

BUTTE COUNTY BOARD OF SUPERVISORS

MINUTES

APRIL 27, 2010



County Supervisors

Bill Connelly, District 1
Jane Dolan, District 2
Maureen Kirk, District 3
Steve Lambert, District 4
Kim Yamaguchi, District 5

Scott Tandy, Interim Chief
Administrative Officer and
Clerk of the Board

Bruce Alpert, County Counsel

Called to order at 9:08 a.m. in the Board of Supervisors Room, County Administration Building, 25 County Center Drive, Oroville. Supervisors present: Dolan, Kirk, Lambert, Yamaguchi, and Chair Connelly. Also present: Scott Tandy, Interim Chief Administrative Officer; Bruce Alpert, County Counsel; and Kathleen Moghannam, Assistant Clerk of the Board.

Pledge of Allegiance to the Flag of the United States of America.

Observation of a Moment of Silence.

CORRECTIONS AND/OR CHANGES TO THE AGENDA. (None)

CONSENT AGENDA

- 1011-001
1. California Department of Food and Agriculture - approval is requested for an agreement with California Department of Food and Agriculture, which will provide funding for a detection survey program to determine the presence of Asian Citrus Psyllid in Butte County. The term of the agreement is from March 1, 2010 through September 30, 2010 with a maximum amount receivable of \$92,285 - action requested - APPROVE AGREEMENT AND AUTHORIZE THE CHAIR TO SIGN SUBJECT TO REVIEW BY COUNTY COUNSEL AND THE AUDITOR-CONTROLLER. (Agriculture)
 2. California Department of Food and Agriculture - approval is requested for an agreement with California Department of Food and Agriculture, which will provide funding for a detection survey program to determine the presence of European Grape Vine Moth in Butte County. The term of the agreement is from March 1, 2010 through June 30, 2010 with a maximum amount receivable of \$6,338 - action requested - APPROVE AGREEMENT AND AUTHORIZE THE CHAIR TO SIGN SUBJECT TO REVIEW BY COUNTY COUNSEL AND THE AUDITOR-CONTROLLER.

3. MC2 Design Group - amendment - approval is requested for an amendment to the agreement with MC2 Design Group for design services for two additional projects including "Parent Committed and Merchant Committed" toolkits and the design and printing of booklets, CD's and DVD's for the "Wasted" documentary. The amendment is for an expanded Scope of Work and an increase of the maximum amount payable by \$8,895.45 to \$34,810. (department budget) - action requested - APPROVE THE AGREEMENT AMENDMENT AND AUTHORIZE CHAIR TO SIGN SUBJECT TO REVIEW BY COUNTY COUNSEL AND THE AUDITOR-CONTROLLER. (Contract X17852)(Behavioral Health)
4. Northern Valley Catholic Social Services/Four Winds Charter Schools(NVCSS) - amendment - approval is requested for an amendment to the agreement with NVCSS to include case assessment, collateral services, individual therapy, group therapy, family therapy, rehabilitation services, plan development and school based services. The term of the contract is July 1, 2009 through June 30, 2010. The amendment increases the maximum amount payable to \$214,445.81, an increase of \$60,001 (department budget)-action requested - APPROVE AGREEMENT AMENDMENT AND AUTHORIZE CHAIR TO SIGN SUBJECT TO REVIEW BY COUNTY COUNSEL AND THE AUDITOR-CONTROLLER. (Contract No. X17843)(Behavioral Health)
5. Northern Valley Catholic Social Services (NVCSS)- amendment - approval is requested for an amendment to the agreement with NVCSS to provide mental health services to children in Butte County's urban areas; rural communities including Berry Creek, Yankee Hill, Concow, and other outlying areas; and school based mental health services to children in the multiple school districts of Butte County. The term of the contract is July 1, 2009 through June 30, 2010. The amendment reduces the maximum amount payable to \$1,548,094.55, a decrease of \$60,013(department budget) - action requested - APPROVE AGREEMENT AMENDMENT AND AUTHORIZE CHAIR TO SIGN SUBJECT TO REVIEW BY COUNTY COUNSEL AND THE AUDITOR-CONTROLLER. (Behavioral Health)
6. Resolution Authorizing an Application for a Mental Health Transformation Grant (MHTG) through the Substance Abuse and Mental Health Services Administration (SAMHSA)- The five-year grants of \$750,000 per year(\$3.75 Million total) are to foster adoption and implementation of permanent transformative changes in how public mental health services are organized, managed and delivered so that they are consumer-driven, recovery-oriented and supported through evidence-based and best practices - action requested - ADOPT RESOLUTION 10-058 AND AUTHORIZE THE CHAIR TO SIGN.(Behavioral Health)

