

Tuesday, November 25, 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 Harry L. Ovitt, Shirley Bianchi, Peg Pinard, K.H. 'Katcho' Achadjian and Chairperson Michael P. Ryan

**ABSENT:** None

**PLEDGE OF ALLEGIANCE TO THE FLAG LED BY SUPERVISOR HARRY L. OVITT.**

SUM

AGN

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

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

**NOES:** None

**ABSENT:** None

**RESOLUTION NO. 2003-392, resolution of appreciation for Cyrus Hays for outstanding and dedicated service as a Civil Service Commissioner, adopted.**

**Supervisor Achadjian:** reads the resolution and presents the same to Mr. Cyrus Hays.

**Mr. Hays:** states it was a privilege and a great opportunity to serve the County and thanks the Board for the recognition.

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

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

**NOES:** None

**ABSENT:** None

**RESOLUTION NO. 2003-393, World AIDS Day \* December 1, 2003, adopted.**

**Supervisor Bianchi:** reads the resolution and presents the same to Ms. Edie Kahn, Executive Director of the AIDS Support Network.

**Ms. Kahn:** thanks the Board for the many years of recognition; addresses the need for continued education and services in the County.

**Ms. Marsha Bollinger:** Public Health, states the County has a great partnership with community based organizations; indicating the County is also involved in the fight to stop the spread of AIDS.

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

**Mr. Gary Fowler:** requests the Board set aside \$7,500 from discretionary monies or other County funds for use by the Commission on Aging.

**Mr. David Broadwater:** addresses public access to information regarding the permanent ordinance on sewage sludge land application.

**Mr. David Weisman:** asks the Board to support the Mother's for Peace appeal and addresses the vulnerability of the nuclear power plant.

**Mr. Richard Keller:** asks the Board to support the community and the Mother's for Peace lawsuit.

**Mr. Eric Greening:** states he concurs with Mr. Weisman and Mr. Keller; addresses the need for the Sewage Sludge Task Force; asks for a moment of silence in honor of Mr. Pete Wagner and indicates he will be missed.

**Ms. Tarren Collins:** Chairperson of the San Lucia Chapter of the Sierra Club; addresses the safety issues at Diablo and urges the Board to join in and support the appeal at the 9<sup>th</sup> Circuit Court of Appeals; states Mr. Wagner's passing left a gap in the Chapter's conservation efforts and legacy to promote peace.

**Ms. Lucinda Nichols:** urges the Board to support the Mother's for Peace in their lawsuit and help make the County a safer place to live.

**Ms. Kathy Longacre:** asks the Board to support the Federal Appeal and keep the County safer.

**Ms. Linda Seeley:** asks the Board to support the Mother's For Peace in the Appeal; states it is important to the future of the County.

**Ms. Connie Dunbar:** states the Board should support and applaud the Mother's For Peace for asking the Nuclear Regulatory Commission to actually complete their job of keeping the public safe.

**Ms. Pam Heatherington:** Director of the Environmental Center of San Luis Obispo, states that public education and community input are vital to a civil society; addresses the draft ordinance for the sludge application; urges the Board's support for the Mother's for Peace intervention.

**Mr. Mark Skinner:** speaks to the dedication for Mr. Pete Wagner and safety at Diablo.

**Mr. Duane Waddell:** addresses the threat of nuclear waste and urges the Board to use their power to protect the safety of the community.

**Ms. Lorraine Kidman:** urges the Board to support the Mother's for Peace Federal Appeal.

**Mr. Bill Denneen:** states there is no need for Diablo Canyon; urges the Board to support Mother's For Peace. **No action taken.**

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

**Mr. David Broadwater:** addresses Item B-2 stating CSI (Center for Sludge Information) recommends inserting a sentence into the Interim moratorium providing for interested party notification of pending projects during its consideration of this ordinance on 12-2-03.

**Mr. Eric Greening:** addresses Item B-2 and states he concurs with Mr. Broadwater; questions if that sentence could be added today; addresses the permanent ordinance.

**Ms. Pam Heatherington:** Director of the Environmental Center of San Luis Obispo, hopes the Board does not lose sight of the fact that the County is dealing with sewage sludge and would like to see it addressed in the ordinance as sewage sludge/biosolids; suggest this County become an example for other counties in dealing with sewage sludge.

