

Tuesday, September 14, 2004

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, Michael P. Ryan and Chairperson Harry L. Ovitt

**ABSENT:** None

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

**SUM**

**AGN**

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

**Mr. Gary Ray Rogers:** addresses his line of work and one aspect of that is to assist small businesses with the ADA compliance requirements; his concern regarding the gentleman who has filed the lawsuit against a number of small businesses claiming injury and the lack of ADA compliance; believes these lawsuits will hurt the need to bring businesses into compliance.

**Mr. Bruce Deile:** states he is new to the area and homeless; speaks about his "service dog" and the Prado Homeless shelter denying him access to their facility without a certificate for the dog as a service dog; states he doesn't need State certification based on the Federal law requirements; states he also has Lyme Disease and addresses his medical needs because of this.

**Mr. Bill Walther:** speaks to the lawsuit that was filed regarding ADA compliance and his concern to the same; states he resents what this man is doing and the damages it will cause.

**Rev. C. Hite:** speaks regarding ADA compliance needs in the County and the rights of the disabled.

**Mr. Paul Wolff:** condemns the ADA fraud lawsuit that is occurring; addresses what the ADA Law states about compliance. **No action taken.**

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

**Ms. Wendy Crawford Hall:** Public Works, presents additional information for Item B-40 on the Consent Agenda indicating these are the original proposals submitted by PFM and Fulbright & Jaworski and were inadvertently left out of the packet; asks that the Board include them with their action on this item.

**Mr. Bill McGuire:** comments on Item B-13 and the compliance checks in conjunction with the City of San Luis Obispo Police Department; questions funding for Item B-14; on Item B-15 questions the LifeSteps program and whether it includes perinatal treatment; on Item B-16 questions the number of folks being treated through Mental Health System; on Item B-17 questions funding from Proposition 36 and how the money is being used.

**Rev. C. Hite:** comments on Item B-12 and her concern to "drugging" children versus mental health counseling; Item B-34 addresses her concern to at-risk children in the community; Item B-36 and her concerns to staff being knowledgeable to the ADA requirements.

**Mr. Tom O'Malley:** City of Atascadero, thanks the Board for their continued grant funding program that assist functions such as Colony Days in Atascadero; thanks Supervisors Ovitt and Ryan for their support of Colony Days; states Colony Days is scheduled for October 16 and 17 this year and highlights the events for these two days.

**Mr. Eric Greening:** comments on Item B-41 the supplemental agreement for the operation of Salinas Dam; addresses the staff report and comments regarding the Army Corps of Engineers decision to "dispose of the dam" and 4,000 acres; the time frame for this agreement and the ownership transfer; ownership transfer was originally presented as a prerequisite for the expansion project and questions whether the expansion is now a dead issue or still a future project; transfer of ownership usually occurs through purchase and questions whether there will be a price or is the U.S. government giving their assets away. **No action taken.**

- B-1 Consent Agenda Item B-26 is amended to add the Bid Notice. Item B-40 is amended thru to add attachments to the PFM and Fulbright & Jaworski contracts that were B-46 inadvertently left out and are the original proposals they submitted.

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

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

**Consent Agenda Items B-1 through B-46 are approved as recommended by the County Administrative Officer and as amended by this Board.**

Consent Agenda Items B-1 through B-46, 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 Plans and specifications (Clerk's File) for the replacement of the restroom at Templeton Park; 1<sup>st</sup> District, **Approved and the Clerk is instructed to give notice of bid opening set for October 18, 2004 at 3:00 p.m.**
- B-2 Introduction of an ordinance amending the Underground Storage of Hazardous Substances chapter of the County Code, **Approved and the Clerk is instructed to give notice of hearing set for September 21, 2004 at 9:00 a.m..**
- B-3 Introduction of an ordinance creating the Health Agency and the position of Health Agency Director and modifications to the ordinances related to Behavioral Health Services, Public Guardian and unclassified Civil Service, **Approved and the Clerk is instructed to give notice of hearing set for September 21, 2004 at 9:00 a.m..**

Administrative Office Items:

