

Tuesday, May 3, 2005

The Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, met in regular session at 9:00 a.m..

PRESENT: Supervisors Harry L. Ovitt, Jerry Lenthall, K.H. "Katcho" Achadjian, James R. Patterson and Chairperson Shirley Bianchi

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY CHAIRPERSON SHIRLEY BIANCHI.

SUM

AGN

1 A-1-D **Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Lenthall and on the following roll call vote:**

AYES: Supervisors **Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi**

NOES: None

ABSENT: None

RESOLUTION NO. 2005-106, honoring Judge Christopher G. Money 40 years of service to the County of San Luis Obispo and wishing him the best upon his retirement, adopted.

Supervisor Lenthall: reads the resolution and presents the same to Judge Money.

Judge Money: thanks the Board for the recognition and their support for the Drug Court Program.

Ms. Kim Barrett: Chief Probation Officer, thanks Judge Money for all he has done; indicates that Drug Court wouldn't have happened without him.

Mr. Paul Hyman: Drug & Alcohol, thanks Judge Money for his collaborative spirit in bringing the different departments together and for his support of drug treatment programs.

2 A-1-C **Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Lenthall and on the following roll call vote:**

AYES: Supervisors **Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi**

NOES: None

ABSENT: None

RESOLUTION NO. 2005-107, proclaiming May 2005 as Drug Court Month, adopted.

Chairperson Bianchi: reads the resolution and presents the same to Judge Chris Money.

Ms. Kim Barrett: Chief Probation Officer, thanks the Board for the recognition.

Ms. Violet Suggee: discusses her past addictions, the impacts and support she received from Drug Court and its employees.

Ms. Tina Liebscher: Probation, presents the Board with a bumper sticker and T-shirt.

3 A-1-B **Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Lenthall and on the following roll call vote:**

AYES: Supervisors Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2005-108, resolution commending Clifford W. Howe upon his retirement after 36 years of service with the Public Works Department, adopted.

Supervisor Ovitt: reads the resolution and presents the same to Mr. Clifford Howe.

Mr. Howe: states he has enjoyed his work and friends here at the County; will miss everyone and thanks the Board for the recognition.

Mr. Noel King: Public Works Director, provides a brief background on Mr. Howe's history with the Department; states he has been the Road Maintenance Supervisor for the past 5 years and has had to deal with budget impacts, earthquake damage, environmental issues; speaks to Mr. Howe's ability to work with both management and other employees.

4

A-1-A

Thereafter, on motion of Supervisors Ovitt, seconded by Supervisor Lenthall and on the following roll call vote:

AYES: Supervisors Achadjian, Lenthall, Ovitt, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2005-109, resolution declaring May 1-8, 2005, as "Cover the Uninsured Week" in San Luis Obispo County, adopted.

Supervisor Achadjian: reads the resolution and presents the same to Dr. Rene Bravo.

Dr. Rene Bravo: President of the Children's Health Initiative Board, thanks the Board for the recognition and presents the Board with a Certificate of Appreciation.

Ms. Keta Burke: Executive Director of Children's Health Initiative, thanks the Board for the recognition.

Dr. Greg Thomas: Public Health Director, thanks the Board for the recognition.

5

PC

This is the time set for members of the public wishing to address the Board on matters other than scheduled items.

Ms. Julie Rodewald: County Clerk-Recorder, states today is the last day to turn in ballots for the Los Osos Community Service District Measure A05 election and they can be turned into the Clerk-Recorder's office until 8:00 p.m.; results will be placed on the Clerk-Recorder's website.

Mr. Mark Phillips: speaks in support of HR2916 requiring the labeling of Genetically Engineered (GE) foods; states he hasn't come up against anyone who doesn't support the labeling of GE foods.

Supervisor Bianchi: states the County's official statement on GE labeling is available on the County's website.

Mr. Eric Greening: agrees with the previous speaker's comments; wants to make sure there is no gap in the availability of public information with the relocation to the new Government Center; where the new information be well posted; and making the documents being addressed by the Board available outside the new Board Chambers so individuals could look them over while the item is being heard.

