

**SHASTA COUNTY BOARD OF SUPERVISORS**

Tuesday, February 23, 2010

**REGULAR MEETING**

9:01 a.m.: Chairman Kehoe called the Regular Session of the Board of Supervisors to order on the above date with the following present:

District No. 1 - Supervisor Kehoe  
District No. 2 - Supervisor Moty  
District No. 3 - Supervisor Hawes  
District No. 4 - Supervisor Hartman  
District No. 5 - Supervisor Baugh

County Administrative Officer - Larry Lees  
County Counsel - Mike Ralston  
Chief Deputy Clerk of the Board - Glenda Tracy  
Administrative Board Clerk - Linda Mekelburg

**INVOCATION**

Invocation was given by Pastor Eric Madsen, Cottonwood Bible Baptist Church.

**PLEDGE OF ALLEGIANCE**

Pledge of Allegiance to the Flag was led by Supervisor Hartman.

**PUBLIC COMMENT PERIOD - OPEN TIME**

In honor of the birthday of George Washington, Roberta Wright read excerpts of his Farewell Address and Dorothy Robbins read excerpts from *Recollections and Private Memories of Washington*.

United Public Employees of California (UPEC) Labor Relations Representative Cinamon Pitts read a letter from UPEC Business Manager and Secretary Treasurer Christopher Darker providing member-authorized negotiations regarding the UPEC contract.

Charles Alexander stated that allowing Public Health funds to be spent on legislative promotion is an inappropriate use of public funds.

**REGULAR CALENDAR**

**BOARD MATTERS**

**SHASTA COUNTY ADDICTED OFFENDER PROGRAM REPORT  
AWARD OF EXCELLENCE: JUDGE CARA L. BEATTY**

County Alcohol and Drug Program Administrator David Reiten gave a report regarding the Shasta County Addicted Offender Program (AOP). Participants are defendants convicted of a drug-related felony, have been sentenced to State prison, and must participate voluntarily. Of the 77 graduates, 61 have not reoffended.

Superior Court Judge Cara Beatty stated the AOP participants make a commitment and attendance at their graduation encourages them.

Chairman Kehoe presented Judge Beatty with an Award of Excellence in appreciation for her commitment to the Addicted Offender Court Supervision Program.

**PLAQUE OF APPRECIATION  
COUNTY COUNSEL MIKE RALSTON**

Chairman Kehoe presented County Counsel Mike Ralston with a plaque expressing appreciation on the occasion of his retirement after more than 21 years of service to Shasta County.

**PROCLAMATION: PEACE CORPS WEEK**

By motion made, seconded (Hawes/Baugh), and unanimously carried, the Board of Supervisors adopted a proclamation which designates March 1-7, 2010 as Peace Corps Week in Shasta County. Marilyn and Terry Thomas accepted the proclamation.

**ITEMS PULLED FROM CONSENT CALENDAR**

Chairman Kehoe announced that the item regarding the Homeland Security Grant was pulled at the request of the department.

Chairman Kehoe announced that the items regarding the Delta Dental of California agreement and the Perinatal Substance Abuse Prevention budget were pulled for further discussion.

**CONSENT CALENDAR**

By motion made, seconded (Baugh/Hawes), and unanimously carried, the Board of Supervisors took the following actions which were listed on the Consent Calendar, as amended, (Supervisor Hawes recused on the agreements to provide environmental and cultural resource consulting services):

Approved and authorized the Chairman to sign an amendment to the agreement with Gallina, LLP for financial auditing services adding the Grand Jury as an additional insured and modifying the notification section; and a letter to Gallina, LLP exercising the option to extend the agreement to June 30, 2011. (Administrative Office/Grand Jury)

Approved and authorized the Chairman to sign the County Claims List totaling \$60.00, requiring special board action. (Auditor-Controller)

Approved the minutes of the meeting held on February 9, 2010, as submitted. (Clerk of the Board)

Appointed Charles Adamo to the Board of Building Appeals for a term to expire December 2012. (Clerk of the Board)

Reappointed Robert Thompson to the Inter-Mountain Fair Board for a term to expire January 2015. (Clerk of the Board)