**Mr. Bill Denneen:** addresses the dumping of sewage sludge in local strawberry fields. **No action taken.**

- 5
- B-1 Consent Agenda Item B-18 is amended by correcting the coversheet to include Santa  
thru Margarita Fire Protection District. **Thereafter, on motion of Supervisor Achadjian,**  
B-40 **seconded by Supervisor Pinard and on the following roll call vote:**  
**AYES: Supervisors Achadjian, Pinard, Ovitt, Bianchi and Chairperson Ryan**  
**NOES: None**  
**ABSENT: None**

**Consent Agenda Items B-1 through B-40 are approved as recommended by the County Administrative Officer and as amended by this Board.**

Consent Agenda Items B-1 through B-40, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set for bid opening and hearing:

- B-1 Unit price books and specifications (Clerk's File) for public bidding of Job Order Contract (JOC) construction services; request to authorize the General Services Director to approve all individual job orders and notice of completion and acceptance declarations; and adoption of the JOC program as an approved method of construction project delivery; All District, **Approved and the Clerk is instructed to give notice of bid opening set for January 8, 2004, at 3:00 p.m..**
- B-2 Introduction of a proposed ordinance establishing an Interim Moratorium on the land application of treated sewage sludge/biosolids, **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-3 Memorandum of understanding with the Private Industry Council (PIC) designating the PIC as the Workforce Investment Act grant recipient and administrative entity, **Approved.**
- B-4 **RESOLUTION NO. 2003-394**, reviewing the conflict of interest codes for the County Assessor's Office, **Adopted.**
- B-5 **RESOLUTION NO. 2003-395**, fixing the County's contribution to CalPERS approved health plans for employees and retirees, **Adopted.**
- B-6 **RESOLUTION NO. 2003-396**, amending the County of San Luis Obispo Section 125 Plan (Clerk's File) increasing the maximum election amount to \$3,000 for the health care spending, **Adopted.**

Auditor-Controller Items:

- B-7 Unannounced cash count of the County Treasurer's Office conducted on September 15, 2003, **Received and Filed.**
- B-8 Unannounced cash count report of the General Services' Department Reservation Desk, Maintenance Shop, and San Luis Obispo County Parks at El Chorro, Nipomo, Oceano, Biddle and Santa Margarita Lake, conducted August 28 and September 2 and 3, **Received and Filed.**

Behavioral Health Items:

- B-9 Reappointment of Karl Hansen, Robin Heaney, Patrick Hedges, Steven Ladd and Charmaine Quinlan to the Mental Health Board, **Approved.**

- B-10 Contract (Clerk's File) with 7<sup>th</sup> Avenue Center, LLC, to provide skilled nursing and rehabilitation services for Mental Health clients, **Approved.**
- B-11 Health Insurance Portability and Accountability Act (HIPAA) Business Associate agreements (Clerk's File) with Behavioral Health Services' contractors and network providers, **Approved**; and 2) **RESOLUTION NO. 2003-397**, delegating signatory authority to the Behavioral Health Director, **Adopted.**
- B-12 Two agreements (Clerk's File) with Life Steps Foundation, Inc., for Alcohol and Drug-Free Residential Treatment Services and transitional living center; and 2) a corresponding budget adjustment in the amount of \$60,000 from unanticipated revenue, **Approved.**

Board of Supervisor Items:

- B-13 Appointment of Reverend Raymond Tintle as a District One representative to the San Miguel Public Cemetery District, **Approved.**
- B-14 Appointment of Carol Schreiber as a District Two Representative to the Children's Service Network Council, **Approved.**
- B-15 Allocation of \$2,500 from District One Visitors Service Grant Funds to the Templeton Chamber of Commerce to be used to print and distribute visitor guides promoting Templeton and the surrounding area, **Approved.**
- B-16 Allocation of \$5,000 from Visitors Services Grant Funds (District One - \$1,000 and District Five - \$4,000) to the Atascadero Chamber of Commerce to redesign, print and distribute a visitor brochure promoting the City of Atascadero and the surrounding areas, **Approved.**

Clerk-Recorder Items:

- B-17 Request to appoint in-lieu of election Warren Miller, John Pinson and James Robinson to the Garden Farms Community Water District Board, **Approved.**
- B-18 Request to appoint in-lieu of election various individuals to the Linne Community Services District, Squire Canyon Community Services District and the Linne Community Services District, **Approved as amended.**
- B-19 Declaration of the results of the November 4, 2003 Consolidated General Districts Election, **Approved.**

Planning and Building Items:

- B-20 Proposed mitigated negative declaration (Clerk's File) for the Nacimiento Lake Drive widening project; 1st District, **Approved.**
- B-21 **RESOLUTION NO. 2003-398**, accepting an avigation easement from Robert Padilla, for property located near the Oceano County Airport; 4th District, **Adopted.**
- B-22 **RESOLUTION NO. 2003-399**, accepting an avigation easement from Ramanbhai and Lataben Patel, for property located near the Oceano County Airport; 4th District, **Adopted.**
- B-23 **RESOLUTION NO. 2003-400**, accepting an avigation easement from Rick and Susan Miali, for property located near the Paso Robles Municipal Airport; 1st District, **Adopted.**

Public Works Items:

- B-24 Agreement with the Santa Margarita Fire District and Upper Salinas/Las Tables

Resource Conservation District for a Cable TV Access Grant and an associated budget adjustment in the amount of \$8,227, **Approved**.

