to be completed and the Board will need to think of projects and direct the preparation of the grant applications.

It was stated that the deadline for applications is April 14, 2010.

Supervisor Adams recommended submitting applications for all three of the visitor centers as separate applications.

Supervisor Nunes recommended doing one application for all three so they are not competing against each other.

Supervisor Adams explained that he believes they all have different degrees of connection to National Forest Service land and is concerned if it fails they have lost the funding for all three visitor centers.

Supervisor Whitley noted that one application would show a greater community interest.

Supervisor Nunes noted that he would like one application as it should be a countywide effort.

The Director explained that he believes either way will work but they will need to connect the benefits to federal land.

In response to Supervisor Nunes's inquiry, the Director explained that the amount of the previous grant was determined by a reasonable estimate of the time the visitor center was open, occupied and the cost of publication of documents. The grant allowed some of the publication costs for the visitor guides. For this application he would look for publication costs for the visitor guides, infrastructure costs, and they need to make sure the individual has something to do when people aren't dropping by the visitor center.

Supervisor Nunes noted that this would be a way to help compensate the Chamber for their reduced budget.

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The Director noted that between now and the next meeting he should meet with the Chambers to see what their needs are and what their expected hours would be so he can complete a reasonable grant application. The money is tight and there is a lot of competition. We need to hone in on the real issues and make sure the costs are appropriate so the Forest Service feels comfortable that this is a project they can support.

Supervisor Nunes recommended having discussions with the Chambers between now and April 6th.

Chairman Goicoechea noted that he believes it is imperative to get the ball rolling on this and to be ready for a recommendation on April 6th.

The Director recommended the Board give some level of direction today so he can begin working on the requests. The Director further questioned who the contacts are for the two Chambers of Commerce.

Ms. Marie Silver responded noting that she is the Secretary for the Eastern Sierra Valley Chamber and Mr. Bob Macey is the President.

Supervisor Huebner noted that Ms. Kathy Breed is the President of the Sierra County Chamber of Commerce and the person to contact is Ms. Jan Koettle.

The Director clarified that they are looking at costs for printing visitor guides, providing funding for a minimal salary for someone to be at the Downieville and Loyaltown Visitor Centers.

Supervisor Nunes clarified that there is also a kiosk in Sierraville.

Supervisor Huebner recommended giving direction for a specific amount and then let the Chambers figure it out and get this moving.

The Director noted that unless the Board wants separate meetings with the Chambers, he knows generally what the Board wants to do and he can get the discussions started. He has been cautioned by a couple of the Resource Advisory Committee members that they are not going to fund ongoing administrative costs and hopes this is not correct because this is the type of project that may be considered an ongoing cost.

The Director continued to question if there are other projects, noting that the Board may want to consider some of the Proposition 40 projects and other projects that may have components that meet the RAC guidelines.

9:30 A.M. – TITLE III FUNDING REQUESTS

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1. Discussion/direction to staff and presentations by funding proponents of use of new and old Title III funding.
 - Request from Sierra Plumas Joint Unified School for an additional year of funding of Title III under Public Law 106-393, referred to as the “Secure Rural Schools and Community Self-Determination Act of 2000”, for an after school forestry education program.

Mr. Stan Hardeman, County Superintendent addressed the Board noting he is here on behalf of the District to request support for the Title III revenue that supports the after school forestry education program. There is a long range plan through a partnership with the Feather River College and they are pursuing five other grants to be able to support this program for when this funding goes away next year.

In response to Supervisor Nunes’s question, the Director of Planning noted that the Board does need to adopt a resolution of intent.

The Director explained that there is a division between new and old Title III funding. Old Title III funding is less stringent and the Board has expressed a desire to review all Title III requests so the Board can take action to allocate all of the funds. The Director clarified that projects in the pool have been the County Forester, the GIS program, augmentation of the Solid Waste Budget, the Schools component, and reimbursement to the Road Fund for the Bassett fire. There is still old Title III funding available.

County Counsel noted that the old Title III can be used for the after school education programs but not the new Title III.

In response to Chairman Goicoechea’s inquiry, the Auditor explained that there is \$21,354.00 old Title III funds available assuming the Board funds the County Forester in the amount of \$7,000 this year.

In response to Board inquiry, Mr. Mike Freschi, Member of the Sierra County Fire Safe Council noted that the Council didn’t have a request for old Title III funds.

The Board moved to approve the School’s request for old Title III funds in the amount of \$21,354 and directed staff to prepare the resolution of intent to allocate the old Title III funds for adoption at the April 6, 2010 Board meeting.

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

In response to the Director’s inquiry, the Auditor noted that the old Title III funding should be zeroed out unless someone doesn’t use all of their allocations.

In response to Chairman Goicoechea’s inquiry, Mr. Hardeman noted that they will be spending the full allocation from last year.

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10:00 A.M. – PUBLIC HEARING- HIGH WATER LINE

22. Conduct public hearing for consideration of a zone amendment to Section 15.08 of Sierra County Code to add a definition of High Water Line.

At 10:00 a.m. Chairman Goicoechea opened the public hearing.

