

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-31 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-31, 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 earthquake damage repairs to various on-system roads in the county; 1st, 2nd and 4th Districts, **Approved and the Clerk is instructed to give notice of bid opening set for August 18, 2005 at 3:00 p.m..**

Administrative Office Items:

B-2 Submittal of the Board of Supervisor's response to the 2004-2005 Final Grand Jury Report regarding Child Welfare Services, **Approved.**

B-3 Request by the Private Industry Council to appoint and reappoint members to the Workforce Investment Board (WIB), **Approved as amended.**

Auditor-Controller Items:

B-4 Submittal of an investigation report of the April 18, 2005 theft of \$441 from the Clerk-Recorder's San Luis Obispo Office, **Received and Filed.**

B-5 Submittal of a cash procedures review of the Clerk-Recorder's Office conducted on June 22, 2005, **Received and Filed.**

B-6 Submittal of a cash procedures review of the Public Works Department conducted on June 20, 2005, **Received and Filed.**

Behavioral Health Items:

B-7 13 renewal contracts (Clerk's File) with physicians to provide psychiatric services and medical histories and physical examinations for Mental Health patients, **Approved.**

B-8 Renewal contract (Clerk's File) with San Luis Obispo Community College District to provide training for its Cuesta College students at the County Psychiatric Health Facility, **Approved.**

B-9 Request to appoint Alan Hilton to the Mental Health Board, **Approved.**

B-10 Request to re-appoint Nadine Gauthier and David Odell to the Mental Health Board, **Approved.**

General Services Items:

B-11 Bid opening report for the paving at the southeast side of San Luis Obispo County Regional Airport, **Approved and the Chairperson is instructed to sign contract documents with Raminha Construction, Inc. in the amount of \$565,979.**

B-12 Contract amendment with Vanir Construction Management, Inc., for management services related to the construction of the New County Government Center, **Approved.**

B-13 Lease agreement with the Warden Family Trust for office space located at 530 12th Street in Paso Robles, for the Department of Social Services, **Approved.**

B-14 Request to amend the fixed asset list for the Golf Course Enterprise Fund to include a new equipment hoist and approve a budget adjustment in the amount of \$6,500 from Golf Course Development Fund, **Approved.**

B-15 **RESOLUTION NO. 2005-196**, naming a 1.5 acre undeveloped park site located on Ocean Boulevard and Highway 1 in Cayucos “Norma Rose Park”; 2nd District, **Adopted.**

B-16 **RESOLUTION NO. 2005-197**, authorizing execution of a notice of completion and acceptance for the restroom/shower facility at the Lopez Lake Recreation Area outside of Arroyo Grande, **Adopted.**

Public Works Items:

B-17 Agreement (Clerk’s File) with Black & Veatch Corporation for design services associated with the Nacimiento Water Project and assignment of geotechnical and surveying agreements from the San Luis Obispo County Flood Control and Water Conservation District to Black & Veatch Corporation; All Districts, **Approved.**

B-18 Contract amendment No. 4 with Black & Veatch, for specialized engineering design services for the Lopez Water Treatment Plant Upgrade; 3rd and 4th Districts, **Approved.**

B-19 Request to appoint nine members to the San Luis Obispo County Flood Control and Water Conservation District Zone 9 Advisory Committee, **Approved.**

B-20 Revised bylaws for the San Luis Obispo County Flood Control and Water Conservation District Water Resources Advisory Committee, **Approved.**

B-21 **RESOLUTION NO. 2005-198**, authorizing the Director of Public Works to execute an agreement with the City of San Luis Obispo for streambed maintenance and exotic plant control and revegetation program; 2nd, 3rd, 4th and 5th Districts, **Approved.**

B-22 **RESOLUTION NOS. 2005-199 and 2005-200**, to levy assessments for Flood Control Zones 1 and 1A (Arroyo Grande/Oceano Area); 4th District, **Adopted.**

B-23 **RESOLUTION NO. 2005-201**, for the addition of delinquent water and sewer availability charges for County Service Areas Nos. 7-A (Oak Shores), 16 (Shandon), 18 (Country Club Estates) and 23 (Santa Margarita) to the 2005-06 Property Tax bills; 1st, 3rd and 5th Districts, **Adopted.**

B-24 **RESOLUTION NO. 2005-202**, providing for a service charge credit/rebate for the landscaping maintenance project in County Service Area No. 1A (Galaxy Park, Tract 1898, Nipomo); 4th District, **Adopted.**