- B-4 Agreement (Clerk's File) with Life Steps Foundation for community based organization and preventive health grant funds for fiscal year 2004-2005, **Approved.**
- B-5 **RESOLUTION NOS. 2004-284, 2004-285, 2004-286, 2004-287, 2004-288, 2004-289 AND 2004-290**, recognizing the board of trustee members from various school districts and proclaiming September 2004 as "School Board Recognition Month," **Adopted.**
- B-6 **RESOLUTION NO. 2004-291**, accepting the exchange of property tax revenue and annual tax increment for Annexation No. 87 to the City of Paso Robles (Beechwood), **Adopted.**
- B-7 Submittal of the District Attorney's response to the 2003-2004 Grand Jury Report, **Received and Filed.**

Auditor Controller Items:

- B-8 Submittal of an unannounced cash count report of the Tax Collector conducted on June 30, 2004, **Received and Filed.**
- B-9 Submittal of an unannounced cash count report of the Regional Airport conducted on June 4, 2004, **Received and Filed.**
- B-10 Submittal of an unannounced cash count of Information Technology conducted on August 12, 2004, **Received and Filed.**
- B-11 Enterprise Financial System (EFS) update and: 1) **RESOLUTION NO. 2004-292**, amending the position allocation list for the Personnel Department and Information Technology, **Adopted.** ; 2) **RESOLUTION NO. 2004-293**, authorizing the Auditor-Controller to make modifications to an existing contract with SAP, **Adopted**; 3) a contract extension with Velocity Performance regarding change management and training services; and 4) two corresponding budget adjustments in the amount of \$194,367 (Personnel Department) and \$123,197 (Information Technology Department), **Approved.**

Behavioral Health Items:

- B-12 Contract (Clerk's File) with Milhous Children's Services, Inc. and San Diego Center for Children, Inc. to provide mental health services to children residing in group homes, **Approved.**
- B-13 Agreement (Clerk's File) with San Diego State University Foundation for coordination of "California Enforcement of Underage Drinking Law - Community trials project"; and 2) a corresponding budget adjustment in the amount of \$8,599, **Approved.**
- B-14 Second scheduled mandatory amendment (Clerk's File) to the fiscal year 03-04 Combined Negotiated Net Amount and Drug Medi-Cal contract with the State Department of Alcohol and Drug Programs, **Approved.**
- B-15 Agreement (Clerk's File) with Life Steps Foundation, Inc. for alcohol and drug-free residential treatment services, **Approved.**
- B-16 Agreement (Clerk's File) with Mental Health Systems, Inc. to provide treatment services to clients of Proposition 36, **Approved.**
- B-17 County Plan (Clerk's File) for the implementation of Proposition 36 for fiscal year 04-05, **Approved.**

Board of Supervisors Items:

- B-18 Request by Board members to allocate \$2,000 (District One - \$500, District Five - \$1,500) from District Community Grant Funds to the Atascadero Colony Days Committee for the annual Colony Days event on October 16th and 17th, 2004, **Approved.**
- B-19 Request by Board members to allocate \$2,600 from District Community Project Funds (\$1,300 from each District Three and District Four) to the South County Performing Arts Association, Inc. for the annual Halloween Costume Ball fund raiser, **Approved.**
- B-20 Request by Supervisor Bianchi to allocate \$1,500 from District Two Community Project Grant Funds to the Cambria Chamber of Commerce for the distribution and development of a 3-minute information video promoting Cambria and the surrounding North Coast area as a tourist destination, **Approved.**
- B-21 Request from Supervisor Bianchi to allocate \$1,500 from District Two Community Project Funds to the North Coast Advisory Council for costs associated with holding their monthly meetings, **Approved.**
- B-22 Request by Supervisor Pinard to allocate \$1,200 from District Three Community Project Funds to the Friends of the Shell Beach Library for improvements to the library, **Approved.**
- B-23 Request to appoint Pamela Fulmer, R. Ivan Jaques, James Solis, Catherine Turner and Sarah Worley to the Ground Squirrel Hollow Community Services District Board, **Approved.**

General Services Items:

- B-24 Contract (Clerk's File) with Mead and Hunt in the amount of \$60,000 for design and engineering services on the new taxiways for aircraft hangars at the San Luis Obispo County Regional Airport, **Approved.**
- B-25 Contract (Clerk's File) with Hoffman Associates, Inc. for construction management and inspection services of the new Fire Station # 21 at the San Luis Obispo County Regional Airport, **Approved.**
- B-26 Request to extend the bid period for the construction of the skateboard park and tennis court at the Los Osos Community Park to October 14, 2004 at 3:00 P.M., **Approved as amended.**
- B-27 Two amended lease agreements (Clerk's File) with Drake Farms Trucking for property located near the San Luis Obispo County Regional Airport, **Approved.**
- B-28 Submittal of the Parks Division donation report for fiscal year 2003-2004, **Received and Filed.**

Planning and Building Items:

- B-29 Request to approve a contract (Clerk's File) with Douglas Wood & Associates, Inc. for preparation of an environmental impact report for the Mission Gardens Estates tract map; 1<sup>st</sup> District, **Approved.**
- B-30 **RESOLUTION NO. 2004-294**, approving an open space agreement with Ball Tagawa Growers, for property located at 819 Zenon Way west of the community of Nipomo; 4<sup>th</sup> District, **Adopted.**
- B-31 **RESOLUTION NO. 2004-295**, authorizing an application to Pacific Gas and Electric Company for the Local Economic Development Grants Program; All Districts, **Adopted.**
- B-32 **RESOLUTION NO. 2004-296**, authorizing an application to the State Department of Housing & Community Development CalHOME Program; All Districts, **Adopted.**
- B-33 Submittal of a status report regarding the Land Use Ordinance Amendment allowing off-road vehicle courses in the Agriculture land use category, **Received and Filed.**

Probation Department Items:

- B-34 Renewal contract with the Family Care Network, Inc. to continue provision of services for the Intensive Community Diversion Program under the Schiff-Cardenas Juvenile Justice Crime Prevention Act of 2000, **Approved.**
- B-35 Renewal contract with the County Office of Education in the amount of \$82,806 for a vocational teacher and a counselor/case manager at the Mountain View Vocational Community School site, **Approved.**

Public Health Items:

- B-36 Renewal application (Clerk's File) to the State Department of Health Services for the California Healthcare for Indigents Program (CHIP) for FY 2004-2005, **Approved.**
- B-37 Request to appoint Susan Warren and reappoint Penny Chamousis to the County Health Commission, **Approved.**

Public Works Items:

- B-38 Agreement (Clerk's File) with Plains Exploration and Production for an initial study of reclaiming water from the Price Canyon well field; 3<sup>rd</sup> & 4<sup>th</sup> Districts, **Approved.**
- B-39 Contract (Clerk's File) with Bryan A. Stirrat & Associates for monitoring and maintenance of the Los Osos Landfill Gas Control System Operation; 2<sup>nd</sup> District, **Approved.**
- B-40 Contracts (Clerk's File) with Public Financial Management LLC and Fulbright & Jaworski LLP and a letter of agreement (Clerk's File) for bond writing services with UBS Financial Services, Inc. for the Nacimiento Water Project; All Districts, **Approved as amended.**
- B-41 Supplemental agreement No. 9 for operation and maintenance of the Salinas Dam and Reservoir area for the period of July 1, 2003 to June 30, 2006; 5<sup>th</sup> District, **Approved.**
- B-42 **RESOLUTION NO. 2004-297**, authorizing execution of notice of completion for the asphalt concrete overlay project on Foothill Boulevard at Los Osos Valley Road, west of the San Luis Obispo City Limit; 2<sup>nd</sup> District, **Adopted.**
- B-43 Request to authorize the surplus of selected Public Works vehicles for sale at a public auction; All Districts, **Approved.**
- B-44 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. CO 98-0105, a proposed subdivision resulting in 2 lots, by Huber Ranch Associates, Los Berros Road, east of Arroyo Grande; reject the offer of dedication without prejudice to the future acceptance for Falcon Crest Drive, **Approved; RESOLUTION NO. 2004-298**, to accept the offer of dedication for Los Berros Road widening; 4<sup>th</sup> District, **Adopted.**
  - B. COAL 01-0116, a proposed lot line adjustment resulting in 6 lots, by Trio Petroleum, Inc., Nacimiento Lake Drive, West of San Miguel; 1<sup>st</sup> District, **Approved.**

- C. CO 03-0454, a proposed subdivision resulting in 3 lots, by Juan and Bertha Valencia, Price Street, Nipomo; 4<sup>th</sup> District, **Approved**.
- D. COAL 03-0225, a proposed lot line adjustment resulting in 2 lots by William W. & Shase L. Hockey, Airport Road, East of Paso Robles, **Approved**; **RESOLUTION NO. 2004-299**, to approve an open space easement agreement; 1<sup>st</sup> District, **Adopted**.
- E. Tract 2392, a proposed subdivision resulting in 6 lots by Roger P. & Anna Franklin, Trustees of Franklin Trust, South River Road East of Paso Roble, **Approved**; **RESOLUTION NO. 2004-300**, to approve an open space easement agreement; 1<sup>st</sup> District, **Adopted**.

Other Items:

- B-45 Minutes of the Board of Supervisors meetings of July 13 and 20, 2004, **Approved**.
- B-46 Request from the Sheriff-Coroner to approve a retroactive step due to a late performance evaluation, **Approved**.
- 4 C-1 This is the time set for hearing to consider an appeal of the South County Road Improvement Fee by H. and S. Keshtgar; 4<sup>th</sup> District.

**Mr. Richard Marshall:** Public Works, presents the staff report, outlining the notification process for fee increases, the issues raised in the appeal and staff's recommendation to deny the appeal.

**Mr. Robert Armet:** representing the Keshtgars, states his clients are only appealing the difference in the amount they were first given versus the increased amount that they had to pay; states his clients never received notification of the increase in fees.

**Supervisor Achadjian:** questions the notification process to applicants of fee increases, with Mr. Marshall responding that copies of the letters are not maintained by the department.

**Supervisor Achadjian:** suggests that copies should be maintained in the future and the letters sent certified mail.

**Chairperson Ovitt:** addresses the fees and the application process.

**Supervisor Ryan:** speaks against the appeal.

**Supervisor Pinard:** suggests there is a need to tighten up the notification process.

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

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

**the Board upholds the appeal and directs staff to refund the difference, in the amount of \$35,700, between the original fee of \$23,136 and the \$58,836 that the Keshtgar's paid.**

**(SUPERVISORS SHIRLEY BIANCHI AND MICHAEL P. RYAN ARE NOW ABSENT.)**

- 5 C-2 This is the time set for hearing to consider: 1) the San Luis Obispo Fringe Area Circulation Study of 2004; and 2) a resolution establishing Road Improvement Fees for the unincorporated area along the southerly fringe of the City of San Luis Obispo; 3<sup>rd</sup> District.

**Mr. Dave Flynn:** Public Works, outlines the proposed fee area; addresses the need for the Study which included significant developments south of the City of San Luis Obispo (Morabito-Burke, Avila Ranch, Dioptics); outlines the proposed area of development; **(SUPERVISOR SHIRLEY BIANCHI IS NOW PRESENT.)** addresses the Road Improvement Fees and the recommended projects for Fee Funding; **(SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.)** discusses existing deficiencies at the intersection of Vachell Lane/Higuera St. and the Route 227 p.m. peak hour operations; discusses the projects that are included in the Capital Improvement Program; comments on the impacts to the City system; addresses the proposed fee structure and the differences between this program and others where

costs are attributed to residential trips and in this area that is not the case and explains; addresses the fees for Dioptics and their concerns regarding the charge of peak hour trips and the associated cost under this fee structure; states the Planning Commission condition (for Dioptics) deferred mitigation payment to a future adopted County Mitigation Program; Dioptics sees the impacts as limited to the earlier study on the Buckley Road extension and the fee in the range of \$110,000 versus \$239,871 under the new fee structure; provides a chart showing a comparison of this fee with other fee programs; outlines the staff recommendation.

**Supervisor Ryan:** questions the fees for the Morabito/Burke project versus Dioptics with Mr. Flynn responding.

**Mr. Henry Lane:** Dioptics Medical Products, addresses his concern to fairness in how the fees are applied; addresses what they are doing with respect to their expansion and the need to bring everyone back to one building; concerns about being treated as if this were a new building and to the large increase in the fees from the start of the project to now.

**Ms. Janice Langley:** Dioptics employee, questions the ratio difference for the Morabito/Burke project versus their project; questions the agreement with Morabito for fees versus what they are being told; states the Morabito project is 555,000 square feet versus their project at 116,000 square feet; her concern to the large increase difference between their fees and the Morabito project.

**Chairperson Ovitt:** suggests that Dioptics will need to file an appeal on this issue and have that come to the Board for consideration.

**Mr. Tim McNulty:** Deputy County Counsel, states there would need to either be an appeal of the Planning Commission condition or a Road Fee appeal on this issue.

**Mr. Lane:** questions paying the fee today.

**Mr. Noel King:** Public Works Director, states there currently isn't an approved fee amount at this time which makes this item different than the last item on the agenda.

**Supervisor Achadjian:** states there needs to be a balance between businesses and other types of building in the County.

**Board Members:** discuss the fees for Dioptics versus other projects and bringing this matter back for a hearing.

**Mr. David Edge:** County Administrative Officer, suggests that the Board give staff direction to bring this matter back for a discussion/hearing on the fees.

**Thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Pinard and unanimously carried, the Board directs staff to bring back the Conditions of Approval regarding the Road Fees for Dioptics as soon as possible.**

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

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

**NOES:** None

**ABSENT:** None

**the Board receives and adopts the report on the San Luis Obispo Fringe Circulation Study as attached to the staff report dated September 14, 2004 and RESOLUTION NO. 2004-301, resolution of the Board of Supervisors of the County of San Luis Obispo establishing the Road Improvement Fee for all developments within portions of the San Luis Obispo Planning Area of the County of San Luis Obispo, adopted.**

6

C-3

This is the time set for hearing to consider an appeal by John McMillan of the Planning Department Hearing Officer's approval of his request to allow a 1,200 square foot dwelling located approximately 250 feet from the main residence located at 585 Camino Caballo east of Pomeroy Road in Nipomo; 4<sup>th</sup> District.

**Mr. Warren Hoag:** Planning, introduces the item and Mr. Josh LeBombard, Planning, who will present the staff report.

**Mr. LeBombard:** presents the staff report addressing the decision of the Hearing Officer to limit the square footage of the secondary residence to 900 sq. ft. which

reduced the applicant's request from 1,200 square feet; presents a site map, aerial and site photographs; comments on concerns raised by the neighbor Ms. Veasart; recommends denial of the appeal.

**Supervisor Achadjian:** addresses the issue of secondary dwellings in the Nipomo area and the concerns raised by Ms. Veasart.

**Supervisor Bianchi:** questions why this was approved at 900 sq. ft. when two others nearby projects were approved at 1,000 sq. ft. with Mr. LeBombard responding.

**Mr. John McMillan:** Applicant/Appellant, addresses his appeal and changing the location of the dwelling; believes the concerns by Ms. Veasart were to the location and not the size; urges support of his request and presents a letter in support of his request from Mr. James Webb.

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

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

**the Board tentatively upholds the appeal and allows the secondary dwelling to be at the requested 1,200 sq. ft. and directs staff to bring back a resolution in support of this for final action this afternoon.**

7 C-4 This is the time set for hearing to consider a request by Robert Anderson to disestablish a portion of the agricultural preserve on property located on the northeast corner of Willow Road and Guadalupe Road in the Callender-Garrett area; 4<sup>th</sup> District.

**Mr. Terry Wahler:** Planning, presents the staff report, site map and aerial photograph of the site; indicates this is before the Board at the Board's direction on July 13, 2004 when the General Plan Amendment was approved for this site.

**Mr. Robert Anderson:** Applicant, states he is available to answer questions.

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

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

**RESOLUTION NO. 2004-302, resolution disestablishing a portion of and altering the boundaries of the Nipomo Mesa Agricultural Preserve No. 2 pursuant to the California Land Conservation Act of 1965, adopted.**

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

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

**A. Conference with Legal Counsel - Existing Litigation (Gov. Code, § 54956.9(a).)** (Formally initiated (1) *SLO County Deputy Sheriff's Association v. County of San Luis Obispo, et al*, (2) *Kyle v. County of San Luis Obispo* and **ADDED (All requirements of the Brown Act were met as this was posted prior to the 72-hour noticing requirement.)** (9) *Dudich v. County of San Luis Obispo*.)

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

**II. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code, § 54957.6.)** It is the intention of the Board to meet in Closed Session to have a conference with its Labor Negotiator concerning the following: (5) Negotiator's Name: *Santos Arrona, Gail Wilcox, Ellen Aldridge*, Name of employee organization: *San Luis Obispo County*

*Probation Peace Officers' Association; (6) Negotiator's Name: Santos Arrona, Gail Wilcox, Avery & Associates, Name of employee organization: District Attorney Investigators Association; (7) Negotiator's Name: Santos Arrona, Gail Wilcox, Avery & Associates, Name of employee organization: SLOCEA; and, (8) Negotiator's Name: Santos Arrona, Gail Wilcox, Avery & Associates, Name of employee organization: Management, Confidential.*

**Chairperson Ovitt:** opens the floor to public comment.

**Rev. C. Hite:** states she has a donation for the County and provides a letter from John Ashcroft, Attorney General, regarding ADA and Tax Incentives Packets.

**(SUPERVISOR MICHAEL P. RYAN IS NOW ABSENT.)**

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: the Board took final action on one item, the case of *Dudich v. County of San Luis Obispo* which involved an automobile collision between a County employee and a private individual; the Board authorized settling the case in the amount of \$30,000 and gave unanimous approval of this with Supervisor Ryan being absent; this item will be listed on the Consent Agenda within two weeks by the Risk Manager for those wishing further details and the Board goes into Open Public Session.

- 9 C-3 Hearing to consider an appeal by John McMillan of the Planning Department Hearing Officer's approval of his request to allow a 1,200 square foot dwelling located approximately 250 feet from the main residence located at 585 Camino Caballo east of Pomeroy Road in Nipomo; 4<sup>th</sup> District, is brought back on for hearing.

**Mr. Josh LeBombard:** Planning, provides the Board copies of the resolution confirming their tentative action this morning to deny the appeal and allow for a 1,200 square foot dwelling.

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

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

**NOES:** None

**ABSENT:** None

**RESOLUTION NO. 2004-303, resolution modifying the decision of the Hearing Officer and conditionally approving the application of John McMillan for Minor Use Permit DRC2003-00033, adopted.**

- 10 C-5 This is the time set for continued hearing (continued from August 10, 2004) to consider amending the Land Use Ordinance and Coastal Zone land Use Ordinance, Title 22 and 23 to implement Agriculture and Open Space Element Policies 21, 22, and 23; All Districts.

**Mr. Warren Hoag:** Planning, introduces the item.

**Ms. Kami Griffin:** Planning, addresses the changes to the proposed ordinances based on the direction by the Board at the last meeting; addresses the issue of calculating the base density and not using prime soils.

**Board Members:** question various aspects of the ordinances and wanting language added about infrastructure in open space areas.

**Ms. Griffin:** responds regarding adding language to Exhibit G010014L: C #8b - **Areas Included in open space**, after the wording agricultural production, add "(including directly related infrastructure such as roads and wells)" ; #8d **Nonstructural uses allowed in defined open space areas** add to the end of the paragraph "and roads/turnarounds directly serving the agricultural use." and the same language in Exhibit G010014L: D, (8) (ii) **Areas included in open space** and (8)(iv) **Nonstructural uses allowed in defined open space areas.**

**Chairperson Ovitt:** questions applications in the "pipeline" and the 20 acre minimum parcel size issue.

**Mr. Vic Montgomery:** RRM Design and representing Laetitia Winery, suggests maintaining the current language with respect to the requirements for Ag clustering; wants to see this issue resolved today.

**Mr. David Pereira:** addresses his concerns and presents written information and outlines the same with respect to language he would amend in the ordinances; wants the requirements to be the same for both major and minor clusters.

**Mr. John Beccia:** President of SMART, states he is glad to hear there will be more review of the base density issue; presents a letter for the record urging the Board to not adopt these ordinances and a letter/petition urging the Board to not change the current language of these ordinances.

**Mr. James Patterson:** addresses his concern to these changes and impacts it will have on agricultural land; states the concept of clustering is good; suggests this proposal before the Board today did not go before the Planning Commission; asks the Board to not approve the recommendation as presented today and suggests this should be sent back through the public hearing process to the agricultural community, through the Planning Commission and the necessary public hearings.

**Mr. Eric Greening:** agrees with comments by Mr. Patterson; states he has an additional concern regarding the number of vehicle trips, from developments such as these who have school age children.

**Mr. Ken Bornholdt:** representing Laetitia Winery and Vineyard, presents two documents for the record; references his letter of 9/9/04 (previously sent to the Board) and his suggested language modifications for the ordinances marked Exhibit G010014L:A and G010014L:C.

**Ms. Carol Florence:** speaks in agreement with the language proposal by Mr. Bornholdt.

**Ms. Griffin:** comments on the language in Section 7 of the ordinance marked as Exhibit G010014L:C regarding the time frame for grandfathering applications in under the old ordinance and suggests adding this language, as Section 5, to the ordinance marked as Exhibit G010014L:A and would read "This ordinance shall not apply to any vesting tentative map/conditional use permit application for an agricultural cluster on file with the County of San Luis Obispo that was submitted prior to August 10, 2004."

**Board Members:** address various issues, comments and concerns regarding: 20 acre minimums versus 40 acres; the issue of what can occur on Class I or II soils and irrigation of the same, with staff responding.

**Ms. Joy Fitzhugh:** Farm Bureau, states they stand by their testimony from the last meeting and that the 20 acre minimum is not of major concern to them.

**Board Members:** address various issues, comments and concerns regarding: Ag clustering and Ag designations; questions regarding the issues raised by SMART.

**Mr. Montgomery:** responds to Board questions regarding the proposed ordinance changes and further indicates there will be no impact to the Laetitia project as it will be covered by the language regarding being grandfathered in.

**Ms. Griffin:** addresses the key changes in the proposed ordinances versus current ordinance language; suggests adding language to the end of the paragraph of 22.22.152C.1 to read: "Subsection 22.22.040.B.1.b(1) shall not apply to, and shall not be used in, the calculation of base density for the purpose of a Major Agricultural Cluster."

**A motion by Supervisor Ryan, seconded by Supervisor Bianchi to maintain the current ordinance language with respect to Ag Clustering and change the distance of a Major Cluster to 5 miles from an urban area and allow Minor Clusters, is discussed.**

**Ms. Griffin:** addresses the motion.

**Mr. Bornholdt:** addresses the motion and the problems he sees with the same.

**Supervisor Bianchi withdraws her second.**

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

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

the Board adopts the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq; Section 5 is added to read: This ordinance shall not apply to any vesting tentative map/conditional use permit application for an agricultural cluster on file with the County of San Luis Obispo that was submitted prior to August 10, 2004.”; and, the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3036 (Exhibit G010014L:A, an ordinance amending Title 22 of the San Luis Obispo County Code, the Land Use Ordinance, Chapter 22.22 by amending Section 22.22.040 relating to minimum parcel sizes in the Agriculture Land Use Category, adopted, as amended.

- 11 c-5 Thereafter, on motion of Supervisor Bianchi, seconded by Chairperson Ovitt and on the following roll call vote:

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

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3037 (Exhibit G010014L:B), an ordinance amending Title 23 of the San Luis Obispo County Code, the Coastal Zone Land Use Ordinance, Section 23.04.024 relating to minimum parcel sizes in the Agriculture Land Use Category, adopted.

- 12 C-5 Thereafter, on motion of Supervisor Bianchi, seconded by Chairperson Ovitt and on the following roll call vote:

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

the Board amends 22.22.150B.8.b - Areas Included in open space, after the wording ‘agricultural production,’ add “(including directly related infrastructure such as roads and wells)”; 22.22.150B.8.d Nonstructural uses allowed in defined open space areas add to the end of the paragraph “and roads/turnarounds directly serving the agricultural use.”; and, add to the end of the paragraph of 22.22.152C.1 the following: “Subsection 22.22.040.B.1.b(1) shall not apply to, and shall not be used in, the calculation of base density for the purpose of a Major Agricultural Cluster.”; and, the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3038 (Exhibit G010014L:C), an ordinance amending Title 22 of the San Luis Obispo County Code, the Land use Ordinance, Chapter 22.22 by amending Section 22.22.150 and adding Sections 22.22.152 and 22.22.154 relating to Cluster Divisions in the Agriculture Land Use Category, adopted as amended.

