

Tuesday, May 21, 2002

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, Peg Pinard, K.H. 'Katcho' Achadjian, Michael P. Ryan and Chairperson Shirley Bianchi

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY CHAIRPERSON BIANCHI.

SUM AGN

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

AYES: Supervisors Ryan, Ovitt, Pinard, Achadjian, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2002-212, resolution proclaiming May 2002, as Toddler Immunization Month, adopted.

Supervisor Pinard: reads the resolution and presents the same to Dr. Greg Thomas, Public Health Director.

Dr. Thomas: thanks the Board for the resolution; presents statistics on immunizations they provide children; intent of this proclamation is to create a higher awareness of the need to have children immunized; speaks to the vaccine shortage and the work occurring to correct this.

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

AYES: Supervisors Ryan, Ovitt, Pinard, Achadjian, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2002-213, resolution proclaiming May 19-25, 2002 as "Goodwill Week" in San Luis Obispo County, adopted.

Supervisor Ovitt: reads the resolution and presents the same to Mr. Pete Dunan of Goodwill Industries.

Mr. Dunan: thanks the Board for the recognition; indicates Goodwill has been providing services in the country and world for more than 100 years; outlines services they provided after the September 11, 2001 tragedy.

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

AYES: Supervisors Ryan, Ovitt, Pinard, Achadjian, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2002-214, resolution proclaiming May 18-24, 2002 as "Safe Boating Week" in San Luis Obispo County, adopted.

Supervisor Achadjian: reads the resolution and presents the same to a representative for Mr. Edward Garner, who thanks the Board and addresses the need for boating safety.

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

Mr. Eric Greening: addresses Item B-16-B and his concerns regarding the open space agreement; speaks to Item B-22 and urges the Board to not set this as a Beilenson hearing but rather as a discussion to flush out all the alternatives for the hospital and clinics.

Mr. Jesse Hill: speaks to Item B-16-B regarding phased projects and the open space agreement; presents a packet of information relating to the requirements of phased projects and the issue of open space easements.

Ms. Pam Heatherington: Interim Hospital Authority Board Chairperson, speaks to Item B-22 and agrees with comments by Mr. Greening regarding the need to adequately address all the concerns before setting the Beilenson hearing. **No action taken.**

5 B-1 Consent Agenda Item B-1 is amended to correct the date to reflect the hearing date is set
thru for June 4, 2002 not 2001 and on page 2 of the proposed ordinance (B-1-5) under Section
B-22 1.10.180A, the word "its" is changed to read "the carrier's." Item B-18 is withdrawn
for separate action. Item B-22 is added to the Consent Agenda.

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

AYES: Supervisors Ryan, Ovitt, Pinard, Achadjian, Chairperson Bianchi
NOES: None
ABSENT: None

Consent Agenda Items B-1 through B-22 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-22, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set hearing:

B-1 Introduction of a proposed ordinance amending Chapter 1.10 of the County Code relating to the regulation of telecommunications systems which utilize public streets, rights-of-way or other public property, **Approved as amended and the Clerk is instructed to give notice of hearing date set for June 4, 2001 at 9:00 a.m..**

General Services Items:

- B-2 Extension of the emergency action to remove contaminated soil stockpiled on County property in San Luis Obispo, **Approved.**
- B-3 Lease renewal with the State Department of Transportation for use of State property adjacent to Hardie Park in the community of Cayucos; 2nd District, **Approved.**
- B-4 Contract with Creek Environmental Laboratories, Inc., to provide laboratory analysis services for the New County Government Center; All Districts, **Approved.**
- B-5 Submittal of a response on the implementation of Auditor-Controller recommendations regarding an audit on the Lopez Lake Marina concessionaire, **Received and Filed.**

Planning and Building Items:

- B-6 Proposed mitigated negative declaration for the Upper Lopez Canyon Road Low Water Crossing Repair Project; 4th District, **Approved.**
- B-7 **RESOLUTION NO. 2002-215**, approving and accepting an open space agreement for a minor use permit from Richard and Cynthia Tarver, located on Sea Horse Lane in the community of Los Osos; 2nd District, **Adopted.**
- B-8 **RESOLUTION NO. 2002-216**, approving and accepting an open space agreement for a minor use permit from Phillip and Jean O'Carroll, located on Sea Horse Lane in the community of Los Osos; 2nd District, **Adopted.**