The Director of Planning provided background on the matter explaining that a public hearing was held by the Planning Commission in December 2009 and the Commission adopted the resolution in 2010 confirming their decision and making a recommendation to the Board on a definition of a high water line. This matter has been in and out of the Commission's agenda for the past three to four years as they have been trying to deal with issues outlined in the General Plan and at the staff level that end up being issues the community must face in the process of securing permits for the development of property. The current County Zoning Code was Ordinance 409 and became effective in 1973 so for purposes of documenting this ordinance it was adopted and became effective one month after he started with working with the County. Currently the County Code section dealing with the high water line is the same as it was in 1973.

The Director continued to review the historical method for determining the setback noting that staff would receive an application and perform a site review. If there was a stream, river or lake that was identified as having a required setback, staff would do a visual analysis of what the historical high water line was and the setback would be measured from that point. This was a consistent method used by staff to determine the high water line and the 100 foot setback. If the property owner wanted to build within this setback they would have to apply for a variance. The 100 foot setback was intended and initially proposed for a number of reasons including aesthetics, protecting the corridor along stream courses or waters bodies for wildlife and environmental purposes and for public access purposes. It provided separation for septic systems and separation for potential high water and flooding. The Board at the time and ever since had all been of the opinion that it is not a wise move to allow housing to encroach on or over the bank of the river.

The Director continued to explain that in 1980 the County denied a few requests for variances to build houses right next to Cold Stream in Sierraville as they knew this area had a history of flooding. This became a contentious issue and there was some concern about how the County was administering a setback. The Director further reviewed a letter he sent to the Board at the time outlining the method/thought process behind what staff had done up to that point. The Director continued to note that in the early 2000's things changed. A group formed and started playing gotcha with the County Code and that is where we are today. The County has a definition of a high water line in the County Code that has a lot to be desired. We now have a group who believes the County has the obligation to go to the floodplain line since the high water line is not defined. In 2005 the Planning Department attempted to clarify the policy wherein staff developed an internal memo to provide to the public to make sure the rules were

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clear; however, they found it to be confusing and it didn't work. That is when they started receiving appeals and the challenges to the County's decision making process.

In 1984 the County received the first set of FEMA maps for Sierra County and they outlined Zone A which delineated the areas that are prone to flooding which required the County to develop a floodplain ordinance for these areas in order for people to get insurance. The County received concurrence to enter into the floodplain program and the obligation of the Board was to adopt a floodplain ordinance which was done, and to administer a set of maps which are published. They have had a few cases where a parcel is on a mountain top, but is shown in Zone A on the FEMA maps and have had to have property owners apply for a variance. The maps are a published delineated line that the County is obligated to follow. High Sierra Rural Alliance (HSRA) wants the Board to take the position that the purpose of the 1973 Code was not only to require a 100 foot setback from the bank, but now the County has to take the 100 foot setback to the edge of the high water line as published by FEMA.

The Director further reviewed the General Plan map of Sierraville noting that the FEMA maps shows the entire community of Sierraville as being in the FEMA floodplain. The interpretation HSRA wants the County to take is to have property owners apply for a variance because they are shown as being in the floodplain. The Director continued to review the map of Sierraville noting that there will be testimony that somehow these floodplains and stream zones are special treatment areas. The Director further reviewed where the special treatment areas are explaining that when reviewing letters that have been received there is a real difference of opinion as to what a special treatment area is, what the setback is and the chronology of issues that have resulted in how the County interprets stream setbacks.

The Director briefly reviewed HSRA's submission explaining that know matter what the County does we will be in this position and he believes he has to clearly outline to the Board what the alternatives are: 1) do nothing and to continue to operate as the County has; 2) proceeding with staff's recommendations; or 3) proceeding with an EIR (Environmental Impact Report) as HSRA would like the Board to propose. He would expect an EIR on a project of this size to cost a \$250,000 or more. The Director further requested the Chair recognize Mr. Brandon Pangman, Planner to enter the documents into the record.

Supervisor Whitley questioned where the General Plan would fit in with this ordinance and the opposition of the stream setback as we are going into a new General Plan in 2012. The Director responded explaining that the County is not going into a new General Plan. The General Plan is good through 2012 and the Board may decide to make some minor revisions, but there is no new General Plan being proposed as he has not been directed to do so and doesn't see a need or reason to support rewriting the General Plan. The Board can extend or update the plan. The ordinance being proposed is very consistent with the General Plan and he feels comfortable with this.

Mr. Brandon Pangman, Planner addressed the Board reviewing Section 15.12.60 of the Sierra County Code. Mr. Pangman noted that the high water line is not defined in the County

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Zoning Code. Mr. Pangman further reviewed requests to the Planning Commission and the Board where there was very clear direction, prior to the FEMA maps coming into existence, for a minimum 100 foot setback from the stream bank or seasonal line. Planning staff has been processing Building and Planning applications and interpreting the high water line as being a seasonal line. There is a definition of a high water line in Part 23 of the Sierra County Subdivision Code which equates the term high water line with the FEMA 100 year floodplain. They have argued that there is good reason that this should be differentiated between the Zoning Code and Subdivision Code as they are there for two very different purposes. By coupling these two concepts (the 100 year floodplain and term high water line) has resulted in a ludicrous situation. At the advice of County Counsel they have taken the conservative approach, until this is resolved in the form of a change in policy, to measure the 100 foot setback from the FEMA line where that is known.