- 13 C-5 Thereafter, on motion of Supervisor Bianchi, seconded by Chairperson Ovitt and on the following roll call vote:

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

the Board amends 23.04.037b(8)(ii) - Areas Included in open space, after the wording ‘agricultural production,’ add “(including directly related infrastructure such as roads and wells)”; 23.04.037b(8)(iv) Nonstructural uses allowed in defined open space areas add to the end of the paragraph “and roads/turnarounds directly serving the agricultural use.”; and, the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3039 (Exhibit G010014L:D), an ordinance amending Title 23 of the San Luis Obispo County Code, the Coastal Zone Land Use Ordinance, Section 23.04.037 relating to Cluster Divisions in the Land Use Category, adopted as amended.

- 14 D-1 This is the time set to consider the request to approve continuing management of the South County Regional Center in Arroyo Grande by the Arroyo Grande Valley Chamber of Commerce.

**Ms. Caryn Maddalena:** General Services, presents the staff report; addresses the RFP’s they received from the Arroyo Grande Valley Chamber of Commerce and the

South County Historical Society; states the Chamber previously had the lease contract for the Regional Center; comments on the pros and cons of each proposal; outlines the proposals from each group for the operation of the center; staff is recommending that the Chamber continue operating the Regional Center.

**Supervisor Achadjian:** states that he is a member of both the Chamber and the Historical Society and has checked with the FPPC as to whether he has a conflict of interest and they have indicated he does not have a conflict and explains.

**Mr. David Ekboom:** Grover Beach, states they have used the building extensively and support the continued operation by the Chamber.

**Mr. Bill Tappan:** Five Cities Men's Club, reads a letter from the Club urging continued operation of the Center by the Chamber.

**Rosemary Torres:** representing Five Cities Senior Activities, speaks to the need for a senior center and supports the Historical Society taking over operations as they will provide a place in the Center for the seniors.

**Mr. Allen Olson:** South County Seniors, states both the Chamber and the Society are important organizations and supports the Society taking over operation of the Center.

**Ms. Mary Ann Feller:** states the seniors need space now and supports the Society taking this lease.

**Mr. Walter Puzio:** speaks to the need for seniors to have a space and supports the Society's request.

**Mr. Earl Paulding:** Five Cities Senior Activity, states they have been working for five years trying to get a senior center in this area and supports the Society's request.

**Ms. Vivian Krug:** Director for the Historical Society, addresses their proposal and indicates they do have full time employees to operate the Center.

**Mr. Ross Kongable:** Director for the Historical Society, supports the request for operation by the Society and creating an area for seniors to use.

**Mr. Martin Line:** First Vice President for the Historical Society, addresses discrepancies he believes are in the staff report and their actual proposal.

**Ms. Karen Talley Miller:** states she is a member of both the Society and the Chamber and supports the continued operating by the Chamber.

**Ms. Heather Jensen:** Chamber of Commerce CEO, thanks everyone for their work on this issue and urges the Board's support for the continued operation of the Center by the Chamber.

**Ms. Sandy Nichols:** Chairperson for the Chamber, urges the Board to allow them to continue operating the Center.

**Mr. Don Gulickson:** states he is a member of the both the Chamber and the Society and explains why he believes the Chamber is the better choice to operate the center.

**Mr. Jim Dickens:** supports the need of a facility for the seniors to use.

**Mr. Tom Parsons:** supports the Chamber continuing to operate the Center.

**Mr. Gary Fowler:** states he is a member of the Commission on Aging, states it's too bad there isn't a way to co-mingle operating the Center by these two groups but as that can't occur, believes the Center should stay operating by the Chamber; there is a need for a senior facility in South County.

**Mr. Stewart McMillan:** speaks in support of the Chamber continuing to operate the Center.

**Mr. Jack Smith:** South County Boys & Girls Club, supports the Chamber continuing to operate the Center.

**Mr. Howard Mankins:** states he is both a Chamber and Society member, addresses his concern to volunteers operating the Center and supports the Chamber's proposal.

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

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

**the Board approves the staff's recommendation, based on the analysis of Request for Proposals from non-profit community service organizations, for the continued operation of the South County Regional Center in the City of Arroyo Grande by the Arroyo Grande Valley Chamber of Commerce.**

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, September 14, 2004, 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: September 23, 2004  
vms