

Tuesday, September 25, 2001

The Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, met in regular session at 9:00 A.M..

PRESENT: Supervisors Harry L. Ovitt, Shirley Bianchi, Peg Pinard, Michael P. Ryan and Chairperson K.H. 'Katcho' Achadjian

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY CHAIRPERSON ACHADJIAN.

SUM

AGN

1 A-1 This is the time set for Presentation by the County's Legislative Representative Don Peterson.

Mr. Don Peterson: County's Legislative Representative, discusses the two major issues that are being dominated in the Legislative Session: 1) redistricting of legislative districts in the State; and, 2) the MOU with Southern California Edison; addresses other Legislature that was sent to the Governor including: AB589 a Bill that would continue and shift a loan program to a grant program for property tax administration; AB867, this Bill allows the San Luis Obispo County Pension Trust Fund to contract with other local public agencies in the County to keep employees in the same retirement trust; the second section of the Bill deals with the \$500,000 monies belonging to the Sheriff; states another item of concern for this County is the Park Bond Measure that was approved by Legislature which would bring a possible \$1.2 million for parks; SB497 limits the number of changes that can be incorporated in old subdivisions and allows lot line adjustments on four contiguous parcels; indicates this Bill is on the Governor's desk awaiting his signature; addresses AB1150 which deals with telecommunication property; states CSAC is discussing an initiative measure that would restrict raids on revenue that counties have; thanks Senator O'Connell and Congressman Maldonado and their staff.

Board Members: address various issues, comments and concerns regarding: conflicting mandates from different State Agencies regarding General Plans; the attempt to take away local control and the Edison buy out, with Mr. Peterson responding. **No action taken.**

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

Mr. Eric Greening: addresses Item B-3 indicating exemptions are a piecemeal way of doing business; suggests at the hearing, criteria for exemption should be built into the ordinance.

Ms. Pam Marshall Heatherington: Interim Hospital Authority Board, addresses Item B-4 and thanks the Board for moving forward.

Ms. Biz Steinberg: Vice Chairperson Children and Family Commission, addresses the health and well being of children in the County; urges the Board to maintain the pediatricians at the Family Care Center.

Ms. Peggy Harlan: states Child Protective Services (CPS) needs to be held accountable; urges the Board to establish a system of checks and balances.

Mr. Charles Andrew McMeans: The Real Facts, states the Grand Jury was charged with overseeing a government agency that lacked the power to do the job; addresses the conflicting interest regarding County Counsel being counsel for both the Grand Jury and CPS; agrees with the financial consideration in the proposed response.

Mr. Robert B. Kirk: addresses problems with CPS; indicates children are being abused in foster care.

Ms. Dianne Tuttle: states she has a complaint with CPS and feels an outside

organization is needed to monitor them.

Ms. Angie King: addresses Item B-7; states something is wrong when parents are afraid of an agency that is in charge of protecting our children; urges the Board to modify the staff report and direct CPS to cooperate with the Grand Jury.

Ms. Mary Ellen Giebler: The Real Facts, addresses the abuse of power in the CPS department; addresses the obligation of the Board to investigate; Mr. Collins indicated he needed specifics and when given those specifics nothing was done; states their group is getting larger and stronger.

Ms. Jan Potter: Commission Status of Women, states CPS is under funded, under manned and over burdened; urges a thorough investigation.

Ms. Sue McMeans: The Real Facts, states they personally were subjected to intimidation and abuse by CPS; the CPS staff would not seek all the information; indicates the social worker would not listen; feels County Counsel is intentionally trying to block the investigation.

Ms. Carie Randolph: explains the complaint process she went through in dealing with Social Services; indicates she was not satisfied with the outcome.

Ms. Elizabeth Gregory: addresses Item B-7; asks the Board not to support the response and urges a full investigation.

Ms. Nancy C. La Grille: states she is appalled by stories she has heard; questions the Grand Jury's involvement; feels criminals have more rights than children.

Ms. Susan Howe: states San Luis Obispo CPS is known for their problems; feels the Board has not read the report.