Mr. David Edge: County Administrative Officer, states they are looking into setting something up outside the Board Chambers; Administration and the Board will be closing early on May 13th to start the move to the new building; they are cancelling the May 17th Board meeting; the proposed date for the first meeting in the new Board Chambers is June 7th; and there will be a press release going out soon with all the details. **No action taken.**

6 B-PC This the time set for members of the public wishing to address the Board on items set on the Consent Agenda.

Mr. Eric Greening: speaks regarding Item B-12 and questions the timing of the sale and where the fees collected will go for this tract; supports Item B-17 as it is a public benefit. **No action taken.**

7 B-1 thru B-21 Consent Agenda Item B-9 is amended correcting the coversheet to read "Submittal of resolutions." Item B-10 is amended correcting the coversheet to read "Submittal of resolutions." Item B-12 is withdrawn for separate action. Items B-20 and B-21 are added to the Consent Agenda.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and on the following roll call vote:

AYES: Supervisors Achadjian, Ovitt, Lenthall, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

Consent Agenda Items B-1 through B-21 are approved as recommended by the County Administrative Officer and as amended by the Board.

Consent Agenda Items B-1 through B-21, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items Set for Bid Opening:

B-1 Plans and specifications (Clerk's File) for the Operations Center sewer line replacement (Contract No. 405R990646) along Kansas Avenue near the City of San Luis Obispo, **Approved and the Clerk is instructed to give notice of Bid Opening Date set for June 2, 2005 at 3:00 p.m..**

Administrative Office Items:

B-2 Request to authorize the County Administrator to execute and sign an agreement with the San Luis Obispo County Visitors and Conference Bureau to allocate \$25,000 of General Fund contingencies for the establishment of a Business Improvement District, **Approved.**

B-3 **RESOLUTION NO. 2005-110**, from Risk Management amending the County's contribution to CalPERS approved health plans for employees and retirees, **Adopted.**

B-4 Request from Risk Management to approve and confirm the Borsotti litigation settlement, **Approved.**

B-5 Board policy on acceptance of gifts and gratuities by County employees, **Approved.**

Board of Supervisors Items:

B-6 **RESOLUTION NO. 2005-111**, honoring Meathead Movers for being selected as the 2005 Central California Young Entrepreneur of the Year, **Adopted.**

B-7 **RESOLUTION NO. 2005-112**, honoring Kevin and Barbara Kennedy for being selected as the 2005 Small Business Persons of the Year, **Adopted**.

Public Works Items:

B-8 **RESOLUTION NO. 2005-113**, authorizing the execution of a notice of completion for the Lopez Pipeline Valve Replacement, Contract No. P235687, **Adopted**.

B-9 **RESOLUTION NO. 2005-114 and RESOLUTION NO. 2005-115**, designating the Director of Public Works as the authorized representative to submit grant applications for integrated regional water management grants pursuant to the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, **Adopted as amended**.

B-10 1) **RESOLUTION NO. 2005-116 and RESOLUTION NO. 2005-117**, approving a revolving fund appropriation in the amount of \$80,000 for the Camborne Place and Burton Drive Cooperative Road Project in the community of Cambria; **Adopted as amended**; 2) authorize the Auditor-Controller to encumber any unused 2004-2005 Fiscal Year appropriation for this project and re-appropriate this amount to Cost Center 1504500000 for Fiscal year 2004-2005; and 3) a bid opening report for this project; **Approved**.

B-11 **RESOLUTION NO. 2005-118**, authorizing the development of an agreement between the San Luis Obispo County Flood Control and Water Conservation District, Zone 3 and Central Coast Salmon Enhancement for a joint project to modify or replace the Arroyo Grande Stream Gage Station # 2 in the community of Arroyo Grande, **Adopted**.

B-12 The following Tract Map has been received and has satisfied all the conditions of approval that were established in the public hearing on its Tentative Map:

A. Tract 2341-Unit 1, a proposed subdivision resulting in 278 lots, by Woodlands Ventures LLC, Highway 1 at Dawn Road, Nipomo Mesa; reject the offers of dedication without prejudice to future acceptance; act on the four resolutions to approve open space easement agreements, **withdrawn for separate action**.

Other Items:

B-13 Submittal from the Auditor-Controller of an audit report on the Sand and Surf Recreational Vehicle Park for the period of January 1, 2003 through December 31, 2004, **Received and Filed**.

