

Tuesday, May 24, 2005

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, Jerry Lenthall, K.H. 'Katcho' Achadjian, James R. Patterson and Chairperson Shirley Bianchi

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY CHAIRPERSON SHIRLEY BIANCHI.

SUM AGN

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

AYES: Supervisors Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

RESOLUTION NO. 2005-138, resolution commending Claudette Rettig for her years of dedicated service to the residents of San Luis Obispo County and the State of California, adopted.

Supervisor Lenthall: reads the resolution and presents the same to Ms. Rettig.

Ms. Rettig: thanks staff members and the Board for their support of Mental Health programs.

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

AYES: Supervisors Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

RESOLUTION NO. 2005-139, resolution commending Robin Heaney for her years of dedicated service to the residents of San Luis Obispo County and the State of California, adopted.

Supervisor Patterson: reads the resolution and presents the same to Ms. Rae Belle Gambs, who accepts the resolution on behalf of Ms. Heaney.

Ms. Gambs: thanks the Board for recognizing Ms. Rettig and Ms. Heaney for their service to the Mental Health Board.

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

AYES: Supervisors Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

RESOLUTION NO. 2005-140, resolution recognizing Steve Sinton as the American Farmland Trust Steward of the Land, adopted.

Chairperson Bianchi: reads the resolution and presents the same to Mr. Sinton.

Mr. Sinton: thanks the Board for the recognition and for attending the event at the Santa Margarita Ranch.

Supervisor Ovitt: thanks Mr. Sinton for his service on the Water Resources Advisory Committee.

Supervisor Patterson: thanks Mr. Sinton; states there has never been a time when Mr. Sinton has said no when asked to help on a project.

Chairperson Bianchi: states the attendance at the Santa Margarita Ranch event speaks to the high regard the people of the County have for Mr. Sinton.

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

Mr. Jesse Arnold: reads from an article in Catalyst Magazine regarding genetically engineered corn and states he has shown the article to the Agricultural Commissioner.

Mr. Eric Greening: states he agrees with the previous speaker; is glad to see Mr. Sinton honored; and states time is needed on the agenda to refine the TDC program.

Mr. Mac McCullar: discusses the Grand Jury Report regarding difficulties with volunteers at the information stations; states he has volunteered over 700 hours of service; he and other volunteers try to direct people appropriately; invites the Grand Jury to sit down with him to discuss the matter.

Mr. Steve Thayer: states Big Brothers/Big Sisters was started in the County 10 years ago and on behalf of the Board of Directors honors the Board for their support and presents them with a plaque.

Mr. Michael Kovacs: states he believes the public is afraid of the Board.

5 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-16, and questions the location of the wells to be abandoned.

Mr. Eric Greening: discusses Item B-22 and questions whether this decision will act as a point of no return with respect to the implementation of the Nacimiento Water project.

Mr. Michael Kovacs: discusses the items regarding rate increases and the Board's salaries and benefits. **No action taken.**

6 B-1 thru B-33 Consent Agenda Item B-3 is amended to reflect the Phase 2 construction estimate as \$581,207 instead of \$531,200. Items B-15 and B-19 are withdrawn.

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

AYES: Supervisors Ovitt, Achadjian, Lenthall, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

Consent Agenda Items B-1 through B-33 are approved as recommended by the County Administrative Officer and as amended by the Board.

Consent Agenda Items B-1 through B-33, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items Set for Bid Opening:

B-1 Letter transmitting plans and specifications (Clerk's File) for the Trout Creek Pipeline Relocation (Contract No. 300190), Salinas Dam Water Supply, **Approved and the Clerk is instructed to give notice of Bid Opening Date set for June 16, 2005 at 3:00 P.M.**

- B-2 Letter transmitting plans and specifications (Clerk's File) for the construction of the Lopez Water Treatment Plant Upgrade Project (Contract No. 300189) at 2845 Lopez Drive, Arroyo Grande, **Approved and the Clerk is instructed to give notice of Bid Opening Date set for June 30, 2005 at 3:00 P.M.**
- B-3 Letter transmitting plans and specifications (Clerk's File) installation of new pavement areas at the San Luis Obispo County Regional Airport, **Approved and the Clerk is instructed to give notice of Bid Opening Date set for June 30, 2005 at 3:00 P.M.**