Ms. Ponni T. Stuart: feels CPS, Family Court and Family Court Services have an attitude that they can do whatever they want; addresses the abuse by CPS. **No action taken.**

3

B-1 thru B-30 Consent Agenda Item B-7 is withdrawn for separate action. Items B-15, 16 and 17 are misnumbered on the cover sheet and are amended as follows: B-15 is numbered B-16, B-16 is numbered B-17, and B-17 is numbered B-15. Items B-28, B-29 and B-30 are added to the Consent Agenda. **Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Bianchi and on the following roll call vote:**

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

Consent Agenda Items B-1 through B-30 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-30 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 construction of guard railing on various county roads; 2nd and 4th Districts, **Approved and the Clerk is instructed to give notice of bid opening set for October 25, 2001, at 3:00 P.M..**

B-2 **RESOLUTION NO. 2001-379**, intention to surplus and sell County owned real property to an adjacent property owner in the unincorporated area of Cambria; 2nd District, **Adopted and the Clerk is instructed to give notice of hearing date set for October 16, 2001, at 9:00 A.M..**

- B-3 Introduction of an ordinance amending the Growth Management Ordinance (Title 26 of the County Code) exempting up to 46 new residential units from the Growth Management Ordinance in the community of Avila Beach; 3rd District, **Approved and the Clerk is instructed to given notice of hearing date set for October 2, 2001, at 9:00 A.M..**
- B-4 Introduction of a notice setting a public hearing to consider proposed changes in physician staffing and clinic procedures at San Luis Obispo County General Hospital, **Approved and the Clerk is instructed to give notice of hearing date set for October 9, 2001, at 9:00 A.M..**

Administrative Office Items:

- B-5 Board of Supervisors' response to the 2000-2001 Grand Jury Report on the Superior Court Holding Facility, **Approved.**
- B-6 Board of Supervisors' response to the 2000-2001 Grand Jury Report on the County Jail Facility, **Approved.**
- B-7 Submittal of the Board of Supervisors' response to the 2000-2001 Grand Jury Report on Child Protective Services, **Withdrawn for separate action.**
- B-8 Domestic preparedness terrorism equipment grant funds in the amount of \$50,753 on behalf of the San Luis Obispo Operational Area; All Districts, **Approved.**

Behavioral Health Items:

- B-9 Contract (Clerk's File) with Rebekah Children's Services to provide group home services for Mental Health clients, **Approved.**
- B-10 State grant application (Clerk's File) for continuation of the Federal Substance Abuse and Mental Health Services Administration block grant funded programs for 2001-02, **Approved.**
- B-11 Steven Ladd as a public member to the Mental Health Board, **Approved.**

Board of Supervisors Items:

- B-12 Allocation of \$1,500 from District Four Community Project Funds to the Nipomo Chamber of Commerce to cover expenses associated with holding the 2001 October Festival, **Approved.**
- B-13 Allocation of \$1,500 from District Two Community Project Funds to the North Coast Advisory Council to over costs associated with holding North Coast Advisory Council monthly meetings, **Approved.**
- B-14 Allocation of \$1,000 from Community Project Funds (District Two - \$250 and District Five - \$750) to the Atascadero High School 2002 Grad Nite Committee to be used for scholarships for the 2001 Safe, Alcohol and Drug free graduation celebration, **Approved.**

Health Department Items:

- B-15 An agreement (Clerk's File) with the State Department of Health Services/Immunization Branch to provide funding for immunization services; 2) a joint jurisdiction agreement (Clerk's file) with the Central Coast Immunization Registry; 3) a corresponding budget adjustment in the amount of \$25,955 from unanticipated revenue, **Approved as amended and RESOLUTION NO. 2001-380**, amending the position allocation list for Budget Unit 3000 - Public Health by adding one full time Limited Term Senior Typist Clerk position, **Adopted as amended.**
- B-16 The Healthy Tomorrows Partnership for Children Program Grant, **Approved as amended.**

- B-17 Allocation of \$1,000 from Community Project Funds (District One - \$100, District Two - \$250, District Four - \$50, and District Five - \$750) to the City of Atascadero Police Department to be used for the Drug Abuse Resistance Education (D.A.R.E.) Program, **Approved as amended.**

Planning Items:

- B-18 Agreement (Clerk's File) with Level 3 Communications, to provide fiberoptic cable for future County telecommunications use; All Districts, **Approved.**
- B-19 Proposed mitigated negative declaration for the Old Oak Park Road Bank Stabilization Project; 4th District, **Approved.**

