

**MINUTES OF A REGULAR MEETING OF THE BOARD OF SUPERVISORS,
COUNTY OF CALAVERAS, STATE OF CALIFORNIA,
HELD ON DECEMBER 16, 2008**

PRESENT: Steve Wilensky, Chair; Russ Thomas, Vice-Chair; Bill Claudino, Thomas Tryon and Merita Callaway, Supervisors; James Jones, County Counsel; Robert Lawton, County Administrative Officer; and Carol Gates, Supervising Board Clerk

ABSENT: None

Meeting recorded on Cassette's 08-45, 08-45a & 08-45b

9:00 Call to Order

Pledge of Allegiance

Announcements: No action was taken re: the following 3 closed sessions held last week, December 9, 2008:

- 1) a closed session conference with labor negotiator, under Government Code section 54957.6, HR Director and the Calaveras County Deputy Sheriff's Association;
- 2) a closed session conference with labor negotiator, under Government Code section 54957.6, HR Director and Service Employees International Union, 1021; and
- 3) a closed session held pursuant to Government Code section 54956.9(b)(1); conference with legal counsel; anticipated litigation - significant exposure to litigation (one case)

There is an addendum to today's agenda (items 10a and 10b):

- 10a. Discussion and possible action re: RESOLUTION approving agreement with Human Resource Council, Inc., to provide Stage 1 Child Care Services for CalWORKs Welfare-to-Work recipients, in an amount not to exceed, \$275,000, effective July 1, 2009 through June 30, 2009; CalWORKs - Board action:
- 10b. Discussion and possible action re: RESOLUTION amending Resolution No. 07-225 authorizing the acceptance of the grant award from the State of California, Department of Homeland security, to Construct a Mobile Data Computer System (MDC) Interoperable Communications Project, for the Calaveras County Sheriff's Office; along with a BUDGET TRANSFER, in the amount of \$809,324.00, in conjunction therewith; Sheriff - Board action:

C O N S E N T A G E N D A

Supervisor Thomas pulled item #8 for discussion. Motion made to approve the balance of the consent agenda, as submitted.

Moved: Claudino

Second: Thomas

Approval: Unanimous

1. MINUTES of a regular Board of Supervisors meeting held on November 25, 2008.
2. CORRESPONDENCE: December 1-5, 2008 (see attached); as processed
3. RESOLUTION AUTHORIZING A PROPERTY TAX TRANSFER WITH
NO. 08-267 THE FOOTHILL FIRE PROTECTION DISTRICT

Brian Galicia, President/SEIU, 1021 Calaveras Chapter, spoke of layoffs in the Community Development Department. He asked for the opportunity to present other options to the bargaining table.

Randy Conley, CDA employee and currently holding the position of Building Inspector II, asked that the Board give special attention to the layoff notices sent to various CDA employees. He referred to the layoffs as counter productive to the progress of the County. Conley spoke of County positions being filled by new persons. He suggested that many of the positions could be filled by well qualified employees receiving layoff notices.

Cory Burnell, Valley Springs, CA referred to a report he submitted at last week's Board meeting titled Economic Considerations for Calaveras County. The report was done earlier this year by Cirian M. Villavicencio, MPA, regarding the Trinitas project, as an essential, beneficial investment to Calaveras County's future. He stated that it later came to his attention that not all Board members received the report and he was here today with additional copies.

Al Segalla, Calaveras County Taxpayer's Association, spoke in support of the Trinitas project as an economic benefit to the County. He encouraged the Board to support the Trinitas project and other projects that would contribute to the economic well being of the County.

Chris Williams, Attorney, San Andreas, CA thanked retiring Supervisor Bill Claudino for his public service. He spoke in support of the 8 employees from the Building Department that received layoff notices.

