

REGULAR MEETING OF THE MARIN COUNTY BOARD OF SUPERVISORS HELD TUESDAY, OCTOBER 31, 2000, AT 10:16 A.M.

PRESENT: SUPERVISORS Cynthia L. Murray, Harold C. Brown, Jr., John B. Kress, Annette Rose, Steve Kinsey, President

2. APPROVAL OF MINUTES

M/s Murray-Brown, to approve the minutes of the meeting of October 17, 2000, as circulated.

AYES: ALL

3. BOARD OF SUPERVISORS' MATTERS

Sudden Oak Death Summit [Environment]

Supervisor Murray advised that the sudden oak death summit sponsored by Marin County will be held tomorrow and will include several representatives from state and federal government.

Marin Economic Commission Award Luncheon [Supervisors, Board of]

Supervisor Murray advised that the Marin Economic Commission award luncheon will be held on Thursday, at which time the Board of Supervisors' Business of the Year award will be presented.

San Rafael Rock Quarry [Use Permits]

Supervisor Kress acknowledged the presence of several residents of neighborhoods in proximity to the San Rafael Rock Quarry and invited them to speak during open time.

Benefit Art Exhibition and Sale [Open Space District]

Supervisor Rose advised that the benefit exhibition and sale of Marin County landscape paintings held at the Bay Model in Sausalito earned approximately \$48,000 in sales, with approximately \$15,000 to \$20,000 being donated to the Open Space District.

Urgency Item - Commendation for Tomales Regional History Center

[Commendations]

Supervisor Kinsey requested an urgency item to add consideration of a resolution commending the Tomales Regional History Center to the agenda. Thereafter, M/s Rose-Kress, on behalf of Supervisor Kinsey, to determine that the need to take action arose subsequent to the agenda being posted.

AYES: ALL

M/s Rose-Kress, on behalf of Supervisor Kinsey, to adopt a resolution of commendation for the Tomales Regional History Center.

AYES: ALL

National Marine Fisheries Service Workshop [Fishnet4C]

Supervisor Kinsey reported that he will be attending a workshop in Portland, Oregon presented by the National Marine Fisheries Service regarding the impacts of the listing of threatened coho and steelhead fisheries and the responsibilities of local governments to comply with recent rulings by the federal government.

4. ADMINISTRATOR'S REPORT

Urgency Item: Authorization to Award Contract - Project C352

[Project C352]

County Administrator Mark Riesenfeld advised that the Department of Public Works has requested that an urgency item be added to the agenda to award the bid for exterior painting of the Civic Center. Thereafter, M/s Brown-Kress, to determine that the need to take action arose subsequent to the agenda being posted.

AYES: ALL

Pursuant to recommendation of Senior Civil Engineer Mike Bianchi in his letter dated October 31, 2000, M/s Brown-Kress, to award contract for Project C352, exterior painting of the Administration and Hall of Justice buildings, to the low bidder, Horizon Painting, in the amount of \$337,500 with a project contingency fund of \$50,625 and authorize the President and Clerk of the Board to sign the agreement after execution by low bidder.

After discussion by Board members and staff, Supervisors Kinsey and Murray directed staff to investigate the possibility of establishing a policy that would, within the law, provide a preference for local contractors in order to support local businesses and the local economy.

Thereafter, the vote on the pending motion was

AYES: ALL

Agenda Modifications/Clarifications [County Courts]

Item 15 - Mr. Riesenfeld advised that, pursuant to his letter dated October 31, 2000, the recommended action for Item 15 should be to concur with, not approve, the compensation adjustment for the Executive officer of the Marin County Superior Court, as provided by Government Code Section 69898.

Item 17 - Mr. Riesenfeld advised that the Agricultural Commissioner/Director of Weights and Measures has requested that Item 17 be pulled from the agenda. [Agricultural Commissioner]

Item 12 - Mr. Riesenfeld advised that Item 12 requires a 4/5 vote, which was not noted on the agenda. [Library]

Item C-10d - Mr. Riesenfeld advised that a revised letter was distributed for Item C-10d, which clarifies that a proposed new ambulance would be located at the Point Reyes Station Firehouse. [Public Works]

8. REQUEST FROM SUPERVISOR KINSEY TO RECOGNIZE VOLUNTEER PROGRAM COORDINATOR JOAN BROWN FOR HER RECOGNITION AS THE "INTERNATIONAL VOLUNTEER MANAGER OF THE YEAR 2000" BY THE ASSOCIATION OF VOLUNTEER ADMINISTRATION [Human Resources]

Supervisor Kinsey, on behalf of the Board of Supervisors, congratulated Volunteer Program Coordinator Joan Brown for her recognition as the "International Volunteer Manager of the Year 2000" by the Association of Volunteer Administration and presented Ms. Brown with a bouquet of flowers. Ms. Brown expressed gratitude to the Board and her co-workers and volunteers. Human Resources Director Laura Armor congratulated Ms. Brown on her award and acknowledged her efforts on behalf of Marin County.