Mr. Pangman further requested the following documents be entered into the record:

- Exhibit 1 – Board of Supervisors Packet – Planning Commission Administrative Record to date.
- Exhibit 2 – Planning Staff memo to Planning Commission regarding the Stream Setback/High Water Line definition
- Exhibit 3 – Planning Department File #1557
- Exhibit 4 – 02/28/1980 letter to Supervisor Filippini and 11/13/1979 letter to the Board of Supervisors regarding floodplains and setbacks
- Exhibit 5 – General Plan land use map of Sierraville – oversized
- Exhibit 6 – FEMA Flood Information Rate Maps – Community of Sierraville - oversized
- Exhibit A – Letter from Mr. Mike Gallagher to the Planning Commission dated 02/08/2010

The Clerk entered the following letters received into the record:

- Exhibit B – High Sierra Rural Alliance testimony dated 03/12/2010 with attached Exhibits 1 thru 6.
- Exhibit C – Letter from Michael Evans dated 3/12/2010
- Exhibit D – Letter from Thomas A. & Judy A. Dotta dated 03/12/2010
- Exhibit E – Letter from Robert & Caroline Eshleman dated 03/12/2010
- Exhibit F – Letter from John & Julie Amodei dated 03/12/2010
- Exhibit G – Letter from Jose M. Brito dated 03/12/2010
- Exhibit H – Email from Clark McHuron dated 03/14/2010
- Exhibit I – Email from Frederick C. Gibson, Architect dated 03/14/2010
- Exhibit J – Email from Patricia R. Heck, Ph.D dated 03/14/2010
- Exhibit K – Letter from Paul R. Marciniak dated 03/15/2010
- Exhibit L – Letter from Marjean Marciniak dated 03/15/2010
- Exhibit M – Letter from Roland & Tina Scarselli dated 03/15/2010
- Exhibit N – Letter from Mike & Carol Iman dated 03/12/2010

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Exhibit O – Letter from Irving N. Christensen dated 03/11/2010

Mr. Pangman summarized noting that what is before the Board is a recommendation to amend chapter 15.08 of the Zoning Code and add Section 15.08.365 High Water Line. Mr. Pangman further read the definition of the High Water Line within the proposed ordinance further explaining that they are only defining the high water line from the point in which to measure the 100 foot setback. It is hoped that by returning to the historical practices by Planning staff they will return to some sort of consistency with respect to processing Building and Planning permits without resulting in what became a confusing practice in early 2004 in trying to determine where the high water line is and where it should be measured.

The following individuals spoke in favor of the proposed ordinance:

Mr. Laurence DeVita, Sattley
Mr. Scott Schlefstein, Loyalton
Mr. Robert Eshleman, Sierra City
Mr. Milt Holstrom, Sierraville
Mr. Tom Dotta, Loyalton
Ms. Marjean Marciniak, Sierra City
Ms. Pat Hudson, Downieville
Ms. Heather Kenny, Attorney for Paul and Marjean Marciniak
Mr. Paul Marciniak, Sierra City

Following comments from the public the Board entered the following map referenced by Ms. Heather Kenny into the record:

Exhibit P – USACE Map – Annotated with 100' Setbacks

It was noted that there was not a representative from High Sierra Rural Alliance in attendance.

At 11:10 a.m. Chairman Goicoechea closed the public hearing.

Mr. Bill Bate, Calpine also addressed the Board in favor of the proposed ordinance.

Chairman Goicoechea thanked the members of the Planning Commission for their work on this matter.

The Board took a break from 11:13 to 11:23 a.m. and reconvened with all members present.

County Counsel explained that there are two components the Board needs to address. First, the ordinance itself is a legislative act and the Board has broad discretion to decide what an appropriate policy is and what appropriate legislative language is in the zoning ordinance.

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Second, involves the CEQA determination that the Board has to take. County Counsel continued to review CEQA explaining that whenever a public agency exercises any discretion in its decision making, and its decision has the potential to create environmental impacts, the decision makers have an environmental analysis prepared so they are fully informed prior to making a decision. County Counsel continued to explain that there is not a quarter million dollars in the County's budget to fund HSRA's CEQA request.

County Counsel continued to provide considerable background on CEQA noting that staff is asserting that it can be seen with certainty that this ordinance definition will not have any potentially significant impacts upon the environment. HSRA has an obligation to show at least a reasonable possibility of an existence of this. The mere assertion is not deemed to be sufficient to generate the finding of the existence of significant environmental impact. The proposition staff is asserting that this is not a policy change is an important facet that needs to be discussed today. If the Board accepts the Director's and staff's assertion that the proposed definition is consistent with long standing historical practice and interpretation he believes this merits considerable attention. The ordinance is not proposing that there is a policy change at foot. Staff is stating that given the lack of a definition of a high water line when the ordinance was adopted in 1973 it left staff, the Board and the community with the duty to reasonably determine what this meant and the Director and staff have documented that the long standing practice was to view the high water line based on a site specific review. The ordinance when it was adopted in 1973 with the undefined term proceeded any activity by FEMA to establish a 100 year flood line and he feels this is terribly pertinent. He believes this adds strong credibility to staff's historical practice. The courts routinely defer to the administrative interpretation by the agency staff that has been charged with administering and enforcing the ordinance.