Auditor-Controller Items:

- B-4 Request to approve an interim rate adjustment of 1.18% for the garbage hauling services in Avila Beach, Nipomo, rural Arroyo Grande, Halcyon and other unincorporated areas of South San Luis Obispo County, provided by South County Sanitary Services, Inc., **Approved.**
- B-5 Request to approve: 1) an interim rate adjustment of 1.71% for the garbage hauling services in San Simeon, Morro Bay, and Los Osos provided by Mission Country Disposal Services, Inc.; and 2) a 22% rate increase in San Simeon for a recycling program, **Approved.**
- B-6 Submittal of a cash procedures review of the County Treasurer's Office, conducted on March 11, 2005, **Received and filed.**

Behavioral Health Items:

- B-7 Request to appoint Normal J. Hoffman to the Mental Health Board, **Approved.**
- B-8 Request to appoint Joyce R. Heddleson to the Mental Health Board, **Approved.**

Board of Supervisors Items:

- B-9 Request by Supervisor Ovitt to appoint Beverly Ann Rillo as District One representative to the Templeton Public Cemetery District, **Approved.**
- B-10 Request by Supervisor Bianchi to appoint Kenneth W. Eberle as a District Two representative to the Cambria Public Cemetery District, **Approved.**
- B-11 Request by Supervisor Lenthall to appoint Robert C. Mires to the Water Resources Advisory Committee, **Approved.**
- B-12 Request by Supervisor Lenthall to appoint Bonnie Engberg to the San Luis Obispo County Commission on Aging, **Approved.**

County Fire Items:

- B-13 **RESOLUTION NO. 2005-141**, commending CDF Fire Captain Michael Lowery for 36 years of service, **Adopted.**
- B-14 **RESOLUTION NO. 2005-142**, commending CDF Battalion Chief Nicholas Hustedt for 32 years of service, **Adopted.**

General Services Items:

- B-15 Request to approve an amended agreement with Douglas K. Wagnon and Julie Anne Wagnon doing business as "Spirit of San Luis" at the San Luis Obispo County Regional Airport extending the agreement to 2027, **Withdrawn.**
- B-16 Budget adjustment in the amount of \$30,000 from Countywide Maintenance Projects to complete work on an existing maintenance project (San Luis Obispo – Abandon Monitoring Wells; Project No. 300080), **Approved.**
- B-17 1) A new capital project for the development of a playground at Lopez Lake Recreation Area, WBS Project # 300267; and 2) a corresponding budget

adjustment in the amount of \$297,900 from unanticipated revenue, **Approved.**

- B-18 Submittal of the 2005 Disadvantaged Business Enterprise Program goals for the General Services Department, **Approved.**

Probation Department Items:

- B-19 Request to approve authorization of the Chief Probation Officer to execute and sign a contract between the Probation Department and Solutions Unlimited for the Revenue Recovery Collection Unit of the Probation Department to provide collection services to Solutions Unlimited for delinquent court-ordered debt, **Withdrawn.**
- B-20 Budget adjustment in the amount of \$7,765 to Fund Center 139- Probation, for the purchase of a copier; and 2) amend the fixed asset list to reflect the purchase of the new equipment, **Approved.**

Public Works Items:

- B-21 Amended agreement (Clerk's File) with Questa Engineering Corporation for professional engineering services associated with an engineering feasibility study/design, **Approved.**
- B-22 Request to approve: 1) an amended Memorandum of Understanding to the Nacimiento Project Water Delivery Entitlement Contract, **Approved**; 2) **RESOLUTION NO. 2005-143**, to reimburse preliminary project effort costs; **Adopted**; and 3) a corresponding budget adjustment in the amount of \$18,390,000, **Approved.**
- B-23 **RESOLUTION NO. 2005-144**, establishing the 2005-2006 Special Tax Rate and confirming the per parcel special tax amount in Nipomo Lighting, Zone E (Tract 1700, Los Pinos Estates), **Adopted.**
- B-24 **RESOLUTION NO. 2005-145**, to levy sewer availability charges for County Service Area No. 7-A (Oak Shores) and County Service Area No. 18 (San Luis Obispo Country Club Estates), **Adopted.**
- B-25 **RESOLUTION NO. 2005-146**, to levy water availability charges for County Service Area No. 16 (Shandon) and County Service Area No. 23 (Santa Margarita), **Adopted.**
- B-26 **RESOLUTION NO. 2005-147**, establishing the 2005-2006 Special Tax Rate and confirming the per parcel special tax amount in County Service Area No. 21, Pineridge Drive Road improvement zone, **Adopted.**
- B-27 **RESOLUTION NO. 2005-148**, establishing the 2005-2006 Special Tax Rate and confirming the per parcel special tax amount in County Service Area No. 21, Ashby Lane Road improvement zone, **Adopted.**
- B-28 **RESOLUTION NO. 2005-149**, amending the Traffic Regulation Code establishing the yield right of way intersections on Schoolhouse Lane at Eton Road, Cambria; on Monte Road at Squire Canyon Road and on Monte Road at San Luis Bay Drive, near Avila Beach, **Adopted.**
- B-29 Bid opening report for the construction of site improvements for a carbon absorption unit for County Service Area 10/10A at Cayucos Water Treatment Plant (Contract No. 300203), **Approved and the Chairperson is instructed to sign contract documents with Raminha Construction, Inc. in the amount of \$89,835.**
- B-30 Bid opening report for the construction of a bridge over the Salinas River on Las Pilitas Road, near the community of Santa Margarita and request to approve a corresponding budget adjustment in the amount of \$481,253, **Approved and the Chairperson is instructed to sign contract documents with A.J. Diani Construction Company, Inc. in the amount of \$1,619,082**

B-31 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. Tract 2466, a proposed subdivision resulting in 16 lots, by George E. Newman, Mesa Road, Nipomo; reject the offer of dedication without prejudice to future acceptance; **Approved.**
- B. CO 96-0121, a proposed subdivision resulting in 4 lots, by Morro Creek Ranch, State Highway 41, east of Morro Bay, **Approved.**

Other Items:

B-32 Amended agreement (Clerk's File) with the Children and Families Commission, **Approved.**

B-33 Request from the Information Technology Department to authorize the Chief Information Officer to apply for the U.S. Environmental Protection Agency Grant in the amount of \$164,000 for a web content management solution and design of the online media as part of the eGovernment project, **Approved.**

7

C-1 This is the time set for hearing to consider: 1) a resolution of necessity for acquisition of property by eminent domain for Bennett Road extension for requirements of Tract 2559 near the community of Templeton; and 2) request to approve a corresponding budget adjustment in the amount of \$796,000; 1st District.

Mr. Tim Smith: Right-of-Way Agent, presents the staff report and recommends the Board begin eminent domain proceedings; adopt the resolution of necessity for acquisition of property and approve the budget adjustment in the amount of \$796,000.

Mr. Michael Ryder: JM Development, states he appreciates the Board approval.

Supervisor Ovitt: discusses the traffic flow changes and traffic controls to be installed.

Chairperson Bianchi: states she has been bothered by the project and is offended by the taking of someone's property; requests review of policies and procedures, in particular all necessary property for the project be acquired, before final approval of a project is given.

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

AYES: Supervisors Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2005-150, resolution of necessity for the Bennett Way Extension requirements of Tract 2559, adopted. Further, budget adjustment to the Road Fund in the amount of \$796,000, approved.

8

C-2 This is the time set for hearing (introduced April 19, 2005) to consider a resolution vacating a portion of Upper Lopez Canyon Road; 4th District.

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

Supervisor Achadjian: thanks everyone for all their work on this issue and questions why there are signatures missing from the easement agreement.

Mr. James Lindholm: County Counsel, states the Board should direct the question to the parties involved regarding the status of the agreement.