5. OPEN TIME

San Rafael Rock Quarry [Use Permits]
The Co-Chair of the Point San Pedro Road Coalition presented a brief

history of the problems experienced by the surrounding neighborhoods, spoke about the actions taken by the community to date, noted the many residents present regarding the Rock Quarry issue, and requested that the County update the Quarry's Use Permit using a process which includes appropriate environmental impact review. Several other residents spoke regarding the impacts of the San Rafael Rock Quarry operations on the community and urged the Board to direct staff to review the Quarry's existing Use Permit.

6. CONSENT CALENDAR

M/s Brown-Murray, to approve:

C-1. Warrants: #852198-854310 dated October 19-25, 2000. Manual Warrants: 9375, 9376.

C-2. Declaration of Emergency: Reconfirmation of Declaration of Local Emergency relative to transmission of HIV through contaminated needles pursuant to Resolution No. 93-293 adopted on November 23, 1993. [AIDS]

C-3. Board of Supervisors:

a. Supervisor Murray requesting resolutions honoring the Novato Chamber of Commerce "Small Business of the Year", "Large Business of the Year", "Citizen of the Year" and Marin County "Business of the Year". [Commendations]

b. Supervisor Rose requesting resolution proclaiming October as "Traffic Safety Month" and November 11, 2000, as "drivesurvive2000". [Proclamations]

C-4. Agricultural Commissioner:

a. Authorize President to execute agreement with IPM Bio-Care (Michael A. Wolf) in the amount of \$6,000, to provide structural pest assessments and recommendations for Marin County's "Model Integrated Pest Management ("IPM") in the Schools" program.

b. Authorize President to execute agreement with Michael Baefsky in the amount of \$6,000 to provide landscape and grounds pest assessments and recommendations for Marin County's "Model Integrated Pest Management ("IPM") in the Schools" program.

C-5. County Counsel:

Authorize President to execute Special Offer Amendment to Westlaw Subscriber Agreement in the amount of \$40,752 for online computerized legal research services for District Attorney, Public Defender, County Counsel, Tax Collector/County Clerk/Elections, and Sheriff for one year.

C-6. Health and Human Services:

NOTE: Agreements in Items C-6a-C-6b are renewals of existing agreements that were included and funded in the FY 2000-2001 budget.

a. Authorize President to execute FY 2000-2001 agreement with Sheryl B. Rand, M.D. in the amount of \$71,700 to provide psychiatric evaluation and treatment for adult outpatient clients and on-call services as needed. [Mental Health]

b. Authorize President to execute FY 2000-2001 agreement with Summitview Child Treatment Center in the amount of \$62,378 to provide day treatment services for mental health clients of Marin County. [Mental Health]

c. Authorize President to execute transmittal letter for the Division of Aging's Area Plan Year-End Report (FY 1999-2000) and forward, along with the

Year-End Report to the California Department of Aging. [Seniors/Aging]

C-7. Human Resources:

a. Adopt revised class specification for Assistant County Counsel (Class #0210) and adopt revised and retitled specification for Principal Deputy County Counsel (Class #0534), effective October 31, 2000.

b. Adopt revised and retitled class specification of Probate Specialist (Class #1357) to Probate Specialist II and include the new class of Probate Specialist I, (Class #1359) within the class specification and recommended salary range, effective October 31, 2000.

C-8. Library:

Approve sole source lease of ADA compliant public access copiers from Scott's Office Equipment.

C-9. Parks:

Authorize President to execute agreement with M.A.. Center for having their "Ammachi Program" at the Marin Center on November 13-19, 2000. [Marin Center]

C-10. Public Works:

a. Authorize President to execute amendment to lease agreements with Haven Properties for 3301 Kerner Blvd. for the Department of Health and Human Services, Employment and Training. [Public Works: Real Estate]

b. Authorize President to execute Certificate of Acceptance of Grant of Interest in Real Property for a wall and drainage easement from the Marin City Community Services District. [Easements]

c. Authorize President to execute Notice of Completion and approve final payment to Hillside Drilling, Inc. in the amount of \$2,866.57 with retention amount of \$1,823.61 to be released 35 days subsequent to Board action for Storm Damage repairs, Lucas Valley Rd. at MP 4.75 (Project No. 982008) and Paradise Drive at MP 3.41 (Project No. 951058) and Guardrail Replacement, Bretano Way at House #125 (Project No. ECR 855). [Project No. ECR 855]

d. Approve sole source purchase of an ambulance by piggy-backing Bid No. 9293 for the Southern Marin Emergency Medical Paramedic System ("SMEMPS") from Leader Industries of El Monte, CA. [Public Works]

C-11. Sheriff:

Approve (1) Memorandums of Understanding ("MOUs") (contractual period of July 1, 2000-June 30, 2003) with the following nine jurisdictions: Cities of Belvedere, Larkspur, Mill Valley, San Anselmo and Sausalito, the Town of Corte Madera, Fairfax, Ross and Tiburon; and (2) approve Memorandums of Understanding ("MOUs") (contractual period of July 1, 2000-June 30, 2001) with the following two jurisdictions: Cities of Novato and San Rafael, for the Marin County Sheriff Department's Office of Emergency Services to provide emergency management services for a fee.