B-14 Request from Behavioral Health to approve the first of two scheduled mandatory amendments to the Fiscal Year 2004-05 combined negotiated net amount and drug Medi-Cal contract (Clerk's File) with the State Department of Alcohol and Drug programs, **Approved**.

B-15 Request from Public Health to approve a renewal agreement with the State Department of Health Services for the Fiscal Year 2004-2005 Emergency Medical Services Appropriation (EMSA) funds reauthorized through SB 29, **Approved**.

B-16 **RESOLUTION NO. 2005-119**, authorizing the Probation Department to submit an application to the State Board of Corrections for approval of the County's Comprehensive Multiagency Juvenile Justice Plan (CMJJP) Modification for fiscal year 2005-2006, **Adopted**.

B-17 1) **RESOLUTION NO. 2005-120**, authorizing General Services and Planning & Building to submit applications for Transportation Enhancement Grant Funds for three County projects (Bob Jones Pathway, San Miguel Mission Street Improvements and Santa Margarita Streetscape Improvements), **Adopted**; and 2)

requesting to authorize the Directors of General Services and Planning & Building to negotiate and sign contracts for project completion, **Approved.**

B-18 **RESOLUTION NO. 2005-121**, accepting an avigation easement from Steve & Cherie Clark for property near the Oceano County Airport, **Adopted.**

B-19 Minutes of the Board of Supervisors meetings on March 1,8, 15 and 22, 2005, **Approved.**

B-20 **RESOLUTION No. 2005-122**, proclaiming May 2005 as Paso Robles Wine month, **Adopted.**

B-21 Amended agreement with the San Luis Obispo Community Foundation to provide County funds in support of the Childrens Health Initiative, **Approved.**

8 B-12-A This is the time to consider the following Tract Map has been received and has satisfied all the conditions of approval that were established in the public hearing on its Tentative Map: Tract 2341-Unit 1, a proposed subdivision resulting in 278 lots, by Woodlands Ventures LLC, Highway 1 at Dawn Road, Nipomo Mesa; reject the offers of dedication without prejudice to future acceptance; act on the four resolutions to approve open space easement agreements is presented.

During discussion on the Consent Agenda Chairperson Bianchi requested a separate vot on this item as she has never supported this project.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and on the following roll call vote:

AYES: Supervisors Achadjian, Ovitt, Lenthall, Patterson
NOES: Supervisor Chairperson Bianchi
ABSENT: None

Tract 2341 - Unit 1, a proposed subdivision resulting in 275 lots, by Woodlands Ventures, LLC, Highway 1 at Dawn Road, Nipomo, and reject the Offer of Dedication without prejudice to future acceptance, approved; Further, RESOLUTION NO. 2005-123, resolution approving and accepting an open-space agreement granting an open-space easement to the County of San Luis Obispo (Monarch Butterfly Habitat Lot) by and between Woodlands Ventures, LLC, Adopted.

9 B-12-A **Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and on the following roll call vote:**

AYES: Supervisors Achadjian, Ovitt, Lenthall, Patterson
NOES: Supervisor Chairperson Bianchi
ABSENT: None

RESOLUTION NO. 2005-124, resolution approving and accepting an open-space agreement granting an open-space easement to the County of San Luis Obispo (Golf Course Lots) by and between Woodlands Ventures, LLC, Adopted.

10 B-12-A **Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and on the following roll call vote:**

AYES: Supervisors Achadjian, Ovitt, Lenthall, Patterson
NOES: Supervisor Chairperson Bianchi
ABSENT: None

RESOLUTION NO. 2005-125, resolution approving and accepting an open-space agreement granting an open-space easement to the County of San Luis Obispo (Buffer Lots) by and between Woodlands Ventures, LLC, Adopted.

11 B-12-A **Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and on the following roll call vote:**

AYES: Supervisors Achadjian, Ovitt, Lenthall, Patterson
NOES: Supervisor Chairperson Bianchi
ABSENT: None

RESOLUTION NO. 2005-126, resolution approving and accepting an open-space agreement granting an open-space easement to the County of San Luis Obispo (Water Storage Tank Site) by and between Woodlands Ventures, LLC, Adopted.