B-25 **RESOLUTION NO. 2005-203**, approving an increase in Zone 3 Lopez Water Treatment Plant Upgrade production capability, **Adopted** and a request to approve contract amendment No. 5 with Black & Veatch, for specialized engineering services for the Lopez Water Treatment Plant Upgrade; 3rd and 4th Districts, **Approved.**

B-26 The following maps have been received and have satisfied all the conditions of approval that were established in the public hearings on their tentative maps:

A. Tract 2393, a proposed subdivision resulting in 7 lots, by Vista Posada Homes, LLC, South Tejas Place, reject the offer of dedication without prejudice to future acceptance; 4th District, **Approved.**

B. COAL 03-0299, a proposed lot line adjustment of 2 lots, which will not result in any new lots, by William A. Ranson, Baron Way, east of Paso Robles; 1st District, **Approved.**

C. CO 04-0113, a proposed subdivision resulting in 2 lots, by Stephen G. and Clarece M. Nelson, Christmas Tree Place, Oceano, **Approved** and **RESOLUTION NO. 2005-204**, on to accept an avigation easement. 4th District, **Adopted**.

D. Tract 2439, a proposed subdivision resulting in 5 lots, by Cipora Novak, Pomeroy Road, Nipomo, reject the offer of dedication without prejudice to future acceptance; 4th District, **Approved**.

E. COAL 04-0426, a proposed lot line adjustment of 2 lots, by Mark and Cindy C. Switzer/Nicholas E. and Diane F. Pokrajac, Trustee Pokrajac Family Trust, Cow Meadow Place, Templeton; 1st District, **Approved**.

F. COAL 04-0129, a proposed lot line adjustment of 2 lots by Barry and Sharon Nelson, Tassajara Creek Road, Santa Margarita; 5th District, **Approved**.

G. CO 04-0344, a proposed subdivision resulting in a 2 unit planned development with common area by Earl D. and Carol A. Huff, Circle Drive, Cayucos; 2nd District, **Approved**.

H. Tract 2615, a proposed subdivision resulting in 10 lots by Oceano Homes, a General Partnership, Vista Street, Oceano, reject the offer of dedication without prejudice to future acceptance; 4th District, **Approved**.

Other Items:

B-27 Minutes of the Board of Supervisors meetings of May 3, 10, and 24, 2005, **Approved**.

B-28 Request by Board Members to allocate \$2,000 (District Two - \$100, District Four - \$1,900) from District Community Project Funds, to the Nipomo Community Advisory Committee to be used for costs associated with holding monthly meetings and website maintenance, **Approved**.

B-29 Budget adjustment (Social Services) in the amount of \$15,000 (\$14,625 - Federal and State revenue and \$375 General Fund) to cover expenditures through the end of the Fiscal Year for the CalWORKs Program, **Approved**.

B-30 **RESOLUTION NO. 2005-205**, approving an open space agreement for Guy and Laronda Chirman, located on Canet Road, approximately ½ mile south of Highway 1 and approximately 1 ½ miles east of the intersection of San Bernardo Creek Road and Highway 1; 2nd District, **Adopted**.

ADDED (All requirements of the Brown Act were met as this was posted prior to the 72-hour noticing requirement.)

B-31 Budget adjustment to appropriate \$2,596,870 from Fiscal Year 04-05 Contingencies and allocate the same amount to the Fiscal Year 04-05 budget for the Sheriff-Coroner; the adjustment is for 18 months of retroactive pay for the Sheriff-Coroner staff resulting from the recently approved labor cost increases for the Deputy Sheriff's Association, **Approved**.

5 C-1 This is the time set for hearing (introduced June 7, 2005) to consider a resolution to collect delinquent service charges for County Service Area No. 16 (Shandon-Water Service), County Service Area No. 23 (Santa Margarita Water Service), and County Service Area No. 18 (San Luis Country Club Estates – Sewer/Waster Disposal) on the 2005-2006 county property tax bills; 1st, 4th and 5th Districts.

Ms. Straith Smith Zanartu: Public Works, presents the staff report and recommendation.

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

RESOLUTION NO. 2005-206, resolution of the Board of Supervisors acting as the Governing Board of San Luis Obispo County Service Area Nos. 16 (Shandon - Water Service) 18 (San Luis Country Club Estates - Sewer/Waste Disposal) and 23 (Santa Margarita - Water) resolution verifying delinquent service charges and confirming report, adopted. Further, the Clerk is directed to file a copy of the approved resolution with the County Auditor no later than August 10, 2005.