AYES: ALL

7. SUPERVISOR MURRAY REQUESTING CO-SPONSORSHIP OF EVENT RECOGNIZING WETLANDS RESTORATION EFFORTS ON BEL MARIN KEYS UNIT V AND HAMILTON PROPERTIES

[Supervisors, Board of]

Supervisor Murray announced that the above-captioned event has been moved from November 2, 2000, to sometime in January or February, 2001, at which time Governor Gray Davis and State Secretary of Resources Mary Nichols will join Congresswoman Lynn Woolsey and representatives of the Coastal Conservancy, the Bay Institute and the City of Novato in recognition of past accomplishments and

ongoing efforts at wetlands restoration on Bel Marin Keys Unit V and Hamilton properties.

M/s Murray-Brown, to co-sponsor an event recognizing wetlands restoration efforts on Bel Marin Keys Unit V and Hamilton properties on a date to be announced.

AYES: ALL

9. FIRST QUARTER BUDGET STATUS REPORT [Budget]

By letter dated October 31, 2000, County Administrator Mark Riesenfeld submitted a report providing information regarding the status of the County's fiscal year 2000-01 budget as of September 30, 2000.

Assistant County Administrator John Sweeten advised that expenses and revenues for the first quarter are within acceptable parameters.

10. REQUEST FROM THE DIRECTOR OF HEALTH AND HUMAN SERVICES TO APPROVE REQUEST TO THE CALIFORNIA DEPARTMENT OF MENTAL HEALTH FOR AN ADDITIONAL ALLOCATION FOR THE CHILDREN'S SYSTEM OF CARE ("CSOC") PROGRAM [Mental Health]

Pursuant to recommendation of Director of Health and Human Services Nancy Rubin in her letter dated October 31, 2000, M/s Murray-Brown, to authorize submission of a request to the California Department of Mental Health for an additional allocation of \$25,000 for the Children's System of Care ("CSOC") program, a community-based, comprehensive interagency system of care for youth and their families.

AYES: ALL

11. REQUEST FROM THE COMMUNITY DEVELOPMENT AGENCY DIRECTOR TO ADOPT RESOLUTION ESTABLISHING RULES GOVERNING THE ADMINISTRATION OF AGRICULTURAL PRESERVES AND FARMLAND SECURITY ZONES WITH PROCEDURES FOR ISSUANCE OF LAND CONSERVATION AGREEMENTS [Community Development Agency]

By letter dated October 31, 2000, Community Development Agency Director Alex Hinds and Senior Planner Dan Dawson submitted their report in the above-referenced matter and recommended that the Board adopt the proposed resolution implementing updated contract provisions for Land Conservation Act (Williamson Act) and Farmland Security Zone (Super Williamson Act) contracts. Mr. Hinds advised that the principal objective of the proposed resolution was to strengthen the County's commitment to preserving agricultural lands by modifying the list of land uses permitted under the current Williamson Act contract and indicated that these modifications include: (a) the elimination of conflicting uses, such as golf courses, oil and gas well drilling and animal hospitals, and (b) inclusion of additional compatible uses such as mariculture and aquaculture.

Supervisor Kinsey directed staff to research the possibility of adding, at some time in the future, a contract provision within the Super Williamson Act to require that when lands are being subdivided within the Williamson Act, the new parcel that is created would be required to return to the full term of the Williamson Act.

M/s Kress-Murray, on behalf of Supervisor Kinsey, to adopt Resolution No. 2000-135 establishing rules governing the administration of Agricultural Preserves and Farmland Security Zones with procedures for issuance of Land Conservation Agreements.

AYES: ALL

12. REQUEST FROM THE DIRECTOR OF LIBRARY SERVICES TO RELEASE PRIOR YEAR FUNDS TO BE REALLOCATED TO COVER ELECTRICAL WORK CONTRACT WITH W. BRADLEY ELECTRIC, INC. (4/5 VOTE) [Library]

Pursuant to recommendation of Director of Library Services Carol Starr in her letter dated October 31, 2000, M/s Rose-Murray, to approve the release of a prior year encumbrance in the County Library, Fairfax Branch account (\$8,220) purchase order #PC 20000000893, vendor code 941558409 A, appropriated through the reserve for encumbrances, for the purpose of providing funds to cover electrical work contract with W. Bradley Electric, Inc.

AYES: ALL

13. REQUEST THE DIRECTOR OF LIBRARY SERVICES TO ACCEPT CALIFORNIA STATE LIBRARY-LIBRARY, LITERACY AND BOOK SERVICES GRANT FOR THE PURCHASE OF A MOBILE UNIT AND ACCOMPANYING REQUIRED SERVICES FOR THE MARIN LITERACY PROGRAM, A JOINT PROGRAM OF THE MARIN COUNTY FREE LIBRARY AND THE SAN RAFAEL PUBLIC LIBRARY (4/5 VOTE) [Library]

Pursuant to recommendation of Director of Library Services Carol Starr in her letter dated October 31, 2000, M/s Murray-Kress, to:

(a) Accept California State Library-Library, Literacy and Book Services ("CSL LLABS") grant in the amount of \$206,000 for the purchase of a mobile unit and accompanying required services.

(b) Approve Transfer of funds increasing the appropriations in the Marin County Free Library - Literacy budget for Regular Staff Salaries and related accounts (\$15,425), Extra Hire (\$17,075), Books & Periodicals (\$2,500), Office supplies (\$1,500), Overhead charges (\$18,725), Vehicles maintenance charge (\$5,000), Data processing equipment (\$3,500), Vehicle Acquisition (New Bookmobile) (\$142,275), offset by an increase in Library Revenue in Literacy by accepting the California State Library - Library, Literacy, and Books Services Grant Proposition 10 Funds Grant (\$206,000) for purposes of purchasing of a mobile unit and the accompanying required services to serve children 0-5 and their parents and/or caretakers, including the addition of .50 FTE Senior Clerk Typist, effective October 29,2000.

(c) Create a .5 FTE - Senior Clerk/Typist Bilingual to staff mobile unit purchased for Marin Literacy Program, a joint program of the Marin County Free Library and San Rafael Public Library.

(d) Purchase a mobile unit from California State Library selected vendor, Matthews Specialty Vehicles of Archdale, North Carolina.

AYES: ALL

14. REQUEST FROM COUNTY COUNSEL TO APPROVE ADDITIONAL SERVICES FOR DEPUTY PUBLIC ADMINISTRATOR II TO FILL IN FOR COUNTY COUNSEL PROBATE SPECIALIST PURSUANT TO MARIN COUNTY CODE SECTION 2.52.114 [County Counsel]

Pursuant to recommendation of County Counsel Patrick Faulkner in his letter dated October 31, 2000, M/s Murray-Rose, to approve additional services (10 hours per week) for Deputy Public Administrator Jennifer Walter to fill in for County Counsel Probate Specialist pursuant to Marin County Code Section 2.52.114.

AYES: ALL

15. REQUEST FROM COUNTY ADMINISTRATOR TO CONCUR WITH COMPENSATION ADJUSTMENT FOR EXECUTIVE OFFICER OF THE MARIN COUNTY SUPERIOR COURT, AS PROVIDED BY

GOVERNMENT CODE SECTION 69898, EFFECTIVE OCTOBER 15, 2000

[County Courts]

Pursuant to recommendation of County Administrator Mark Riesenfeld in his letter dated October 31, 2000, M/s Kress-Rose, to concur in the compensation adjustment for Executive Officer of the Marin County Superior Court, effective October 15, 2000, as noted in Presiding Judge John Sutro's memorandum dated October 20, 2000, and provided by Government Code Section 69898.

In response to a question from Supervisor Rose, Mr. Riesenfeld clarified that the Court Executive Officer is an employee of the court but continues to be in the County's payroll system during this transition period. Mr. Riesenfeld advised that this action therefore requires Board concurrence to authorize the Auditor-Controller to make the necessary adjustments in the payroll system.

Thereafter, the vote on the pending motion was

AYES: ALL

16. APPOINTMENTS

a. Assessment Appeals Board #2

Board members scheduled interviews on November 7, 2000, at 10:30 a.m. for Arthur Crofts, Thomas Moran and Andrew Sweet for the vacancy due to the resignation of Marvin Thompson.

b. Child Care Commission

M/s Murray-Kress, to appoint Suzanne Suskind, Jan Mars, Ann Zondor, Naomi Spiegelman and Lisa Lee to the Marin Child Care Commission and continue appointment for Marin City representative to November 14, 2000.

AYES: ALL

M/s Rose-Murray, to ratify appointments of Tracy Forbes Marriott, Catherine McQuilkin, Heidi Jaeger, Harry Holland and John Auer by the Marin County Superintendent of Schools.

AYES: ALL

c. Living Wage Advisory Committee

M/s Kress-Rose, to appoint Kris Organ to the vacancy representing Labor due to the resignation of Patricia Orr.

AYES: ALL

18. HEARING: ORDINANCE AUTHORIZING IMPLEMENTATION OF THE ORGANIC CERTIFICATION PROGRAM AND ORGANIC CERTIFICATION FEE SCHEDULE

[Agricultural Commissioner]

By letter dated October 31, 2000, Agricultural Commissioner/Director of Weights and Measures Stacy Carlsen submitted his report regarding the above-referenced item and recommended that, after conduct of a public hearing, the Board adopt the proposed ordinance authorizing implementation of the organic certification program and organic certification fee schedule.

The hearing was declared open to receive public comment. There being no comment, the hearing was closed.

M/s Murray-Kress, to adopt Ordinance No. 3317 setting fees for organic certification of producers of organic products.

AYES: ALL

19. HEARING: APPEAL ON PERSONNEL COMMISSION DECISION, SUSPENSION APPEAL #00-38, PURSUANT TO MARIN COUNTY MERIT SYSTEM, SECTION 2.56.090 [Human Resources]

By letter dated October 31, 2000, on behalf of the Departments of Human Resources and Public Works, Human Resources Director Laura Armor submitted her report regarding the above-referenced matter. Mr. Armor advised that George Petracosopoulos was present with his attorney pursuant to his right under Marin County Code Section 2.56.090 to appeal the decision of the Personnel Commission, and recommended that the Board uphold the Personnel Commission's decision of July 12, 2000, regarding Suspension Appeal #00-38 and deny appeal. Ms. Armor advised that the entire evidence list was provided to the Board members, including tape recordings of the Personnel Commission's hearing.

County Counsel Patrick Faulkner advised that, under Marin County Code 2.56.090, this appeal is based solely upon the record that has been provided unless the Board makes an express finding to open it up to new evidence. Mr. Faulkner also advised that the standard of review for this appeal is de novo which means Board members can exercise their own independent judgement regarding the evidence which was provided at the Personnel Commission hearing.

(Supervisor Kinsey absent at 11:25 a.m.)

The appellant's Attorney, Jeffrey Daly, advised that the appellant is not questioning public policy setting up random drug testing, nor does he believe that this appeal sets a countywide precedent. Mr. Daly stated that it is the appellant's contention that there was an error made at some point during the collection, testing or reporting of Mr. Petracosopoulos' urine sample. Mr. Daly presented arguments to support this conclusion and urged the Board to consider Mr. Petracosopoulos' prior job performance and grant him the benefit of the doubt in this appeal.

Deputy County Counsel Mari-Ann Rivers, who presented the case for the County at the Personnel Commission hearing, briefly described the random drug testing procedure and challenged Mr. Daly's assertion that granting this appeal would not create a precedent. Ms. Rivers advised that all procedures were followed and the chain of custody of the urine sample was testified to before the Personnel Commission. Ms. Rivers stated that the abundance of evidence clearly shows that Mr. Petracosopoulos' urine sample was adulterated.

In response to questions by Supervisor Kress regarding the workload of the Kentfield Laboratory and the number of County employees who are requested to go to the Lab and give a urine sample on any given day, Ms. Armor advised that the County selects between seven and eight employees to go for drug testing on any one day. Ms. Rivers stated that, prior to this incident, there had been no problems associated with the testing program. In response to questions by Supervisor Kress regarding clarification of drug testing procedures and the nitrate levels found in Mr. Petracosopoulos' urine sample, Ms. Rivers stated that the testimony given before the Personnel Commission by Neil Fortner, Vice President and Chief Scientific Officer with PharmChem Laboratories, was that the nitrate count found in Mr. Petracosopoulos' urine sample could not have occurred naturally.

(Supervisor Kinsey returned at 12:12 a.m.)

In response to a question by Supervisor Kress, the appellant's Counsel, Mr. Daly, stated that he concedes that the urine sample was adulterated but does not concede that the sample was Mr. Petracosopoulos' sample or that the sample

could not have been adulterated by a cleaning substance or some other similar material used in Mr. Petracosopoulos' job.

After discussion by Board members and staff and closing remarks by Mr. Daly, M/s Kress-Rose, to uphold the Personnel Commission's decision of July 12, 2000, and deny the appeal of the disciplinary action (two week suspension) of Traffic Safety Maintenance Worker George Petracosopoulos.

Supervisor Kress noted that Board members should review this case as if they were a jury in court and ask themselves if the preponderance of evidence supports the Personnel Commission's decision. Supervisor Kress stated that it seems clear that the urine sample was adulterated and the preponderance of evidence shows that all the procedures were conducted appropriately. Supervisor Kress added that this finding does not determine whether a controlled substance was used but simply that the drug sample was adulterated, which constitutes a refusal to test.

In response to a question from Supervisor Brown regarding the Board's ability to alter consequences, County Counsel Patrick Faulkner advised that Department of Transportation regulations define procedures and requirements in this case.

Thereafter, the vote on the pending motion was

AYES: ALL

ABSTAIN: SUPERVISOR Kinsey

20. REQUEST FROM DIRECTOR OF PARKS AND OPEN SPACE TO APPROVE THE PROPOSED BUDGET FOR THE 2001 MARIN COUNTY FAIR, JUNE 30 THROUGH JULY 4, 2001 [Fair]

Pursuant to recommendation of Marin County Fair Director Frances Brigmann in her letter dated October 31, 2000, M/s Brown-Murray, to approve the proposed budget for the 2001 Marin County Fair, June 30 through July 4, 2001.

AYES: ALL

The Board recessed at 12:21 p.m. and reconvened in Room 324 A - "Rug Room" at 12:30 p.m. for a lunch discussion.

The Board reconvened at 1:37 p.m. All Supervisors were present.

21. REQUEST FROM DEPARTMENT OF AGRICULTURE/WEIGHTS AND MEASURES TO APPROVE FIVE-YEAR ACTION PLAN FOR WILDLIFE PROTECTION PROGRAMS, AUTHORIZE PRESIDENT TO EXECUTE AGREEMENT WITH USDA WILDLIFE SERVICES, APPROVE MARIN COUNTY STRATEGIC PLAN FOR WILDLIFE CONTROL TECHNIQUES ON LIVESTOCK OPERATIONS AND AUTHORIZE FUNDS FOR NON-LETHAL PREDATOR CONTROL PROGRAM [Agricultural Commissioner]

Agricultural Commissioner/Director of Weights and Measures Stacy Carlsen made introductory remarks regarding the information contained in his letter dated October 31, 2000, pertaining to the above-referenced item. Mr. Carlsen briefly summarized the background of the issue before the Board, commented on the County's past support for the ranching community and the Board's previous approvals of agreements with the United States Department of Agriculture ("USDA") Wildlife Services Agency for predator control, outreach and education. Mr. Carlsen also briefly commented on the impact of the voter-approved Proposition 4, commented on efforts of ranchers to implement non-lethal programs, summarized the County's actions during the past year to address predator control issues and briefly discussed the goals of the Five-Year Action and Strategic Plan for Wildlife Control. Mr. Carlsen noted that approval of the

Five-Year Action Plan would result in a program that moves the County away from funding a lethal predator program in eighteen months.

Mr. Carlsen also briefly responded to comments and concerns expressed by the Marin Coalition for California Wildlife as presented in their letter dated October 30, 2000, submitted to Board members, regarding the recommendations contained in Mr. Carlsen's staff report. Mr. Carlsen stated that the Coalition endorses the proposed Plan for wildlife control, and briefly commented on concerns expressed by the Coalition including accountability and administration of a proposal to fund the Northbay Woolgrowers Association to implement non-lethal predator control activities.

Mr. Carlsen then addressed the Board on the specific recommendations in his staff report, noting that he expects that no one will be 100 percent happy with the recommendations. Mr. Carlsen stated that his recommendations include a funding request in the amount of \$50,000, to help ranchers offset costs associated with non-lethal activities on the ranches. Mr. Carlsen emphasized the importance of sustainability of the livestock industry and requested that the Board support the Strategic Plan for Wildlife Control Techniques and approve the Five-Year Action Plan for Livestock/Wildlife Protection programs. Mr. Carlsen noted that the Five-Year Plan doesn't expire in five years, but rather, that the Plan provides a guide for predator control activities during the next five years.

Thereafter, Mr. Carlsen introduced Mary Paglieri, founder and Director of the Little Blue Society ("LBS"), and James Nee, LBS Senior Director, who briefly described three elements of the LBS' proposed plan to implement a non-lethal program including: building and fortifying fences, the Guardian Shepherd program, and community outreach. The representatives of the LBS also briefly described the goals of their plan and identified other localities where they have worked.

The hearing was declared open to receive public comment.

Representatives of In Defense of Animals, the Marin Coalition for California Wildlife, Animal Legal Defense Club, Wildcare, Marin Humane Society and three County residents addressed the Board and commented generally on concerns regarding wording in the proposed Strategic Plan related to funding the Northbay Woolgrowers Association, including ensuring sufficient oversight, accountability and administration of a proposed agreement with the Woolgrowers Association; the representativeness of the Northbay Woolgrowers Association of other agricultural producers; oversight by County staff and County staff time to be spent to monitor predator control issues, clarification of the term "sunsetting" related to the USDA agreement with the County, time frame for phasing out lethal means of predator control, available statistics on the types of wildlife taken, responsibility of ranchers in protecting their investment, support for protecting wildlife. A representative of In Defense of Animals presented a petition expressing opposition to County funding to support the activities of the USDA Wildlife Services. Several of the speakers also expressed appreciation for the efforts of Mr. Carlsen, commented on the difficulty of the predator control policy issue and expressed support for the direction of the plan in moving away from funding a lethal predator program.

In response to a question from Supervisor Brown, representatives of the Marin Coalition for California Wildlife stated that their organization supports the Plan with modifications, noting that the Coalition is not opposed to the time period set out in the Plan for the phase out of the lethal program.

Coalition representatives also stated that the Coalition would convey their support for the Plan, with recommended modifications, to its membership, provided that the Plan includes a clear 18 month phase-out of County funding for lethal methods.

Mr. Carlsen clarified the phase-out period for continued funding of a lethal predator program noting that June 30, 2002, would be the end of the County's contract with the USDA Wildlife Services program.

Three ranchers, the Executive Director of the Marin Agricultural Land Trust ("MALT") and the State Director of the USDA Wildlife Services addressed the Board and commented generally on the efforts of ranchers in implementing non-lethal methods for predator control, outlined various services provided by the USDA Wildlife Services, commented on misconceptions of ranchers and their efforts on non-lethal methods for predator control, encouraged the application of science to guide wildlife management issues, described benefits of the services provided by the USDA Wildlife Services, emphasized the importance of preserving agricultural viability in the county, outlined problems related to the termination of the Wildlife Services Program last year and detailed losses on ranches due to predation.

The public hearing was closed.

Mr. Carlsen responded to questions from the Board and clarified some comments made during the public hearing regarding oversight and administrative controls of the proposed contract with the Woolgrowers Association and County contracts in general, the period by which the agreement with the USDA would "sunset", and the availability of other programs and industry groups, beyond the Northbay Woolgrowers Association, for wildlife and livestock protection.

Thereafter Supervisors individually expressed appreciation to Mr. Carlsen for his work, expressed interest in ensuring representation by other industry groups in implementing non-lethal predator control activities, commented on the progress made on this policy issue, stressed the importance of preserving viable agriculture, expressed appreciation to the USDA and for the appearance of the USDA State Director of Wildlife Services at today's hearing, acknowledged the investment of the USDA in researching non-lethal methods and encouraged continued research in this area, stressed the importance of maintaining food security, emphasized the importance of accountability of the program, and expressed appreciation to the representatives of the Little Blue Society for their presentation.

In response to questions from the Board, Mr. Carlsen stated that he felt that the Northbay Woolgrowers Association was the best vehicle to administer the non-lethal program because that organization represents the majority of the sheep producers in the county, and traditionally the losses and damages have been focused on the sheep industry. Mr. Carlsen also briefly commented on the relationships that will continue to be maintained among all county ranchers, the County, the USDA and the University of California Cooperative Extension/Farm Advisor's Office. Mr. Carlsen also noted that the Northbay Woolgrowers Association has agreed, in concept, to the proposed agreement to implement a non-lethal program.

Thereafter, M/s Kress-Rose, to:

a. Approve five-year action plan to develop, implement, monitor, and evaluate a sustainable livestock/wildlife protection program;

b. Approve Marin County Strategic Plan for Wildlife Control Techniques on Livestock Operations;

c. Authorize the President to execute cooperative agreement (No. 00-73-06-0259-RA) in the amount of \$15,000 with the United States Department of Agriculture ("USDA") to provide for animal damage management within Marin County;

d. Approve inclusion of \$37,500 in 361-2267 to fund Northbay Woolgrowers Association to implement non-lethal predator control activities.

Supervisor Brown stated that he would vote against the motion for several reasons, and stated that the County should take a significant interest in the livestock losses, suggesting that the County subsidize agricultural losses due to predation, and emphasized the importance of the preservation of viable agriculture in the county.

Thereafter, the vote on the pending motion was

AYES: ALL

NOES: SUPERVISOR Brown

The Board recessed at 3:02 p.m. and reconvened at 3:10 p.m., at which time Supervisor Kinsey was absent.

22. HEARING: RICHARDSON BAY DOCK AND BOAT STUDY [Richardson Bay]

Community Development Agency Director Alex Hinds briefly summarized the history of the Richardson Bay Dock and Boat Study ("Study"), noting that the Study is the result of the Board's direction to staff to undertake a cumulative impact study of boat docks in the vicinity of the Audubon Society's Richardson Bay Wildlife Sanctuary. Mr. Hinds introduced consultant and Study author Greg Zitney of Zitney & Associates and noted that the Study was unanimously recommended for approval by the Planning Commission in October.

Principal Planner Thomas Lai stated that correspondence regarding the Study from residents of Harbor Cove Way and Greenwood Beach Road was received and distributed to Board members. Thereafter, Mr. Lai discussed the information contained in his staff report dated October 31, 2000.

Mr. Lai briefly outlined the background of the study, identified the study area and reviewed the environmental setting of the study area. Mr. Lai summarized the Study findings including the potential impacts of docks on wildlife and habitats; the impact of boat traffic, including personal watercraft, in the study area; and the potential for the creation of private docks and a commercial marina. Mr. Lai also summarized the results of a survey conducted to identify existing and potential dock sites in the study area and emphasized that the recommendations in the draft Study are advisory only to the Town of Tiburon and City of Belvedere.

Mr. Lai highlighted the recommendations of the Study including designating Aramburu Island as an official wildlife preserve; increasing public awareness of the preserve and restrictions in the adjoining sanctuary; strengthening enforcement and penalties for violations of the restrictions in the sanctuary; prohibiting boat traffic, including canoes, kayaks and rowboats, from traveling up the eastern side of Aramburu Island; establishing specific guidelines for dock construction within the unincorporated portions of the study area,

including limiting size of docks, and using construction methods and materials that minimize shoreline and aquatic impacts. Mr. Lai recommended that, after review of the administrative record and conduct of a public hearing, the Board adopt a resolution approving the Richardson Bay Dock and Boat Study. Mr. Lai stated that, upon adoption of the Study, staff intends to use the Study as an informational tool in the processing of development applications for new boat docks within the study area, including the preparation of environmental review.

Mr. Zitney responded to questions from the Board regarding the definition of "personal watercraft" as used in the study, noting that, personal watercraft, as defined for the purposes of the study, is generally a one-person craft that is portable.

Community Development Agency staff responded to a question from the Board regarding the impact of the Study on docking facilities stating that the intent of the Study was to review the cumulative effects of additional docks and to evaluate the potential for additional docks in the study area.

The hearing was declared open to receive public testimony.

Residents of Greenwood Beach Road, Egret Way, Harbor Cove Way and Century Drive expressed their individual concerns related to the history of dock use in the affected study area, the economic impact on homeowners in the study area, perceived deficiencies of the Study, expectations of homeowners in the study area to construct docks, the possibility of legal action related to enforcement of the Study, a request to adopt the Study as advisory only, the lack of differentiation between small watercraft and motor-powered boats, recognition of navigational easement rights, and potential dock sites identified in the Study. A resident of Harbor Cove Way commented on Appendix B of the Study regarding the Strawberry Recreation Dock, potential dock development east of the Strawberry Public Dock, and recent dredging assessments and read a portion of the Appendix ("Response to Letter C").

There being no further comment, the hearing was closed.

Mr. Lai responded to comments from Board members related to questions raised by residents in and near the study area who spoke at today's hearing stating that the Study does not change any regulations used by the Town of Tiburon to review boat docks within its jurisdiction. Mr. Lai stated that a copy of the Study has been distributed to the Town and noted that the Town Planning Director's reply is included in the Appendix of the Study.

Mr. Hinds emphasized that the purpose of the Study was to address the cumulative impact of additional docks and stated that the Study is not intended to prohibit personal watercraft or to limit people's current property rights or enjoyment of the area. Mr. Lai added that the Study is not intended to create a new set of regulations binding on the properties in the jurisdictions of Tiburon and Belvedere.

Mr. Lai responded to questions raised at today's hearing by a resident of Egret Way regarding the methodology used in the Study for determining whether or not a lot has potential for dock development. Mr. Lai identified methodology considerations including access to the waterfront, zoning restrictions that would prohibit dock or other similar recreational developments on the lot and existing development conditions tied to land use entitlements that would prevent the ability of the property owner to apply for boat docks in the future. Mr. Lai further responded to concerns raised by a resident of Harbor Cove Way,

briefly commenting on conditions of approval for the Harbor Cove Way land division, and staff's interpretation of the land division condition pertaining to development of additional boat docks.

Discussion continued with regard to the 1978 conditions of the Harbor Cove Way land division approval and future dock development.

Supervisor Murray requested that approval of the Study include a statement that the document is advisory only and requested that the use of the term "personal watercraft" be clarified in the Study.

Thereafter, M/s Rose-Kress, to adopt Resolution No. 2000-136 approving the Richardson Bay Dock and Boat Study, to be modified to clarify the definition of "personal water craft", to clarify the intended use of the Study, and to clarify concerns raised at today's hearing.

AYES: ALL

ABSENT: SUPERVISOR Kinsey

The meeting was adjourned at 3:57 p.m.

SINE DIE

PRESIDENT

ATTEST:

CLERK

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