7. CDX Wireless - approval is requested for an agreement with CDX Wireless for the provision of consulting services to transition County two way radio equipment to narrowband, as required by the Federal Communications Commission. On September 29, 2009, the Board of Supervisors authorized the appropriation of unanticipated revenue from the Interoperable Emergency Communications Grant Program for this initiative. The term of the agreement is from April 27, 2010 to December 30, 2010 with a maximum amount payable of \$50,000 (department budget)- action requested - APPROVE THE AGREEMENT AND AUTHORIZE THE CHAIR TO SIGN SUBJECT TO REVIEW BY COUNTY COUNSEL AND THE AUDITOR-CONTROLLER. (Chief Administrative Office)
8. Resolution Approving Application for Fiscal Year (FY) 2010 Emergency Management Performance Grant Program - resolution authorizing the Chief Administrative Officer and/or Emergency Services Officer to apply for the FY 2010 Emergency Management Performance Grant and to sign all necessary documents related to obtaining the grant. The California Emergency Management Agency has allocated \$163,121 to the Butte County Operational Area. Participation in the grant requires a dollar for dollar County match which is provided annually in the Proposed Budget - action requested - ADOPT RESOLUTION 10-059 AND AUTHORIZE THE CHAIR TO SIGN; APPROVE APPLICATION FOR GRANT AND AUTHORIZE CHIEF ADMINISTRATIVE OFFICER AND/OR EMERGENCY SERVICES OFFICER TO SIGN GRANT DOCUMENTS. (Chief Administrative Office)
9. Budget Adjustments - Budget adjustments are needed to reflect the service levels which were adopted in the current fiscal year 2009/2010.
 - A. Veterans Service Office (VSO) - a budget adjustment is needed to increase appropriations for salaries and benefits by \$11,466 to fund the 1.4 Full Time Equivalent employees approved during FY 2009/2010 budget hearings - action requested - APPROVE BUDGET ADJUSTMENTS (4/5 vote required) AS OUTLINED IN THE DETAILED AGENDA REPORT.
 - B. State COPS Program - a budget adjustment is needed to appropriate a transfer of \$236,490 in State COPS revenue from the Supplemental Law Enforcement Services Fund(SLESF) to the Sheriff's Department. The expenditures and revenue were budgeted in the Sheriff's budget, but the corresponding transfer was not included in the SLESF. This adjustment has no impact on the General Fund - action requested - APPROVE BUDGET ADJUSTMENTS (4/5 vote required) AS OUTLINED IN THE DETAILED AGENDA REPORT. (Chief Administrative Office)

10. Resolution to Increase Child Support Services Revolving Fund - resolution authorizing an increase of \$1,000 to the Child Support Services Revolving Fund. These funds are used to pay for fees which cannot be delayed by the accounts payable process and are primarily needed to pay fees associated with serving legal paperwork to non-custodial parents who are out of the area. With the increase in volume and higher fee amounts, an increase is necessary. - action requested - ADOPT RESOLUTION 10-060 AND AUTHORIZE THE CHAIR TO SIGN. (Child Support Services)
11. Fixed Asset Purchase - approval is requested for the purchase and installation of five (5) modular work stations for the Oroville Community Employment Center located at 78 Table Mountain Boulevard to replace those taken by another agency when they vacated the facility. The estimated cost of these fixed assets are \$20,000. The department is requesting to use savings from a previously approved fixed asset purchase - action requested - APPROVE THE ACQUISITION OF THE FIXED ASSET AND AUTHORIZE THE DEPARTMENT TO MOVE FORWARD WITH THE BID AND PURCHASE PROCESS. (Employment and Social Services)
12. Budget Adjustment for Unused Appropriations for Critical Butte County Repairs - Due to funding constraints no funding was budgeted in the current fiscal year for major maintenance projects. Some projects already in process prior to July 2009 came in under budget leaving unused appropriations. The department recommends applying \$100,000 of the unused appropriations to meet some of the critical needs on the County's list of pending projects - action requested - APPROVE BUDGET ADJUSTMENT (4/5 vote required) ACCEPTING AND APPROPRIATING FUNDS AS DETAILED IN THE AGENDA REPORT. (General Services)
13. Resolution to Amend the Salary Ordinance - the department has prepared a resolution which will amend the salary ordinance as follows:

PUBLIC WORKS - requests to delete one(1) position of Supervisor, Accountant and add one (1) position of Accounting Specialist/Account Clerk, Senior/Account Clerk. A reorganization within the department has allowed for the Supervisor, Accountant position to be under-filled, bringing a cost savings to the department. This change will leave the total allocations in the department unchanged at 132.75 (within department budget).