Public Works Items:

- B-9 Agreement with the State to exchange federal highway funds to avoid increased road project administration costs associated with federal funding requirements, **Approved.**
- B-10 Agreement to modify the South County Sanitary Services, Inc., garbage collection rates and franchise agreement for curbside recycling and greenwaste collection service in Varian Ranch; 3rd and 4th Districts, **Approved.**
- B-11 Request to withdraw the acceptance of road improvements of Lindon Lane in the community of Nipomo; 4th District, **Withdrawn and directed to be brought back at a later date.**
- B-12 **RESOLUTION NO. 2002-217**, levying water availability charges for County Service Area No. 16 (Shandon) and County Service Area No. 23 (Santa Margarita); 1st and 5th Districts, **Adopted.**
- B-13 **RESOLUTION NO. 2002-218**, levying sewer availability charges for County Service Area No. 7-A (Oak Shores) and County Service Area No. 18 (San Luis Obispo Country Club Estates); 1st and 3rd Districts, **Adopted.**
- B-14 **RESOLUTION NO. 2002-219**, authorizing the Director of Public Works to apply for grant funding of proposed bike lane construction and execute local agency-state agreements; 1st, 3rd and 4th Districts, **Adopted.**
- B-15 **RESOLUTION NO. 2002-220**, appointing John Wallace to the San Luis Obispo County Flood Control and Water Conservation District - Zone 3 Advisory Committee; 3rd and 4th Districts, **Adopted.**
- B-16 The following maps:
 - A. CO 00-0050, a proposed subdivision resulting in 4 lots by Woody Woodruff Construction, Inc., Neal Springs Road, east of Templeton, reject the offer of dedication of drainage easement without prejudice to future acceptance; 1st District, **Approved.**
 - B. Tract 1856, Phase I, a proposed subdivision resulting in 1 lot by Trincon, Inc., Hutton Road, south of Nipomo, **Approved** and **RESOLUTION NO. 2002-221**, act on the resolution to approve an open space easement agreement; 4th District, **Adopted.**

Other Items:

- B-17 Request by the Clerk-Recorder to approve the destruction of unaccepted bids covering the time period of September 23, 1996 through May 1, 1997, **Approved.**
- B-18 Request by the Public Health Department to appoint Amy Wong and Sara Horne to the San Luis Obispo County Health Commission, **Withdrawn for separate action.**
- B-19 Contract amendment (Clerk's File) authorizing the joint powers agreement with the Victim Compensation and Government Claims Board, **Approved.**
- B-20 Submittal by the Auditor-Controller of audits of area hotels for compliance with the reporting and administrative requirements of the County Transient Occupancy Tax Ordinance for the period of January 1, 2001 through December 31, 2002, **Received and Filed.**
- B-21 Submittal by Social Services of a revised Board of Supervisors' response to the 2001-2002 Grand Jury Report on "Complaint Resolution at the Children's Welfare Services, **Approved.**

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

- B-22 Introduction of a notice setting a public hearing to consider service delivery changes at General Hospital and the Family Care Center, **Approved and the Clerk is instructed to give notice of hearing date set for June 4, 2002 at 9:00 a.m..**

6 B-18 Request by the Public Health Department to appoint Amy Wong and Sara Horne to the San Luis Obispo County Health Commission, is presented.

Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Pinard and on the following roll call vote:

AYES: Supervisors Ryan, Pinard, Ovitt, Achadjian, Chairperson Bianchi
NOES: None
ABSENT: None

the Board adds this item to Item E-1 scheduled to be heard later this morning.

7 C-1 This is the time set for hearing to consider two ordinances creating the Department of Child Support Services and the position of Director of Child Support Services. (Introduced May 14, 2002.)

Mr. Vince Morici: Administrative Office, presents the staff report, outlining the changes in State law that require Child Support Services to be separated from the District Attorney's Office and be made an independent department; outlines the two proposed ordinances to accomplish this with one creating the position of Director of Child Support Services and allows for the position to be either a Director-Attorney or Director-Non-Attorney.