12 C-1 This is the time set for hearing to consider proposed amendments to the San Luis Obispo County Land Use Ordinance – G020002L – South Atascadero secondary dwelling amendment.

Ms. Kami Griffin: Planning, requests a continuance to June 14, 2005.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and on the following roll call vote:

AYES: Supervisors Achadjian, Ovitt, Lenthall, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

the Board continues said hearing to June 14, 2005 at 9:00 a.m..

13 C-2 This is the time set for hearing to consider the submittal of a resolution to surplus and sell County-owned real property in the unincorporated area of Cayucos to a qualified land conservancy and authorize the Board to open sealed bids and conduct an auction.

Ms. Caryn Maddalena: Property Manager, presents the staff report; discussed the properties owned by County, the number of lots and their location; states the sale of the properties is to be conducted through an auction and explains the requirements to do this.

Supervisor Ovitt: questions the ability of private owners to purchase lots to merge to create 1 acre buildable lots.

Mr. John Euphrat: Planning, states most of the lots are unbuildable due to geological issues in the area.

Mr. Jay Parsons: presents a map of area and speaks against the sale; asks the Board to postpone or stop the sale; suggests there is no financial benefit to the County.

Mr. Roger Lyon: Cayucos Land Conservancy Board member, speaks in support of a land conservancy purchasing these lots.

Mr. Jeff Strickland: states he is upset as he believes he was given misinformation by the County; indicates he has been trying to purchase 3 of the parcels on this list; states his non-profit “Our Kids Future Foundation” is a qualified purchaser in his opinion.

Ms. Marjorie Huggins: addresses her concerns regarding sewers and sustainability.

Mr. Bruce Gibson: Cayucos Land Conservancy, speaks in support of this and believes it is a public benefit.

Ms. Giselle Naylor: discusses the Subdivision Map Act; believes that denying private property owners the right to bid is wrong.

Mr. Kevin Irot: agrees with prior speaker; discusses the impacts of lot mergers and road impacts.

Ms. Maddalena: explains that only the property owners have road easements to access these lots; and the public does not have access to these lots.

Supervisor Achadjian: questions if other non-profits were considered.

Ms. Maddalena: states the public notice was published in the newspaper so any non-profit who meets the qualifications could submit a bid.

Board Members: address various comments, issues and concerns regarding: who is qualified to purchase these tax defaulted lots; questions the process to merge lots creating 1 acre lots.

Ms. Maddalena: states the qualifications for the bidders and presents two sealed bids to the Clerk .

Clerk: opens the first bid from Jay Parsons, for 60 of the lots at \$57,420; second bid from Cayucos Land Conservancy for all the lots at \$1.00.

Ms. Maddalena: states she believes Mr. Parson's bid does not meet the qualifications.

Supervisor Bianchi: opens the floor to oral bidders.

Mr. Strickland: representing Our Kids Future Foundation, states his non-profit's qualifications and believes he's a qualified bidder.

Ms. Rita Neal: Deputy County Counsel, indicates it's at the discretion of the Board as to a bidder's qualifications.

Supervisor Ovitt: clarifies Mr. Strickland only wants to bid on certain lots and not all of them, with Mr. Strickland agreeing that is correct.

Chairperson Bianchi continues this hearing to 2:00 p.m. to allow for a review of Mr. Strickland's non-profit organization qualifications and Mission Statement.

14

C-3

This is the time set for consideration of a hearing to consider an appeal of the South County Road Improvement Fee by Maria Vista Estates.

Mr. Richard Marshall: Public Works, presents the staff report; discusses a court case involving road improvement fees that was cited by Maria Vista's attorney, and how it is different then the present appeal; presents an updated Exhibit B; outlines the Appellant's issues; recommends the Board deny the appeal.

Mr. John Fricks: attorney representing Maria Vista Estates, indicates their issues are the same as the Modesto case cited in his letter regarding their appeal; they didn't know what the fees were going to be as they were determined at the time of permit; discusses the differences between tentative vesting maps and tentative maps; there was no notice of fee change; asks the Board to grant the appeal and set the fees at \$2,420 per home.

Mr. Kevin Irot: Homebuilders Association, supports upholding the appeal and explains.