ASSESSOR - requests to add one (1) position of Information Systems Analyst, Senior/Information Systems Analyst/Information Systems Analyst, Associate. This is a procedural step in a planned future position elimination of an Information Systems Technician position. The Information Systems Technician position is set to be eliminated through the FY 2010-2011 budget process and replaced by the position being added above. There is no budgetary impact for this change as it is accounted for in the current and future department budget. This change will initially increase the total allocations in the department from 40 to 41 until the Information Systems Technician position is eliminated (within department budget).

PUBLIC HEALTH - requests to extend the sunset/term dates of the following positions to June 30, 2011: one (1) position of Butte County Children and Families Commission-Director, three (3) positions of Administrative Analyst, Senior/Administrative Analyst/Administrative Analyst, Associate, one (1) position of Administrative Assistant, Senior/Administrative Assistant and one(1) position of Administrative Assistant, Senior/Administrative Assistant. These positions are fully funded from outside sources and are included in the FY 2010/2011 proposed budget. In addition the department is requesting to change the following positions from sunset and term to regular help positions with no expiration date: one (1) Supervisor, Public Health Nutrition and one (1) Public Health Education Specialist, Senior/Public Health Education Specialist/Public Health Education Specialist, Associate. Both of these positions receive funding through grants (Bioterrorism and WIC) that have an on-going source of funding. These changes will leave the total allocations in the department unchanged at 162.3 (within department budget).

PROBATION - requests to add two (2)sunset positions of Probation Officer III/II/I to end 6/30/11. The department has entered into an MOU with the Behavioral Health Department for the Substance Abuse Offender Treatment Program. Funds that have been awarded to Butte County to support this program will cover the cost of the new positions. These changes will increase the total allocations in the department to 94 (within department budget).

HUMAN RESOURCES - requests to add the following classifications to the Section F Management, Confidential and Supervisory Unit of the Salary Ordinance: Supervisor, Central Collections Accounting & Administrative Support (Class Code 1277),Project Manager, Clerk-Recorder/Elections and Manager, Clerk-Recorder/Election Services. The new classifications were agreed to by both the Human Resources Department and applicable employee association.

SHERIFF - requests to add two (2) positions of Deputy Sheriff. These positions are being added to backfill for two long term leaves of absence in order to meet the needs of the department. Both positions will be funded from salary savings from vacancies in the current budget. These changes will increase the allocations in the department from 272 to 274(within department budget).

CLERK-RECORDER - requests to delete from budget unit 130-001 a .25 Administrative Analyst, Senior/ Administrative Analyst/Administrative Analyst, Associate; delete from budget unit 470-001 a .75 Administrative Analyst, Senior/Administrative Analyst/Administrative Analyst, Associate; add to budget unit 130-001 a .25 Accountant Senior; add to budget unit 470-001 add .75 Accountant, Senior. These changes are based on the needs and demands of the department. These changes leave the total allocations in the department unchanged at 23 (within department budget). - action requested - ADOPT RESOLUTION 10-061 AND AUTHORIZE THE CHAIR TO SIGN SUBJECT TO REVIEW BY COUNTY COUNSEL AND THE AUDITOR-CONTROLLER. (Human Resources)

14. Budget Adjustment and Fixed Asset Purchase - approval is requested to accept unanticipated funds in the amount of \$52,754 from the Center for Disease Control Emergency Preparedness Grant. The department requests the appropriation of the unanticipated revenue to meet the requirements of the approved use of funding and plan guidelines including \$29,000 for Medical Supplies, \$6,500 for Outside Office Expense, \$3,254 to Special Departmental Expense and \$14,000 for Fixed Assets to purchase a quantitative fit-testing machine - action item - ACCEPT THE UNANTICIPATED REVENUE; APPROVE THE PURCHASE OF FIXED ASSET AND APPROPRIATE THE UNANTICIPATED REVENUE AS DETAILED IN THE AGENDA REPORT (4/5 vote required). (Public Health)
15. Budget Adjustment and Fixed Asset Purchase - approval is requested for the fixed asset purchase of a Storage Area Network. The server will accommodate the high volume of files and records that will be produced by the electronic medical records system for the clinic and the storage of detailed large scale maps that will contain communicable disease and emergency response data. The purchase will be funded through H1N1 grant funding (department budget) - action requested - APPROVE FIXED ASSET PURCHASE AND BUDGET ADJUSTMENT (4/5 vote required) AS DETAILED IN THE AGENDA REPORT. (Public Health)