Supervisor Pinard: questions whether there is anything that would preclude the Board from using the current staff for this position, with Mr. Morici responding.

Mr. David Edge: County Administrative Officer, states he hopes the Board will follow the option of maintaining the existing staff.

Mr. Gerald Shea: District Attorney, addresses the requirement by the State Legislature to create this separate department; feels the transition will be a smooth one; and, the State recently rated San Luis Obispo County Child Support Services as #1 out of the 58 counties.

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

AYES: Supervisors Pinard, Ryan, Ovitt, Achadjian, Chairperson Bianchi
NOES: None
ABSENT: None

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 2970, an ordinance establishing the Department of child Support Services and the position of Director of Child Support Services, adopted.

8 C-1 **No one appearing and thereafter, on motion of Supervisor Pinard, seconded by Supervisor Ryan and on the following roll call vote:**

AYES: Supervisors Pinard, Ryan, Ovitt, Achadjian, Chairperson Bianchi
NOES: None
ABSENT: None

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 2971, an ordinance adding the position of Director of Child Support Services to the Unclassified Civil Service, adopted.

(SUPERVISORS PEG PINARD AND MICHAEL P. RYAN ARE NOW ABSENT.)

9 C-2 This is the time set for hearing to consider an appeal by Ken Renshaw of the Hearing Officer's approval of a minor use permit to construct a new single family residence with 1,677 square feet of footprint, 2,967 square feet of gross structural area and 387 square feet transfer of development credits; 2nd District.

Ms. Martha Neder: Planning, presents the staff report; outlines the issues raised in the appeal and staff's response to the same; **(SUPERVISOR MICHAEL P. RYAN AND**

PEG PINARD ARE NOW PRESENT); staff recommendation is to deny the appeal and uphold the Hearing Officer's approval.

Ms. Vern Kalshan: attorney representing Mr. Ken Renshaw, presents two documents for the record and highlights both; outlines their concerns to water availability and the lack of the same; addresses the water deficit they show which equates out to a -8.63 deficit of water or 43 houses.

Mr. Gregory Sanders: attorney representing the Monaco's, presents three documents for the record: letter to Supervisor Bianchi from Mr. Renshaw; copy of the Cambria Community Services District (CCSD) agenda from November 15, 2001, Agenda No VIII.A.1, which shows there is an adequate water supply in Cambria; and, the Intent to Provide Water and Sewer and, the language in this letter indicates that the Board of Directors reserves the right to revoke this "Intent to Serve" letter at any time; beyond the evidence he has presented, believes there is also the issue of equity as the Applicant has "played by all the rules."

Chairperson Bianchi: questions the second document presented by Mr. Sanders as it relates to basin levels and believes, to date, the basin is the lowest it has ever been.

Mr. Kalshan: gives his closing comments.

Supervisor Pinard: questions the County's role with respect to the CCSD, as this is an independent district; feels the issue of water should be addressed to the CCSD, with Mr. James Lindholm, County Counsel, responding.

Chairperson Bianchi: questions changes in the laws relating to land use and not issuing "paper water", with Mr. James Orton, Deputy County Counsel, responding.

Chairperson Bianchi: addresses the current low levels of water in the creek and expresses her concern to approving this and the possibility of the Applicant starting to build and then the CCSD taking away their water.

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

AYES: Supervisors Ovitt, Ryan, Pinard, Achadjian
NOES: Chairperson Bianchi
ABSENT: None

the Board denies the appeal and RESOLUTION NO. 2002-222, resolution affirming the decision of the Hearing Officer and conditionally approving the application of Steve and Sue Monaco for Minor Use Permit D010064P, adopted. Further, the Board adopts the Mitigated Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.

10 D-1 This is the time set for consideration of a resolution adopting the fiscal year 2002-2003 Proposed Budget, setting June 10, 2002 as the time to begin public hearings regarding the Proposed Budget and directing the Clerk to publish the appropriate legal notices.

Ms. Gail Wilcox: Assistant County Administrative Officer, presents the staff report, outlining the direction given to departments in preparing their budgets; most budgets are the status quo from last year with some reductions in Behavioral Health; outlines the new position recommendations; presents an information sheet of proposed cuts to various programs by the State, and their potential impact to the County's budget.