Mr. Tim McNulty: Deputy County Counsel, states the Appellant took this to Court before the Board had an opportunity to hear it and the Court referred it back here; in the Modesto case, they had fee changes due to air quality and administrative fees and this fee is for traffic impacts only; the intent of this fee was never changed as it did in the Modesto case.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Patterson and on the following roll call vote:

AYES: Supervisors Achadjian, Patterson, Ovitt, Lenthall, Chairperson Bianchi

NOES: None

ABSENT: None

the Board denies the appeal by Maria Vista Estates.

15 D-1 This is the time set for consideration of a request for a Land Use Element amendment application (LRP2004-00015 – Addison) to amend the South County (Inland) Area Plan by changing the land use category on an approximately 12,240 square foot site from Commercial Retail to Residential Single-Family; the purpose of this request is to allow the applicant to continue the existing use of a single-family residence for property located at 121 N. Oakglen Avenue, in the community of Nipomo.

Mr. Brian Pedrotti: Planning, presents the staff report and options before the Board today.

Supervisor Achadjian: states he is glad to see this item and it has community and staff support.

No one appearing and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Lenthall and on the following roll call vote:

AYES: Supervisors Achadjian, Lenthall, Ovitt, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

the Board authorizes LRP2004-00015 for processing.

16 CS The Board announces it will be going into Closed Session regarding:

I. PENDING LITIGATION (Gov. Code, § 54956.9). It is the intention of the Board to meet in Closed Session concerning the following items:

A. Conference with Legal Counsel – Existing Litigation (Gov. Code, § 54956.9(a).) (Formally initiated). (1) *DFS Flooring v. Kajima Construction*; (2) *County of San Luis Obispo, et al.*; (3) *Levin, Amy v. County of San Luis Obispo, et al.*; **ADDED (All requirements of the Brown Act were met as this was posted prior to the 72-hour noticing requirement.)** (8) *Santa Margarita Area Residents Together v. Co.*; (9) *Harker Wade v. Co.*; (10) *Building a Better Environment v. Co.*; (11) *Maria Vista Estates (CV050242) v. Co.*; and (12) *State of California, et al. v. Babbitt, et al.*

B. Conference with Legal Counsel – Anticipated Litigation (Gov. Code, § 54956.9.) (3) *Significant exposure to litigation (Gov. Code, § 54956.9(b).) No. of cases* 2. Facts and circumstances not known to potential plaintiff which indicate significant exposure to litigation; (4) *Initiation of litigation (Gov. Code § 54956.9(c).) No. of cases* 2.

II. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6). It is the intention of the Board to meet in closed session to have a conference with its Labor Negotiator concerning the following: (5) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *District Attorney Investigators Association*; (6) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*. Name of employee organization: *Deputy Sheriffs Association*.

Chairperson Bianchi: opens the floor to public without response.

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports

out on the items discussed during Closed Session as follows: No report is required as no final action was taken and the Board goes into Open Public Session.

17 C-2 Submittal of a resolution to surplus and sell County-owned real property in the unincorporated area of Cayucos to a qualified land conservancy and authorize the Board to open sealed bids and conduct an auction is brought back on for hearing.

Ms. Rita Neal: Deputy County Counsel, states that after reviewing the qualifications of Our Kids Future Foundation, they don't meet the qualification as their organization is for educational purposes not a land conservancy and they haven't submitted anything regarding land management; the Cayucos Land Conservancy has submitted documentation showing they meet all the required qualifications.

Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Achadjian and on the following roll call vote:

AYES: Supervisors Ovitt, Achadjian, Lenthall, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

the Board accepts the bid from the Cayucos Land Conservancy in the amount of \$1.00 and RESOLUTION NO. 2005-127, resolution of approval to surplus and sell county-owned real property located in the unincorporated area of Cayucos to a qualified land conservancy, adopted.

On motion duly made and unanimously carried, the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, does now adjourn.

I, **JULIE L. RODEWALD**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, May 3, 2005, by the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts.

JULIE L. RODEWALD, County Clerk-Recorder
and Ex-Officio Clerk of the Board of Supervisors

By: /s/Vicki M. Shelby,
Deputy Clerk-Recorder

DATED: May 12, 2005

vms