County Counsel continued to provide background on HSRA as a local non profit environment group who has consistently inserted themselves in matters in the County. County Counsel further explained that there have been court opinions which state where a County has a term defined in one portion of the County Code the courts could assume the county means the same thing in terms of other areas where the definition is not incorporated in the same fashion. He recognizes the potential for a fight over these issues. He believes this bread internally to staff's conservatism to start incorporating by administrative interpretation this more conservative approach, so if there was a change from the original historical practice it was due to his discussions with staff. The Board knows that the County does not have any surplus revenue and when faced with prior litigation the County unfortunately has had to determine weather the money is better spent in trying to avoid litigation and using these funds for other essential county services. County Counsel continued to explain that the conservative change in 2005 was due to a concern of potential litigation and was a change that was never addressed or sanctioned by the Board of Supervisors. County Counsel further clarified that a clear definition doesn't represent a change in policy; if it does then arguably CEQA applies. If it doesn't represent a change in policy from the time the ordinance was adopted in 1973, then he believes the Board has the latitude to implement a clear legislative statement. So long as this statement is not a change in policy and is supported by the long standing legislative practice then he believes we are on reasonable grounds that CEAQ doesn't apply.

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The Director clarified that the references made to the maps (Exhibits 5 & 6) were intended to show the rationale for historical practices. It was not represented or viewed as a policy change. The Director continued to address statements made in the letter from HSRA (Exhibit B). The Director further requested the Board make a tentative determination and direct staff to return to the Board with a final resolution containing the findings that bridge the record they have today with the findings they are about to make.

23. Resolution finding that the High Water Line Ordinance is statutorily exempt from California Environmental Quality Act (CEQA) under California Code of Regulations (CCR) Section 15061 (b)(3).
24. First reading and adoption of a High Water Line Ordinance adding Section 15.08.365 to Sierra County Code.

The Board moved to tentatively adopt the resolution finding that the High Water Line Ordinance is statutorily exempt from California Environmental Quality Act (CEQA) under California Code of Regulations (CCR) Section 15061 (b)(3) and tentatively a High Water Line Ordinance adding Section 15.08.365 to Sierra County Code and directed staff to return with a revised resolution.

Supervisor Adams complimented the Planning Commission and Planning Department staff and also noted that he appreciates having the consistent institutional memory of the Planning Director.

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

- 25-C. Resolution approving the hiring of an Integrated Case Worker I, a regular full time employee for a limited term for the Sierra County Subsidized Employment Program. (SOCIAL SERVICES)

Supervisor Whitley questioned if the individuals where hired through the SOS program. The Director of Health and Human Services responded explaining that in order for an individual to qualify under the SOS program they must be of 200% or less of poverty and have a dependent child and are limited to 960 hours. This person was hired to implement the SOS program through Merit Systems and is paid for out of the SOS funding including benefits. They were allowed to hire on a temporary basis until they went through Merit System requirements and once they finished these requirements they were able to hire a full-time Merit Systems employee with benefits.

Supervisor Adams noted that he is going to vote for this. This is a simple clerical position and he also understands that the position will end when the funding ends. Supervisor Adams continued to explain that he is troubled by the trend he sees with respect to the Agency's

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staff having grown. He would like to see them prioritize these programs and would like to see a balance between the County and the Agency.

The Board moved to adopt the resolution approving the hiring of an Integrated Case Worker I, a regular full time employee for a limited term for the Sierra County Subsidized Employment Program.

ADOPTED, Resolution 2010-045. Motion: Adams/Huebner/Unanimous Roll Call Vote: 5/0

NOON RECESS

The Board took the noon recess from 12:07 p.m. to 1:23 p.m. and reconvened with all members present.

8. Review of Proposition 40 Projects background in preparation for adoption of resolutions authorizing projects.

The Director reviewed the matter explaining that the Board needs to consider that the \$280,000 of Proposition 40 funds transferred to the City is gone. This means that Districts 1 and 3 are fully funded, District 2 has \$100,000, District 4 has \$140,000 and District 5 has \$100,000.

The Director further reviewed the projects identified for the Districts noting that the projects on the agenda today are those projects for which a project resolution has not been adopted. The Director further recommended Regular Agenda Items 9, 13 and 15 be pulled from the agenda.

9. Resolution approving allocation of Proposition 40 funds in the amount of \$15,000 for the Alleghany County Park.
13. Resolution approving allocation of Proposition 40 funds in the amount of \$26,000 for the Alleghany Community Hall Project.
15. Resolution approving allocation of Proposition 40 funds in the amount of \$20,000 for the Kentucky Mine Park and Museum Improvements.

The Director continued to explain that they are still trying to determine whether or not the \$20,000 out of District 1 needs to be made. This was due to the District 2 allocating \$20,000 of Proposition 12 funds to help pay for the school playground and to make the project whole on the basis that there would be a repayment of this funding to District 2 on the next bond act. The Director further noted that items 10, 11, 12, and 14 are all valid projects and this will complete the project identification that needs to be translated into a resolution. The balance of the funds for District 2, 4 and 5 will be brought back to the Board by the next meeting. The Director further explained that by this time next year these funds expire and the Board needs to have payments made.