16. Northwest Society for the Prevention of Cruelty to Animals (NWSPCA) - approval is requested for a new three year agreement with NWSPCA for the provision of sheltering animals impounded by the Butte County Animal Control Program. The term of the agreement is July 1, 2010 through June 30, 2013 with a maximum amount payable of \$470,573.76 for FY 2010/2011, \$479,985.24 for FY 2011/2012 and \$487,185.02 for FY 2012/2013 (funding has been included in department's FY 2010/2011 proposed budget) - action requested - APPROVE AGREEMENT AND AUTHORIZE THE CHAIR TO SIGN SUBJECT TO REVIEW BY COUNTY COUNSEL AND THE AUDITOR-CONTROLLER. (Public Health)
17. Budget Adjustment and Fixed Asset Purchase - approval is requested to accept unanticipated revenue in the amount of \$32,450 from the Hospital Preparedness Program (HPP) for the fixed asset purchase of UHF narrowband radio equipment/hardware including a repeater, tower and antenna, to replace the Bloomer Mountain equipment. The amount of \$62,450 will be funded by the unanticipated revenue and existing appropriations within the department budget. The purchase will ensure radio interoperability between Butte County and regional and local emergency medical responders, fire departments and bordering counties - action requested - APPROVE FIXED ASSET PURCHASE AND BUDGET ADJUSTMENT (4/5 vote required) AS DETAILED IN THE AGENDA REPORT. (Public Health)
18. Resolution of Intent to Vacate a Public Utility Easement - a resolution giving notice of a Public Hearing to vacate a public utility easement serving lots 24 through 29 of the Thengvall Tract Unit One in the Town of Richvale - action requested - ADOPT RESOLUTION 10-063 WHICH SETS PUBLIC HEARING FOR MAY 25, 2010 AT 9:40 A.M. AND AUTHORIZE THE CHAIR TO SIGN. (Public Works)
19. Fixed Asset Purchase and Budget Adjustment - approval is requested for a fixed asset purchase of a computer server in the amount of \$19,000. This server will replace the back-up server which has exceeded its useful life and is in need of replacement. The new server will be more efficient with a quicker transfer of data and an assurance that all back-up material will be retrievable (department budget) - action requested - APPROVE FIXED ASSET PURCHASE AND BUDGET ADJUSTMENT (4/5 vote required) AS DETAILED IN THE AGENDA REPORT. (Sheriff-Coroner)

PRESENTATION OF RESOLUTIONS ADOPTED ON THE CONSENT AGENDA.

PAUL GOSSELIN, DIRECTOR OF WATER AND RESOURCE CONSERVATION ACCEPTED THE RESOLUTION RECOGNIZING MAY AS WATER AWARENESS MONTH.

REGULAR AGENDA

1011-002 Boards, Commissions and Committees.

1. Appointments to Listed Vacancies. (None)
2. Board Member or Committee Reports (None)

1011-003 Update on Current Budget and Legislative Issues by the Chief Administrative Officer.

SCOTT TANDY, INTERIM CHIEF ADMINISTRATIVE OFFICER PROVIDED A REPORT TO THE BOARD.

1011-004 Update of General Plan 2030 Process by Director-Development Services.

TIM SNELLINGS, DIRECTOR OF DEVELOPMENT SERVICES PROVIDE A REPORT TO THE BOARD.

Items Removed from the Consent Agenda for Board Consideration and Action. (None)

RECESS: 9:25 A.M.

RECONVENE: 9:30 A.M.

PUBLIC HEARINGS AND TIMED ITEMS

1011-005 Timed Item - Presentation by the Executive Director of the California State Association of Counties (CSAC) - Paul McIntosh, Executive Director of CSAC, will provide a report on state budget issues - action requested - ACCEPT FOR INFORMATION. (Chief Administrative Office)

PAUL MCINTOSH, EXECUTIVE DIRECTOR OF CSAC PROVIDED A REPORT.

1011-006 Public Hearing - Appeal of Planning Commission's Approval of Tentative Parcel Map (TPM08-0008) for Gard Anderson, APNs 039-410-022 and 039-606-137 - consideration of an appeal of the February 25, 2010 Planning Commission approval of TPM08-0008. The project is located on the north side of Hegan Lane, approximately 1/4 mile west of Bruce Lane. The northeastern boundary of the site runs along the Union Pacific Railroad and is adjacent to the Chico City Limits. The Planning Commission and staff recommend denial of the appeal - action requested - DENY THE APPEAL; ADOPT THE MITIGATED NEGATIVE DECLARATION; AND APPROVE TPM08-0008 WITH FINDINGS AND CONDITIONS. (Development Services)(Resolution No. 10-066)

STEVE TROESTER, SENIOR PLANNER WITH DEVELOPMENT SERVICES PROVIDED A REPORT TO THE BOARD.

