

Tuesday, November 4, 2003

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

ABSENT: Supervisor Harry L. Ovitt

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY MR. DUANE LEIB, GENERAL SERVICES DIRECTOR.

SUM **AGN**

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

AYES:Supervisors Achadjian, Pinard, Bianchi, Chairperson Ryan

NOES: None

ABSENT: Supervisor Ovitt

RESOLUTION NO. 2003-381, resolution proclaiming November 2003 as "National Hospice Month" in San Luis Obispo County, adopted.

Supervisor Achadjian: reads the resolution and presents the same to Ms. Janet Jeffrey and Ms. Donna Keen.

Ms. Keen: thanks the Board for their ongoing support for the Hospice program and speaks to the celebration they held this year.

Ms. Jeffrey: addresses two forums that are coming up regarding the end of life care options.

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

AYES:Supervisors Achadjian, Pinard, Bianchi, Chairperson Ryan

NOES: None

ABSENT: Supervisor Ovitt

RESOLUTION NO. 2003-382, resolution declaring November 2003 as Adoption Awareness Month, adopted.

Chairperson Ryan: reads the resolution and presents the same to Mr. Lee Collins, Social Services Director.

Ms. Anita Monyok: Social Services, recognizes the various foster care agencies that assist them; introduces Mr. Christopher Monza, Adoption Services.

Mr. Monza: recognizes and introduces two of their adoptive parents, Ms. Nancy Hutchison and Ms. Janet Mathias, who have formed an adoptive parent support group.

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

Chairperson Ryan: directs staff, with the concurrence of the Board members, to extend the Comment Period on the Sewage Sludge Land Application Ordinance for 90 days.

Ms. Tina Salter: presents a flyer regarding the Senior Faire & Expo to be held on Saturday, November 15, 2003 at the Atascadero Senior Center; addresses the various health screening's they will be doing on that day; they will also be providing flu shots and gives a phone number to make an appointment; states there is no charge for the shot, they are only asking for donations unless you have Medicare which will be billed.

Mr. David Broadwater: thanks the Board for extending the Comment Period on the sludge ordinance; asks that the Board also direct an expansion of where notices regarding this issue are sent; presents a packet of information for the record.

Ms. Julie Tacker: speaks to the Board's denial of the appeal on the Los Osos Sewer project and with this denial the sludge will be allowed in downtown Los Osos; thanks the Board for extending the time for comment on the sludge ordinance; also would like to see the noticing expanded to include the Los Osos Citizens Advisory Council.

Mr. Eric Greening: thanks the Board for extending the time for response on the sludge ordinance; asks that the Task Force be called back together to address the interim ordinance on sludge.

Ms. Shoush Croter: thanks the Board for their support for the recent clinic that was held regarding lymphedema; explains this can occur in patients who have had cancer treatment that involved lymph node removal and can cause arms or legs to become swollen, disfigured and painful.

Ms. Leslyn Keith: Occupational Therapist, explains her involvement and assistance with folks who have lymphedema.

Ms. Yehudit Korn: Massage Therapist, presents and booklet and suggests that everyone needs to be aware of lymphedema in order to help address this problem.

Mr. Peter Wagner: representing the Sierra Club, supports the comments by Mr. Broadwater and thanks the Board for the 90-day extension.

Mr. Herb Jue: speaks to public safety and due process; states he previously worked for Atascadero State Hospital and addresses the number of sexual predators who re-offend after they are released; accuses staff at Atascadero State Hospital of being involved in the theft of his motorcycle; states he tried to make a citizens arrest at the courthouse and San Luis Obispo Police would not make the arrest for him; asks the Board to check out his allegations. **No action taken.**

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: comments on Item B-1 and questions the new fees for skate park entry and passes; fees for Board agendas and whether this includes sending "pink sheets"; cost of appeals is shown as \$344 but he knows folks who have paid \$474 and questions which is correct; composting fees for facilities that are just outside the County line; on Item B-17 questions the trail easement that is shown and believes it is not in the right location. **No action taken.**

5 B-1 Consent Agenda Items B-17 and B-18 are added to the Consent Agenda.
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B-18 **Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi and on the following roll call vote:**

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

Consent Agenda Items B-1 through B-18 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-18, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set for hearing:

B-1 Introduction of a proposed ordinance amending the County fee schedule for fiscal year 2004-05 (and calendar year 2004 for Parks and Golf Course fees); All Districts, **Approved and**

the Clerk is instructed to give notice of hearing date set for December 2, 2003 at 9:00 a.m..

Administrative Office Items:

- B-2 Submittal of a request to cancel the November 18, 2003 Board of Supervisors Meeting, **Approved.**
- B-3 Employment agreement with Michael Piepenburg to carry out the duties of the Veterans' Services Officer, **Approved.**

Clerk-Recorder Items:

- B-4 Minutes of the September 9, 16, and 23, 2003 Board of Supervisors' meetings, **Approved.**
- B-5 Request to declare the results of the October 7, 2003 Statewide Special Election, **Approved.**

Medical Services Items:

- B-6 Retroactive step increases (Medical Services) for Victoria Reyes and Deborah Thoresen due to late evaluations, **Approved.**
- B-7 Contract with PFS Outsourcing Group, Inc., to provide accounts receivable settlement services on assigned inpatient accounts for former General Hospital patients, **Approved.**
- B-8 Contract with El Paso de Robles Youth Correctional Facility for Suspected Abuse Response Team (SART) program services, **Approved.**

Public Works Items:

- B-9 Agreement with Pall Corporation for procurement of a low-pressure membrane filtration system for the Lopez Water Treatment Plant Upgrade Project, **Approved.**
- B-10 The following parcel map has been received and has satisfied all the conditions of approval that were established in the public hearing on the tentative map and: CO 01-0346, a proposed subdivision resulting in 2 lots, by Thomas Young, Lupine Lane, east of Templeton, **Approved** and **RESOLUTION NO. 2003-383**, to accept the relinquishment of access rights along Lupine Lane; 1st District, **Adopted.**

Other Items:

- B-11 Request by Supervisor Ovitt to allocate \$2,000 from District One Community Project Funds to the Boys and Girls Club of North San Luis Obispo County to be used to continue after-school programs in the City of Paso Robles, **Approved.**
- B-12 Retroactive step increase (Library) for Phyllis Lynch due to a late evaluation, **Approved.**
- B-13 Request by General Services to accept a bid opening report for the replacement of playground equipment at Cuesta Park in San Luis Obispo, **Approved and the Chairperson is instructed to sign contract documents with Maino Construction Company Inc. in the amount of \$251,911.**
- B-14 Request by the Sheriff-Coroner to: 1) approve a budget adjustment in the amount of \$8,847 from unanticipated revenue; and 2) amend the fixed asset list adding an 8-channel voice print system upgrade in the amount of \$6,006, **Approved.**
- B-15 **RESOLUTION NO. 2003-384**, commending Diane Tingle upon her retirement after 35 years of service to the County, **Adopted.**
- B-16 Submittal by the Auditor-Controller of an unannounced cash count of the County Treasurer's Office conducted on June 30, 2003, **Received and Filed.**

ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-

hour noticing requirement.)

B-17 The following parcel map has been received and has satisfied all the conditions of approval that were established in the public hearing on the tentative map and: CO 01-0352, a proposed subdivision resulting in 2 lots, by Carol J. Rauch, Quiksilver Way, Templeton, reject the offer of dedication without prejudice to future acceptance of streets and trails; 1st District, **Approved.**

B-18 Introduction of a proposed ordinance enacting a low-value property exemption, **Approved and the Clerk is instructed to give notice of hearing date set for November 25, 2003 at 9:00 a.m..**

6 C-1 This is the time set for hearing to consider a vacation of a portion of Vista Street in the community of Oceano; 4th District.

Mr. Tim Smith: Right-of-Way Agent, presents the staff report and recommendation.

Ms. Giselle Naylor: questions this proposed vacation and whether the Mueller's and Chavez families have agreed to this.

Ms. Madeline Casey: addresses the 14th Amendment, due process and the Quiet Title action that occurred.

Mr. Smith: clarifies that the Mueller's and Chavez families requested this vacation; presents a map showing where this is located and the area of the street that was previously abandoned through a request by Mr. Geihs.

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

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

RESOLUTION NO. 2003-385, resolution vacating a portion of Vista Street, a purported public road in the Town of Oceano, Supervisorial District No. 4, adopted.

7 C-2-A This is the time set for hearing to consider Gragg Canyon Ranch, LLC (AO30006A) a request to establish an agricultural preserve to enable the applicant to enter into a land conservation contract on 701 acres located adjacent to Highway 101, east of the Avila Beach Drive exit, north of Shell Beach; 3rd District.

Mr. Warren Hoag: Planning, introduces the items indicating there are two new issues before the Board relating to farmland security and explains the law change that created this.

Mr. Terry Wahler: Planning, outlines the request by Gragg Canyon Ranch and the staff recommendation.

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

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

RESOLUTION NO. 2003-386, resolution establishing an Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.

8 C-2-B This is the time set for hearing to consider Old Creek Ranch PTP LP (A030007A) a request to establish an agricultural preserve to enable the landowner to enter into two land conservation contracts of 201 and 208 acres each on 409 acres located at 12520 Santa Rita Road about 2.0 miles north of the Highway One and Old Creek Road intersection, approximately 3 miles northeast of Cayucos; 2nd District.

Mr. Terry Wahler: Planning, presents the staff report; indicates that after this matter went to the Agricultural Preserve review Committee and the Planning Commission, the applicant requested there be two contracts and due to time constraints staff agreed with the request and is recommending approval of the two contracts; addresses the letter from Irv McMillan, who is a member of the Review Committee and responds to the concerns raised in the letter.

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

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

RESOLUTION NO. 2003-387, resolution establishing an Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.

- 9 C-2-C This is the time set for hearing to consider Robin Pendleton (A020012A) a request to establish an agricultural preserve to enable the landowner to enter into a land conservation contract on two discontinuous sites comprising 573 acres, the larger site is located on the eastern side of River Road, west of Santa Margarita Lake at 12818 River Road and the other site is located approximately 1/4 mile to the southwest; about 3 miles west of the community of Pozo; 5th District.

Mr. Terry Wahler: Planning, presents the staff report and recommendation.

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

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

RESOLUTION NO. 2003-388, resolution establishing an Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.

- 10 C-2-D This is the time set for hearing to consider Merrill Properties, LLC (A020015A) a request to establish a farmland security zone and enter into a new land conservation contract on 104 acres located within the El Pomar Agricultural Preserve; the site is located at the southwest corner of El Pomar Drive and South El Pomar Road, approximately 5 miles east of Templeton; 1st District.

Mr. Terry Wahler: Planning, presents the staff report and recommendation.

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

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

RESOLUTION NO. 2003-389, resolution establishing a Farmland Security Zone within an existing Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.

- 11 C-2-E This is the time set for hearing to consider Carrasco Properties, LLC (File No. A030008A) a request to establish a farmland security zone and enter into a new land conservation contract on 276 acres located within El Pomar Agricultural Preserves Nos. 1 & 4, located at 3230 Geneseo Road approximately one-half mile south of Highway 46, and approximately 3 miles east of Paso Robles; 1st District.

Mr. Terry Wahler: Planning, presents the staff report and recommendation.

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

AYES:Supervisors Bianchi, Chairperson Ryan, Pinard, Achadjian

NOES: None

ABSENT: Supervisor Ovitt

RESOLUTION NO. 2003-390, resolution establishing a Farmland Security Zone within an existing Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.