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10. Resolution approving allocation of Proposition 40 funds in the amount of \$55,000 for the Sierra City Community Park.
11. Resolution approving allocation of Proposition 40 funds in the amount of \$240,000 for the Sierraville Recreation Complex.
12. Resolution approving allocation of Proposition 40 funds in the amount of \$125,000 for the Yuba Theatre Improvements in Downieville.
14. Resolution approving allocation of Proposition 40 funds in the amount of \$35,000 for the Sierra Buttes Trail Stewardship Mill's Peak Trail.

The Director also requested pulling Regular Agenda Item 16.

16. Resolution approving allocation of Proposition 40 funds in the amount of \$15,000 for the Lion's Park in Downieville.

The Board moved to adopt the resolutions approving allocation of Proposition 40 funds for Regular Agenda Items 10, 11, 12 and 14.

Supervisor Adams questioned if the \$20,000 has to be returned this leaves him \$40,000 for Alleghany and could they amend the Yuba Theater down a little bit. The Director explained all they would have to do is adopt a new resolution or put in a project for \$100,000 and then have a balance left over.

ADOPTED, Resolution 2010-046; ADOPTED, Resolution 2010-047; ADOPTED, Resolution 2010-048; ADOPTED, Resolution 2010-049. Motion: Huebner/Adams/Unanimous Roll Call Vote: 5/0

18. Appointments to the Sierra County Calpine Waterworks District #1. (CHAIR GOICOECHEA)
 - Greg Premo
 - Tim Butler
19. Appointment of Bud Buczkowske to the Cemetery District #2. (CHAIR GOICOECHEA)
20. Appointment of Barbara Weaver to the Drug and Alcohol Advisory Board as the Department of Education representative. (CHAIR GOICOECHEA)

The Board moved to approve the appointments under Regular Items 18, 19 and 20.

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

3. Discussion/direction to ad-hoc committee on report and recommendation of BOS ad-hoc committee formed to discuss County – US Forest Services relations.

Supervisor Adams reviewed the issues discussed during the meeting noting that the majority of the discussions revolved around the Forest Service presence in western Sierra County or lack thereof since the District offices were located off of the forest and out of Sierra County. They have scheduled another meeting and plan on inviting Forest Service representatives. Supervisor Adams continued to review what was discussed at the meeting including the Committee membership; Forest Service occupancy issues, which really came down to economic issues and not having the Forest Service and their staff in the community; perception and presence in the county seat; and the possibility of land exchanges. Supervisor Adams further noted that it was a good meeting and he looks forward to sitting down again with Tom Quinn and Quentin Youngblood.

Supervisor Huebner noted they also discussed the Nixon claim and to make sure nothing like this happens again.

The Director added that the Committee recommended a letter that was going to be forwarded to the Forest Supervisor, but was withheld until today's discussion occurred. The letter being requested by the Committee was pertaining to 1) written confirmation of a public notice policy to assure that proper legal notices are provided in Sierra County; 2) having a list of occupancies provided to the Committee that the Forest Service considers illegal, inappropriate or a trespass and to have the Forest Service identify what actions they are going to take and when; 3) the inquiry of the existing lease covering the Forest Service office in Camptonville and what the monthly payment is, terms of the lease, the number of employees, etc; 4) a description of a maintenance plan and long term goals to the Downieville Ranger Station; 5) a request for some form of relocation to the ranger station in Downieville; and 6) what services does the Forest Service expect from the County with respect to the Health Department, Building Department, Solid Waste, Public Works and Roads.

Chairman Goicoechea expressed concerns of County involvement on federal land and would like to have this clarified in the future. Chairman Goicoechea continued to note that he was curious to see under what authority Elizabeth Morgan was sent to the Nixon Claim and was she acting within her responsibility while she was there. He believes there needs to be a county policy on these types of issues to prevent the Forest Service's misuse of County personnel.

Discussion ensued pertaining to what is the Health Department's role and responsibilities when it comes to federal land.

Mr. Lawrence DeVita, Sierra County Prospector noted that he contacted Ms. Morgan about this issue noting that Sierra County had the opportunity to go in and clean this up. When Sierra County didn't answer the Forest Service became the lead agency. The mine owner wrote

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a letter to Ms. Morgan in 2006 complaining about the situation, so subsequently Ms. Morgan contacted the owner of the property who was the Forest Service who told her to go down to the site and inform them of what she finds. Ms. Morgan wrote the Forest Service a letter outlining the violations, which is her job and questioning what the Forest Service was going to do about them. At that point Tom Quinn, who probably didn't know about this until he saw the letter, passed it on to his staff. So now they were looking at several different agencies that have gotten involved. Mr. DeVita continued to explain that he is not justifying what was done, but this is not something we should be crucifying county staff over.

Following further discussion Chairman Goicoechea noted he would like the appropriate role of County employees in law enforcement action on federal land to be clarified.