PUBLIC HEARING OPENED: 10:10 A.M.
PUBLIC HEARING CLOSED: 10:40 A.M.

THE FOLLOWING MEMBERS OF THE PUBLIC ADDRESSED THE BOARD: BOB BOELEN, JARALD DAVIDSON, AND JIM STEVENS.

MOTION: I MOVE TO DENY THE APPEAL; ADOPT THE MITIGATED NEGATIVE DECLARATION FOR CEQA; MAKE THE DETERMINATION OF "UNUSUAL CIRCUMSTANCES" PURSUANT TO BUTTE COUNTY CODE 24-286(c)and (d) AND THE BUFFER GUIDELINES IN SUPPORT OF AMENDING THE NORMAL 300' BUFFER DISTANCE, BY DESIGNATING APPROVED HOMESITES; AND APPROVE TPM08-0008 WITH FINDINGS AND CONDITIONS. (1:12:10)

2 M

VOTE: 1 Y 2 Y 3 Y 4 Y 5 Y (MOTION CARRIED UNANIMOUSLY)

1011-007 Timed Item -

A. Consideration of an Appeal of Planning Commission Condition No. 2 for Legal Lot Determination DET10-0002 - consideration of an appeal of a condition of approval for DET10-0002. The appellant requests removal of Condition No. 2 which requires the adjacent parcel, APN 047-190-020 be able to solve its creation via lot line adjustment or merger, or be eligible to receive an unconditional Certificate of Compliance. The parcel is located on the northwest corner of Merdian Road and State Highway 32, west of Chico. The Planning Commission and staff recommend denial of the appeal - action requested -

1) DENY THE APPEAL;

-OR-

2) MAKE A MOTION OF INTENT TO GRANT THE APPEAL AND REMOVE CONDITION NO. 2 WITH FINDINGS.

PRESENTATION BY MARK MICHELENA, SENIOR PLANNER WITH THE DEPARTMENT OF DEVELOPMENT SERVICES AND CHUCK THISTLETHWAITE, MANAGER, PLANNING DIVISION. (1:20:54)

RON GIOVANNETTI ADDRESSED THE BOARD.

MOTION: I MOVE TO APPROVE THE ALTERNATE MOTION FOR APPEAL THAT WAS DESCRIBED IN THE MEMO DATED APRIL 27, 2010. THIS MOTION:

1) FINDS THAT, WHILE THE SUBJECT PROPERTY DID NOT COMPLY WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT OR CHAPTER 20 OF BUTTE COUNTY CODE AT THE TIME THE OWNER ACQUIRED THE PROPERTY, IT WOULD NOT BE CONTRARY TO PUBLIC HEALTH OR SAFETY TO GRANT A CERTIFICATE OF COMPLIANCE; AND

2) GRANTS THE APPEAL FILED BY RONALD GIOVANNETTI TO CONDITION NO. 2 TO LEGAL LOT DETERMINATION DET10-0002 (B. E. GIOVANNETTI & SONS) BY DELETING CONDITION NO. 2 OF THE MARCH 25, 2010 CONDITIONS OF APPROVAL, RETAINING CONDITIONS 1 AND 3, AND REWORDING CONDITION NO. 4 AS FOLLOWS: APPLICANT OR ANY OTHER DEVELOPER/OPERATOR OTHER THAN THE APPLICANT AGREES TO DEFEND, INDEMNIFY AND HOLD THE COUNTY OF BUTTE HARMLESS FROM LIABILITY OR LOSS RELATED TO THE APPROVAL OF THIS PROJECT AND AGREES TO SIGN AN INDEMNIFICATION AGREEMENT IN A FORM APPROVED BY COUNTY COUNSEL WITHIN TEN (10) DAYS OF ACTION BY THE BOARD OF SUPERVISORS.

M 2

VOTE: 1 Y 2 Y 3 Y 4 Y 5 Y (MOTION CARRIED UNANIMOUSLY)

- B. Request for Legal Lot Determination (DET10-0005) - consideration of a request by David Poole for a Legal Lot Determination on a 4.75-acre parcel that was created by grant deed on May 20, 1977. This parcel is not in compliance with the Subdivision Map Act and Butte County Code. The project parcel is located at the southwest corner of Meridian Road and Bell Road and on the south side of the Union Pacific Railroad right-of-way, approximately 860 feet south of the intersection of Meridian Road and Bell Road at 12555 Meridian Road, west of Chico (APN 047-190-020) - action requested - DETERMINE THAT THE ACTION IS CATEGORICALLY EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA); AND APPROVE THE REQUEST FOR A CONDITIONAL CERTIFICATE OF COMPLIANCE SUBJECT TO CONDITIONS. (DEVELOPMENT SERVICES)

PRESENTATION BY MARK MICHELENA, SENIOR PLANNER WITH THE DEPARTMENT OF DEVELOPMENT SERVICES AND CHUCK THISTLETHWAITE, MANAGER, PLANNING DIVISION.

MOTION: I MOVE TO APPROVE THE ALTERNATE MOTION FOR APPEAL THAT WAS DESCRIBED IN THE MEMO DATED APRIL 27, 2010. THIS MOTION:

- 1) FINDS THAT, WHILE THE SUBJECT PROPERTY DID NOT COMPLY WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT OR CHAPTER 20 OF BUTTE COUNTY CODE AT THE TIME THE OWNER ACQUIRED THE PROPERTY, IT WOULD NOT BE CONTRARY TO PUBLIC HEALTH OR SAFETY TO GRANT A CERTIFICATE OF COMPLIANCE;
- 2) FINDS THIS PROJECT TO BE CATEGORICALLY EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) UNDER 14 CCR SECTION 15303(A) (CLASS 3 EXEMPTION). SECTION 15303(A) EXEMPTS LIMITED USES INCLUDING ONE SINGLE-FAMILY RESIDENCE AND A SECOND DWELLING UNIT; AND
- 3) APPROVES LEGAL LOT DETERMINATION DET10-0005 (DAVID POOLE AND SUZANNE POOLE) GRANTING THE REQUEST FOR A CERTIFICATE OF COMPLIANCE, SUBJECT TO CONDITIONS 1 AND 3 AS RECOMMENDED IN EXHIBIT A OF THE STAFF REPORT AND REPLACING CONDITIONS 2 AND 4 AS FOLLOWS:

CONDITION 2 - NO PERMIT FOR THE DEMOLITION OR ALTERATION OF THE BELL HOUSE AND ITS HISTORIC ACCESSORY BUILDINGS SHALL BE ISSUED UNLESS: 1) THE STRUCTURE AND/OR SITE HAVE BEEN DEEMED HAZARDOUS, AND REPAIRS OR STABILIZATION ARE NOT PHYSICALLY POSSIBLE; 2) DENIAL OF THE PERMIT WOULD CAUSE ECONOMIC HARDSHIP TO THE PROPERTY OWNER; OR 3) THE PROPOSED ALTERATION MEETS STANDARDS FOR HISTORIC PRESERVATION AS DEFINED IN THE SECRETARY OF THE INTERIOR'S *STANDARDS FOR THE TREATMENT OF*

HISTORIC PROPERTIES.

THE DIRECTOR OF DEVELOPMENT SERVICES AND/OR FIRE MARSHALL SHALL DETERMINE WHETHER THE STRUCTURE REPRESENTS A HAZARD AND WHETHER REPAIRS AND STABILIZATION ARE NOT PHYSICALLY POSSIBLE.

THE BOARD OF SUPERVISORS SHALL DETERMINE WHETHER DENIAL OF THE PERMIT WOULD CAUSE ECONOMIC HARDSHIP. THE BOARD MAY REQUIRE THE APPLICANT TO FURNISH EVIDENCE SUPPORTING AN ASSERTION OF ECONOMIC HARDSHIP. THE BOARD SHALL REVIEW THE EVIDENCE AND DETERMINE WHETHER DENIAL OF THE PERMIT WOULD DEPRIVE THE PROPERTY OWNER OF ALL REASONABLE USE OF, OR ECONOMIC RETURN ON, THE PROPERTY.

THE DIRECTOR OF DEVELOPMENT SERVICES SHALL DETERMINE WHETHER PROPOSED ALTERATIONS MEET THE SECRETARY OF THE INTERIOR'S STANDARDS FOR THE TREATMENT OF HISTORIC PROPERTIES.

CONDITION 4 - APPLICANT OR ANY OTHER DEVELOPER/OPERATOR OTHER THAN THE APPLICANT AGREES TO DEFEND, INDEMNIFY AND HOLD THE COUNTY OF BUTTE HARMLESS FROM LIABILITY OR LOSS RELATED TO THE APPROVAL OF THIS PROJECT AND AGREES TO SIGN AN INDEMNIFICATION AGREEMENT IN A FORM APPROVED BY COUNTY COUNSEL WITHIN TEN (10) DAYS OF ACTION BY THE BOARD OF SUPERVISORS. (1:29:55)

M 2

VOTE: 1 Y 2 Y 3 Y 4 Y 5 Y (MOTION CARRIED UNANIMOUSLY)

1011-008 Closed Session

THE BOARD RECESSED AT 11:03 A.M. TO CLOSED SESSION REGARDING:

ACTUAL LITIGATION PURSUANT TO GOV. CODE SEC. 54956.9 (a): FOUR CASES

- 1. LAKE OROVILLE INTERVENTION (FERC PROJECT 2100);
- 2. L.P. v. BUTTE COUNTY; BUTTE COUNTY SUPERIOR COURT CASE NO. 141988;
- 3. ALPERN v. COUNTY OF BUTTE; CASE NO. USDC 09-1500
- 4. DRY CREEK COALITION v. NORTH CONTINENT LAND AND TIMBER, ET AL; BUTTE COUNTY SUPERIOR COURT CASE NO. 144532

PUBLIC EMPLOYEE EMPLOYMENT/APPOINTMENT/RECRUITMENT, PURSUANT TO GOVERNMENT CODE SECTION 54957: CHIEF ADMINISTRATIVE OFFICER; DIRECTOR OF BEHAVIORAL HEALTH; AND DIRECTOR OF HUMAN RESOURCES.

PUBLIC EMPLOYEE EMPLOYMENT, PERFORMANCE EVALUATIONS, INCLUDING:
GOALS, PURSUANT TO GOVERNMENT CODE SECTION 54957:

1. AGRICULTURAL COMMISSIONER
2. BEHAVIORAL HEALTH DIRECTOR
3. CHIEF ADMINISTRATIVE OFFICER
4. CHIEF PROBATION OFFICER
5. CHILD SUPPORT SERVICES DIRECTOR
6. COUNTY COUNSEL
7. DEVELOPMENT SERVICES DIRECTOR
8. EMPLOYMENT AND SOCIAL SERVICES DIRECTOR
9. HUMAN RESOURCES DIRECTOR
10. INFORMATION SERVICES DIRECTOR
11. LIBRARY DIRECTOR
12. PUBLIC HEALTH DIRECTOR
13. PUBLIC WORKS DIRECTOR
14. WATER AND RESOURCE CONSERVATION DIRECTOR.

INITIATION OF LITIGATION PURSUANT TO GOV. CODE SEC. 54956 (c): ONE
POTENTIAL CASE

THE BOARD RECONVENED AT 1:34 P.M. FROM CLOSED SESSION REGARDING:

ACTUAL LITIGATION PURSUANT TO GOV. CODE SEC. 54956.9 (a): FOUR
CASES

1. LAKE OROVILLE INTERVENTION (FERC PROJECT 2100);
2. L.P. v. BUTTE COUNTY; BUTTE COUNTY SUPERIOR COURT
CASE NO. 141988;
3. ALPERN v. COUNTY OF BUTTE; CASE NO. USDC 09-1500
4. DRY CREEK COALITION v. NORTH CONTINENT LAND AND TIMBER, ET AL;
BUTTE COUNTY SUPERIOR COURT CASE NO. 144532

PUBLIC EMPLOYEE EMPLOYMENT/APPOINTMENT/RECRUITMENT, PURSUANT TO
GOVERNMENT CODE SECTION 54957: CHIEF ADMINISTRATIVE OFFICER;
DIRECTOR OF BEHAVIORAL HEALTH; AND DIRECTOR OF HUMAN RESOURCES.

PUBLIC EMPLOYEE EMPLOYMENT, PERFORMANCE EVALUATIONS, INCLUDING:
GOALS, PURSUANT TO GOVERNMENT CODE SECTION 54957:

1. AGRICULTURAL COMMISSIONER
2. BEHAVIORAL HEALTH DIRECTOR
3. CHIEF ADMINISTRATIVE OFFICER
4. CHIEF PROBATION OFFICER
5. CHILD SUPPORT SERVICES DIRECTOR
6. COUNTY COUNSEL
7. DEVELOPMENT SERVICES DIRECTOR
8. EMPLOYMENT AND SOCIAL SERVICES DIRECTOR
9. HUMAN RESOURCES DIRECTOR
10. INFORMATION SERVICES DIRECTOR
11. LIBRARY DIRECTOR
12. PUBLIC HEALTH DIRECTOR
13. PUBLIC WORKS DIRECTOR
14. WATER AND RESOURCE CONSERVATION DIRECTOR.