Appointed Tony Adams to the Shasta Community Services District Board of Directors to fill an unexpired term to December 2011. (Clerk of the Board)

Adopted Resolution No. 2010-019, which amends "Exhibit 'A' Designated Positions" of the County of Shasta's Conflict of Interest Code to insure that the positions and degree of disclosure required for each position are current and correct. (County Counsel)  
(See Resolution Book No. 51)

Approved a budget amendment in the Perinatal Substance Abuse Prevention budget increasing appropriations by \$35,000 in Salaries and Benefits and \$75,000 in Fixed Assets to purchase two vans and one car for client transportation to expand available substance abuse counseling and treatment services, to be offset by fund balance. (HHS-Regional Services)

Adopt Salary Resolution No. 1375, which transfers one Juvenile Detention Officer I/II position from the Probation-Juvenile Hall budget to the Probation budget effective February 28, 2010. (Probation)  
(See Salary Resolution Book)

Approved and authorized the Chairman to sign agreements, effective from the date of signing through February 22, 2013, with ENPLAN in an amount not to exceed \$20,000 per undertaking (for a maximum not to exceed \$360,000 per fiscal year) to provide environmental and cultural resource consulting services; with North State Resources in an amount not to exceed \$20,000 per undertaking (for a maximum not to exceed \$360,000 per fiscal year) to provide environmental and cultural resource consulting services; and with PAR Environmental Services in an amount not to exceed \$20,000 per undertaking (for a maximum not to exceed \$200,000 per fiscal year) to provide cultural resource consulting services. (Public Works)

For the East Redding Bike Lanes Project - Phase 2, approved and authorized the Chairman to sign a right-of-way contract with Sybil and Charles P. Kane (0.53 acres at \$21,800); and accepted one easement deed from Sybil and Charles P. Kane conveying parcel of project right of way. (Public Works)

### **ACTION ON ITEMS PULLED FROM CONSENT CALENDAR**

#### **DELTA DENTAL OF CALIFORNIA CALIFORNIA STATE ASSOCIATION OF COUNTIES- EXCESS INSURANCE AUTHORITY**

Director of Support Services Michelle Schafer stated that California State Association of Counties-Excess Insurance Authority (CSAC-EIA) provides services to public agencies. Delta Dental of California (Delta Dental) is the current dental insurance program used by Shasta County. By contracting with CSAC-EIA to administer the dental program through Delta Dental, there will be savings. If, at the end of the year, there are any funds remaining in the Premium Stabilization Funds, the premium rates will be lower in the next year.

By motion made, seconded (Baugh/Moty), and unanimously carried, the Board of Supervisors approved and authorized the Chairman to sign a stabilization consent agreement

with Delta Dental of California (Delta Dental) and California State Association of Counties-Excess Insurance Authority (CSAC-EIA) to terminate Shasta County's current insurance contract with Delta Dental and allow Delta Dental to move all covered enrollees to the CSAC-EIA dental program effective January 1, 2010 or a subsequent date as determined by Delta Dental; and (2) approve and authorize the Chairman to sign a Memorandum of Understanding with CSAC-EIA to provide dental coverage through Delta Dental. (Support Services-Risk Management)

**REGULAR CALENDAR, CONTINUED**

**GENERAL GOVERNMENT**

**ADMINISTRATIVE OFFICE/BOARD OF SUPERVISORS**

**LEGISLATIVE UPDATE/SUPERVISORS' REPORTS**

County Administrative Officer (CAO) Larry Lees presented an update on specific legislation of importance to Shasta County, including the State of California budget, which has \$8.8 billion in short-term loans due soon, in addition to \$120 billion accumulated in long-term debt.

Supervisor Baugh recently attended a Regional California of Rural Counties (RCRC) meeting

Supervisor Kehoe recently attended a Redding Area Bus Authority (RABA) meeting.

Supervisors reported on issues of countywide interest.

