

Tuesday, November 2, 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 Peg Pinard, K.H. 'Katcho' Achadjian, Michael P. Ryan and Chairperson Harry L. Ovitt

ABSENT: Supervisor Shirley Bianchi

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

SUM

AGN

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

AYES: Supervisors Achadjian, Pinard, Ryan, Chairperson Ovitt

NOES: None

ABSENT: Supervisor Bianchi

RESOLUTION NO. 2004-342, resolution proclaiming November 2004 as "National Hospice Month" in San Luis Obispo County, adopted.

Chairperson Ovitt: reads the resolution and presents the same to Ms. Donna Keen and Ms. Tina McEvoy of Hospice.

Ms. Keen: thanks the Board for their ongoing support of this program.

Ms. Tina McEvoy: thanks the Board for their support; addresses the "end of life forums" that are occurring this Wednesday and Thursday.

Supervisors Pinard and Ryan: thanks Hospice for all they do in assisting families during this trying time.

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

Mr. Eric Greening: states that it's election day and reminds folks to exercise their right and get out and vote.

Ms. Julie Rodewald: County Clerk-Recorder, reminds folks that it is election day and the polls are very busy this morning; her office has issued approximately 65,000 absentee ballots and 42,000 of those have already been returned; states she is expecting a large turnout at the polls and thanks all the poll workers for their help.

Rev. C. Hite: comments on ADA Compliance and her suggestions to fix this problem being ignored by the Board.

Mr. Jesse Hill: Vice Chairperson of the Nipomo Community Advisory Council, speaks to the loss of the recreational facility in Nipomo and the need for this; comments on the purchase of the Patterson Academy property and the site of the Dana Adobe. **No action taken.**

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

AYES: Supervisors Achadjian, Pinard, Ryan, Chairperson Ovitt

NOES: None

ABSENT: Supervisor Bianchi

presentation of employee service recognition awards, approved.

Mr. Richard Greek: Personnel Director, introduces the employees and Ms. Trish Stamper, Personnel, presents each with their 20 year service pin.

20 Year Employees are: Ms. Brenda Ouwerkerk - Agricultural Commissioner; Ms. Trish Stamper - Personnel; Mr. Forrest Wermuth - Planning and Building; Ms. Nancy Lindholm - Probation (not present); Ms. Debra Farwell - Health Agency; Ms. Ginette Gallagher - Health Agency; Mr. Kirk Coe - Public Works (Not present); and, Mr. Paul Donnelly - Public Works (not present).

25 Year Employees, are presented.

Mr. Greek: introduces Ms. Kimberlee Johnson - Air Pollution Control District and Ms. Molly Webb - Health Agency and states that neither of these employees were able to be here today but they will send their recognition award to them.

Mr. Tom Bordonaro: County Assessor, introduces Mr. Kirk Kidwell; states Mr. Kidwell came to work for the Assessor in 1979; outlines his duties and job changes over the years; states that Mr. Kidwell is an innovator and an asset to the office and he isn't just a co-worker, he is also a friend.

Mr. Kidwell: thanks all for the recognition; speaks to working with folks like Ms. Linda Trahey (over 20 years with the County) and Mr. Sam Leonard (more than 37 years with the County), both who are retiring this year; states it is the people he's worked with that make this job great.

Mr. Greek: introduces Ms. Kathy Tinker from County Counsel and states she couldn't be here today.

Mr. Vic Holanda: Director of Planning and Building, introduces Mr. John Kelly and states he began his employment in 1979 in the mapping section of the Assessor's office; Mr. Kelly prepared the map for the newly incorporated City of Atascadero; he also designed the seal for the County Clerk-Recorder; outlines his current duties including his work on the redistricting maps for the Supervisorial lines.

Mr. Kelly: thanks all for the recognition; addresses the changes to mapping over the years and states the job is a great one because of all the people he works with.

Mr. Holanda: introduces Ms. Pat Beck and states that she actually started as a contract employee in 1977; she began her permanent employment with the County in 1979; she was the key planner in the development of the Local Coastal Program; speaks to the integrity she brings to the Departments; speaks to her promotions over the years with the most recent promotion being to the Assistant Director position for the Department in 2003; states the County is fortunate to have her working for them.

Ms. Beck: thanks all for the recognition; states it has been a great working for a great department with great employees.

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. Michael Winn: speaks to Item B-5 and his concern regarding the use of Quimby Fees; the amount of fees that are supposed to be available for the Nipomo area and his concern to the five year payback on the fees for this park being paid on time.

Rev. C. Hite: comments on Items B-4, 5, 6, 7 and 8; states she is giving the County "notice" and there is no "grace period" regarding the barriers that have been created and wants the County to comply with the ADA requirements.

Ms. Joyce Albright: comments on Item B-5 and her concerns about the skateboard park to be built in Los Osos and its the location to existing residents; presents a petition signed by many of the neighbors concerned about this project.

Ms. Linde Owen: speaks to Item B-5 and her concerns to the size of the park for skateboarders; indicates her major concern is with the location of this park.

Ms. Peggy Zatt: speaks to Item B-5 and the skateboard park to be built; outlines what this park will include and supports approval of this.

Mr. Bob Semonsen: addresses Item B-5; states that the Los Osos Citizens Advisory Council held three hearings on this and gave unanimous support each time.

Ms. Pandora Nash-Karner: Chairperson for the Parks and Recreation Commission, speaks to the unanimous support this project received from both the Los Osos Community Services District Board and the Los Osos Citizens Advisory Council; urges the Board to move forward with this project.

Mr. Gerard Ages: urges the Board to approve Item B-5.

Ms. Terry Benko: states this project has been in the works since 1997; there is a need for outdoor activities in this area; and, urges support of this project.

Mr. Richard Macedo: Legislative Assistant for Supervisor Bianchi, states the design for this was approved and funded in 1999; addresses the process it has gone through; urges the Board to approve the construction of this skateboard park. **No action taken.**

- B-1 thru B-20 Consent Agenda Item B-4 is amended to correct the recommendation on the cover sheet to read "(RECOMMEND APPROVAL AND INSTRUCT THE CHAIRPERSON TO SIGN CONTRACT DOCUMENTS WITH ELAM WOODS CONSTRUCTION COMPANY IN THE AMOUNT OF \$194,800.)." Item B-5 is amended to correct the cover sheet recommendation to read "(RECOMMEND APPROVAL AND INSTRUCT THE CHAIRPERSON TO SIGN CONTRACT DOCUMENTS WITH NICK POKRAJAC, INC., IN THE AMOUNT OF \$1,541,600.)." Items B-11 and B-12 are misnumbered and the cover sheet needs to be amended to switch the titles to match the staff reports. Item B-18 is amended to correct the cover sheet recommendation to read "(RECOMMEND APPROVAL AND AUTHORIZE THE PUBLIC HEALTH DIRECTOR AND SUPERVISING PUBLIC HEALTH NURSE TO SIGN.)."

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

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

Consent Agenda Items B-1 through B-20 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-20, 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 an ordinance amending water service charges in San Luis Obispo County Service Area No. 23, Santa Margarita Water System; 5th District, **Approved and the Clerk is instructed to give notice of hearing date set for November 9, 2004 at 9:00 a.m..**

Board of Supervisors Items:

- B-2 Request by Supervisor Achadjian to reappoint Colleen McLean as a District Four Representative to the County Commission on Aging, **Approved.**
- B-3 **RESOLUTION NO. 2004-343**, honoring Senior Services Network Volunteers, **Adopted.**

General Services Items:

- B-4 Request to accept bid results and award a construction contract to replace the restroom facility at Templeton Park, in downtown Templeton; 1st District, **Approved as amended.**
- B-5 Request to accept bid results and award a construction contract and approve a budget adjustment in the amount of \$1,769,200 from public facility fees for the implementation of Phase I Improvements to the Community Park in Los Osos; 2nd District, **Approved as amended.**
- B-6 Contract amendment with Vanir Construction Management, Inc., for additional construction management services for the New County Government Center, **Approved.**
- B-7 Agreement (Clerk's File) with the Arroyo Grande Valley Chamber of Commerce to lease and manage the South County Regional Center in the City of Arroyo Grande, **Approved.**
- B-8 Request to create two maintenance projects to improve the community buildings at Santa Margarita and Shandon and approve a corresponding budget adjustment in the amount of \$248,283 from Community Development Block Grant Funds, **Approved.**
- B-9 **RESOLUTION NO. 2004-344**, transferring County owned property in Avila Beach to Peoples' Self-Help Housing Corporation; 3rd District, **Adopted.**

Planning and Building Items:

- B-10 Submittal of a proposed mitigated negative declaration (Clerk's File) for the Vineyard Drive at Highway 101 overpass widening and off ramp signalization project; 1st District, **Approved.**

(ITEMS B-11 AND B-12 ARE SWITCHED ON THE COVER SHEET TO MATCH THE WAY THEY WERE NUMBERED IN THE BOARD'S PACKET)

- B-11 **RESOLUTION NO. 2004-346**, approving amendment #1 to an open space agreement with Andrew and Linda Blodgett for Tract 2287; 3rd District, **Adopted.**
- B-12 **RESOLUTION NO. 2004-345**, approving an agreement for mitigations for lot line adjustment COAL 03-0331 with John Fetyko and J.D. Fetyko Development Inc.; 1st District, **Adopted.**

Public Works Items:

- B-13 Request to support legislative change to Government Code Section 25210.9C allowing an increase to the appropriation limit of County Service Area No. 21 for the Cooperative Road Improvement Program; All Districts, **Approved**.
- B-14 **RESOLUTION NO. 2004-347**, for the acceptance of road improvements on Hanging Tree Lane, South of Paso Robles, County Road No. 4382; 2nd District, **Adopted**.
- B-15 The following tract map has been received and has satisfied all the conditions of approval that were established in the public hearings on its tentative map, and: Tract 2552, a proposed subdivision resulting in 29 lots, by Belridge Park LLC, Belridge Street at Highway 1, Oceano, reject the offer of dedication without prejudice to future acceptance, **Approved** and **RESOLUTION NO. 2004-348**, to approve an avigation easement; 4th District, **Adopted**.

Other Items:

- B-16 Minutes of the Board of Supervisors meetings of September 14, 21 and 28, **Approved**.
- B-17 Request from Behavioral Health to appoint Gary Hughes to the Mental Health Board, **Approved**.
- B-18 1) Agreement (Clerk's File) with the State Office of Traffic Safety; 2) approve a two budget adjustments in the amount of \$50,229 each for Budget Unit 3000 - Public Health and 3075 - Drug and Alcohol Services from unanticipated revenue to implement a media campaign to increase public awareness of the risks of driving under the influence; and 3) authorize the Public Health Director to sign future certificates and amendments to this agreement, **Approved as amended**.
- B-19 Request from the Probation Department to approve a contract (Clerk's File) with Leonard Manzella, LCSW, to continue provision of services for the Child Abuse Prevention Program, **Approved**.
- B-20 **RESOLUTION NO. 2004-349**, amending the Fiscal Year 1999-06 Memorandum of Understanding for the Trades, Crafts and Services Unit and establishing Fiscal Year 2004-05 salaries and benefits, **Adopted**.
- 6 C-1 This is the time set for hearing to consider an appeal of the Public Works Director's determination on Subdivision Bonding requirements by Maria Vista Estates, located at the south end of the Nipomo Mesa; 4th District.

Mr. Richard Marshall: Public Works, presents the staff report; addresses the two tracts that were approved in 1992; the bonding requirements that were part of the conditions of approval and the amounts for those bonds; the original amounts and the revised amounts that were established by the Public Works Director; recommends denial of the appeal.

Supervisor Achadjian: questions the performance and payment bonds and how they are used with Mr. Marshall responding.

Supervisor Ryan: questions whether the performance bond is for 100% of the value of all the improvements and the payment bond is for 50% of the value of all the improvements, with Mr. Marshall responding.

Mr. John Fricks: representing Maria Vista Estates, comments on the two letters they sent to the Board; states they believe they are being required to "over" bond for these requirements; summarizes his letters regarding their argument over the amount being required; believes the amounts they are proposing are adequate to protect the County; addresses their concern as to what the County is requiring versus what has actually been completed on the project; believes the added cost is not needed and asks the Board to reduce the amount being required for these bonds.

Supervisor Achadjian: questions Mr. Marshall with response, as to how the fees were calculated for these bonds; speaks further regarding this process; questions the procedure and whether the payment bond has to be reduced because the performance bond is, with Mr. James Lindholm, County Counsel, responding.

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

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

the Board denies the appeal based on the Findings in Exhibit 1 of the staff report dated November 2, 2004.

7

C-2 This is the time set for hearing to consider an appeal by Sonya Rothenbuecher of the Planning Department Hearing Officer's denial of a minor use permit, request to waive the minimum road requirement of chip seal or better for a proposed secondary dwelling, located on Stage Springs Road, southeast of the community of Creston; 5th District.

Mr. Josh LeBombard: Planning, presents the staff report; addresses the secondary dwelling requirements in this area; states the road in this area is a dirt road and the requirement is to chip seal the road; highlights the issues raised in the appeal and staff's response to the same.

Mr. Chuck Stevenson: Planning, reads comments by the Air Pollution Control District for the record.

Ms. Sonya Rothenbuecher: Applicant, asks that the Board waive the road improvement requirement for chip sealing this road; states she has lived here for 16 years and their request will not add more dust or traffic to the road.

Mr. Peter Rothenbuecher: states they have been maintaining this road since they moved there 16 years ago and currently there is less traffic on this road than when they first moved there.

Mr. Kenneth Palm: states he lives adjacent to the Rothenbuechers and believes that chip sealing this road is a waste of money but the road does need some work done on it; the Applicant will not generate any more dust on this road than what currently exists; suggests adding some base to the road would help.

Supervisor Ryan: addresses the roads in this area; comments on repairs to a dirt road versus chip sealing roads that are not public roads; discusses the uses on surrounding properties; his concern about the Applicant being required to upgrade a road that is used by so many others; suggests that a road maintenance agreement be required.

A motion by Supervisor Ryan, seconded by Chairperson Ovitt, to uphold the appeal and require road improvements (County base), by the Applicant, from Old Goat Road to across the front of the Applicant's property and require a road maintenance agreement, is discussed.

Mr. John Nall: Environmental Specialist, addresses the need for an environmental review on this property prior to final action by the Board.

The motion maker and second amend their motion to make it tentative and continue the hearing to November 23, 2004.

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

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

the Board tentatively upholds the appeal and requires the Applicant to base the road to the standard that the County uses for a Residential area, from the intersection of Old Goat Road to across the frontage of their property, require a road maintenance agreement and continues said hearing to November 23, 2004 at 9:00 a.m. for final action.

(SUPERVISOR PEG PINARD IS NOW ABSENT.)

8

C-3 This is the time set for hearing to consider an appeal by Linda Kennedy of the Subdivision Review Board's (SRB) denial of a vesting tentative parcel map, located at 85 and 95 Exline Road, south of the community of Wellsona, in the Salinas River Planning Area; 1st District.

Ms. Elizabeth Kavanaugh: Planning, presents the staff report; outlines the issues in the appeal and staff's response regarding agricultural uses and the use of the Transfer of Development Credit (TDC) Program.

Chairperson Ovitt: questions the zoning on this property versus surrounding zoning on properties, with staff responding.

Ms. Linda Kennedy: Applicant, states they were originally looking at doing something different on the property and the TDC program was actually suggested by Planning staff.

Ms. Jamie Kirk: representing the Applicant, provides a powerpoint presentation regarding changing a 10.3 acre site into two parcels of 3.0 and 7.3 acres; states this project was accepted under the old rules for this type of split; comments on the surrounding land uses; addresses the Agricultural Commissioner's comments on this proposal; suggests a General Plan Amendment does not work on this property; urges the Board to uphold their appeal.

Mr. Eric Greening: suggests this request is taking the same path as a project that was before the Board last week; addresses his concern about these types of agricultural land projects coming forward without a policy in place to deal with them; urges the Board to deny the appeal.

Ms. Kirk: states this is a vesting map and the rules are clear as to what they can do.

Chairperson Ovitt: states these are being looked at on a case-by-case basis.

A motion by Supervisor Ryan, seconded by Supervisor Achadjian to uphold the appeal, is discussed.

Mr. John Nall: Environmental Specialist, indicates that this project will need an environmental review if the recommendation of the SRB is to be reversed and asks for time to complete this.

The motion maker and second amend their motion to make it tentative and continue it to November 23, 2004 for final action.

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

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

the Board tentatively upholds the appeal and continues the hearing to November 23, 2004 at 9:00 a.m. for final action.

9

C-4

This is the time set for hearing to consider an appeal by James Rickard of the Subdivision Review Board's denial of a vesting tentative parcel map, located on the north and south sides of Highway 166, in the Shandon/Carrizo Planning Area; 5th District.

Mr. Brian Pedrotti: Planning, presents the staff report; outlines the issues raised in the appeal and staff's response to the same relating to the issue of dividing this agricultural parcel into 5 separate parcels.

Mr. Jim Rickard: Applicant, presents a map of the property which shows how they want to divide the parcels up among the five brothers; states this was the request in his father's will and as executor of the will he is trying to fulfill those wishes; they don't want to remove the agricultural use and they want to keep the entire property in the family as it has been for 160 years; states at their pre-application meeting this alternative was suggested to them by staff.

Mr. Dennis Rickard: states he is one of the beneficiaries, outlines what his father stated in his will about keeping it in the family; states they will put this property into an Agricultural Preserve if the split is approved; urges the Board to uphold their appeal.

Mr. Bob Rickard: states they want to maintain the property as it is currently zoned and they want to increase the agricultural uses; speaks to what he has done to test for potential agricultural uses by setting up a weather station; addresses water options for the property; urges the Board to uphold the appeal.

Ms. Marianne Strange: states she is here on behalf of the Rickard family and their request for five lots; outlines what the family is trying to accomplish; urges the Board to uphold their appeal; addresses the concerns raised by the Air Pollution Control District.

Mr. Ben Maddalena: representing the Applicant, presents photographs of the site that were taken approximately 3 weeks ago; disputes the findings for denial of this request; cites various laws in support of approval; addresses agricultural uses and the continuation of the same by the family; urges the Board to uphold the appeal.

Chairperson Ovitt: addresses the request and suggests the need to make a condition addressing the road.

Supervisor Ryan: comments on the soil maps for this site; how the Applicant looked at the potentials for this parcel; and explains how the Agricultural Commissioner and Planning look at these types of requests.

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

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

the Board tentatively upholds the appeal, directs that the parcels being formulated that would cross Highway 166 cannot be used as a crossing in the future for further division and continues said hearing to December 7, 2004 at 9:00 a.m..

10 CS The Board cancels Closed Session.

Chairperson Ovitt: opens the floor to public comment.

Rev. C. Hite: addresses ADA Compliance requirements and the lack of County support for the disabled. **No action taken.**

11 D-1 This is the time set to consider a request to authorize processing of a General Plan Amendment (LRP2003-00011/DeGroot) to amend the South County Area Plan by changing the land use category from Agriculture to Residential Rural on a 40 acre site, located on the southwest corner of Los Berros and El Campo Roads in the rural area of the Nipomo Mesa; 4th District.

Mr. Jim Lopes: Planning, presents the staff report; presents an aerial photograph of the site; addresses the land use issues; presents additional information for the record and outlines two corrections to the staff report changing the references from the Templeton Advisory Group and CSD to the Nipomo Advisory Group and CSD and copies of letters from Joseph Boud and Timothy Cleath.

Supervisor Achadjian: states he was hopeful the other three parcels would request inclusion into this request.

Mr. Joe Boud: representing the Applicant, addresses the letter they submitted today regarding prior agricultural uses and the water supply; believes the request will be good for and consistent with the neighborhood; urges the Board to authorize processing of their request.

Mr. Michael Winn: speaking as a private individual, questions restrictions/exemptions to the Resource Management Study.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan, with Supervisors Bianchi and Pinard being absent, motion carries and the Board authorizes processing of the General Plan Amendment for LRP2003-000111/DeGroot and directs that the application be considered a "pipeline" project and is not to be impacted by any decisions of the

Board during discussions on the Resource Management Study scheduled for later today. Further, the Board directs staff to contact the property owners, to the west and east of this property, to see if they are interested in joining in on this amendment request.

- 12 D-2 This is the time set to consider a request to authorize processing of a General Plan amendment (G030017S/Woodlands Ventures LLC) to amend the Woodlands Specific Plan to add 5.4 acres of the 22.8 acre resort site to the first phase, located on the Nipomo Mesa in the South County planning area; 4th District.

Mr. Jay Johnson: Planning, presents the staff report; outlines the request and indicates this request has the support of the Nipomo Citizens Advisory Council.

No one appearing and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan, with Supervisors Bianchi and Pinard being absent, motion carries and the Board authorizes processing of the General Plan Amendment request for G030017S.

- 13 C-5 This is the time set for continued hearing (continued from October 19, 2004) to consider proposed amendments to the Estero Area Plan and Circulation Element of the Local Coastal Program and County General Plan, and related revisions to the San Luis Obispo Area Plan, Land Use Ordinance Chapters 22.92 and 22.108 - Adelaida and San Luis Obispo Planning Areas - Title 22 of the County Code, and various sections of the Coastal Zone Land Use Ordinance, Title 23 of the County Code; G970022X, G970010X, G980004X; 2nd District.

Mr. Mike Wulkan: Planning, addresses the prior hearings on this Update; indicates today is the date set to take final action on all the prior tentative actions; outlines what is included in the packet today.

Chairperson Ovitt: states the Board received two letters for the record which were from Central Coast Engineering and William Walter.

Ms. Bev Pratt: addresses the 124 acres her family has in Los Osos and has owned for more than 50 years; states they are requesting flexibility in order to build; addresses the limits to building they will have without the Urban Service Line (USL) being moved; indicates Rodman Dr. is not a sensitive area as cited at the October 19, 2004 Board meeting; asks for reconsideration of their request.

Mr. Bill Walter: representing the Pratt family, speaks to prior information and correspondence they have sent to the Board requesting that the USL be amended both by the Court and the Coastal Commission direction to submit one more application; presents 6 [sic] boxes of history on this property, for the record.

Mr. Dennis Schmidt: Central Coast Engineering, addresses the request by Morro Bay & Land Company to move the USL as referenced in his letter dated October 29, 2004.

Mr. Eric Greening: states the hearings have produced a better document in some areas and a worse document in other areas; feels there are still some issues that aren't completely addressed and suggests they may cause this document to "bounce" back from the Coastal Commission; addresses two actions taken by the SLO Coast Alliance (a coalition of over 30 environmental groups) at a recent meeting on October 29, 2004, relative to this plan, which were: (1) request that the environmental stream flow needs be liberally anticipated until they can be formally quantified; and, (2) that biological mitigations be rewritten not to depend on a not presently existent Los Osos Community Services District Habitat Conservation Plan; in both of these there are biological issues where the information is not in front of the Board to make a determination.

Chairperson Ovitt: clarifies for the record that Mr. Walter submitted 5 not 6 boxes with Mr. Walter indicating that is correct.

Mr. Tim McNulty: Deputy County Counsel, states he does not believe the Board should include the five boxes into the record as the Board has not reviewed the material.

Mr. Walter: clarifies that the boxes contain documents previously approved by the Board and Coastal Commission and Court documents; all are outlined in his letters to the Board; suggests if these boxes are not accepted it will be a violation of due process.

Supervisor Achadjian: suggests accepting them with the clarification that the Board did not review them.

Matter is discussed and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian, with Supervisors Bianchi and Pinard being absent, motion carries and the Board accepts the five boxes from Mr. Walter for the record with the understanding that these documents were not reviewed by the Board.

Supervisor Ryan: questions pages C-5-36 regarding 26 units be allowed here and then on C-5-39, language regarding sufficient sewer and water and concerns to the conflicts in language, with Mr. Wulkan responding and referring the Board to page C-5-41.

Supervisor Ryan: speaks to the USL above Cabrillo Estates and would like to see it moved above the Pratt and the Morro Bay and Land Company properties.

Mr. Wulkan: shows a map that has both the Pratt and Morro Bay & Land properties on it and outlines their requests to expand the USL to the 600 foot elevation.

Matter is discussed and thereafter, a motion by Supervisor Ryan, seconded by Supervisor Achadjian, to move the USL to the 600 foot elevation for the Pratt and Morro Bay & Land properties fails with Supervisors Bianchi and Pinard being absent and Chairperson Ovitt casting a dissenting vote.

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

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

RESOLUTION NO. 2004-350, resolution to amend the San Luis Obispo County General Plan, Land Use Element and Land Use Element/Local Costal [sic] Plan, and to adopt ordinances entitled "an ordinance amending Title 22 of the San Luis Obispo County Code, the Land Use Ordinance Chapter 22.92 - Adelaida Planning Area and Chapter 22.108 - San Luis Obispo Planning Area, relating to the Estero Area Plan Update," "An ordinance amending Title 23 of the San Luis Obispo County Code, the Coastal Zone Land Use Ordinance, Sections 23.04.186, 23.05.050, 23.06.100, 23.06.106, 23.06.108 regarding water quality and drainage; Section 23.05.100 regarding roads and bridges; Sections 23.04.200 and 23.07.104 regarding archaeological resources; Section 23.04.210 regarding visual resources; Section 23.04.220 regarding energy conservation; Section 23.04.440 regarding a community-based TDC Program for Los Osos; and Sections 23.01.043 and 23.11.030 regarding appeals within unmapped environmentally sensitive habitats," and "an ordinance amending specific sections of the San Luis Obispo County Land Use Ordinance, Title 22 of the County Code and the Coastal Zone Land Use Ordinance, Title 23 of the County Code" and to approve environmental documents, adopted. Further, the Board authorizes, for those amendments that affect the coastal zone, their submittal to the California Coastal Commission for consideration and certification.

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

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

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3047, an ordinance amending Title 22 of the San Luis Obispo County Code, the Land Use Ordinance Chapter 22.92 - Adelaida Planning Area and Chapter 22.108 - San Luis Obispo Planning Area, relating to the Estero Area Plan Update, adopted.

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

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

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3048, an ordinance amending Title 23 of the San

Luis Obispo County Code, the Coastal Zone Land Use Ordinance, Sections 23.04.186, 23.05.050, 23.06.100, 23.06.106, 23.06.108 regarding water quality and drainage; Section 23.05.100 regarding roads and bridges; Sections 23.04.200 and 23.07.104 regarding archaeological resources; Section 23.04.210 regarding visual resources; Section 23.04.220 regarding energy conservation; Section 23.04.440 regarding a community-based TDC Program for Los Osos; and Sections 23.01.043 and 23.11.030 regarding appeals within unmapped environmentally sensitive habitats, adopted.

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

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

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3049, an ordinance amending specific sections of the San Luis Obispo County Land Use Ordinance, Title 22 of the County Code and the Coastal Zone Land Use Ordinance, Title 23 of the County Code, adopted.

17 C-6 This is the time set for hearing to consider the Resource Capacity Study (Clerk's File) for water supply in the Nipomo Mesa Area; 4th District.

Mr. John Hand: Planning, presents the staff report outlining the Planning Commission's recommendations including a Level of Severity III for the water supply in the Nipomo Mesa area and six recommendations; presents an overhead map of the Woodlands area and states, making it clear, that the Woodlands has a separate, independent phasing program that is not part of the 2.3% growth limit; wants this to be clear in any action taken in Planning Area Standards; also the map should be changed in the Growth Management Ordinance itself to recognize the fact that the Woodlands is being treated differently.

Supervisor Achadjian: questions whether that is the language on page C-6-24 during the Planning Commission meeting, with Mr. Hand responding.

Ms. Pat Beck: Assistant Director of Planning and Building, clarifies this will come back at the May annual review of Growth Management to clarify that map as well.

Mr. Hand: continues outlining the recommendations by the Planning Commission highlighting Recommendation #4 and the language regarding reductions in the growth limits and water use and the use of actual numbers and suggests it shouldn't be reviewed at this point and should be done during the actual Growth Management hearings that are held annually; provides modified language for this recommendation.

Supervisor Achadjian: questions Recommendation #4 and suggests changing the word "reduce" to "reconsider"; addresses his concern to tying the hands of the Nipomo Community Services District (NCSO) versus what private purveyors can do.

Ms. Beck: addresses the need for an "assured water source" when doing tentative maps in this area versus the requirements for a General Plan Amendment and the differences between the two.

Chairperson Ovitt: addresses his concern to the use of "non-agricultural uses" with Ms. Beck responding that there was no intent to preclude Ag uses.

Supervisor Ryan: addresses the "over-draft" of water that is being claimed in this area; then the litigation that went to court on this and the judge's ruling that there wasn't an over-draft; and, also a report saying there isn't one either; then the County has one consultant's opinion that there is an over-draft; questions based on all this information why the County is basing their information on this one consultant's report and not utilizing the other information.

Mr. Hand: responds that he understands there are two tests to determine what is over-draft and two definitions as to what is over-draft; indicates that what the judge is saying is that before he would declare an over-draft he needs to see evidence that there is some negative impact from the over-draft and that would be in the form of land subsidence or seawater intrusion or some other negative impact; and, the Resource Management Study (RMS) is set up to avoid negative impacts from a resource deficiency.

Mr. Tim McNulty: Deputy County Counsel, addresses page C-6-7 and explains the language that would be the proposed area standard regarding non-agricultural water

demand; so the test wouldn't be whether or not the land itself was agricultural land but rather it would be the staff attempting to determine the historic use on the property and to distinguish agricultural uses of water on the piece that is proposed for a subdivision or a General Plan Amendment as opposed to non-agricultural uses of water on that same lot.

Mr. Jerry Bunin: Government Affairs for the Home Builders Association, refers to the letter they sent, dated October 18, 2004; states he likes the changes to the language, on Recommendation #4, by Supervisor Achadjian; supports the plans for water conservation, but to come back in 6 months with a noticeable difference is pretty much impossible; suggests they could live with a compromise that allowed builders to proceed with zone changes and General Plan Amendments and then condition the map recordation for either supplemental water or water use reduction; concerns about stopping people today from proceeding.

Mr. Denis Sullivan: Cypress Ridge developer, addresses the landscaping requirements; comments on the language in Recommendation #5 and his concern regarding the use of the language "non-agricultural" as he has 100+ acres that are not zoned agriculture but are being used for agriculture.

Mr. Jon Seitz: legal counsel for the Nipomo Community Services District (NCSD), addresses the MOU with the City of Santa Maria for a future agreement for water and agrees that the language in these recommendations should not limit agriculture; states the District supports the Level of Severity III.

Mr. Michael LeBrun: General Manager for the NCSD, states they are the only agency in the area doing something about the water issues; they support the Level III being recommended.

Mr. Ken Bornholdt: representing The Woodlands Project, presents a copy of his letter dated November 1, 2004 for the record; and presents language to replace language on the map being recommended by staff; recommends reducing the Level of Severity to a II.

Mr. John Janneck: The Woodlands, states they are the only development that has complied with the Department of Water Resources and the Level of Severity being recommended should not apply to this project.

Mr. Gale Gaucho: Summit Station, addresses his disagreement with the staff report based on the ruling by the judge for this area; states the Summit Station project will be before the Board in the near future and he has concerns regarding the restrictions; asks that Recommendation #5 be eliminated.

Mr. Ed Eby: presents two charts showing Nipomo Mesa Water Consumption and the safe yield and highlights the same.

Mr. John Brantingham: presents a copy of his comments for the record; addresses the various factors before the Board to establish the level of severity and believes the only level that can be justified is that of a II.

Mr. Greg Nester: developer, addresses the water issues in this area and wants to see the various types of uses of water stopped.

Mr. Michael Winn: NCSD President, urges the Board to support the staff recommendations and establish the Level of Severity III; urges support of the Board taking a stand on conservation today.

Mr. Bob Blair: NCSD Board member, states he does not support a Level of Severity III but does support a Level of Severity II and believes this area is not in the "bad" shape it is being reported to be in.

Ms. Carol Florence: representing Nipomo Oaks, addresses the amended language for Recommendation #5 by Supervisor Achadjian; further questions the impacts to those applications that have been in the "pipeline" since 2000.

Mr. Michael Job: states the judge ruled there wasn't a water shortage and is concerned about these recommendations.

Supervisor Achadjian: addresses the recommendations in the staff report indicating he agrees with Recommendation #1, #2 and #3 and the changes being proposed language for #4.

Clerk: reads the language for Recommendation #4 with the changes by staff and Supervisor Achadjian as follows: "Retain the 2.3% growth limit for the Nipomo Mesa Area

through FY 04/05. Reconsider the growth limit for FY 05/06 if water use in the districts of the major water purveyors is not significantly reduced compared to historical use rates."

Supervisor Achadjian: agrees with the revised language for Recommendation #4; wants to see Recommendation #5 deleted based on those in the pipeline; agrees with the language for #6 and suggests including the language by Mr. Bornholdt that would be added to the map and would change the note to read "Woodlands Specific Plan Area is not part of the Nipomo Mesa Area"; and, refers to two paragraphs in Mr. Janneck's November 1, 2004 letter that he wants included and asks the Clerk to read them into the record.

Clerk: (reading from the 11/1/04 Janneck letter) "The Woodlands is the only project that has proved its 20 year water supply, namely, dependable safe yield under the new State water law. The Board of Supervisors certified The Woodlands' verification and, in fact, was further validated by the recent court decisions in the Santa Maria water litigation. In view of the years of work, including, planning, analysis, Board findings, and court decisions, any changes to the level of severity for the Nipomo Mesa, either now or in the future, should not apply to The Woodlands Village."

Mr. Tim McNulty: Deputy County Counsel, indicates that if there is support for Supervisor Achadjian's direction with regard to The Woodlands that what the Board would be directing staff to do is to come back in the future with an amendment to the Growth Management Ordinance; indicating this is where the map that is being discussed exists and that is where the map annotation exists; the Board is not noticed today to actually amend the Growth Management Ordinance and the other recommendations are also direction to staff to come back with future amendments.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan, with Supervisors Bianchi and Pinard being absent, motion carries and the Board approves Recommendation #1 - Implement improved well monitoring and water quality assessment and monitoring programs.

Chairperson Ovitt: questions the difference between Recommendations #2 and #6, with Supervisor Achadjian and Mr. Hand responding.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan, with Supervisors Bianchi and Pinard being absent, motion carries and the Board approves Recommendations #2 and #6 together and reads as follows: #2 - Authorizes processing of an amendment to Section 22.112 of the Land Use Ordinance to add a planning area standard to expand the application of low water use landscape requirements in the Nipomo Mesa Area and #6 - Direct staff to issue building permits in the Nipomo Mesa Area only if building plans include the recommended indoor and outdoor water conservation measures.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan, with Supervisors Bianchi and Pinard being absent, motion carries and the Board approves Recommendation #3 which reads: Encourage water purveyors in the Nipomo Mesa Area to strengthen their water conservation programs, increase their use of reclaimed water and continue their efforts to secure supplemental water.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan, with Supervisors Bianchi and Pinard being absent, motion carries and the Board amends Recommendation #4 to read: Retain the 2.3% growth limit for the Nipomo Mesa Area through FY 04/05. Reconsider the growth limit for FY 05/06 if water use in the districts of the major water purveyors is not significantly reduced compared to historical use rates.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan, with Supervisors Bianchi and Pinard being absent, motion carries and the Board deletes Recommendation #5 that would authorize the processing of an amendment to Section 22.112 of the Land Use Ordinance to add a planning area standard to require requests for General Plan Amendments and land divisions to demonstrate either that no increase in water use would result from the proposed development, or to provide supplemental water to offset any projected increase.

Supervisor Achadjian: questions The Woodlands project concerns.

Mr. Bornholdt: references the map on page C-6-5 of the staff report (Figure 112-3) and states this map is the map that applies to Land Use Standards and is not the GMO

map; states that Ms. Beck stated they would be bringing back the GMO map that would show clearly that The Woodlands is not part of the 2.3% area.

Chairperson Ovitt: states the Board had not taken an action to declare the Level of Severity at III.

A motion by Supervisor Ryan, seconded by Supervisor Achadjian to maintain a Level of Severity II throughout the entire area, is discussed.

Ms. Beck: questions leaving it at a Level II and indicates that the exhibit (map) would include The Woodlands because it's also at a Level of Severity II; the Board may need to amend, in the Growth Management, the area where the 2.3% applies because the Board would have established its own phasing schedule and doesn't believe the map matches what this action would do.

Supervisor Ryan: believes that Woodlands can be left out of the map as they have their own separate approval for water, building, etc.

The motion maker and second amend their motion to add the language by Mr. Bornholdt to be placed on the map and the two paragraphs from the letter by Mr. Janneck dated November 1, 2004 as previously read into the record by the Clerk regarding The Woodlands project.

Matter is fully discussed and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian, with Supervisors Bianchi and Pinard being absent, motion carries and the Board maintains a Level of Severity II throughout the entire Nipomo Mesa Area; amends the note on the map to read "Woodlands (shaded area) Specific Plan Area is not part of the Nipomo Mesa Area" and includes, for clarification, the two paragraphs from Mr. Janneck's letter of November 1, 2004 the read: "The Woodlands is the only project that has proved its 20 year water supply, namely, dependable safe yield under the new State water law. The Board of Supervisors certified The Woodlands' verification and, in fact, was further validated by the recent court decisions in the Santa Maria water litigation. In view of the years of work, including, planning, analysis, Board findings, and court decisions, any changes to the level of severity for the Nipomo Mesa, either now or in the future, should not apply to The Woodlands Village."

Ms. Beck: questions an issue raised regarding the multi-family and single family allocations; indicates there is an imbalance between multi-family and single family and currently all the multi-family allocations have been used up for the year; if the Board wants to review the allocations, this could be discussed in December, with the Supervisors indicating they would like to discuss this at that time.

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 2, 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: November 16, 2004
vms