Public Works

- B-20 Five agreements (Clerk's File) with various Senior Citizens Clubs to provide reimbursement for transportation services; 1st, 2nd, 4th and 5th Districts, **Approved.**
- B-21 **RESOLUTION NO. 2001-381**, establishing the terms of revolving fund appropriations to County Service Area No. 18 (San Luis Obispo Country Club Area) and a request to approve a corresponding budget adjustment in the amount of \$184,500; 4th District, **Adopted.**
- B-22 **RESOLUTION NO. 2001-382 and 2001-383**, for acceptance of road widening along Hazel and relinquishment of rights of ingress and egress along Tefft Street, Nipomo; 4th District, **Adopted.**
- B-23 **RESOLUTION NO. 2001-384**, accepting road improvements on Mesa Road, Nipomo; 4th District, **Adopted.**

Other Items:

- B-24 Destruction of unaccepted bids during the period of June 24, 1996 through September 5, 1996, **Approved.**
- B-25 An amended lease with Jack and Charlotte Foster to provide additional office space for the Department of Social Services, **Approved.**
- B-26 Contract with Forensic Laboratory Services, Inc., to assist in the investigation and detection of crimes, **Approved.**
- B-27 Contracts (Clerk's File) with the California State Association of Counties and the Electronic Data Systems Corporation for the management and maintenance of automated welfare programming services, **Approved.**

ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.)

- B-28 A letter opposing a proposal by the California Public Utilities Commission to shift energy costs from Southern to Northern California, **Approved.**
- B-29 Three contracts (Clerk's File) with San Luis Obispo County YMCA to provide activities for middle school students, **Approved.**
- B-30 **RESOLUTION NO. 2001-385**, approving a contract with Lifeguard to provide employee group health insurance, **Adopted.**

- 4 B-7 Submittal of the Board of Supervisors' response to the 2000-2001 Grand Jury Report on Child Protective Services, is presented.

Based on discussions during, the Consent Agenda Supervisor Bianchi withdrew this item for separate discussion.

Supervisor Bianchi: indicates she read this item twice; addresses a telephone inquiry by the Grand Jury and stresses the importance of documentation; feels the

Grand Jury was not aware of it's options in obtaining information; feels this issue needs to be reinvestigated.

Supervisor Ryan: concurs with Supervisor Bianchi; states the Grand Jury needs to come back and take the steps they have the ability to take; then the Board can take action from that point.

A motion by Supervisor Ryan to approve the response to the Grand Jury report and forward a copy of the response to the Grand Jury Foreman and the Superior Court Presiding Judge, is discussed.

Board Members: discuss various issues, comments and concerns regarding: a system of checks and balances; the Grand Jury for 2001-2002 having access to today's transcript; clear direction given to the current Grand Jury as to what their investigation will consist of next time; issues of intimidation and the inability of the Grand Jury to obtain information; sending a letter to the Grand Jury suggesting they look at these issues.

Supervisor Pinard: states she does not want to support something that will approve the status quo.

Matter is fully discussed and thereafter, a motion by Supervisor Ryan, seconded by Supervisor Ovitt to approve the response to the Grand Jury Report and forward a copy of the response to the Grand Jury Foreman and the Superior Court Presiding Judge, fails on the following roll call vote:

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

Supervisor Ryan: indicates the Board needs to approve the response before the Board today and then indicate this investigation was not adequate and that the Board wants to see this further investigated.

A motion by Supervisor Bianchi to approve the response indicating this investigation was not adequate and directing the Grand Jury to conduct further investigations, is discussed.

Mr. Lee Collins: Director of Social Services, states the Grand Jury had authority to review any case for which the parents agreed they could view and management would have no knowledge of which case was being reviewed; believes the investigation was incomplete; feels this years approach is being conducted in a more complete and thorough manner; states the Department has received many allegations and some are true; states each allegation is taken seriously; states he wants to know about the problems along with the facts; the Board is being asked to follow the law and take action on a Grand Jury report and feels the direction to the current Grand Jury is appropriate in asking them to further investigate and use all the options that are available to them.

Mr. David Edge: County Administrative Officer, suggests a cover letter accompanying the response indicating the Board encourages the Grand Jury to more fully investigate and if there are legal limitations that are frustrating them that they are spelled out in the report so that steps can be taken to change laws that would allow random reviews.

Supervisor Ryan: states the motion on the floor is to approve the response based on the information before the Board deeming the information inadequate and direct a further investigation.

Supervisor Bianchi: withdraws her motion.

A motion by Supervisor Bianchi to accept the Grand Jury Report with the understanding that it is inadequate and forward a copy of the response to the

Grand Jury Foreman and the Superior Court Presiding Judge, is discussed.

Mr. James Lindholm: County Counsel, states it is the Board's responsibility to file a response on behalf of the County; suggests filing the report and urge the Grand Jury to work out the process problems and continue with the substance of investigation of the complaints.

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

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

the Board accepts the Grand Jury Report with the understanding that it is inadequate and directs staff to forward a copy of the response to the Grand Jury Foreman and the Superior Court Presiding Judge.

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

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

the Board will send a letter to the Grand Jury recommending they work out the process problems and investigate the substance of complaints that have been made.

5 C-1 This is the time set for hearing to consider expenditure proposals for the use of State Citizens Option for Public Safety Program (COPS) funds.

Mr. Nick Marquart: Sheriff's Department, presents the staff report and recommendation.

No one appearing and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ryan and unanimously carried, the Board approves the use of the current year program funds and interest of \$588,312, as stated in the schedules of the staff report dated 9-26-2001, amends the fixed asset list, and approves the corresponding appropriation adjustments.

6 C-2 This is the time set for hearing to consider: 1) a resolution terminating the maintenance of a 2.3 mile section of Upper Lopez Canyon Road, northwest of the entrance to the Big Falls Trail; and 2) erecting a gate where County maintenance would end, to prevent vehicle traffic beyond that point; 4th District.

Mr. Glen Priddy: Assistant Public Works Director, presents the staff report; describes the road and the two issues before the Board: 1) whether to terminate the maintenance of Upper Lopez Canyon Road; and, 2) whether to have a gate constructed at the end of the County maintained road; presents history of the road and photos of the area; addresses criteria for terminating the road; indicates staff is recommending terminating County maintenance however, staff is neutral regarding the gate and has no specific recommendation; addresses a letter by Mr. Galloway indicating his concern to losing the road maintenance.

Board Members: discuss various issues, comments and concerns regarding: the expense of the gate being picked up by the property owners; the ability to police the gate; the emergency response time to the area; if there is a road easement; the number of property owners past the gate location; if there are other access ways, with staff responding.

Mr. Wayne Peterson: representing Lopez Canyon Conference Center, states this is a 40 acre facility that is used for camping; states his concern for fire hazard; asks

the Board to direct staff to actively enforce current fire regulations in the Canyon.

Ms. Linda Spencer: states there are eighteen other routes that lead to the National Forest; addresses the emergency response and the cost of road maintenance; states she is in favor of having a gate.

Mr. Jamie Copple: U. S. Forest Service, states he is in favor of the termination of road maintenance and putting in the gate; addresses the road condition and his concern for firefighter's safety.

Ms. Lorraine Hutchinson: describes the area and its beauty; states the public has no respect for private property owners; addresses the need for a gate.

Ms. Rinda L. Webber: states she favors limited access to Upper Lopez Canyon Road; indicates it's a difficult place to live and maintain; addresses the need for regular patrolling by the Sheriff's Department; urges closure of the road.

Mr. Charles Clark: states he is a property owner that treasures the beauty of the area; indicates they take care of the area as best they can; indicates parties are held beyond Big Falls because they know the police can't get there; urges the placement of a gate.

Ms. Susan Clark: states as property owners they are aware of the risks in living there; their concerns are for illegal campfires; addresses public safety and urges the placement of the gate to prohibit vehicular use only.

Mr. Josh Beene: Cal Poly Motorcycle Club, states a gate will not prevent crime; indicates their club goes there to enjoy nature and the beauty of the area; states the closing of this trail will just congest another.

Mr. Mel Hahn: Trustee of Janzen Ranch, states they are opposed to the termination of the maintenance; addresses the access to the Ranch and the establishment of the road; states the original grant established this road as a public right-of-way.

Mr. Ty Green: Representing the Janzen Trust and Dr. Maino, indicates they oppose both the gate and the termination of County maintenance; addresses the responsibility to ensure public safety; feels if a gate goes up it will cause nothing but problems; states the public have been the ones to maintain the road; urges the Board to continue this item until these problems can be resolved.

Mr. Jerry Miller: Gold Coast 4-Wheel Drive Club, feels if a gate goes up it would be discriminating against those who can't get up the road by walking; opposes the gate.

Mr. Mark A. Meulpolder: Gold Coast 4-Wheel Drive Club, states this area is a nice retreat for a family getaway; indicates they try to educate people regarding leaving the area clean; states restricting access is not the answer.

Ms. Pam Marshall Heatherington: Executive Director of the Environmental Center of San Luis Obispo, urges the Board to assure access to hiking and biking trails.

Ms. Leslie Krinsk: states three government agencies that provide emergency services to the Canyon have all stated they are not equipped to respond beyond Big Falls; addresses County liability and the County's obligation to maintain a road for non-resident property owners.

Mr. Neil Havlik: Natural Resources Manager for the City of San Luis Obispo, states the City owns 320 acres in the Lopez Canyon area; indicates this property is used for wildlife habitat and recreation; states the City has tried to curtail illegal activities in the area and supports the restriction of vehicle access beyond the Big Falls trail; addresses the protection of Lopez Creek; urges approval of the staff recommendation.

Mr. Eric Greening: states he is favor of the gate; believes the road is not up to

contemporary standards; questions the informal maintenance of the creek beds and if any agencies are in the loop.

Mr. Bryon Grant: states the gate better be a substantial gate because people will pull them out; questions if the County maintenance is stopped does the road become a private road.

Mr. Thomas Sutherland: questions if the road is not being maintained by the County does the liability then fall to the property owner.

Mr. Priddy: states it's staffs' intention that in terminating maintenance there would still be a public easement left on the road and the liability remains the same whether the road is maintained by the County or not.

Mr. Dan Turner: CDF Chief, states his concern is with the violators in the area; clarifies that their vehicles cannot get past Big Falls; there is no radio communication past Big Falls which creates a question of officer safety; states they do respond to fires past Big Falls, they just use different tactics; indicates no matter if the road is maintained or if a gate is put in, CDF will respond with the first concern being officer safety.

Mr. James Lindholm: County Counsel, states if the Board terminates the maintenance the road will still remain a County Highway; indicates the Board could come back and restrict or abandon the use; addresses access rights.

Mr. Noel King: Public Works Director, states right now Public Works does not maintain the road beyond the Big Falls area; indicates this item is to legalize the present status; states he doesn't want the residents in the Canyon counting on an unrealistic level of service.

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

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

RESOLUTION NO. 2001-386, resolution terminating maintenance of a portion of Upper Lopez Canyon Road, County Road No. 2035 Supervisorial District No. 4, adopted.

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

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

the Board directs staff to pursue the goal of having a gate on the road and develop what standards would be applicable to the gate and bring it back to the Board.

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

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

A. Conference with Legal Counsel - Existing Litigation (Gov. Code, § 54956.9(a).) (Formally initiated) 1) *In re Lum*, 2) *In re PG&E*, 3) *Curry v. County of San Luis Obispo*, 4) *Merritt v. County of San Luis Obispo* and **ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.) 7) *Mulholland v. County of San Luis Obispo*, 8) *Paso***

Watch v. County of San Luis Obispo and 9) Santa Maria Valley Water Conservation District v. City of Santa Maria.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.) 4) *Significant exposure to litigation (Gov. Code, § 54956.9(b).) No. of cases* 3. Facts and circumstances not known to potential plaintiff which indicate significant exposure to litigation. 6) *Initiation of litigation (Gov. Code, § 54956.9(c).) No. of cases* 2.

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

Thereafter, pursuant to the requirements of the Brown Act, the Board goes into Open Public Session.

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

Ms. Joy Fitzhugh: hands the Board a brochure entitled Landowners Protecting Their Watersheds indicating this is a result of an environmental grant and thanks the Board for their support.

Mr. Gary Fowler: compliments staff on a great job done at the SLO Veterans building; states he would suggest adding a television and VCR for meeting purposes; addresses the South County clean-up days scheduled for October 20 and 21; urges the County to continue setting aside money for clean up days.

Mr. Michael Kovacs: states the attacks on the United States is due to public servants failure to protect the public; feels citizens need to be involved in their government; hopes the President carries out his plan.

Mr. Lester Goldfisher: states The New Times referred to General Hospital as a soap opera; questions how the Board will justify the firing of the two pediatricians; addresses Mr. Hood's title as the CEO of Medical Services. **No action taken.**

9 CS Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: No report required because no final action was taken.

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 25, 2001, by the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts.

JULIE L. RODEWALD, County Clerk-Recorder
and Ex-Officio Clerk of the Board of Supervisors

By: /s/Cherie Aispuro,
Deputy Clerk-Recorder

DATED: 09/28/2001
cla