**LETTER: U.S. DEPARTMENT OF AGRICULTURE  
OPPOSING MOTORIZED TRAVEL MANAGEMENT**

Public Works Director Pat Minturn advised that local forests have prepared Motorized Travel Management Plans to regulate and actively manage travel. Access for off-highway vehicles (OHV) is being limited. Three counties (Butte, Lassen, and Plumas) have agreed to participate in a joint letter to the Undersecretary of the Department of Agriculture to oppose the restrictions placed on OHV mobility.

By motion made, seconded (Moty/Baugh), and unanimously carried, the Board of Supervisors approved and authorized the Chairman to sign joint letters (along with Butte, Lassen, and Plumas Counties) to the U.S. Department of Agriculture opposing the proposed Motorized Travel Management Plans for Lassen, Plumas, and Shasta-Trinity National Forests.

**SCHEDULED HEARINGS**

**RESOURCE MANAGEMENT**

**PLANNING DIVISION**

**MEDICAL MARIJUANA DISPENSARIES  
ZONE AMENDMENT NO. 09-010  
MEDICAL MARIJUANA CULTIVATION  
ZONE AMENDMENT NO. 09-011**

This was the time set to reopen the public hearing regarding Zone Amendment 09-010, Medical Marijuana Dispensaries (Countywide area) and Zone Amendment 09-011, Medical

Marijuana Cultivation (Countywide area) and consider the request to enact an urgency ordinance which imposes a 45-day moratorium on medical marijuana dispensaries, in accordance with Government Code section 65858, which was continued from the February 9, 2010 meeting.

Assistant Director of Resource Management Rick Simon presented the staff report and recommended enacting an urgency ordinance which imposes a 45-day moratorium on medical marijuana dispensaries.

The public hearing was reopened, at which time the following individuals spoke:

Joel Ankerich, Jim Eagle, Vic Von Aspern, and Douglas Bennett stated communication with patients, growers, and dispensaries would assist in developing new requirements.

Jim Miller, Jeremy Maughs, Rodney Jones, and Gina Munday advised the proposed garden size will be inadequate for the patients to grow the amount of medical marijuana needed.

Jason Keen, Debra Miller, James Benno, and Rick Levin spoke in opposition of the proposed medical marijuana ordinance.

No one else spoke for or against the matter, and the public hearing was closed.

Mr. Simon explained that two ordinances were introduced on February 9, 2010. One of the ordinances would change the zoning code to impose regulations on the cultivation of medical marijuana, and the second ordinance would impose regulations on the establishment and operation of medical marijuana dispensaries. The 45-day moratorium to be considered at this time would apply only to the establishment of dispensaries within that 45-day period.

In response to questions by Supervisor Moty, Senior Deputy County Counsel Rubin Cruse advised that the California Court of Appeal has said that State law does not preempt the Board of Supervisors from imposing zoning regulations that are reasonably related to the public safety and welfare. The case of *City of Claremont v. Cruz* provided that the Compassionate Use Act grants a limited right of the patient or primary caregiver to possess or cultivate marijuana for the patient's personal medical use without becoming subject to criminal liability. However, the Compassionate Use Act does not create a broad right to use marijuana without hindrance or inconvenience, and it does not address zoning or business licensing. Similarly, the Medical Marijuana Program Act provides limited criminal immunities. A case pending regarding the City of Anaheim's complete ban on dispensaries may provide an impact on framing of regulations. The Court found, in the matter of *People v. Kelly*, that quantity limitations were unlawful insofar as they applied to a criminal defense under the Compassionate Use Act.

Supervisor Moty made a motion to enact an urgency 45-day moratorium on medical marijuana dispensaries.

CAO Lees explained the board report recommendation, which was to consider introducing, waiving the reading of, and enacting one urgency ordinance to impose a 45-day moratorium on medical marijuana dispensaries, to continue the public hearing on the two proposed Zoning Plan amendments, and to direct staff to monitor current litigation regarding medical marijuana and return to the Board of Supervisors with a status report prior to the expiration of the moratorium.

Supervisor Moty amended his motion to introduce, waive the reading of, and enact an urgency ordinance impose for a 45-day moratorium on medical marijuana dispensaries, to continue the proposed zoning ordinance on dispensaries to a later date, and to direct staff to monitor current litigation on medical marijuana and return to the Board of Supervisors with a status report. Supervisor Hartman seconded the motion.