Mr. Mel Hahn: questions if the Board received his email; asks the Board to delay their decision for 30 to 60 days to allow property owners time to reach an agreement; discusses the possibility of a permit being required to cross U.S. Forestry land that is vacated; opposes this item until all his issues are resolved.

Ms. Jackie Estes: discusses problems with off-road vehicles trespassing on private property and destroying vegetation; riders creating campfires and drinking; residents are patrolling the area, putting out campfires; and is concerned about possible wildfires this summer.

Mr. Mark Ciccone: supports the vacation of this road; discusses “paramilitary groups” coming into the area and discharging weapons; and urges the Board to take action on this item today.

Mr. Tim Carmel: representing the Applicant’s, presents a photo of vehicles in the area; addresses the current easement agreement and subordination agreement; asks the Board to restore the road to pedestrian use only; believes the existing road is unsafe and is a source of destructive behavior; property owners are looking for safety from trespassers and wildfires.

Mr. Don Righetti: representing the Righetti Family, agrees with a gate at Big Falls; and asks the Board to postpone their decision for 30 days to work out issues with the easement agreement.

Mr. Roy Odgen: representing the Righetti Brothers, asks for a 30 day extension; states prior speaker’s fire concerns are too early; he believes the property owner’s access could be revoked by CDF; easement agreement needs to be signed and a title search completed; he has not had time to review the changes made to the easement agreement that were presented to the Board.

Mr. Warren Sinsheimer: Attorney, representing Melvin Hahn, and th Jansen Trust, states he doesn’t object to vacating the road as long as property owners rights have not been diminished; discusses the need for future utility easements; there hasn’t been a title search done; believes the vacation should begin at the boundary between the forest and the Applicant’s property and not on the Forest Service property; asks the Board to postpone their decision for 4 to 6 weeks.

Ms. Kathleen Phelps: District Ranger for CDF, states they support the vacation of the road from the property line between the National Forest Service and the private land on the north end of the Big Falls parking lot and this will eliminate the need for a permit from the Forest Service; supports closing the road to motorized public access; states this should eliminate the trespassing and campfire issues; she is concerned about bicycles trespassing in the wilderness area.

Supervisor Lenthall: questions whether a permit from the Forest Service for a property owner to access their home whether it can later be revoked.

Ms. Phelps: responds per the Anilca Act, that says in part that once the permit access is established it cannot be revoked; states she will send a copy of the Act to the Board.

Mr. Eric Greening: states his concern with the road going into the creek and the impacts on the creek ecosystem.

Mr. John Troutner: Applicant, supports the Board approving the vacation today; the easement concerns can be addressed later; believes the Applicants have done their due diligence; the road should be vacated where requested.

Mr. Steve Spencer: discusses arrests yesterday in the canyon; issues with trespassing have been going on since 1987; supports this item being approved today.

Mr. Smith: discusses Streets & Highway Code Section 960 which protects the private property owner’s interest, and the resolution reserves future utility easements.

Supervisor Ovitt: states he believes if a boundary line is moved to the property line it would eliminate the issue.

Mr. Smith: states if the Board changes the boundary line he would have to come back to the Board with a revised legal description.

Supervisor Patterson: speaks in support of vacation of the road with the revised legal

description.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Lenthall and unanimously carried, the Board tentatively approves vacating a portion of Upper Lopez Canyon Road and requests staff bring this item back on June 14, 2005 at 9:00 a.m., with all the concerns raised by Board members, staff and the public addressed, for final approval.

9 C-3 This is the time set for hearing to consider a resolution from the Sheriff-Coroner imposing a \$1.00 fee on private vehicles and an additional \$2.00 fee on commercial vehicles registered in the County.

Chief Deputy Gary Hoving: Sheriff's Department, discusses the CAL-ID program and introduces CAL ID Committee Chairperson Dennis Cassidy.

Chief Dennis Cassidy: Paso Robles Police Chief, presents the staff report; requests the Board adopt the resolution imposing the vehicle registration fee to provide funding to modernize the LiveScan system; discusses the Proposition 69 requirement of palm printing.

Ms. Kim Barrett: Chief Probation Officer, states there is no funding to replace the existing outdated system and urges the Board to adopt the resolution.

Chief Deborah Lindon: City of San Luis Obispo and CAL ID Board member, states her support for this item; addresses equipment needed for State mandated tasks; this system helps solve crimes and indentify individuals; indicates the Legislature has given this specific means of funding with strong controls on the use of the funds; indicates most counties already have this fee in place and urges the Board to support this request.

Ms. Jenifer Rhynes: Director of the YMCA and representing the Youth Sports Association, states they currently use rolled prints to screen individuals; effective July 1 the Department of Justice no longer take rolled prints; and urges the Board to support this item.

Supervisor Ovitt: questions the reason for the difference in fees for private and commercial vehicles with Mr. John Means, Sheriff's Department, responding.

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

AYES: Supervisors Achadjian, Lenthall, Ovitt, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2005-152, adopting a new fee on vehicle registration, adopted.

10 C-4 This is the time set for hearing (Introduced May 20, 2005) to consider an amendment to Title 18 to exempt projects in the boundaries of the Oceano Community Services District, Los Osos Community Services District, and the Santa Margarita fire protection district from the fire component of the public facilities fees; 2nd, 4th and 5th Districts.

Ms. Pat Beck: Assistant Director of Planning and Building, presents the staff report and addresses the proposed changes to Title 18 concerning the collection of fire protection fees in some communities.

Supervisor Bianchi: opens the floor to public comment without response.

Supervisor Ovitt: states that these communities don't have the ability to collect fees and it seems like a wasted opportunity to have to delete these revisions and then add them back in a couple months.

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

AYES: Supervisors Achadjian, Lenthall, Ovitt, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3065, an ordinance amending Title 18 of the San Luis Obispo County Code relating to Public Facilities Fees, adopted.

11 D-1 This is the time set for presentation of the Fiscal Year 2004-2005 Third Quarter Financial Report.

Mr. Jim Grant: Deputy County Administrative Officer, introduces Dan Buckshi, Administration, who will present the item.

Mr. Buckshi: presents the staff report; addresses the summary of the key departmental issues; issues noted in the first and second quarterly reports that have been resolved; addresses the need to increase General Fund support for the Agricultural Department; Clinical Lab, County Counsel, District Attorney, Parks, and the Sheriff; comments on the increase in California Department of Forestry contract; highlights the staff recommendations.

Supervisor Achadjian: questions the Agricultural Commissioner's gas tax shortfall with the higher gas prices.

Mr. Vince Morici: Administrative Office, indicates that the State projection of funds to be received by the counties was inaccurate and the percentage of money received from the State is not based on the price of gasoline.

Mr. David Edge: County Administrative Officer, states the gas tax collected by the State is for gas purchased for agricultural purposes only and the funds go to Agricultural Commissioner's offices Statewide.

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

AYES: Supervisors Ovitt, Achadjian, Lenthall, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

the Board receives, reviews and files the Fiscal Year 2004-2005 Third Quarter Financial Report; approves the budget adjustments totaling \$5,190,839 per Attachments A & B in the staff report dated May 24, 2005; accepts gift funds and donations on behalf of County departments totaling \$33,770.74 and approves associated transfers on behalf of the Library and Social Services in the amount of \$25,270.74; approves the request to discharge bad debts from Mental Health totaling \$35,391.21; and amends the Fixed Asset List for the Information Technology Department.

12 D-2 This is the time set for introduction of the Fiscal Year 2005-06 proposed budget.

Mr. Jim Grant: Deputy County Administrative Officer, presents staff report; discusses the State fiscal picture for 2005-2006 and the Governor's proposed budget; revenue losses due to the State Budget; balancing strategies to maintain the status quo; utilizing performance measurements; the limit use of Reserves; funding Contingencies at 5%; requested major budget increases and recommended staffing increases; outlines the cost of County services; Revenues received; Discretionary Revenue funding; staff is continuing to monitor the State budget discussions; discusses working with the California State Association of Counties (CSAC) and other associations to support County efforts in Sacramento; outlines the staff recommendations.

Supervisor Achadjian: questions if the reforms to Worker's Compensation have helped us at all.

Mr. Grant: responds that will not help us for a couple years, there is a leveling effect that has yet to take place.

Supervisor Patterson: questions the funds available to roads and if the Board needs to contact any legislators to support any particular legislation, with Mr. Grant responding.

Mr. Eric Greening: questions if the Mental Health budget was put together with the Mental Health Advisory Board and other agency recommendations; suggests the County shouldn't count on Proposition 63 money; questions if the County Biologist position is being funded; questions when the public will know if any departments are going at-issue.

Ms. Rae Bell Games: Mental Health Board Chair, comments the State budget deficit and the closing of General Hospital impact this has on the clinics; encourages look into building a new in-patient building; asks whether the Mental Health Service Act funds can be used to fund existing programs.

Mr. Michael Kovacs: discusses the tripling of County Budget in the last 18 years; believes the County's budget is being rubber stamped by the Board.

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

AYES: Supervisors **Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi**
NOES: None
ABSENT: None

RESOLUTION NO. 2005-153, approving the proposed budget for Fiscal Year 2005-06, adopted. Further, the Board sets the public hearings on the Proposed 2005-06 County Budget to begin Monday, June 20, 2005 in the Board of Supervisors Chambers at 9:00 a.m. and orders the publication of the required legal notice scheduling the public hearing.

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

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

A. Conference with Legal Counsel – Existing Litigation (Gov. Code, § 54956.9(a.) (Formally initiated) (1) *Santa Margarita Area Residents Together v. Co. of San Luis Obispo*; (2) *Building a Better Environment v. Co. of San Luis Obispo*; and (3) *Maria Vista Estates (CV050242) v. Co. of San Luis Obispo*.

B. Conference with Legal Counsel – Anticipated Litigation (Gov. Code, § 54956.9.) (4) *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.* (5) *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: (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: *Deputy Sheriffs Association*

Chairperson Bianchi: opens the floor to public comment without response.

Thereafter, the Board goes into Open Public Session.

14 C-5 This is the time set for hearing to consider amendments to the Growth Management Ordinance, Title 26, to continue the growth rate at 2.3% for Countywide allotments, set the Nipomo Mesa Area growth rate at 1.8% and to consider carryover of unused allotments from the previous year.

Ms. Kim Murry: Planning staff, presents the staff report; addresses setting the

countywide growth rate with the exception of Nipomo; discusses the Home Builders Association request and the staff inability to support their recommendation; discusses the uncertainty of the sewer project and the draft water management plan for Los Osos; addresses the Board's action on May 10th, regarding the Nipomo Resource Management System water issues; discusses how the 1.8% rate was established; outlines the water and traffic issues to be addressed; the carryover of 16 units for single family dwellings and if they are not used they will roll over into the multi-family category in Nipomo; indicates there are no changes recommended for Cambria as it is limited to a 1% growth rate with allowance for carryover until 2007; presents a corrected page for the Templeton Growth Rate Table; outlines the staff recommendations.

Mr. Ed Ebby: discusses the previous years growth and the impacts on traffic and resources; reads the letter from the Nipomo Community Services District dated April 11; asks the Board to set the growth rate for Nipomo at 1%.

Mr. Michael Winn: representing Larry Verhilig, asks the Board to approve the growth rate for Nipomo as low as possible.

Mr. Jerry Bunin: Home Builders Association of the Central Coast, states the Growth Management Ordinance is the reason there is "unaffordable housing" in the County and it impacts new development; The Tribune's front page article stated the median home price was \$536,000; there is a need to zone more land for housing to ease impacts; they support well designed high density projects when they are submitted; there is a need to streamline the development review process; recommends eliminating the Growth Management Ordinance; doesn't want a 2.3% growth cap for Templeton; asks that the Board not lower Nipomo's 2.3% cap; suggests issuing Nipomo's building permits in four even blocks every 3 months; carryover all unused permits; stop limiting individual builders in Nipomo to 10% of the annually issued permits or allow them to exceed the 10% by claiming unused permits each quarter; exempt mixed use residential development from the Growth Management Ordinance; delays in issuing fees is raising land prices to buyers and impacting the supply of homes.

Mr. Dennis Sullivan: discusses Nipomo water issues; feels the limit of 10% per single builder creates a hardship and asks the Board to remove the limitation.

Mr. Eric Greening: suggests setting the Resource Management Sources (RMS) findings and the growth rate hearing closer together; supports taking the advice of the Templeton and Nipomo Advisory Committees recommendations; asks the Board to set a hearing, in the future, on the Los Osos Water Management Plan; provides a further explanation of the mixed use exemptions.

Mr. Bill White: Templeton Area Advisory Group member, supports the staff recommendations.

Supervisor Patterson: questions if the RMS and the Growth Management Ordinance can be addressed closer together; discusses affordable housing being a major issue for the County; states there is a meeting tonight at 6 pm at the Vets Hall, unveiling the new inclusionary housing ordinance; on June 7th the Board will review the Smart Growth Ordinance and in July the Board will review RMS; supports staff recommendations with lowered rate of 1% for Nipomo.

Supervisor Achadjian: states if the growth in Nipomo had not occurred the situation would have been worse; discusses water issues; and supports the staff recommendation of 1.8%.

Supervisor Ovitt: states setting the growth rate at 2.3% in Templeton is premature, and this area is getting Nacimiento water; supports the staff recommendations.

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

AYES: Supervisors Achadjian, Ovitt, Lenthall, Chairperson Bianchi
NOES: Supervisor Patterson
ABSENT: None

RESOLUTION NO. 2005-154, the Board of Supervisors of the County of San Luis Obispo approving the carry over of 10% of the maximum allotment from the previous year to make those unused allotments available for distribution in the Fiscal Year 2005-06, resulting in an additional 100 units County-wide but precluding carryover of units for the Nipomo Mesa area, adopted.

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

AYES: Supervisors Achadjian, Ovitt, Lenthall, Chairperson Bianchi
NOES: Supervisor Patterson
ABSENT: None

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3066, an ordinance amending Title 26 of the San Luis Obispo County Code, the Growth Management Ordinance, Section 26.01.070, adopted.

16 CS The Board announces it will be going back into Closed Session.

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) *Santa Margarita Area Residents Together v. Co. of San Luis Obispo*; (2) *Building a Better Environment v. Co. of San Luis Obispo*; and (3) *Maria Vista Estates (CV050242) v. Co. of San Luis Obispo*.

B. Conference with Legal Counsel – Anticipated Litigation (Gov. Code, § 54956.9.) (4) *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. (5) *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: (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: *Deputy Sheriffs Association*

(SUPERVISORS HARRY L. OVITT AND K.H. "KATCHO" ACHADJIAN ARE NOW ABSENT.)

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: No report is required as no final action was taken and the Board goes into Open Public Session.

(SUPERVISOR HARRY L. OVITT IS NOW PRESENT.)

17 D-3 This is the time set for submittal from the Administrative Office of a resolution implementing the County's "Last, Best, and Final Offer" to the Deputy Sheriff's Association (DSA) and thereby completing impasse procedures.

(SUPERVISOR K.H. "KATCHO" ACHADJIAN IS NOW PRESENT.)

Mr. David Edge: County Administrative Officer, discusses a meeting earlier today with DSA representatives, at which time the DSA withdrew their last proposal; states the Board needs, for the record, the DSA position on the matter at this time.

Mr. Wyatt Cash: Deputy County Counsel, questions Mr. Anthony Perry, Executive Officer of DSA, if the "last, best and final offer" of May 10th is the final offer with Mr. Perry agreeing.

Ms. Gail Wilcox: Deputy County Administrative Officer, presents the staff report; summarizes the events that have lead to the impasse; discusses the Prevailing Wage

Ordinance; indicates a 11% increase is warranted; discusses pension rates, retro- pay, and County contributions; recommends the Board adopt the “Last, best and final offer.”