- B-25 Amended 2003/04 Disadvantaged Business Enterprise Program for the Department of Public Works, **Approved and authorize the Director of Public Works is authorized to sign and execute the Plan.**
- B-26 **RESOLUTION NO. 2003-401**, authorizing execution of a notice of substantial completion of the construction of the Lopez Dam Seismic Remediation Project, **Adopted**.
- B-27 **RESOLUTION NO. 2003-402**, authorizing execution of a notice of completion for the widening and overlay of Orcutt Road between San Luis Obispo City limits and Biddle Ranch Road, **Adopted**.
- B-28 **RESOLUTION NO. 2003-403**, authorizing execution of a notice of completion for the Annual Sealcoat Program, Various County Roads, **Adopted**.
- B-29 **RESOLUTION NO. 2003-404**, applying for grant funding for the Bicycle Transportation Account Program, **Adopted**.
- B-30 **RESOLUTION NO. 2003-405**, accepting a grant deed from Andy and Ophelia Castellanos on behalf of San Luis Obispo County Flood Control and Water Conservation District for Lot 61 of Tract 1661; 4th District, **Adopted**.
- B-31 **RESOLUTION NO. 2003-406**, amending the Traffic Regulation Code establishing speed limits on Eucalyptus Road, El Campo Road and Southland Street in Nipomo and on Mission Street in San Miguel; 1st and 4th Districts, **Adopted**.
- B-32 **RESOLUTION NO. 2003-407**, accepting conveyance from Joanne Warren for the Santa Rosa Creek Road project; 2nd District, **Adopted**.
- B-33 **RESOLUTION NO. 2003-408**, for the acceptance of road improvements on Stagecoach Road in Arroyo Grande; 4th District, **Adopted**.
- B-34 **RESOLUTION NO. 2003-409**, accepting offers of dedication for Debonair Drive off of Union Road, east of Paso Robles; 1st District, **Adopted**.
- B-35 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. COAL 00-0346, a proposed lot line adjustment of 2 lots by David and Lori Curry and Cynthia Drogichen-Rich, located on K Street, Santa Margarita; 5th District, **Approved**.
  - B. Tract 2325, Phase 2, a proposed subdivision resulting in 23 lots by Highland Blacklake Partners, south of Willow Road, Nipomo, reject the offer of dedication without prejudice to future acceptance; 4th District, **Approved**.
  - C. Tract 2375, a proposed subdivision resulting in 23 residential lots and 1 open space lot, by Orchard Development LLC, Orchard and Grande, Nipomo, reject the offer of dedication without prejudice to future acceptance, **Approved**; and act on **RESOLUTION NO. 2003-410**, approving an open space easement agreement; 4th District, **Adopted**.

Sheriff-Coroner Items:

- B-36 Mutual aid escape pursuit plan and agreement with the Department of Corrections (California Men's Colony), **Approved**.
- B-37 The Home Detention Program which allows inmates to serve jail sentences outside of confinement in the County Jail, **Approved**.

B-38 Inmate Welfare Fund Statement of Operations for fiscal year ended June 30, 2003, **Approved.**

Social Services Items:

B-39 Contract (Clerk's File) with First 5 - Children and Families Commission to provide coordination of the Children's Health Coverage Initiative in San Luis Obispo County for July 7 through December 31, 2003, **Approved.**

B-40 Contract (Clerk's File) with Goodwill Industries' of Santa Cruz, Monterey and San Luis Obispo Counties to provide training and employment services for CalWORKs' participants, **Approved.**

6 C-1 This is the time set for hearing to consider an ordinance for low-value property exemption.

**Mr. Tom Bordonaro:** County Assessor, presents the staff report and recommendation.

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

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

**the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3016, ordinance adding Chapter 3.21 to the County Code regarding Low Value Assessments and Property Tax on such Assessments, adopted.**

7 C-2 This is the time set for hearing to consider amendments to the Growth Management system to extend the allocation waiting list for the community of Los Osos beyond December 31, 2003 to allow time for completion of the community sewer system; 2nd District.

**Ms. Pat Beck:** Assistant Planning Director, presents the staff report.

**Supervisor Ovitt:** questions if the allocation list would be continued year to year, with staff responding.

**Mr. Eric Greening:** questions how changes, if they occur, in the Estero Area Plan Update intersect with the rights of holders of allocations; states there is another area that should be agendized in terms of coordination if this sewer project moves forward and that would be that the County's South Bay Dial-a-Ride be coordinated by the Community Services District so that service can continue during construction.

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

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

**the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3017, an ordinance amending Title 26 of the County code, the Growth Management ordinance to extend the deferral of allocations for the community of Los Osos, adopted.**

C-3 This is the time set for hearing to consider an appeal by Save the Mesa, Inc., of the Subdivision Review Board's confirmation of the decision of the Planning Director that public policy did not necessitate the filing of a parcel map pursuant to Section 21.02.101(a)(9) of the County's Real Property Division Ordinance to allow the applicant (Lucia Mar School District) to acquire 21.47 acres of land for the purpose of a school site, located at north side of Willow Road at its intersection with Via Concha, west of the Village of Black Lake; 4th District.