The Director noted that these issues can be addressed at the Committee level, but regardless of what happened back in 2006 the issue is the overall riding policy as to when the County should be on federal land, under what circumstances and who the County is responsible to; the claimant with the possessory interest or the Forest Service. In 2006 the Building Department was requested to participate and he refused because the County's mission wasn't clear with respect to what they were doing there, why they were there and were they reporting to the Forest Service or was the County going to independently to take an enforcement action. The answers to these questions bring up a number of policy and liability points. There needs to be a policy in place and an agreement between the County and the Forest Service so when the Forest Service wants the County's services there is a clear path and process for engaging these services and not having blame for the ultimate action being taken.

Supervisor Adams noted that he believes the Committee is clear on what the Board's direction is and will have another Committee meeting.

7. Resolution affirming Road Department/Trades Bargaining Unit status as a separate employee bargaining unit.

The Director of Planning explained that County Counsel is proposing a change to the resolution he provided in the packet. The reason the resolution he provided is in the form in front of the Board was that he wanted to put some detail touches to the resolution to recognize the employee organization and to quote the Meyers-Milius Brown Act as the authority for this unit. He also took the liberty of providing the trades and craft to avoid the appearance that the Road Department was isolated as the bargaining unit because of funding.

County Counsel noted that the genesis of this was to reaffirm what was done in 1982. We have not separately met and conferred with the Union on this. County Counsel further requested if the Board wants to reaffirm this then they should stay with what was done in 1982 and leave it as the Road Department.

Supervisor Whitley expressed concerns of having three separate units when we are a county with only 100 employees.

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Supervisor Nunes clarified that negotiations would be done together as a combined negotiation session even though they will have separate MOU's.

Mr. Billy Epps, Road Unit Representative clarified that they would like to sit with everyone at the same time, but want the right to proceed in the future with negotiations if the other unit is ready to sign on and they are not.

Following further discussion, the Board moved to adopt County Counsel's version of the resolution affirming Road Department Bargaining Unit status as a separate employee bargaining unit.

Mr. Epps pointed out that he sees no problem with the Director's version of the resolution and he believes the Board isn't following the Brown Act if they approve County Counsel's version.

County Counsel noted that the label "trades and craft" was not part of the discussion last week.

ADOPTED, Resolution 2010-050. Motion: Nunes/Huebner/Unanimous Roll Call Vote: 5/0

4. Discussion/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.

The Director addressed the matter explaining that the EMPG is the source of funding for the funding that provides support for the OES Coordinator and requires a dollar for dollar match. The County is going to lose access to the \$40,000 if it is not used. Next year the EMPG funding will increase from \$80,000 to \$125,000 and the demands for the OES function will still be around \$40,000 and the County will have to return the remaining funds. He is suggesting that if there is a County program or purchase that can be offset by using these funds to do so. The Director continued to provide examples of things the County could purchase that would meet the EMPG guidelines explaining that if the County has set funds aside to purchase something they could pay for half of it and have a savings in the General Fund. The trick is that the County has to keep track of what they purchased. The Director of Health and Human Services has a position that is dedicated to tracking inventory. There is an Operational Area Emergency Council (OAEC) meeting on March 31, 2010 to discuss these grants and he is hoping from this meeting to have a recommendation to the Board to make use of these excess funds.

The Director of Health and Human Services noted has an email out to staff to see if her Department could work cooperatively on tracking the inventory purchased with this grant.

5. Discussion of impending change in NORCAL EMS (Emergency Medical Services) and direction to staff for Fiscal Year 2010-2011 and following.

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Mr. Lee Brown, OES Coordinator addressed the Board reviewing a memo pertaining to NORCAL raising their fees last year; Butte and Colusa County have moved to Sierra Sacramento Valley (SSV) EMS; NORCAL no longer maintaining their Med-Net radio system; NORCAL having had a negative finding on their audit for their hospital preparedness grant; Shasta County having made a formal request to SSV for inclusion into their region; Tehama, Lassen, Trinity and Siskiyou Counties have talked to SSV about joining; NORCAL needing at least three counties to stay as a region; the money the County pays to NORCAL is matched by the State to help out small rural counties and if a county leaves one regional LEMSA to join another this funding will remain with the prior LEMSA for one year; on July 1, 2010 new EMT regulations go into effect and one of the new requirements is mandatory background checks for EMT's; issues with NORCAL being a non-profit organization and the Department of Justice not releasing background information to a non-profit organization; and if Sierra County stays with NORCAL and the five counties leave, the operating costs for NORCAL will be less.

Chairman Goicoechea questioned if Mr. Brown has a recommendation for the Board.

Supervisor Adams also questioned if this has gone before the Sierra County EMCC (Emergency Medical Care Committee).

Mr. Brown noted that the Sierra County EMCC hasn't met for a few years.

Supervisor Whitley expressed concerns of changing to another agency that won't have some of the life saving procedures that we have with NORCAL EMS.

Mr. Brown noted that as of July 1st the advance procedures we are doing here in Sierra County will become state law. Also, if the five counties leave NORCAL and go to SSV there are some worries about SSV becoming too large.

In response to Board inquiry, Mr. Brown noted that the County should meet with Plumas, Modoc and Glen counties to see what they are planning on doing. The County should also have a discussion with SSV to see if they would be willing to take us. He believes the best thing right now is to stay with NORCAL, but if two more counties leave it will become an issue.