Supervisor Ryan: questions the total of these proposed cuts, with Ms. Wilcox responding that they estimate the cost to the County at somewhere in the neighborhood of \$10-11million.

Supervisor Ryan: questions whether these proposed changes are included in the Proposed Budget document, with Ms. Wilcox indicating they are not.

Mr. Eric Greening: states he hopes there will be a discussion as to the format for the

Budget hearings and public comment; questions what the impacts will be with the proposed cuts to the Williamson Act.

Supervisor Pinard: addresses the proposed cuts by the State and her concern to the State not looking at their level to fix the problems; concerns that they always look to the counties to fix the State's financial problems.

Mr. David Edge: County Administrative Officer, addresses the impacts to counties by the State.

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

AYES: Supervisors Ryan, Ovitt, Pinard, Achadjian, Chairperson Bianchi
NOES: None
ABSENT: None

RESOLUTION NO. 2002-223, resolution approving the proposed budget for Fiscal Year 2002-03, adopted. Further, the Clerk is directed to notice the hearings set to begin on June 10, 2002 at 9:00 a.m..

11 E-1 & B-18 This is the time set for consideration of amendments to the operating bylaws of the San Luis Obispo County Health Commission and the request by the Public health Department to appoint Amy Wong and Sara Horne to the San Luis Obispo County Health Commission (this item was amended to withdraw the appointment of Amy Wong at her request).

Ms. Betty Sanders: Health Commission member, addresses the proposed changes to the bylaws, which includes reducing the number of members from 15 to 11 and having employees not being eligible to sit on the Commission.

Ms. Pam Heatherington: states that when the Board is considering these amendments they also look at their appropriateness with respect to the Interim Hospital Authority Board membership and making distinctions between these two committees.

Supervisor Ovitt: expresses his views on the proposed changes to the bylaws; indicates he is "up in the air" about not allowing employees on this Commission and suggests that they could limit the number of employees that could become members.

Supervisor Ryan: indicates he is not going to support eliminating County employees from being eligible to sit on this Commission.

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

AYES: Supervisors Ovitt, Ryan, Pinard, Achadjian, Chairperson Bianchi
NOES: None
ABSENT: None

the Board appoints Sara Horne to the Health Commission, replacing Susan Minker, term to expire June 30, 2004.

Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt and unanimously carried, the Board amends Article III-Membership, Section 1b, by deleting the last sentence which reads "Employees of the County Health Agency County agencies that address health issues and their immediate family shall not be eligible to serve on the Health Commission."

Supervisor Ovitt: addresses his concern to changing the language from the "Health Agency" to "County agencies addressing health issues," and wants to see more specific language so there is no confusion as to what department is involved.

Thereafter, on motion of Supervisor Pinard, seconded by Supervisor Ovitt and unanimously carried, the Board directs that language references throughout the bylaws be changed to reflect the Public Health Department.

Matter is further discussed and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt and unanimously carried, the Board agrees to reduce the membership on the Health Commission from 15 to 11.

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

12 F-1 This is the time set for discussion regarding transfer of additional funds for General Hospital and the Family Care Centers.

Mr. David Edge: County Administrative Officer, states this item can be withdrawn as the Hospital Chief Financial Officer has informed them that they have received \$2 million from the DSH Fund. **No action taken.**

(SUPERVISOR PEG PINARD IS NOW ABSENT.)

13 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) *In re PG&E*, (2) *Linder v. County of San Luis Obispo*, (3) *AT&T v. County of San Luis Obispo* and (4) *MCI Worldcom 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.

Chairperson Bianchi: opens the floor to public.

Mr. David Weisman: addresses this issue of the County becoming a legal intervener for the hearings on Diablo Canyon regarding waste storage; feels this is a great opportunity for the County; **(SUPERVISOR PEG PINARD IS NOW PRESENT.)** urges the Board to apply for legal intervener status soon.

Ms. Susan Mackenzie Biesek: states she lives within a 10 mile radius of Diablo Canyon; encourages the Board to apply to be legal interveners at the hearings; addresses the reorganization of PG&E and the things they are requesting.

Ms. Melinda Forbes: urges the Board to file as legal interveners; this is a big issue and she hopes the Board will stand up for the residents of the County.

Ms. Pam Heatherington: Environmental Center Director, agrees with the prior speakers and feels it is important to have a seat at this table.

Mr. Seamus Slattery: Chairperson for the Avila Valley Advisory Committee, urges the Board to apply for legal intervener status and indicates the County won't have any standing at the table without this.

Mr. Eric Greening: agrees with prior speakers, suggesting it is important to be included in this information loop; further, the County is charged with the environmental oversight for this facility.

Ms. Carol Paulsen: agrees with prior speakers and addresses the danger of storage for this type of waste.

Mr. Stephen Plowman: addresses the potential impacts to the residents of the County and his concerns regarding prior actions by PG&E; urges the Board to become legal interveners in these hearings.

Mr. Michael Kovacs: comments on the increasing number of lawsuits against the County; his concern as to how items are listed on the Closed Session; his view as to what the Brown Act says with respect to decisions and when they are to be announced.

Ms. Dana Gibson: states she wants Diablo shut down and urges the Board to become legal interveners.

Mr. Bill Denneen: presents written comments and addresses his concerns with respect to how nuclear waste is handled.

Ms. Linda Hall: urges the Board to become legal interveners and to also look at alternative power sources through the budget hearing process.

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: the Board met this morning on the items listed on the Agenda and one of the items listed on the Agenda was "Initiation of Litigation" and the majority of the Board decided not to intervene in the Diablo Canyon Independent Spent Fuel Storage Installation Proceedings at the NRC; the vote on this was Supervisors Pinard and Chairperson Bianchi in favor of intervening and Supervisors Ovitt, Achadjian and Ryan voting against intervening; and, the Board goes into Open Public Session.

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

Mr. Jamie Ford: Public Health, states he is here to urge the Board to consider re-funding the Hep C Program; addresses the number of people who have been tested for Hepatitis C and the percentage of those that tested positive; states that prevention services will help reduce this in the future.

Mr. Richie Ray Walker: states he is coming to the end of his public comments; indicates he "hit home" last week with his comments regarding cell phones; he received a \$300 bill for cell phone services he has not received and the phone is no longer in service; addresses the U.S. Constitution and the California Driver's Handbook; indicates the Driver's Handbook is in direct violation of the U.S. Constitution.

Mr. Mitch Mundahl: states he is here regarding Public Access Channel 2 and asks the Board to consider giving more money to public access television; addresses the types of programming they offer.

Mr. Bob Blair: addresses the last Board hearing regarding Summit Station and that things he read in the newspaper were not what he heard at that meeting or what he said and clarifies his comments.

Ms. Pam Heatherington: Environmental Center Director, states she is profoundly disappointed that the Board didn't become legal interveners in the Diablo Canyon matter.

Mr. Michael Kovacs: states he is a U.S. citizen by choice, indicating he left his country because of his fight for freedom of speech; suggests the Board is diminishing the public's right to air grievances.

Ms. Linda Hall: addresses comments by Mr. Kovacs; comments on the proposed sewer plant for Los Osos and the work being done to have a recall election of the Los Osos Community Services District Board members; suggests that Los Osos should keep their septic systems and why she believes this should occur.

Mr. Seamus Slattery: Chair for the Avila Valley Advisory Committee (AVAC), states his is stunned over the Board's decision not to intervene at Diablo; wants to know what justification the three Board members not supporting this have; questions who will be watching the County if we have no voice; states AVAC may want to apply for the legal intervener status and asks that the Board direct County Counsel to provide them with the information on this issue.

Supervisor Pinard: addresses her opinion on the County not becoming an intervener; suggests this action lost the County's say over health and safety issues in the County; feels the Board did not do what is in the best interest of the County, with Chairperson Bianchi agreeing with her comments.

Supervisor Ovitt: states that there are assumptions being made here as to what the three

Supervisors voting against becoming an intervener thought and feels is not appropriate to discuss what was discussed during the Closed Session. **No action taken.**

- 15 C-3 This is the time set for hearing to consider service delivery changes at General Hospital and the Family Care Center. (Introduced May 7, 2002.)

This item was withdrawn from the agenda due to insufficient noticing.

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 21, 2002, 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 23, 2002
vms