**Mr. Kami Griffin:** Planning, presents the staff report; describes the use category and the project; indicates on October 6, 2003, the Subdivision Review Board confirmed the decision of the Planning Director that public policy did not necessitate the filing of a parcel map; states this is just a transfer of title; highlights the issues of the appeal; recommends the adoption of the resolution and uphold the decision of the Planning Director; indicates the Craigs have agreed to indemnify the County which is not a part of the staff report.

**Board Members:** discuss various issues, comments and concerns regarding: zoning; the school being required to do an EIR; if the site is not used for a school will the land revert back to open space or back to the County, with staff responding.

**Mr. Ed Eby:** Vice President of Save the Mesa, addresses the lack of notification regarding this item and receiving the staff report in an untimely manner.

**Mr. Dan Feilmeier:** reads letters written by Mr. Alexander T. Henson, Attorney for the Appellants and Carolyn and Kris Sparks, homeowners, urging the Board to uphold the appeal.

**Ms. Bonnie Feilmeier:** states she is representing the neighbors; hands the Board photos of the site; states this project is inconsistent with the General Plan; indicates the developer destroyed the Monarch Butterfly habitat; the dead trees are still lying on the site; addresses signage on the property; indicates the developer has used loopholes to circumvent land use ordinances; urges the Board to uphold the appeal.

**Ms. Carol Florence:** Oasis Associates representing the Applicant, asks the Board make a clear distinction between the Court Judgement and the General Plan Amendment; states the Subdivision Review Board has met twice regarding this matter; states the applicant is committed to moving forward with the EIR; states the issue today is a transfer of title with no physical impact to the site; urges the Board to deny the appeal.

**Mr. Eby:** states there are two parts to this request: 1) the creation of a parcel; and 2) the transfer of part of that parcel to the School District; indicates the creation of the parcel is the part that requires adherence to CEQA; states this project has abused many laws; the fundamental issue here is piecemeal densification of Rural Lands; urges the Board to uphold the appeal and reject this illegal parcel waiver.

**Mr. Feilmeier:** urges the Board to uphold the appeal and direct the developer to clean up the mess; indicates the law is on the side of the Appellant; states CEQA laws are to protect against "scams" such as this project.

**Mr. Michael Winn:** urges the denial of the appeal.

**Mr. Eric Greening:** addresses due process and feels this item should be continued if the noticing requirements and the issuance of the staff report were not met.

**Mr. Bill Denneen:** addresses growth in Nipomo and traffic problems; states he supports the appeal.

**Supervisor Achadjian:** questions if the EIR on traffic is cumulative, with Ms.

Florence responding.

**Mr. Eby:** states the Board has the opportunity to preserve the neighbors rural setting and urges the Board to uphold the appeal.

**Mr. Feilmeier:** urges the Board to make the developer clean this property up.

**Board Members:** discuss various issues, comments and concerns regarding: the trees on the property; the creation of a parcel; not creating density; public lot issues, and use of water; with staff responding.

**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, Ovitt, Pinard, Chairperson Ryan

**NOES:** None

**ABSENT:** None

**the appeal is denied and RESOLUTION NO. 2003-411, resolution affirming the confirmation by the Subdivision Review Board of the Planning Director's decision that public policy does not necessitate a parcel map, adopted.**

9

D-1 This is the time set for consideration of a resolution adopting a policy establishing clearance requirements for pedestrians' and equestrians' use along County right-of-way.

**Mr. Richard Marshall:** Public Works, presents the staff report and describes the proposed policy; states there is a typo in the resolution on the first page No. 2. the words "Pedestrians and Equestrians and Use of" should be deleted and "Right-of-way" should now read "Rights-of-way."

**Board Members:** discuss various issues, comments and concerns regarding: insurance that the County will not have to take out something that is in the middle of a right-of-way such as an oak tree; what will this policy do that is not already in place; more outreach and having the advisory committees input; policy layering, with staff responding.

**Mr. Eric Greening:** states the goal is important which is to protect the safety of pedestrians; indicates he appreciated the minutes of the Parks and Recreation meeting; urges the avoidance of tree removal and mitigations being added if tree removal is necessary.

**Mr. Michael Winn:** states he would like to see the rural areas stay rural but protect the children; urges approval.

**Ms. Georgia Kinninger:** states she concurs with Mr. Winn.

**Mr. Brent Kostiw:** states he supports the policy.

**Ms. Darcy Murphy:** addresses the dangers of walking along the streets and the need for public access; urges the adoption of the policy.

**Ms. Jane Kostiw:** states she uses public rights-of-way all the time and supports the policy.

**Ms. Penny Smith:** Pathways Committee, states children are forced to walk on the streets which will cause problems for the County; indicates there is a need to summarize what is already on the books to better understand the right-of-way easements.

**Ms. Stephanie Greene:** states this policy would keep developers intact; indicates

it's good planning.