In response to a question from Supervisor Baugh, Mr. Ralston explained that it is appropriate to have separate motions on the dispensaries and cultivation; however, it would be more understandable to be done in one motion.

Supervisor Moty withdrew his motion, Supervisor Hartman withdrew her second.

By motion made, seconded (Baugh/Hawes), and unanimously carried, the Board of Supervisors introduced, waive the reading of, and enacted Ordinance No. 682, which imposes a 45-day moratorium on medical marijuana dispensaries, in accordance with Government Code section 65858; continued the public hearing on Zone Amendment No. 09-010, Medical Marijuana Dispensaries (Countywide area), and Zone Amendment No. 09-011, Medical Marijuana Cultivation (Countywide area), to a future date; and directed staff to monitor current litigation regarding medical marijuana and return to the Board of Supervisors with a status report prior to the expiration of the moratorium.

12:05 p.m.: The Board of Supervisors recessed.

12:10 p.m.: The Board of Supervisors reconvened.

### **CLOSED SESSION ANNOUNCEMENT**

Chairman Kehoe announced that the Board of Supervisors would recess to a Closed Session to take the following actions:

1. Confer with its counsel to discuss existing litigation entitled Burns v. Mukasey, et al., and Shasta County Citizens for a Healthy Environment v. County of Shasta, et al., pursuant to Government Code section 54956.9, subdivision (a); and
2. Confer with its counsel to discuss one case of anticipated litigation, pursuant to Government Code section 54956.9, subdivision (c): and
3. Confer with its counsel to discuss Public Employee Discipline/Dismissal/Release, pursuant to Government Code section 54957; and
4. Consider a public employee appointment (County Counsel), pursuant to Government Code section 54957; and
5. Confer with its Real Property Negotiator County Administrative Officer Larry Lees and Bayview Loan Servicing, LLC regarding 37427 Main Street, Burney (APN 028-340-033), pursuant to Government Code section 54964.8; and
6. Confer with its Labor Negotiators, County Administrative Officer Larry Lees, Personnel Director Michelle Schafer, and Labor Consultant Becker and Bell, to discuss the following employee organizations: Shasta County Employees Association, Shasta County Mid-Management Association, Deputy Sheriffs Association, Deputy Sheriffs Association-Correctional Officers, Sheriffs Administrative Association, Professional Peace Officers Association, Unrepresented Employees, United Public Employees of California-General Unit, United Public Employees of California-Professional Unit, and Teamsters-Trades and Crafts, pursuant to Government Code section 54957.6.

12:12 p.m.: The Board of Supervisors recessed.

2:45 p.m.: The Board of Supervisors recessed from Closed Session and reconvened in Open Session with all Supervisors, County Administrative Officer/Clerk of the Board Larry Lees, and County Counsel Mike Ralston present.

**REPORT OF CLOSED SESSION ACTIONS**

County Counsel Mike Ralston reported that the Board of Supervisors met in Closed Session to discuss existing litigation, anticipated litigation, public employee discipline/dismissal/release, public employment (County Counsel), real property negotiations, and labor negotiations. By unanimous vote, the Board of Supervisors authorized the filing of a small claims actions action against Keith Cope. No other reportable action was taken.

2:47 p.m.: The Board of Supervisors recessed to reconvene on Friday, February 26, 2010, at 1:00 p.m.

February 26, 2010

1:00 p.m.: The Board of Supervisors reconvened with all Supervisors, and County Administrative Officer/Clerk of the Board Larry Lees present; and recessed to Closed Session to discuss a public employee appointment (County Counsel).

4:30 p.m.: The Board of Supervisors recessed from Closed Session and reconvened in Open Session with all Supervisors, and County Administrative Officer/Clerk of the Board Larry Lees present.

**REPORT OF CLOSED SESSION ACTIONS**

Supervisor Kehoe reported that the Board of Supervisors met in Closed Session to discuss a public employee appointment (County Counsel); however, no reportable action was taken.

4:31 p.m.: The Board of Supervisors adjourned.

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Chairman

ATTEST:

LAWRENCE G. LEES  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy