

MINUTES



County of Inyo Board of Supervisors

October 11, 2016

The Board of Supervisors of the County of Inyo, State of California, met in regular session at the hour of 9:30 a.m., on October 11, 2016, in the Board of Supervisors Room, County Administrative Center, Independence, with the following Supervisors present: Chairperson Jeff Griffiths, presiding, Dan Tothoroh, Rick Pucci, Mark Tillemans, and Matt Kingsley.

PUBLIC COMMENT Chairperson Griffiths asked for public comment and there was none.

CLOSED SESSION Chairperson Griffiths recessed open session at 9:34 a.m. to convene in closed session with all Board members present to discuss the following items: No. 2 **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Government Code Section 54956.9).** *Native American Heritage Commission v. Inyo County Planning Department and Inyo County Board of Supervisors*, Inyo County Superior Court Case No. SICVPT1557557 (Munro Petition for Writ of Mandate); No. 3 **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Government Code Section 54956.9 (one case); No. 4 **CONFERENCE WITH LABOR NEGOTIATORS [Pursuant to Government Code §54957.6]** – Employee Organizations: Deputy Sheriff’s Association (DSA); Elected Officials Assistant Association (EOAA); Inyo County Correctional Officers Association (ICCOA); Inyo County Employees Association (ICEA); Inyo County Probation Peace Officers Association (ICPPOA); Law Enforcement Administrators’ Association (LEAA). Unrepresented employees: all. Agency designated representatives: County Administrative Officer Kevin Carunchio, Assistant County Administrator Rick Benson, Deputy Personnel Director Sue Dishion, Senior Deputy County Administrator Brandon Shults, County Counsel Marshall Rudolph, and Assistant County Counsel John Vallejo.

OPEN SESSION Chairperson Griffiths recessed closed session and reconvened the meeting in open session at 10:09 a.m. with all Board members present.

PLEDGE Supervisor Matt Kingsley led the pledge of allegiance.

REPORT ON CLOSED SESSION County Counsel Marshall Rudolph reported that no action was taken during closed session that is required to be reported. The Board had not finished its closed session business, however, and would recess to closed session later in the meeting to continue discussions.

PUBLIC COMMENT Chairperson Griffiths asked for public comment and there was none.

COUNTY DEPARTMENT REPORTS Chief Probation Officer Jeff Thomson gave an update on the Juvenile Services Redesign which kicked off September 22, noting three youth had already enrolled in the court school and one was committed to the weekend commit program at Juvenile Hall, with more expected to follow, depending on the courts. He said there have been no issues so far, and feedback from staff has been that it’s a nice change and a great opportunity to provide services. Thomson also provided an update on training programs.

Water Director Dr. Bob Harrington updated the Board on several upcoming water-related meetings. He said the State Department of Water Resources’ report on its investigation into the West Bishop groundwater conditions is in the internal review process and won’t be available until after October 24. He said he didn’t expect the report to conclude anything too different than what the Water Association and Water Department have already been saying.

Public Works Director Clint Quilter said the Lower Trona Wildrose road rehabilitation project in Panamint Valley should be finished October 27 with exception of revegetation along the sides

of the road, and paving would begin shortly. He said the Whitney Portal project's final inspection should happen by the end of the month and the Dehy Park project would be starting next week. He said his department is trying to coordinate with the Civic Club and other groups that use the park to ensure access during events.

INTRODUCTIONS

Public Works Director Quilter introduced the following new employees to the Board: Cameron J. Aubrey, Mechanic, Road Department; Tyson D. Sparrow, Building Inspector, Public Works; and Martin Orozco, Building and Maintenance Worker, Public Works.

APPOINTMENTS TO NORTHERN INYO AIRPORT COMM.

Moved by Supervisor Pucci and seconded by Supervisor Totheroh to appoint Mr. Geoff Pope to complete one unexpired four-year term ending October 31, 2019, and appoint Ms. Eileen Burger, Mr. Dave Patterson, and Mr. Peter Tracy to the Northern Inyo Airport Advisory Committee to serve three, four-year terms ending October 31, 2020. (*Notice of Vacancies resulted in requests for appointment being received from Mr. Pope, Ms. Burger, Mr. Patterson, and Mr. Tracy.*) Motion carried unanimously.

APPOINTMENTS TO SOUTHERN INYO AIRPORT COMM.

Moved by Supervisor Pucci and seconded by Supervisor Totheroh to appoint Mr. Martin Powell to the Southern Inyo Airport Advisory Committee to complete an unexpired four-year term ending June 1, 2020. (*A Notice of Vacancies resulted in one request for appointment being received from Mr. Powell.*) Motion carried unanimously.

WATER DEPT. PURCHASE OF SALT CEDAR SUPPLIES

Moved by Supervisor Pucci and seconded by Supervisor Totheroh to approve the purchase of 100 gallons of Garlon 4 herbicide and 300 gallons of Improved JLB Oil Plus, with dye, from Crop Production Services for a total of \$11,869.20 plus tax for use in the control of saltcedar. Motion carried unanimously.

ROAD DEPT. EQUIPMENT OPERATOR I/II

Public Works Director Quilter explained this agenda item was the result of a mini service redesign that didn't work as efficiently or sufficiently as Public Works thought it would. He said as a result of the recent joint recruitment effort with the Waste Department was five applicants he wouldn't hesitate offering the job to. Moved by Supervisor Kingsley and seconded by Supervisor Pucci to change the authorized strength in the Road Department by deleting one (1) Equipment Operator/Mechanic I/II position at Range 58 (\$3,310 - \$4,027 plus 2.5% tool allowance) to Range 60 (\$3,471 - \$4,216 plus 2.5% tool allowance), and **adding** one (1) Equipment Operator I/II position at Range 58 (\$3,310 - \$4,027) to Range 60 (\$3,471 - \$4,216); **and** request Board find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the Equipment Operator I/II position exists in the Road Budget, as certified by the Public Works Director and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates meet the qualifications for the position, the vacancy could be filled through an internal recruitment, however there exists a list of qualified applicants from the recent joint Road/Solid Waste recruitment; and C) approve the hiring of one (1) full-time Equipment Operator I/II at Range 58 (\$3,310 - \$4,027) to Range 60 (\$3,471 - \$4,216). Motion carried unanimously.

SHERIFF'S INVESTIGATOR, CORPORAL AND DEPUTY

Sheriff Lutze said an investigator retired after 25 years, leaving this vacancy. Moved by Supervisor Kingsley and seconded by Supervisor Tillemans for the Board to find that, consistent with the adopted Authorized Position Review Policy: A) the availability of funding for the requested positions comes from the General Fund, as certified by the Sheriff and concurred with by the County Administrator and Auditor-Controller; B) where internal candidates may meet the qualifications for the positions and the positions could possibly be filled by an internal recruitment, an open recruitment is more appropriate to ensure the positions are filled with the most qualified candidates; C) approve the hiring of one (1) Investigator position, Range 71SA-SD (\$4,799 - \$6,595); D) approve the hiring of one (1) Corporal position, Range 70SA-SD (\$4,556-\$6,262); and E) approve the open recruitment and hiring of one (1) Deputy Sheriff's position, Range 67SA-SD (\$4,149-\$5,705), and authorize up to the E step for a qualified lateral applicant. Motion carried unanimously.

*PUBLIC LAND USE
ISSUE
INVESTIGATION
DISCUSSION*

The Board was asked to receive a presentation from staff regarding the status of public lands in Inyo County, and direct staff to develop a draft scope of work to investigate these issues more broadly and return for further discussion. Supervisor Pucci expressed initial concern that not everyone was on the same page. Supervisor Kingsley and Chairperson Griffiths explained that this agenda item was not the result of any behind-the-scenes attempt to change or establish County position on any issue. CAO Carunchio apologized for the Agenda Request Form including incorrect and/or misleading language when it stated there had been a year of research prior to this agenda item. Supervisor Kingsley said there are simply a lot of land-use issues in his district that are not being addressed by current legislation and he wants to gather public input on what exactly needed to be addressed and where, and possibly include the suggested remedies in legislation. He acknowledged such conversations could be controversial but he hoped to get the kind of public engagement that was seen with the development of the Alabama Hills legislation. Chairperson Griffiths explained that this was the County's chance to be proactive when dealing with land issues in Inyo County, instead of being reactive in a piecemeal fashion every time legislation is brought forward affecting the County. He said the seven topics listed for consideration in the Agenda Request Form were just some that he would like to see addressed. They included the County's gravel pits along Saline Valley Road, Wilderness Study Areas, Surprise Canyon and the Amargosa River, Death Valley National Park land adjustments, land releases, County roads rights-of-ways on federally managed public lands, and federally managed lands designations. It was noted that these are issues that have been discussed at the Board level for more than 15 years. Cathreen Richards of the Planning Department said that the County has found very little continuity from one agency's land use proposal to another. She said it would benefit the County if its position was made clear to all land managers holistically. Supervisor Totheroh said the County might be putting the cart before the horse, as each proposal/piece of legislation has its own particular objective. Supervisor Kingsley said the goal here is not to worry about each agency's objective, or to make deals, but to get all the issues on the table for an all-inclusive conversation that results in stakeholder buy-in. Chairperson Griffiths said the County spends a lot of time and emotion fighting about issues that are not important to its people or economy and this is an opportunity to re-direct the conversation. Supervisor Pucci said he wanted the list of issues to be more specific because that's when progress is made. He used the Los Angeles Department of Water and Power land releases as an example. Supervisor Kingsley said he'd rather leave them as general concepts and collect the specifics through a public process. Chairperson Griffiths said he envisioned the end result as a list of specifics that the County could take to a legislator for development of a bill, but he didn't want to presuppose what the people of Inyo County wanted those specifics to be. Carunchio suggested the Board keep the LADWP land releases separate from this effort because there was already a process for that in the Long-Term Water Agreement. He cautioned the Board not to rush into a third auction and suggested the County take another look at the parcels selected for release as they may not be ideal. Ultimately, the Planning Department was directed to develop a scope of work, including a cost estimate and timeline, for the investigation/public outreach the Board wanted to undertake.

RECESS FOR LUNCH

The Chairperson recessed the meeting for lunch at 11:47 p.m., noting the Board would reconvene in closed session at 12:30 p.m. and return to open session at 1 p.m.

OPEN SESSION

Chairperson Griffiths recessed closed session and reconvened the meeting in open session at 1:12 p.m. with all Board members present. No action was taken during closed session that is required to be reported.

*TRIBAL
CONSULTATION
POLICY PUBLIC
HEARING/RECESS*

Planning Director Josh Hart said the County has been working on a Tribal Consultation Policy for several years and the Board has held workshops since September 2015, the last of which was in June 2016. Chairperson Griffiths then called a five-minute break at 1:13 p.m. for staff to work out some technical issues with the equipment in the Board Room.

*TRIBAL
CONSULTATION
POLICY PUBLIC
HEARING/
RECONVENE*

Chairperson Griffiths reconvened the meeting at 1:18 p.m. with all Board members present. Planning Director Hart gave a PowerPoint presentation on the history of the County's efforts to develop a Tribal Consultation Policy pursuant to Senate Bill 18 and Assembly Bill 52. Hart said the policies will be incorporated into the CEQA process undertaken for projects, with the general rule being consultation with Tribes 90 days before the release of Mitigated Negative Declarations or Environmental Impact Reports and decisions are made. Consultation is defined as the timely and meaningful process of seeking and discussing and considering the views of others that is cognizant of all parties' values, and where feasible, seeking agreement. Consultation shall be conducted in a way that is mutually respectable to each party's

sovereignty and shall also recognize Tribes' potential need for confidentiality with respect to places that have traditional Tribal cultural significance. Hart noted that the Lone Pine, Timbisha Shoshone, Bishop, and Big Pine Tribes, the Native American Heritage Commission (NAHC) and members of the public provided input at the aforementioned workshops. Since June, the County has been working with NAHC representatives to refine the policy to address their concerns and those of local Tribes. He said the result is a comprehensive and extensive document. Hart pointed out that there were many changes made to the document since that last meeting. Copies of the old and new version were provided to the Board. He said the updated policy was emailed to local Tribal representatives on September 20, 2016 and staff emailed Tribal representatives to remind them about today's public hearing. Chairperson Griffiths opened the public hearing. Raymond Andrew, Tribal Historic Preservation Officer (THPO) for the Bishop Tribe, suggested the word "Tribal" be capitalized throughout the document to show respect for the Tribes. He also said he didn't think the policy included enough staff-to-staff meetings – information gathering and sharing between staffs – before projects get to the decision-makers, i.e. the Tribal Council, which is when consultation actually takes place. He said this would make for a more streamlined process. Andrews also said the policy needed to include reference to cultural landscapes. Jill Paydon, administrator for the Big Pine Tribe, read a letter on behalf of Chairwoman Shannon Romero, who could not attend. Romero's letter cited disappointment in not receiving timely and formal notification of the public hearing, the lack of the term "cultural landscape," and the way the policy appears to dictate the behavior and actions of Tribal staff members. Paul Huetter, member of the Big Pine Tribe, said he doesn't have confidence in a consultation policy that did not include Tribal input during the final stages of its development. He compared his Tribe's Chairwoman to the President of the United States because the Tribe is a sovereign nation. He said he thinks that's a fact easily overlooked because the Tribe is so small. Huetter said he'd like to see more collaboration and thinks not sitting down with the Tribes on the final draft is discouraging. Chairperson Griffiths said Huetter's comments were frustrating and disappointing to hear because the Tribal Consultation Policy has involved more public outreach, hearings and revisions than any other project he's ever worked on. He pointed out the draft policies that had so many edits made to them they were almost impossible to read. He said he thought Huetter and the County had the common goal of more outreach. Supervisor Tillemans noted that the policy itself calls for more meetings with the Tribes and said the County has been accepting input on the policy and conducting outreach for more than a year. NAHC Commissioner Lauren Miranda said in reviewing the latest draft, she found it consistent with state law and it appeared to be a broad set of intentions, promises, and obligations the County is willing to hold itself to. She said it is written in a general enough sense that it gives the County and Tribes the latitude to have the sort of consultation that is best for them: formal or staff-to-staff. She said the policy appears to provide good guideline for how to eventually set up consultation plans with the individual Tribes and doesn't go into too much detail, as it shouldn't. Commissioner Miranda also noted that the plan both meets the minimum requirements of state law in some areas, and goes above and beyond in others. She said Mr. Andrews' idea about periodically revisiting the policy to keep it a living document was a good idea. She did point out that while not explicitly stated, cultural landscapes were covered on page 2 under the statute cited. She also said it sounded like there may not have been individual outreach with Tribes prior to the final policy coming out and she recommended that happen before it being adopted. She offered to help with that as well as the development of the individual Memorandums of Understanding with the Tribes that would need to follow. Planning Director Hart said he did reach out to the Tribal members on his department's mailing list a couple of weeks ago, emailing the same version of the policy being discussed today to about 15 to 20 people, including Tribal chairs, THPOs, etc. Paydon said the Tribe only found out about the hearing from the legal notice published in the local paper. Hart said that Chairwoman Romero responded to his email last week and he sent a reminder. Chairperson Griffiths said this was another example of the County believing it is conducting outreach and it being deemed not enough. Danelle Gonzales, the THPO for Big Pine Tribe, said she received Hart's email on September 20 notifying her of the October 11 hearing. But she said the proper way to announce the hearing is a written letter to the Tribal council, as a sign of respect, even if she does appreciate the notification. Chairperson Griffiths recessed the meeting for a short break at 2:48 p.m. and reconvened the meeting to open session at 3:12 p.m. with all Board members present. Special Counsel Greg James suggested adding very clear language to page 1 under the Purpose section that states the County is not trying to restrict or dictate behavior by adopting this policy. He also said that on page 2, where the policy mentions cultural resources identified under Public Resources Code Section 5024.1, the County could add the phrase cultural landscapes. Regarding consultation with each Tribe prior to approval of the policy, he said the Board could include as part of its motion direction for staff to commence consultation

discussions with Tribes regarding development of MOUs and implementation of the policy. Supervisors Pucci and Tothoroh and Chairperson Griffiths advocated for capitalizing the “T” in Tribal. County Counsel Rudolph reminded everyone that the policy is a living document, a starting point that can be revised if needed. Miranda said she appreciated the suggestion regarding Section 5024.1 and suggested lifting language directly out of the statute to help impart an understanding of the significance of cultural landscape: “Tribal cultural resources are sites, features, places, cultural landscapes, sacred places and objects as defined by Section 5024.1.” Her suggestion was taken. Moved by Supervisor Kingsley and seconded by Supervisor Pucci to approve the Policy and Protocol for Tribal Consultation with the addition of the language suggested by Special Counsel James, and with the modifications suggested by Commissioner Miranda of the California Native American Heritage Commission, and further moved and seconded that County staff be directed to immediately contact the representatives of the Local Tribes for the purpose of initiating consultation between the Local Tribes and the County concerning the implementation of the Policy and the potential development of individual MOUs with each Local Tribe. Motion carried unanimously.

*WATER DEPT. GSA
CONSULTANT
WORKSHOP*

Water Department Director Dr. Bob Harrington introduced Lisa Beutler, a contractor for the state Department of Water Resources who has been helping the county conduct outreach with stakeholders regarding the formation of a Groundwater Sustainability Agency per the Sustainable Groundwater Management Act. She told the Board she generally received thoughtful feedback as she interviewed 49 different people from June through August. She said she wanted to gauge how much agreement and conflict there was out there. She provided an overview of SGMA and the GSA process similar to the one Harrington presented last week. She also noted that the Owens Valley is home to an extremely complex system and historic water disputes that the DWR might not fully appreciate. Beutler also said she found out there was general interest in one or two GSAs with the county line being the boundary. She said City of Bishop staff expressed interested in pursuing a GSA with Inyo County and preparing one GSP, with limited resources to assist. She said the Tri-Valley Groundwater is the presumptive GSA in Mono County and was open to discussions about combining with Inyo. Beutler said Inyo and Mono Tribes have both the interest and the capacity to help. Beutler said one of her next steps is preparing a recommendation to the DWR as far as what types of additional assistance Inyo County will need. She said there is a significant need for additional conversations with the Tribes, so she'll be trying to get additional resources just for those conversations. Harrington noted that the deadline to file to become a GSA for a groundwater basin comes with a 90-day waiting period in case someone “overfiles” on the County, because they also want to be the GSA. Harrington said he was not sure when the 90-day window starts, so out of an abundance of caution, he recommended the County file in February. Supervisor Kingsley said he didn't think the County would be lucky enough to have anybody overfile on them.

PUBLIC COMMENT

Earl Wilson of Lone Pine offered some gossip from the Lone Pine Film Festival: one of the vendors told him he has some business in the warehouse district in Orange County and the prices of rentals are skyrocketing because the demand for warehouse space is high among marijuana growers. Wilson said if small businesses in Inyo County similarly start to suffer, the County is in trouble.

CLOSED SESSION

Chairperson Griffiths recessed open session at 4:37 p.m. to convene in closed session with all Board members present to continue discussions from earlier.

OPEN SESSION

Chairperson Griffiths recessed closed session and reconvened the meeting in open session at 5:40 p.m. with all Board members present.

*REPORT ON CLOSED
SESSION*

County Counsel Marshall Rudolph reported that no action was taken during closed session that is required to be reported.

ADJOURNMENT

Chairperson Griffiths adjourned the meeting at 5:40 p.m., with the Board scheduled to meet next on Tuesday, October 18 at 8:30 p.m. in the Board of Supervisors Room, County Administrative Center, Independence.

Chairperson, Inyo County Board of Supervisors

*Attest: KEVIN D. CARUNCHIO
Clerk of the Board*

by: _____
Darcy Ellis, Assistant