1011-009 Public Hearing - New Era Mine - Forfeiture of Financial Assurances for the New Era Mine, 4095 Dry Creek Road, Oroville (APN No. 041-080-027) Pursuant to Public Resources Code 2773.1(b)- This is the second hearing being held as a result of the Final Judgment following the Amended Statement of Decision filed by the Butte County Superior Court on November 2, 2009 and the Final Judgment Following Amended Statement of Decision filed on December 10, 2009, granting the Petition for Writ of Mandate by the Dry Creek Citizens of Butte County and the Butte Environmental Council in regards to Resolution 08-104 (adopted August 5, 2008). At the February 23, 2010 Hearing the Board adopted Resolution 10-034 and Actions I - VI and directed staff to revise Action VII and the Revised Order to Comply such that reclamation at the New Era site will be consistent with the Statement of Decision, Surface Mining and Reclamation Act (SMARA) and California Environmental Quality Act (CEQA). The Decision compels Butte County to address the disturbance created at the New Era Mine by North Continent in a manner consistent with the Decision, SMARA and CEQA. Staff believes that reclamation must commence and the site be stabilized before the next rain season. Recent information provides a valid basis for Butte County to seek forfeiture of the North Continent financial assurances pursuant to PRC 2773.1(b). - action requested - ADOPT THE ATTACHED RESOLUTION (ATTACHMENT A) FINDING THAT THE NEW ERA MINE HAS BEEN ABANDONED AND DIRECT THE DIRECTOR OF DEVELOPMENT SERVICES TO NOTIFY NORTH CONTINENT LAND AND TIMBER, INC. THAT BUTTE COUNTY INTENDS TO SEEK FORFEITURE OF THE FINANCIAL ASSURANCES FOR THE NEW ERA MINE. SHOULD NORTH COUNTY CONTINENT FAIL TO COMMENCE RECLAMATION AS PRESCRIBED IN ACTION II OF THE RESOLUTION, STAFF FURTHER RECOMMENDS THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DEVELOPMENT SERVICES TO REQUIRE FORFEITURE OF THE FINANCIAL ASSURANCES AND CONDUCT AND COMPLETE RECLAMATION AT THE NEW ERA SITE ACCORDING TO A RECLAMATION PLAN CONSISTENT WITH THE SURFACE MINING AND RECLAMATION ACT. (Department of Development Services)

PRESENTATION BY TIM SNELLINGS, DIRECTOR OF DEVELOPMENT SERVICES.

BRUCE ALPERT, COUNTY COUNSEL ANSWERED QUESTIONS FROM THE BOARD.

PUBLIC HEARING OPENED: 1:46 P.M.
PUBLIC HEARING CLOSED: 2:05 P.M.

THE FOLLOWING MEMBERS OF THE PUBLIC ADDRESSED THE BOARD: ROBERT_KILROY, MRS. BECKY LOGAN, CLANCY WITTHAMS, RICHARD MEYERS, AND PHIL WOODWARD.

MOTION: I MOVE TO ADOPT THE RESOLUTION 10-067 (ATTACHMENT A) FINDING THAT THE NEW ERA MINE HAS BEEN ABANDONED AND DIRECT THE DIRECTOR OF DEVELOPMENT SERVICES TO NOTIFY NORTH CONTINENT LAND AND TIMBER, INC. THAT BUTTE COUNTY INTENDS TO SEEK FORFEITURE OF THE FINANCIAL ASSURANCES FOR THE NEW ERA MINE. SHOULD NORTH COUNTY CONTINENT FAIL TO COMMENCE RECLAMATION AS PRESCRIBED IN ACTION II OF THE RESOLUTION, STAFF FURTHER RECOMMENDS THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DEVELOPMENT SERVICES TO REQUIRE FORFEITURE OF THE FINANCIAL ASSURANCES AND CONDUCT AND COMPLETE RECLAMATION AT THE NEW ERA SITE ACCORDING TO A RECLAMATION PLAN CONSISTENT WITH THE SURFACE MINING AND RECLAMATION ACT. (41:01 [p.m.]

2 M

VOTE: 1 Y 2 Y 3 Y 4 Y 5 Y (MOTION CARRIED UNANIMOUSLY)

PUBLIC COMMENT (NONE)

Comments to the Board on issues and items not listed on the agenda. Presentations will be limited to five minutes. Please note that pursuant to California state law, the Board of Supervisors is prohibited from taking action on any item not listed on the agenda.

ADJOURNMENT :

THERE BEING NO FURTHER BUSINESS BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 2:15 P.M., TO RECONVENE AT A REGULAR MEETING OF THE BOARD TO BE HELD TUESDAY, MAY 11, 2010 AT 9:00 A.M.

 BILL CONNELLY, CHAIR
 BUTTE COUNTY BOARD OF SUPERVISORS

ATTEST:

Scott Tandy, Interim Chief Administrative Officer and Clerk of the Board

By: _____