Dave Andres, General Manager, Calaveras County Water District, advised that the CCWD is currently working with federal lobbyists on positing the district to take advantage of any stimulus flow that may be forthcoming in Congress. CCWD has identified the west county pipeline as a high priority. The project would help to extend surface water from the Calaveras River to portions of west Calaveras currently being served by ground water. The stimulus bill will be prioritized based on job creation and the ability to proceed in a timely manner. To be successful, public/private partnerships need to be developed. One of the partnerships proposed is for bringing surface water to the Ridge of Trinitas project.

Jim Frost referred to seeing huge changes in these current hard economic times. He spoke of any opportunity for economic advancement as vital. Frost informed that next year, in looking at legislative analyst recommendations, Calaveras Unified may be looking at a \$600,000 cut in funding.

Lesley Martin, Valley Springs, CA and owner of one of the oldest vineyards in the western portion of the County, referred to a declining water table. He referred to water rights in new Hogan, as either use it or lose it. Martin spoke in support of ground water injection for Trinitas as a proper use of the water. He referred to the Neme operation as a good use of the land and not just another sprawling housing project. Martin felt the Neme project is a definite plus to the County. He encouraged that the Neme's be given a conditional use permit (CUP).

Tracy Busby, Deputy Sheriff's Association, spoke in support of a CUP for the Trinitas Project as an economic benefit in generating dollars for the County.

Roy Estakhri/President, Jenny Lind Firefighter's Association, endorsed the Trinitas Golf Course project. He referred to a declining budget for the Association and felt that the Trinitas project would be a means of raising property values and helping the Fire District in generating revenue.

Shaelyn Stratton, Planner III, with the Department of Planning, announced that today is Robert Sellman's last Board of Supervisors meeting. He will be retiring on December 26, 2008. On behalf of Planning Department staff, she thanked Mr. Sellman for the work he has done and expressed their appreciation for his time, effort and the commitment he has given to the County over the past 6 years as an Interim Director and Planning Director, through some very tough times.

David Hurst, a Southworth Estates resident and a San Joaquin County property owner, bordering the Trinitas project, felt that it is essential that the County proceed with the surface water project as previously discussed. He felt that the Trinitas project would provide job opportunities for Calaveras County residents.

Kevin Squire, owner of the Valley Springs Home Center, stated that his business found it necessary to layoff 16 of their employees in 2008, all from Calaveras County. He referred to the Trinitas project as an excellent use of the land. Mr. Squire felt that it is important to the Community that the project be allowed to move forward.

Tim McSorley, Director/Council of Governments, referred to 2 issues regarding the State budget - a deficit that is continuing to grow and a cash flow issue. Currently, the Legislature and Governor are looking at suspending transportation construction projects. He spoke of drafting a letter to our state legislators to, hopefully, prevent them from doing such suspensions as they would have serious negative economic impacts. On a brighter side, McSorley spoke of the California Transportation Commission adopting guidelines for Proposition 1B, the State Partnership Program, for the purpose of providing funding for self-help counties. Applications are due April 1st for those kinds of projects. McSorley further submitted documentation of stimulus packages that are being considered by the State and Federal Government. McSorley then reminded everyone of this afternoon's HOBNNOB at the CCOG in celebration of their 10th anniversary. Sheriff Downum spoke of events regarding yesterday's bomb threat at Government Center. He thanked CAO Lawton, department heads, and county employees for their cooperation. Downum spoke of developing a formal protocol for those kinds of events.

Mary Sawicki, CalWORKs Director, spoke of the coming holidays as very special moments for families. She extended an invitation for County residents to come to the main downstairs lobby of the CalWORKs building, on Tuesday, December 23rd, to have their pictures taken with Santa Claus.

10a. ADDENDUM/CALWORKS/AGREEMENT

Motion made to approve the following resolution, as submitted.

Moved: Claudino

Second: Thomas

Approval: Unanimous

RESOLUTION ADDENDUM TO AGREEMENT WITH HUMAN RESOURCE
NO. 08-273 COUNCIL, INC. TO PROVIDE STAGE 1 CHILD CARE
SERVICES FOR CAL WORKS WELFARE-TO-WORK
RECIPIENTS, NOT TO EXCEED \$275,000, EFFECTIVE
JULY 1, 2008 THROUGH JUNE 30, 2009

10b. ADDENDUM/SHERIFF/GRANT

Clay Hawkins, Sheriff's Department, initiated a discussion regarding the acceptance of grant funds from the State of California, Department of Homeland Security, to fund a mobile data computer system interoperable communications project. A second item for consideration was a memorandum of understanding (MOU) with the City of Sacramento confirming the award, in the amount of \$809,324.00. Counsel had concerns with some of the language in the MOU. Those comments have been forwarded to both state and federal departments of homeland security. Due to an issue of timing before the end of the current calendar year, the application must be approved as recommended by counsel and sent to the City of Sacramento. Hawkins explained that he will come back to the Board for the final execution of the MOU, the final spending plan for the grant, and the final funding.

Motion made to amend resolution 07-225; approve the MOU as agreed to by the Sheriff's Office and County Counsel; along with a budget transfer in the amount of \$809,324,00.

Moved: Callaway Second: Thomas Approval: Unanimous

RESOLUTION AMENDMENT TO RESOLUTION NO. 07-225 AUTHORIZING
NO. 08-274 THE ACCEPTANCE OF THE GRANT AWARD FROM THE
STATE OF CALIFORNIA DEPARTMENT OF HOMELAND
SECURITY TO CONSTRUCT A MOBILE DATA TERMINAL
SYSTEM (MDT) INTEROPERABLE COMMUNICATIONS
SYSTEM FOR THE CALAVERAS COUNTY SHERIFF'S
OFFICE

11. ORDINANCE/COMMUNITY DEVELOPMENT AGENCY/PUBLIC ACCESS

Chair Wilensky initiated a discussion regarding the introduction of an ordinance to revise Title 17, Section 17.04.030 of the Calaveras County Municipal Code, addressing legal access requirements. Robert Sellman, Planning Director, submitted staff comments. He thanked those individuals on the Legal Access Committee and their attempt in working through legal access issues. Sellman stated that the committee served the entire County well and should be applauded for their efforts. He referred to the proposed document as a compromise and an attempt to work through the issues and come up with an answer that will work for the County. Sellman suggested an amendment to the ordinance in Section 17.04.030 Access Requirements, paragraph 2, by deleting reference to "Section 8.10.340(B)".

David Wood, a resident of Camp Connell and Chair of the Legal Access Committee, gave a historical background of committee recommendations. He referred to the original ordinance, adopted in 1986, as the prime problem that they dealt with. During the course of the review, the committee looked at 16+ documents including state ordinances, court cases, legal opinions, sections of the public resources code and the general plan. Wood spoke of the opportunity of putting a disclaimer in place; public roads; historic roads; county

maintained roads; suggested a road tracking system; parcel health and safety concerns; the need to capture corporate knowledge; the division of land; recommended a sunset clause should there be a delay in implementing new Board approved verbiage.

Bruce Childs, County Surveyor, submitted his memo of April 17, 2008 addressed to the County Planning Commission, pertaining to access requirements. He referred to the Committee's recommendations as a good compromise. The letter implied issues of policy, implementation and protocol, and issues of law. Childs suggested the inclusion, in Paragraph A1, referencing certificate of occupancy, the words - including parcels of land created from the adjustment of parcels existing before set date. He spoke of parcels requiring access over federal lands. The Federal Government will not issue a grant of easement; however, they will issue a revocable letter of consent. Childs requested that the verbiage "a written license across federal government lands" be included.

James Jones, County Counsel, stated that the disclaimer language puts something of record that should be tracked in the chain of title.

Chair Wilensky opened the discussion for public comment and the following addressed the Board.

Chris Williams, Attorney, felt the ordinance and disclaimer propose a good solution to the problem. He referred to a County Surveyor's memo which basically stated the title companies should determine legal access.

Bill Schmielt, Mountain Ranch, CA felt that the committee results are entirely wrong; although, knowing that a compromise is a part of the deal, he recommended that the ordinance be adopted.

Michael Miller, Interim Public Works Director, spoke of recording and tracking the offers of dedication. He stated that they are recorded and they are researchable. He referred to a tremendous amount of old records that are not digitized, are in files in a warehouse near the road yard. Miller stated that some of the maps date back to the 1800's. He suggested having the records put into a usable format. He offered to research the cost of preserving the records and will come back to the Board with an estimate of funding and staff time. Miller referred to the term, substantially meets, in reference to meeting road design criteria.

Robert Pachinger, Public Works, referred to the distinction between driveways and roadways and obtaining encroachment permits for local road connections to County roads. He further spoke of issues that need to be addressed related to the moving of existing County roads.

Roger Pitto, a Legal Access Committee member, referred to driveways for single family parcels; the definition of off-site and on-site driveways; driveways serving multiple parcels; driveway standards; and the reason the Committee used the word "substantial"; etc.

Darren Borgedalen, Mountain Ranch and currently in litigation with the County over this issue, referred to CDF legal access standards and the inspection

process.

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Joe Kelly spoke of having enforceable restrictions; protection of subject property; concern of the Committee not adhering to the Brown Act. Mr. Kelly requested that the Board not act on the matter of legal access today.

There being no other members of the public wishing to speak, Chair returned the discussion to the Board and staff. Planning Director Sellman recommended incorporating the County Surveyor's previously addressed suggestions. He stated that an extension of the sunset clause would not be necessary as long as the introduction of the ordinance is approved today. Sellman referred to the risk of losing historical documents as significant.

Counsel Jones explained that the Brown Act applies to local legislative bodies. A legislative body, as defined in Section 54952 of the Brown Act, is a committee, commission, board or other body of a local agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution or formal action of a legislative body. Jones clarified that when this Board appoints a committee by resolution or by ordinance, it is a Brown Act committee. The Legal Access Committee was appointed and designated by the Community Development Agency; therefore, it is not a Brown Act group.

Supervisor Tryon stated that his position has not changed. He stated that having legal access is a basic required entitlement prior to building. Tryon was not in favor of the ordinance as submitted.

Supervisor Thomas spoke in support of the revisions as discussed today. He stated that if you have a legal parcel, in the County of Calaveras, you have the right to build a single family residence on that parcel.

Supervisor Callaway voiced concern of the disclaimer. She stated that the County is not the guarantor of access to parcels that have been subdivided. Callaway felt, by accepting this ordinance, we would be taking by default this responsibility. She referred to voting in terms of good public policy, not in terms of what is expedient. Callaway did not support the term "substantially". She stated that the issues of going into CC&R's, deed restriction, etc. was not something the committee had been charged with. She expressed concern that there is nothing in the ordinance that defines a legal parcel. She felt that this County should not be in the business of being the liability shield for access to parcels. Callaway stated that she would not be in support of the proposed ordinance due to the fact that there are too many loopholes.

Supervisor Claudino voiced support of the ordinance with the modifications as recommended by the County Surveyor and Planning Director. He referred to a disclaimer as having a valid purpose. Claudino stated that due to the fact the committee was put together from professionals, of various walks of life and professions, and that they came up with a viable solution, his recommendation would be to going forward with the ordinance.

Counsel Jones informed that the purpose of a disclaimer is to communicate information. He reiterated that granting a building permit does not establish

legal access.

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Chair Wilensky voiced support of the ordinance with the above referenced modifications. He emphasized the need for updating our technology and the importance of County records to be in shape to access. The failure to do this has lead to confusion. He referred to grandfathering as taking a good number of disputes out of court. Wilensky requested staff training and follow-up regarding the disclaimer issue so that everyone has, and is given, the same information. In reference to the word "substantially" he suggested that it be followed by the words - with the approval of either the Chief Building Official or with the approval of the Director of Public Works. Discussion followed.

Supervisors Tryon and Callaway were not in support of the word "substantially".

Supervisor Tryon moved that this item be continued to the meeting of January 13, 2009 at which time Supervisor Elect Tofanelli will have been sworn into office. Supervisor Callaway seconded the motion. The motion failed due to the lack of a majority vote. Supervisors Thomas, Claudino and Wilensky voted in the negative.

Motion made to waive reading and approve the introduction of a legal access ordinance, as amended to add language to include the 2 proposals from the County Surveyor and to add after the word substantially - to the approval of the Director of Public Works or his or her designee.

Moved: Claudino	Second: Thomas	Approval: Majority
		NOES: Tryon
		Callaway

12. CORRESPONDENCESUPERVISORS/STAFF (08-45B, Side I)

Supervisor Thomas stated that he will be unavailable for Wednesday's jail meeting; asked if the assumed succession plan for Chairmanship, as set in motion earlier this year, will be validated, and that he will be Chair for 2009 - he asked the Board to review their committee assignments - appointments will agendized for the meeting of January 6, 2009.

Supervisor Callaway will attend the COG event; a jail meeting; and a state water plan meeting in Sacramento.

Supervisor Claudino will attend a CAMRA meeting at CCWD tomorrow and the HOBNOB at the CCOG this afternoon.

Supervisor Tryon referred to recent layoffs - if said employees have the qualifications to meet other open positions, he asked that they be given preference.

Chair Wilensky will attend the COG event this afternoon; echoed Tryon's sentiments regarding layoffs and asked for consideration of employee skills, that all resources be taken into account, and that the issue be handled with humanity and careful consideration. Wilensky thanked the Board for the opportunity to serve as Board Chair.

CAO Lawton assured the Board and County staff that every effort will be made, in keeping thoughts within the County family, of any positions for which they may be qualified and if any such positions become available after their separation, the County would welcome the opportunity to reinstate their employment.

Lawton expressed thanks to Randy Metzger for his service to the people of the County and his service to his colleagues as a department head.

Lawton thanked Robert Sellman for his service to the County and wished him well during his retirement.

Lawton thanked Supervisor Bill Claudino for his County service as the District I Supervisor.

Lawton referred to yesterday's events regarding the bomb threat at Government Center. He thanked Sheriff Downum and his staff, for the professional manner in which they handled the situation; thanked Maurie Hoekstra, Librarian, for hosting a sizable amount of unanticipated guests; thanked all County employees for the spirit in which they dealt with the situation; and expressed appreciation to the Senior Center for making County employees feel welcome to join them for lunch.

James Jones, County Counsel, reported on a well attended ethics training session; voiced respect and appreciation of Robert Sellman, Planning Director, for his service to the County.

ADJOURNMENT

The meeting was adjourned at 1:15 p.m. for the lunch recess; followed by the below referenced closed session; convened at 1:30 p.m. as a Board of Equalization; and will reconvene as a Board of Supervisors at 9:00 a.m., on Tuesday, January 6, 2009, for a regularly scheduled Board of Supervisors meeting.

13. CLOSED SESSION/COUNTY COUNSEL

A closed session conference was held with legal counsel, pursuant to Government Code section 54956.9(b)(1); conference with legal counsel; anticipated litigation - significant exposure to litigation (one case) resulting in no action taken.

ATTEST:

CHAIR

CLERK

C O R R E S P O N D E N C E

THE BOARD REVIEWED THE FOLLOWING CORRESPONDENCE AND TOOK NO FURTHER ACTION:

DECEMBER 01, 2008

1. From: Fern Tiger Associates re: December 12, 2008 30 year celebration; Supervisor Callaway & Supervisor Wilensky
2. From: ArCreations re: Art Show and Sale December 6, 2008: Board & Supervisor Elect Tofanelli
3. From: Friends of the Calaveras County Library re: December 03, 2008 Agenda; Board, Supervisor Elect Tofanelli & Post
4. From: Taxpayers for Improving Public Safety Matt Gray & David Warren re: Request for Documentation concerning the County Jail facility; Board, County Counsel, CAO, Planning, Sheriff & Supervisor Elect Tofanelli
5. From: California Counties re: November/December Publication; Supervisor Thomas & Supervisor Tryon
6. From: Kerry L Burke re: Status of Subdivision application 2007-13; Board, Planning, County Counsel, CAO & Supervisor Elect Tofanelli
7. From: United States Department of the Interior, Bureau of Reclamation re: New Melones Lake RMP/EIS Final Public Chapters 1-3 Open House Summary Report, Cover Letter; Board & Supervisor Elect Tofanelli
8. From: 9 Constituents re: 9 Letters regarding Animal Services & Grand Jury Investigation: Board County Counsel, Animal Services, Sheriff & Supervisor Elect Tofanelli
9. U. S. Department of the Interior Bureau of Reclamation re: New Melones Lake Area Resource Management Plan and Environmental Impact Statement, Chapters 1-3 Public Open House Summary Report, (Book); Supervisor Thomas

DECEMBER 02, 2008

10. From: National Association of Counties re: NACo-e-Newsletter; Filed
11. From: First 5 Calaveras re: Agenda December 08, 2008; Supervisor Wilensky, Supervisor Callaway & Post
12. From: Rader Ranch, Leroy and Sandy Rader re: Resolution 07-242 & Crazy Horse Estates; Board, County Counsel, Admin, CDA, Public Works & Supervisor Elect Tofanelli
13. From: Olga Gloria Ayala re: Randall Conley, possible lay off in the Planning Department; Board, CDA, CAO, County Counsel & Supervisor Elect Tofanelli
14. From: Rick Spurgeon re: Resolution implementing a reduction in force in the Building Division of the Community Development Agency reflecting the Deletion of 8.0 positions; Board, CAO, CDA, County Counsel & Supervisor Elect Tofanelli
15. From: Calaveras County Chamber of Commerce re: Chamber Mixer December 11, 2008; Board
16. From: Georgiana Evans & Liane Roberts Constituents re:
17. Animal Services & Grand Jury Investigation; Board, County Counsel, Animal Services, Sheriff & Supervisor Elect Tofanelli

DECEMBER 03, 2008

17. From: Sue Kley & Gerry Todd re: Animal Services & Grand Jury investigation; Board, County Counsel, Animal Services & Supervisor Elect Tofanelli
18. From: Department of Water Resources re: Water Conservation News; Routed to the Board

19. From: Department of Alcoholic Beverage Control re: application for Alcoholic Beverage License; Supervisor Claudino, Supervisor Elect Tofanelli & Planning
20. From: Pearl Gates of Heaven Ministries, Margaret T. Jensen, Overseer re: Documentation requested; Supervisor Wilensky & Supervisor Tyron

DECEMBER 04, 2008

21. From: USDA Forest Service re: Announcement of posting of the 2009 Urban and Community Forestry Challenge Cost Share grant Program; Supervisor Callaway, Supervisor Claudino & Supervisor Elect Tofanelli
22. From: Delta Wetlands Project re: Scoping Meetings; Board, Environmental Health, Planning & Supervisor Elect Tofanelli
23. From: Mariposa County Board of Supervisors re: Invitation to attend December 16, 2008 Presentations/Resolutions honoring Supervisors Dianne Fritz and Bob Pickard; Board & Supervisor elect Tofanelli
24. From: Lorraine Parrington re: Animal Services and Grand Jury Investigation; Board, County Counsel, Animal Services & Supervisor Elect Tofanelli

DECEMBER 05, 2008

25. From: Mountain Ranch Youth Alliance Re: Thank You for the donation; Board & Supervisor Elect Tofanelli
26. From: Department of Forestry and Fire Protection re: Official Notice of Filing of Timber Harvesting Plan; Supervisor Wilensky, Supervisor Callaway & Post
27. From: Clover Country 2008 re: Newsletter for the 4-H Family; Board and Supervisor Elect Tofanelli
28. From: June Barrent re: Animal Services and Grand Jury investigation; Board, County Counsel, Sheriff, Animal Services & Supervisor Elect Tofanelli