12 C-3 This is the time set for hearing to consider an appeal by N. Giselle Naylor of the Hearing Officer's decision to conditionally approve a minor use permit for Michael Puhek and Robert Anderson (D020137P) to allow construction of three single family residences located on 15th and 16th Streets, between Warner and Wilmar Avenues, north of Highway One, in the community of Oceano; 4th District.

Ms. Kami Griffin: Planning, presents the staff report, outlining the issues raised in the appeal and staffs response to the same; recommendation is to deny the appeal and affirm the decision of the Hearing Officer.

Supervisor Achadjian: questions whether this property is in a flood zone, with Ms. Griffin responding.

Ms. N. Giselle Naylor: Appellant, states she is the owner of the property in question; disputes issues in the staff report; speaks to the Quiet Title that was done on this property without proper notification to the property owners it affected; speaks to personal problems she has had with surrounding neighbors; presents a packet of information, in support of her appeal, for the record.

Mr. Mike Puhek: Applicant, states they have provided an application that meets the County's requirements and this project will provide housing that is needed in this area.

Ms. Madeline Casey: addresses the issue of the alley and the property where the Zuniga's live; presents information and photographs for the record and discusses the Quiet Title action that took place without their knowledge.

Ms. Barbara Casey: speaks in opposition to the project; speaks to the property she purchased and the removal of a fence between properties that occurred in the middle of the night; states the Quiet Title was done after she purchased her property.

Ms. Sheril Zuniga: daughter-in-law representing the Zuniga family, indicates her in-laws have owned this property since 1957 and addresses her concern to people trying to take property away from her family.

Mr. Puhek: indicates he does not have any further comments to make.

Ms. Naylor: give her closing comments indicating there wasn't an EIR done on this project; addresses the project itself.

Supervisor Achadjian: questions staff and County Counsel regarding what has been to court on this property and whether the owners of the land have been determined by a judge.

Mr. James Lindholm: County Counsel, responds that the issue of ownership is not before the Board today; the court did hear this matter and did determine who the owner of the property was; addresses what is before the Board today for their consideration.

Supervisor Pinard: addresses her concern to approving this with all the problems that have been raised today; suggests this shouldn't be approved until all the legal issues have been resolved.

Supervisor Bianchi: questions whether a title search would have been done on this property when it was purchased, with staff responding.

Mr. Tim Smith: Right-of-Way Agent, addresses his review of the Quiet Title action and their review of ownership back to 1942.

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

AYES: Supervisors Achadjian, Bianchi, Chairperson Ryan

NOES: Supervisor Pinard

ABSENT: Supervisor Ovitt

the Board denies the appeal and RESOLUTION NO. 2003-391, resolution affirming the decision of the Hearing Officer and conditionally approving the application of Michael Puhok and Robert Anderson for Minor Use Permit D020137P, adopted.

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 Bankruptcy*, (2) *NRC Proceedings Concerning Diablo Canyon License Transfer*, (3) *NRC Proceedings Concerning Spent Fuel*, (4) *Boehm v. County of San Luis Obispo, et al.*, (5) *Save the Mesa 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) *Dudich, et al. v. County of San Luis Obispo, et al.*, and (10) *Borsotti v. County of San Luis Obispo*.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.) (6) *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. (7) *Initiation of litigation (Gov. Code, § 54956.9(c).)* No. of cases 2.

II. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code, 54956.8.)

It is the intention of the Board to meet in Closed Session to have a conference with its Real Property Negotiator concerning the following: (8) Property Description: *Senior Nutrition Program Site, 2180 Johnson Avenue, San Luis Obispo, CA*, Parties with whom negotiating: *Richard Palmer, Executive Director*, Instructions to Negotiator will concern: *Price, Terms and Conditions*.

Chairperson Ryan: opens the floor to public comment 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 required as no final action was taken and the Board goes into Open Public Session.

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, November 4, 2003, 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: November 5, 2003

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