Mr. Bill Avery: County Negotiator, discusses the timeline for negotiations and impasse hearing; states the County’s offer is fair and reasonable; speaks to the good relationship he has with the DSA.

Mr. Darrin Murphy: President of the DSA, indicates the Sheriff’s Department is the most visible office in the County; the dispatchers are unappreciated; the Correctional Officers are working with inmates daily; Deputies put themselves in harms way to protect the community; discusses the physical and emotional impacts of the job; indicates five deputies have left this year to go to other counties that pay better.

Mr. Perry: states the DSA requested two extensions on this matter; discusses employer compensation for other local agencies; outlines the history of negotiations; discusses Prevailing Wage Ordinance.

Mr. Timothy Reilly: CPA, discusses the financial stability of the County; states the County has a strong balance in the General Fund.

Mr. Perry: states the County is in great financial position; indicates the California Highway Patrol established 3% at 55 in 2001; discusses comparable counties retirement formulas; the DSA has withdrawn the request for 3% at 55 for Correctional Officers; requests the Board bring County contributions to industry standards; indicates that 75% of San Luis Obispo County Law Enforcement Agencies have 3% at 50; discusses the results of a survey of the DSA members who would leave the Department if 3% at 50 is not implemented; discusses their tentative agreement on a number of issues; outstanding issues are special duties pay, the comp time cap being raised to 120 hours, addressing dispatcher inequities; discusses disadvantages of imposing the “Last, best and final offer”; DSA agrees to split cost of 3% at 55.

Mr. Michael Kovacs: states he has a problem supporting the Sheriff’s Department request as the County’s offer is 50% higher than rest of the County employees.

Mr. Gary Fowler: states he is running for Statewide Retirement Board and the State is currently taking away some of the current benefits it provides; PERS is expecting an increase in the County’s contribution and copays; Los Angeles County voted down benefits for their Sheriff’s Department; and he supports the DSA.

Mr. Gary Nemeth: states that the Paso Robles Police Department gives their officers 3% at 55; states Mr. Avery does a great job for the County; states that if he didn’t have the 3% at 55 retirement he and his family would be destitute.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Lenthall and unanimously carried, the Board agrees to continue past 5:00 p.m.

Mr. Gere Sibbach: County Auditor Controller, reads his letter to the Board dated May 24, 2005 regarding the Board’s past history of fiscally conservative decisions and asks the Board to reject demands to unilaterally fund dramatically more costly pension benefits; indicates the County is in a strong financial position through actions by this Board.

Ms. Wilcox: states the County has never used the inability to pay as an issue; services to the public are a higher priority.

Mr. Edge: presents a comparison of the DSA and County offers; indicates only 20% of County employees would be eligible and that’s unfair to the remaining 80% of employees who would not be eligible for 3% at 50 retirement; discusses retirement costs comparisons; and states the money could be made available but the Board would have to take money away from other County Departments and lessen available services.

Chairperson Bianchi: announces the Board is going back into Closed Session regarding Personnel matters.

I. PERSONNEL (Gov. Code § 54954.5)

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: No report is required as no final action was taken and the Board goes into Open Public Session.

- 19 D-3 A resolution implementing the County's "Last, Best, and Final Offer" to the Deputy Sheriff's Association (DSA) and thereby completing impasse procedures is brought back for further discussion.

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

AYES: Supervisors Ovitt, Lenthall, Achadjian, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2005-155, resolution of the Board of Supervisors to take appropriate action in accordance with Article IV, Section 4, of the County Employee Relations Policy regarding the meet and confer impasse between the County and the Deputy Sheriffs' Association, adopted.

Mr. Edge: clarifies that Page D-3-8 doesn't mean there is a contract with this action; DSA can continue to bargain and the retro- pay goes forward; there are still issues the DSA will have to vote on.

On motion duly made and unanimously carried, the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, does now adjourn.

I, **JULIE L. RODEWALD**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, May 24, 2005, 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/C.M. Christensen,
Deputy Clerk-Recorder

DATED: June 14, 2005

cmc