Supervisor Adams recommended having a recommendation come from the local EMCC.

The Director noted that on March 31st the OAEC is going to meet and includes members of the EMCC. Also as an alternative he would suggest that the OES Coordinator continue to correspond with Modoc, Glen and Plumas County to determine what their proposal will be and at the same time make a point of inviting all members of the EMCC, the Eastern Plumas Health Care District, the County Health Officer, local fire agencies, and the City of Loyalton to the OAEC meeting and add this issue to the OAEC's March 31, 2010 agenda.

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Supervisor Adams also suggested since the EMCC and OAEC have the same members to combine the two meetings.

Mr. Brown noted that they have held an OAEC meeting the same day as the EMCC and it was handy for everyone.

County Counsel reviewed the options referenced in Mr. Brown's memo to the Board. County Counsel further noted that he spoke with Mr. Dan Speiss and he indicated that NORCAL is not folding at this point and his oral commitments were to maintain the costs to the County as long as they maintain their status as a LEMSA. He believes it is important to understand what the other three counties are going to do and would strongly recommend making inquiries as to where these counties are headed. There is also a contract deadline with NORCAL EMS to provide notice of nonrenewal as of the end of April.

Chairman Goicoechea suggested having a recommendation by the EMCC and the OAEC by the April 6, 2010 Board meeting.

17. Discussion/action regarding National Geographic Society's Sierra Nevada Geotourism Project. (SUPERVISOR ADAMS)

The Board moved to adopt the resolution in support of the National Geographic Society's Sierra Nevada Geotourism Project.

ADOPTED, Resolution 2010-051. Motion: Nunes/Huebner/Unanimous Roll Call Vote: 5/0

21. Discussion/direction on recommendations made by the Government Committee on March 15, 2010. (CHAIR GOICOECHEA)

Supervisor Adams reviewed the recommendations made by Government Committee explaining that due to the concerns of the risk of losing federal and state funds the Committee recommended authorizing one position in the Auditor's office at a cost of \$25,000 to the General Fund and \$11,000 out of contingencies this Fiscal Year. The Assessor's office presently has one property appraiser who is getting close to retirement age and there is concern of this individual leaving which will leave a real void and transition issue in the office, so the Assessor is requesting to hire a second appraiser to come in and learn the trade and to help with the back log in the office. The Committee is concerned that this puts the County's income at risk so the Committee is recommending the Assessor be allowed to hire an Appraiser I or II in the amount of \$59,000.

The Assessor clarified that this position would be effective July 1st and if she hires an Appraiser II it would cost approximately \$68,000.

In response to Supervisor Nunes's inquiry, the Auditor explained that with respect to his requested position it will cost more than \$11,000 this year but he already has the additional

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funds. The total cost is approximately \$69,000 as he is trying to fill the Account Manager position, so he would shift staff up and hire at the lowest position. The Auditor clarified that this is not adding staff to his office, rather it is replacing staff cut over the last few years. The State has paid their bills and at this point in time barring a huge spending spree in May or June it looks like the County may end up with a rollover of our full Contingencies which is approximately \$600,000.

Supervisor Adams continued to review the Committee's recommendations noting that it is clear that the ban on promotions was not meant to be permanent and the Committee is recommending including promotions in the base budget for 2010/11.

Supervisor Whitley expressed concerns of the private sector.

Supervisor Adams also noted that it was confirmed that the Sheriff has a vacant fully funded position and the Committee is recommending that the Sheriff hire this position and also fill the one correctional officer position currently funded. Supervisor Adams continued to note that in concept the Committee also supported the residency policy. If the County implements a resident officer policy the Committee suggested trying to get some of the current employees back living within so many minutes of their duty station by offering a locality pay. The Committee requested that the Sheriff return to the Committee with the proposed policy.

Following brief discussion Supervisor Adams also noted that there was discussion about getting the residency policy and probation policy in place as soon as possible so it will pertain to any new employees.

Supervisor Adams continued to note that the Committee recommended the current furlough policy continue until June 30th as it is was not their intent to have this become permanent. The last recommendation of the Committee was to continue the soft hiring freeze. Supervisor Adams continued to explain the only reason the two positions were requested to be funded was because of the impact to the revenue in the County.

The Sheriff noted that the idea for a one time relocation payment was to get existing employees to sign on and keep them in these areas and he wanted the Board to be aware of this concept.

Supervisor Adams commented that the Committee didn't make a recommendation on the one-time relocation payment but the Committee requested the Sheriff bring this back to them as they wanted more information about the concept.

Supervisor Huebner recommended all of the Government Committee recommendations with the exception of the Sheriff office be referred to the Finance Committee.

Supervisor Adams recommended dealing with the Sheriff's items today as they are revenue neutral.

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The Auditor explained that in his situation he has a time problem and if the Board is not going to approve this then say so today, as someone hired late this year or next year does him no good as he needs to get someone on board now in order to get what needs to be done during this summer. He will live with whatever the Board decides but would assume knowing what they are going to do now so he can make plans.

Supervisor Whitley moved to authorize the Auditor's position and to look at the other recommendations at a different time. Supervisor Nunes seconded the motion.