6 C-2 This is the time set for hearing (introduced June 7, 2005) to consider a resolution to collect existing service charges on property tax bills for County Service Areas: 1 (Old Galaxy and Tract 1690, Nipomo), 1-A (Galaxy Park and Tract 1898, Nipomo), 1-F (New Galaxy, Nipomo), 7-A (Oak Shores), and 21 (Cambria); All Districts.

Ms. Straith Smith Zanartu: Public Works, presents the staff report and recommendation.

No one appearing and 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

RESOLUTION NO. 2005-207, resolution of the Board of Supervisors acting as the Governing Board of the San Luis Obispo County Service Area (CSA Nos. 1 (Old Galaxy Park and Tract 1690 - Nipomo); 1-A (Galaxy Park and Tract 1898 - Nipomo); 1-F (New Galaxy - Nipomo); CSA 7-A (Oak Shores); and 21 (Cambria Road Improvements) confirming report and directing the collection of annual service charges on County Tax Roll, adopted. Further, the Clerk is directed to file a copy of the approved resolution with the County Auditor no later than August 10, 2005.

7 C-3 This is the time set for hearing to consider an appeal by William Hughes of the Administrative Hearing Officer's approval of a request by Karen Kenney to use an existing home as a vacation rental within 200 feet of an existing vacation rental on the same street, located in the community of Cambria in the North Coast planning area; 2nd District.

Ms. Ryan Hostetter: Planning, presents the staff report and outlines the request to have a vacation rental in Cambria by Ms. Kenney; presents a site map and photographs of the site and area; outlines the appeal that was filed and the issues and staff's response to the same; addresses additional correspondence staff has received.

Supervisor Patterson: questions the criteria for denial, with Ms. Hostetter responding.

Ms. Nancy Orton: Planning, addresses the location criteria per the ordinance and the information required for the business license.

Supervisor Achadjian: questions the regulations for the number of cars allowed, with Ms. Orton responding.

Mr. Bill Hughes: Appellant, addresses his appeal and concerns that the location standard is not consistent with the ordinance; the Minor Use Permit (MUP) process did not measure the true impact of the project to the neighborhood; and the North Coast Advisory Committee (NCAC) recommended denial of this MUP; presents a diagram showing the cluster effects of vacation homes; asks that his appeal

be upheld.

Ms. Karen Kenney: Applicant, states she has been coming to this area for the past 40 years; indicates that no one within the required linear footage from her house, has complained about this; she has yard service that comes out weekly; presents photographs of her house and pictures of the side of the house that faces the Hughes home; feels there will be no negative impacts to the neighborhood; asks that the MUP be approved.

Mr. Martin Verhaegh: urges the Board to support the appeal indicating that the NCAC has supported this appeal also; states he has a petition with more than 552 signatures in opposition to this proposal; outlines what he believes the intent of the ordinance is.

Mr. Rod Lippold: indicates a vacation home is used to make money; concerns about how this changes the character of the neighborhood; concerns about garbage cans left out on the street for a week at a time by renters who have left.

Mr. Jesse Arnold: speaks in support of the appeal and the need for enforcement of the ordinance.

Mr. John DeNicola: supports the appeal and for looking at how the distance from other vacation homes is determined through this ordinance.

Mr. Richard Watkins: thanks the County staff for their management of this; the concern today should be this specific applicant and not to changing the ordinance; urges denial of the appeal.

Ms. Nancy Lackman: states her quality of life as been ruined by vacation rentals that are next door and behind her home; addresses her concerns to the ordinance as written; asks that the appeal be upheld.

Ms. Jone Uhbenga: states she lives in Cambria and she will be the property manager for Ms. Kenney if this MUP is approved; addresses her management of properties and urges denial of the appeal.

Ms. Kenney: give her closing comments; states she intends to live there one day so wants to keep the neighbors happy now; indicates should there be any problems they will be dealt with immediately.

Mr. Hughes: gives his closing comments and his concerns to circumventing the location standards; urges the Board to uphold his appeal.

Board Members: address various issues, comments and concerns regarding: whether this requires Coastal Commission approval also; whether timeshares are included in the ordinance; how a Minor Use Permit is used to override the ordinance requirements, with staff responding.

Chairperson Bianchi: addresses her concern to the language regarding the linear footage and the concern that it doesn't reflect direction (north, south, east or west); wants to see the appeal upheld and direction given to staff to reinterpret the "200 foot linear" language.

Board Members: discuss the need for a procedure on how these are handled; concerns regarding the density of the number of vacation homes in the area, with staff responding.

A motion by Supervisor Patterson, seconded by Supervisor Achadjian to tentatively uphold the appeal and come back with findings to support that, is discussed.

Board Members: discuss having the issue of vacation homes and the standard regarding the vacation rentals and what the definition of linear is, with staff indicating they will bring this back in September.

The motion maker and second amend their motion to continue the hearing to August 16, 2005 and thereafter, on motion of Supervisor Patterson, seconded by Supervisor Achadjian, with Supervisor Ovitt casting a dissenting vote, motion carries and the Board tentatively upholds the appeal and come back with findings to support this decision on August 16, 2005 at 9:00 a.m..

8 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) *Valdez, et al. v. County of San Luis Obispo, et al.*, (2) *Harker Wade v. County of San Luis Obispo, et al.*, (3) *Nipomo Community Services District v. County of San Luis Obispo*, (4) *Santa Margarita Area Residents Together v. County of San Luis Obispo*, **ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.)** (9) *DFS Flooring v. Kajima Construction; County of San Luis Obispo, et al.*, and (10) *Tosco Corporation v. County of San Luis Obispo*.

B. Conference with Legal Counsel – Anticipated Litigation (Gov. Code, § 54956.9.) (5) *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. (6) *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: (7) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *District Attorney Investigators Association*; (8) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*; Name of employee organization, *Deputy Sheriffs Association*.

Chairperson Bianchi: opens the floor to public comment.

Mr. Michael Winn: Nipomo Community Services District (NCSD) Director, addresses the NCSD lawsuit and appreciates the ongoing negotiations between his staff and the County's and legal counsel for both; they do feel that the water issues in Nipomo are serious issues; appreciate what Planning is doing in terms of trying to design a Planning overlay that makes sense out of the entire area; urges the Board to do whatever they need to do to keep both of these processes going.

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: the Board took a final action on one of the items listed on the agenda and approved a settlement of assessment litigation between Tosco, Conoco/Phillips Petroleum against the County, involving eight years of assessed value of the facility in South County; the settlement resolved the issues as to value and determined what the value would be for the last eight years; and this was the only action taken by the Board today and the Board goes into Open Public Session.

9 D-1 This is the time set for continued consideration (continued from April 19, 2005) of a request for a Land Use Element amendment application (LRP2004-00005- Cypress Ridge, L.P) to: 1) amend the South County (Inland) Area Plan by changing the land use category on an approximately 147 acre site from Residential Rural to Residential Single-Family; and changing the Palo Mesa Village Reserve Line (VRL) to include the subject property; and 2) change the Agriculture and Open Space Element land use designation from Small Lot Rural to Urban Lands to allow for the development of approximately 295 homes and a 9-hole golf course. The site is located ½-mile south of the southwest corner of Halcyon Road and Zenon Way, directly east of the Palo Mesa Village area; 4th District.

Mr. Brian Pedrotti: Planning, addresses the request to continue this off calendar.

No one appearing and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Lenthall and unanimously carried, the Board continues this matter off calendar.

10 D-2 This is the time set for submittal of a status report regarding the Nipomo Mesa Area Water Supply.

Mr. John Hand: Planning, presents the staff report providing a brief background and summarizes the Board's direction on May 10, 2005; highlights what they have done with the directives by the Board; outlines the progress for a joint powers agreement with the water purveyors and indicates that a memorandum of understanding will work better in this incidence and explains; comments on the general plan amendment process for supplemental water and expecting those to come to the Board by the end of summer.

Board Members: address various issues, comments and concerns regarding: estimating future water use on the Mesa; whether there is a representative from agriculture at the stakeholder meetings; questions regarding the Resource Management Study and the Levels of Severity for this area, with Mr. Hand responding.

Mr. Jerry Bunin: Homebuilders Association, addresses the meeting and the pro's and con's he has seen; feels a lot of time has been wasted determining whether the Level of Severity is a II or III; indicates they are working on the agreement.

Mr. Michael Winn: Nipomo Community Services District (NCSD), addresses what they are working on and other measures besides design that they are looking at with respect to water.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and unanimously carried, the Board receives and files the staff report dated July 19, 2005.

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, July 19, 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: August 10, 2005
vms