**Ms. Mary Brooks:** indicates this is a good policy and urges approval.

**Ms. Kathy Longacre:** Chairperson of the San Luis Obispo Trails Committee, addresses the favorable responses that have come from the Trails Committee and the Parks Commission; indicates this is just a matter of consolidating and clarifying existing ordinances and regulations.

**Ms. Pandora Nash-Karner:** Chairperson of the Parks and Recreation Commission, states this is an important policy; states it just brings all the bits and pieces, that already exist, into one place; indicates this is streamline planning and recommends approval.

**Ms. Dorothy Jennings:** District One Parks and Recreation Commissioner, states this policy was reviewed by the Templeton Area Advisory Committee; indicates this will be a benefit Countywide and urges approval.

**Supervisor Ryan:** states if this were a procedure he would support it but he will not support this as a policy.

**Supervisor Ovitt:** states his concerns relating to interpretation.

**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, Ovitt, Pinard

**NOES:** Supervisor Chairperson Ryan

**ABSENT:** None

**the Board amends the first page of the resolution, No. 2. the words "Pedestrians and Equestrians and Use of" are deleted and "Right-of-way" will now read "Rights-of-way." and RESOLUTION NO. 2003-412, a resolution adopting a policy establishing clearance requirements for County Right-Of-Way, adopted as amended.**

10

E-1 This is the time set for submittal of the First Quarter Financial Report.

**Mr. Vince Morici:** Administration, states the expense and revenue for all funds are on track compared to the same time last year; addresses the key issues including: 1) Social Services estimates they will need an additional \$2 million dollars of General Fund monies to complete the year; 2) changes to the State budget resulting in a loss of about \$690,000 the County counted on to help finance this year's budget; 3) \$860,000 in additional expenses that were not included in the County's adopted budget, and 4) the loss of vehicle license fees; states staff recommends a hiring freeze for the Department of Social Services and to cease non-essential expenditures including but not limited to significant value purchases, special departmental expenses, fixed assets and travel; directing Social Services to prepare a report that provides details of the financial status of the Department; develop a balanced budget plan to bring the Department finances back into line with budgeted net County cost and, following a review by the Administrative Office, report back to the Board by January 13, 2004; accept donations totaling \$15,013 on behalf of the Library, accept donations totaling \$7,407 in gift funds on behalf of Social Services; approve appropriations transfers to move the gift funds into the Library and Social Services operating budgets and receive and file Fiscal Year 2003/04 First Quarter Financial Report.

**Mr. Eric Greening:** addresses discontinuing of the vehicle license fee without having the backfill in place; questions what citizens can do to lobby for the services provided by local government.

**Mr. David Edge:** County Administrator, states there have been bills introduced that would provide for a backfill; indicates the Governor has been vocal in his

belief that local Government should not suffer from the loss of vehicle license fee; suggests lobbying legislators for backfill monies; addresses future cuts that will be made to help balance the State budget.

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

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

**the Board institutes a hiring freeze for the Department of Social Services and ceases non-essential expenditures including but not limited to significant value purchases, special departmental expenses, fixed assets and travel; directs Social Services to prepare a report that provides details of the financial status of the department; develop a balanced budget plan to bring the department finances back into line with budgeted net County cost and, following a review by the Administrative Office, report back to the Board by January 13, 2004; accepts donations totaling \$15,013 on behalf of the Library and accepts donations totaling \$7,407 in gift funds on behalf of Social Services; approves appropriations transfers to move the gift funds into the Library and Social Services operating budgets and receives and files the Fiscal Year 2003/04 First Quarter Financial Report.**

11 C-4 This is the time set for hearing to consider an appeal by Norman Fawley of the Planning Commission's decision to approve a Conditional Use Permit for Agape Christian Fellowship, a 28,500 square foot church facility in three buildings on a 9.6 acre site located on the southeast corner of O'Conner Way and Laureate Lane, northwest of the City of San Luis Obispo; 2nd District.

**Mr. Matt Janssen:** Environmental Division of Planning, presents a brief history of the project; describes the original project and the project before the Board today; presents photos of the area and describes the property; highlights the EIR and the water issues; speaks to the conditions of approval; indicates staff recommends the Board certify the EIR, adopt the Statement of Overriding Considerations, deny the appeal and approve the Conditional Use Permit D970310D based on the findings listed in Exhibit A, the conditions listed in Exhibit B, and the CEQA findings in Exhibit D; hands the Board a minor change to Condition 6-l on page C-4-12.

**Board Members:** discuss various issues, comments and concerns regarding: two homes could have been built on this site without conditions; the size of the project versus water consumption; the access to the overflow parking, with staff responding.

**Mr. Tim McNulty:** Deputy County Counsel, addresses the Religious Land Use and Institutionalized Persons Act (RLUIPA), a Federal law that attempts to protect land uses involving churches and church related activities; states the way it works is if the proponents of a religious land use can establish that a condition a local or state government is attempting to impose creates a substantial burden on their ability to practice their religion in the way they have deemed to do so then the government must show a compelling government interest that requires that condition in order for it to be imposed.

**Mr. Ty Green:** Attorney for the Appellant, states he doesn't think anyone knows what the RLUIPA law means; indicates no one here is opposed to a church; states this hearing today is about land use; addresses the use of the church which include a daycare on site; addresses the Statement of Overriding Considerations relating to the daycare and the size of the facility being proposed; speaks to the character of the neighborhood; states there is not an adequate water supply to support the project.

**Mr. John Wallace:** representing the Appellant, hands the Board a compromise and reads the four recommendations which include: 1) approve the church without the school; 2) limit the size of the project to a total of 16, 000 square feet; 3) condition the project so as to protect and indemnify the neighboring properties, to not affect the quantity and quality of their wells and require a bond to guarantee their protection; 4) lower the height of the building to 25 feet; addresses the visual and water impacts; states the project is not consistent with the general plan; feels this compromise will be a win-win situation.

**Mr. Mike Sparrow:** Senior Pastor of Agape Christian Church, presents a brief history of the project; states the project has been reduced to 28,000 square feet; speaks to the EIR; believes there is enough water; addresses the recently drilled private wells and the upgrade to the Laureate Water System; feels they have addressed all issues and asks the Board for their approval today.

**Mr. Tim Cleath:** states this project is similar to two homes, feels the EIR impacts are overstated; addresses the Laureate Water Company and the water usage acre-feet per year; states there will be sufficient water for this project; addresses the water well and on-site testing.

**Mr. Pat Blote:** RRM Design Group, addresses the visual impact of the facility; addresses the site plan and the low profile of the project; states Agape has always been aware of the rural setting of the area; they have scaled down and tried to minimize the impacts on the neighborhood.

**Mr. James Johnson-Hill:** states 28,000 square feet is the minimum the church can function with; indicates they have honored the setback from Mr. Zohns property; reads the petition and submits it to the Clerk in support of the project.

**Board Members:** discuss various issues, comments and concerns regarding: the school; new wells causing damage to the old ones and how to mitigate that situation; the long- term affect on existing wells; the difference between a church versus a church and a school relating to water; alternative wells for irrigation, with Mr. Paul Saurensen, Fugro, responding.

**Mr. Norman Coy:** states he support the Agape Church.

**Mr. Josh Knox:** states the project is good for the youth in the community and urges the Board's support.

**Ms. Shawntel Grabowski:** states her involvement with the church and how the youth building would be a safe place for teens to hang out.

**Mr. Rick Hernandez:** states water will always be an issue in California; indicates he has reviewed the EIR and feels there are reasonable water resources in the area; states the water that is used for irrigation will not affect the Laureate system; addresses the use of grey water; the Church is entitled to 1/7th of the water capacity.

**Ms. Julie Loe:** states childcare in the community is a huge issue; indicates this project will serve the community and urges the Board to approve this item and move forward.

**Ms. Cindy Doll:** states the Church has gone out of their way to mitigate every issue and made concessions; indicates they deserve the Board's approval.

**Ms. Jean Knox:** states the Church has to move somewhere in the County; addresses the location and indicates it is on the most traveled transit route in the City of San Luis Obispo; urges the Board to approve the project.

**Ms. Lauren Balbi:** describes how the church has helped her and asks the Board to vote in favor of the Agape; states she believes Agape Church is a proactive force in the community.

**Mr. Mike Zohns:** states during the onsite well test his well was affected; addresses the inconsistencies in the development plan and the EIR; describes the project description as proposed versus the current project; indicates the change in the number of staff members and the special activities and wonders if the shift in numbers have been recorded into the usage rates.

**Ms. Cindy Wallace:** states Camp San Luis does not want to see the statement "never be reopened" used relating to O'Conner way; addresses the Area Standards on page 88 of the staff report indicating they should be Rural Residential instead of Agriculture; feels building a high profile building at this time one year before the adoption of a specific plan, is premature; believes if this building were reduced it could fit into the area.

**Mr. Mark Zohns:** addresses the use of the Laureate water system and the projects on-site well; states the Laureate water system failed in early November and water was trucked in and during that time the Laureate School was without adequate fire protection; indicates the proposed project will put a 28% additional load on the system that has already failed; states the Agape Church will require twice what a typical resident would require; indicates he is concerned about the additional demand on the on-site well and the effect on neighboring wells.

**Mr. Norm Fawley:** Appellant, states this is huge facility; addresses the neighbors and how they conserve water; questions where the shuttle parking lot will be located; this is not an issue of a church but an issue of destruction of a neighborhood.

**Ms. Laura Zohns:** addresses the conditions of approval and the mitigation measures; states some conditions of approval for the Laureate School were not followed; feels approval based on conditions are not the answer; states she supports the neighborhood associations compromise.

**Ms. Kim Brown:** addresses the water in the area; indicates the natural springs have dried up; feels people who don't live in the area won't think about conserving water; states her concerns to flooding.

**Ms. Linda Zohns:** states personally they haul in an average of 2,000-3,000 gallons of water per week since September 2003 and addresses their water conservation techniques; states her concern for the projects irrigation well having the potential to be converted to potable water while still retaining the status of the irrigation well; indicates the Laureate water system is over-committed; addresses noise issues and states very little is being done regarding privacy issues with neighboring home sites and their livestock; addresses the use of the PG&E roadway; urges the Board to approve the compromise.

**Mr. Dan Biezd:** speaks against the project; states a project of this size will have a devastating effect on the water supply in the area; indicates the wells do not supply enough water; states the Agape project will put excessive demands on the water supply in the area; states he supports a smaller development.

**Mr. Ken Brooks:** indicates how beautiful the area is and there is no thought to water when it comes to this project.

**Ms. Pam Hudgens:** addresses the use of the PG&E road; questions what measures will be taken to prevent flooding.

**Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi and unanimously carried, the Board agrees to continue the meeting past 5:00 o'clock p.m..**

**Mr. Larry Cusick:** speaks to the flooding issues; states the current drainage system is not sufficient; urges the Board to downsize the project.

**Mr. Joe Sabol:** states they would never drink their water; addresses Agape's conservation measures relating to their garden; feels the compromise is a win-win

situation.

**Mr. Robert Veldkamp:** addresses the reality of not having enough water by telling a story about a neighbor and their experience in drilling for water and coming up with nothing; indicates the properties in the area are worthless without water.

**Mr. David Leidner:** states he respects the Agape Church and their right to worship, however the issue is the lack of water; urges the Board to protect the water for all.

**Ms. Karen Guriel:** explains how the Association came up with the compromise.

**Ms. Gina Pinto:** addresses water limitations; describes how her family lives in regard to conserving water.

**Mr. Nick Guriel:** addresses the water usage; states the project far exceeds the grounds capability; asks the Board to consider the compromise.

**Ms. Catherine Manning:** addresses the freedom to worship and the need for the church; speaks to the Religious Land Use Act; states there is no land use restriction.

**Ms. Rose Spagnola:** questions if everything has been done to utilize the water resources.

**Ms. Victoria Hernandez:** addresses the need for daycare services in the community; urges the Board to approve this item.

**Ms. Brooks Hill:** states churches in the community provide much needed services; addresses the services Agape Church provides; urges the approval of the project.

**Ms. Zona Torres:** urges approval; believes all of the water concerns have been worked out.

**Ms. Laura Lehmann:** Principal of Laureate School, addresses monitoring conditions of use; zoning and water; speaks to the Laureate water system and why the system had problems in the past.

**Mr. Steve Moore:** states a “vocal minority” is against the Los Osos sewer and it’s the same situation with Agape; indicates he has the confidence that the Board will approve this project because it’s legally right and the community wants it built.

**Mr. Thomas Switzer:** states his concern regarding the size of the project; states the neighbors have learned to adapt with no water; urges consideration of downsizing this project.

**Mr. Victor Montgomery:** RRM Design, suggests setting a fixed date for monitoring meetings to occur; urges the Board to approve the project with daycare; states the compromise isn’t feasible; states this process has taken 6 years and Agape has been a good neighbor; indicates they have done what was asked of them and now urge’s the Board to adopt the staff’s recommendation.

**Mr. Bill Walters:** Attorney for the Applicant, states the basic question is does Agape have any water rights, and the answer to that question is yes they do; an EIR was done and mitigation measures have addressed the issues; indicates there is no nexus between the size of the project and water consumption; urges the Board’s approval.

**Mr. Wallace:** addresses the revised conditions of approval; states there have been problems with the monitoring of the Laureate system; asks that the Board incorporate into the conditions by staff to design measures that indicate

increased degradation; states if the daycare was eliminated it would lower the water usage below the threshold where otherwise an overriding finding with respect to water would have to be made; daycare doesn't have to be at this site; urges the Board to protect the neighbor's wells; discusses the compromise relating to the size and height; states monitoring is not mitigation and the condition's of approval are inadequate; asks the Board to recall when the last time was when they approved a project with a Class One impact with respect to water with Overriding Findings.

**Mr. Janssen:** states he did not mean to say that O'Connor Way would never re-open; the use of the PG&E easement has been researched for access to the overflow parking and PG&E indicated that they will allow that access; staff feels there is adequate water for the daycare with Phase One; states if the Board wants to look at ways of increasing the available water for the daycare itself and refers to page C-4-16 9B indicating this is a condition that requires the applicant to contribute their fair share to the Laureate water system to increase the available water in the amount of 0.5 acre feet per year; states this is a Phase Two condition however, perhaps this condition could be split and take .25 acre feet and put it on page C-4-15 8b.

**Board Members:** discuss various issues, comments and concerns regarding: Phase One and Phase Two being vested; the aquifer being dry; what if all the numbers are wrong then what will happen to the neighborhood; everything being mitigated except water; the Federal Law; not enough information to indicate whether or not the establishment of subsequent operations will be detrimental; the Statement of Overriding Consideration's should not be applied for lack of water; reducing the size of the project and whether's the size would impact water use; the history of the area having no water; creating a water district; the rights of Agape to build; the use of gray water; splitting the condition to .25 per acre feet for each phase; increased storage capability of non-potable water; addresses the list of mitigation proposals by Agape; fire safety.

**Matter is fully discussed and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Achadjian, with Supervisor Pinard casting a dissenting vote, motion carries and the Board certifies the proposed Final Environmental Impact Report in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.**

**A motion by Supervisor Bianchi, seconded by Supervisor Pinard to not adopt the Statement of Overriding Considerations, is discussed.**

**Supervisor Bianchi:** states she wants to see a smaller church alternative so there is no need for the Statement of Overriding Considerations.

**Supervisor Achadjian:** states if the Board approves a smaller church there will be more landscaping maintenance.

**Mr. Janssen:** states the indoor potable use of the entire project is .7 acre feet and includes the daycare.

**Supervisor Ovitt:** questions, with certain changes whether it would be possible to approve this project without the Statement of Overriding Considerations, with staff responding.

**Matter is further discussed and thereafter, a motion by Supervisor Bianchi, seconded by Supervisor Pinard to not adopt the Statement of Overriding Considerations fails on the following roll call vote:**

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

**Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor**

**Achadjian and on the following roll call vote:**

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

**the Board adopts the Statement of Overriding Considerations.**

**A motion by Supervisor Bianchi to uphold the appeal, dies for lack of a second.**

**A motion of Supervisor Bianchi to deny the appeal, is discussed.**

**Mr. Janssen:** states C-4-11 new condition 6c5 will read: “a cistern shall be constructed to collect rain water from roofs, parking areas and/or grey water from fixtures, that shall be pumped into landscaped water storage tank for landscape use.”; the next condition would be a new 8b on page C-4-15 which is the exact same condition that appears as 9b on page C-4-16 and C-4-17 which reads: “The applicant shall demonstrate to the Department of Planning & Building that they have contributed their fair share of the cost of developing new water resources within the Laureate Water Association’s system. A minimum of 0.25 acre feet/year of new potable water shall be added to the system. These new water resources can come from a variety of sources (e.g. improvements to the existing system such that losses are reduced equivalent to 0.25 acre/feet).”; then C-4-16 9b would have to be revised to 0.25 acre/feet; the next condition would be a new number 24 on page C-4-18 to read: “An auxiliary water tank of 10,000 gallons will be installed and will be turned off from the Laureate Water Association System during drought conditions.”

**Chairperson Ryan:** states he would like to see the new No. 24 read as it is on the Agape’s water mitigation proposals and states: an auxiliary 10,000 gallon water tank on site which can be “turned off” from the Laureate Water System during drought conditions. If the main Laureate water tanks falls below 10 foot marker, Agapes’ domestic water would be supplied from this tank until main tank recharges.

**Mr. Janssen:** suggests using the word “shall” instead of “would”, with Chairperson Ryan agreeing.

**Supervisor Bianchi amends her motion to partially uphold the appeal with the addition of the conditions as read into the record and submitted by staff.**

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

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

**the Board partially upholds the appeal and adds the following conditions: on page C-4-12 6. i. (sic-should read 6. k.) adds a new first sentence which reads “The applicant shall provide evidence of permits (or permit waivers) from the Department of Fish and Game, the Regional Water Quality Control Board, and the Army Corps of Engineers for the construction of the pedestrian bridge”; C-4-11 new Condition 6c5 will read: “A cistern shall be constructed to collect rain water from roofs, parking areas and/or grey water from fixtures, that shall be pumped into landscaping water storage tank for landscape use.”; Condition 8b is added on page C-4-15 to read: “The applicant shall demonstrate to the Department of Planning & Building that they have contributed their fair share of the cost of developing new water resources within the Laureate Water Association’s system. A**

minimum of 0.25 acre/feet year of new potable water shall be added to the system. These new water resources can come from a variety of sources (e.g. improvements to the existing system such that losses are reduced equivalent to 0.25 acre/feet).”; C-4-16 9b is revised to 0.25 acre feet; Condition No. 24 is added to read “An auxiliary 10,000 gallon water tank on site which can be “turned off” from the Laureate Water System during drought conditions. If the main Laureate water tanks fall below the 10 foot marker, Agape’s domestic water shall be supplied from this tank until the main tank recharges.” and RESOLUTION NO. 2003-413, resolution affirming the decision of the Planning Commission and conditionally approving the application of Agape Christian Fellowship for Development Plan/Conditional Use Permit (D970310D), adopted as amended.

12 CS The Closed Session is cancelled.

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 25, 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/Cherie Aispuro,  
Deputy Clerk-Recorder

DATED: 12-01-03  
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