The Director noted that he doesn't believe any position should be filled until furloughs and promotions are restored. The Director continued to express concerns of this becoming a morale issue and requested the Board do this in sequence; get furloughs off the table and unfreeze promotions.

The Auditor noted that he agrees with the Director with regards to promotions, but as far as the furloughs go they run until June 30th and unless the Board takes an active measure to reinstate them, they are dead.

The Director agreed that the furloughs are behind this.

The Clerk expressed concerns of the Auditor hiring in at an Account Technician I and bumping up his employees without the other county employees receiving promotions as this will create a morale issue.

The Auditor agreed and would like to see promotions unfrozen.

Supervisor Adams recommended adding in the resolution that the other positions won't get bumped until all promotions are approved.

The Assessor expressed concerns of not having another Appraiser by July 1st due to the current Appraiser possibly retiring, needing time to train a new Appraiser and the increase in their work load.

The Sheriff requested clarification on the Committee's discussion with respect to him having the authority to hire a full-time deputy sheriff, a full-time correctional officer and to downgrade the undersheriff position to a sergeant level. It was his understanding that he could move forward with these things.

Following discussion, County Counsel clarified that the Sheriff will need a resolution clarifying the staffing pattern.

Considerable discussion ensued pertaining to combining the Auditor's Account Technician positions with the Director of Health and Human Services Account Technician

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positions and the potential of losing state and federal funding if the Auditor's position is not authorized.

The Board continued to discuss changing the proposed resolution authorizing the Auditor to hire to remove the last sentence pertaining to promotions and to reduce the amount from contingencies to \$6,000.

The Director continued to express concerns of the appearance of adding staff before dealing with promotions.

Supervisor Nunes explained that he is voting for this position not because the County has more money but because of the potential loss of money to the County.

County Counsel commented that the he understood that the Committee's discussion was to recognize that furloughs would not roll over and to authorize factoring promotions as part of the preliminary budget development.

Following further discussion pertaining to adding staff before implementing promotions, the Board clarified that the motion was to adopt the resolution authorizing the Auditor to hire an Account Technician I as amended to remove the promotions and reduce the amount out of contingencies to \$6,000.

ADOPTED, Resolution 2010-052. Motion: Whitely/Nunes/Unanimous Roll Call Vote: 5/0

Supervisor Nunes requested clarification on the undersheriff position.

The Auditor clarified that this was to reduce the undersheriff position down to a sergeant position, moving someone up into the sergeant position and filling the vacancy at the bottom.

County Counsel explained that staff will need to bring back resolution amending the staffing pattern to eliminate the undersheriff position and add a sergeant.

The Board made a motion of intent to adopt a resolution amending the approved staffing pattern to eliminate the undersheriff position and add an additional sergeant position.

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

It was stated that the Appraiser position will go back to the Finance Committee.

Following brief discussion the Board determined that the discussion item for the Finance Committee meeting will be discussion/recommendation regarding the 2010/2011 Preliminary Budget.

COMMITTEE REPORTS & ANNOUNCEMENTS –

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Chairman Goicoechea announced that Supervisor Nunes will be the Board representative to the Sustainable Forest Action Coalition.

Supervisor Adams reported that CSAC has requested having one of their representatives make a presentation at the April 6th Board meeting.

Supervisor Whitley reported on the Community Action Agency and the Child Abuse Council meeting.

DEPARTMENT MANAGERS' REPORTS & ANNOUNCEMENTS –

The Director reported that the TROA meeting next Wednesday has been cancelled, the OAEC meeting is scheduled for March 31st, and there is a meeting next Tuesday in Sacramento with the Regional Forester and will be attended by Supervisor Huebner. The Director continued to express concerns over the lack of coverage in the newspaper of the good things the County is doing and is he is particularly perturbed by the negative publications in a certain paper. He believes the appearance of the County is being attacked and the good work of the Board and staff is not being portrayed. He would like the Government Committee to take up a discussion about publishing a quarterly news letter that is short, factual and outlines the things the County is doing. This could be stuffed with the Mountain Messenger and possibly the Sierra Booster, provided to the online newspaper, placed on the County's website, and possibly mailed out to registered voters or property owners in the County. This is something that he really believes in and is concerned about.

Supervisor Nunes noted that he doesn't believe this can be done legally at the County's expense.

County Counsel noted that the Board shouldn't engage a policy discussion under Committee Reports.

Supervisor Nunes questioned if this is something the County can spend public money on. County Counsel responded explaining that the County can do a white paper.

Following discussion this matter was referred to the Government Committee to review and make a recommendation to the full Board.

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 Kimberly Turner, resigning from The First Five Sierra Board, effective immediately. (Authorization for Clerk to advertise)

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No Action

C-2 Application for Alcoholic Beverage License, submitted by Candra, LLC on behalf of Sierra Motor Company, LLC.

No Action

C-3 Letter from California Department of Food & Agriculture in regards to Agricultural Commissioner Revenue – F & A Section 224(g) and response from the Sierra County Auditor.

No Action

ADJOURN

At 4:23 p.m., with no further business, Chair Goicoechea adjourned the meeting.

DAVE GOICOECHEA, CHAIR
BOARD OF SUPERVISORS

ATTEST:

HEATHER FOSTER
CLERK TO THE BOARD