

Tuesday, December 11, 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    **Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt and on the following roll call vote:**

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

**NOES:**            None

**ABSENT:**        None

**RESOLUTION NO. 2001-497, resolution honoring Robert W. Carr for 28 years of Exemplary Service as Director of the San Luis Obispo County Air Pollution Control District, adopted.**

**Chairperson Achadjian:** reads the resolution and presents the same to Mr. Robert Carr.

**Mr. Steve Lavagnino:** Representing Assemblyman Abel Maldonado, reads an Assembly Certificate of Recognition commending Mr. Carr and wishes him well on his retirement.

**Mr. Carr:** thanks everyone for the recognition; indicates support from County Departments, the Board, and the public have been instrumental in achieving clean air in the County; states his career with APCD has been a great one and he hopes many of the programs that were started during that time will live on.

**Mr. Paul Allen:** APCD staff, states he worked with Mr. Carr for 24 years and feels he is a true public servant; indicates Mr. Carr's style and values have made him the leader he is today; states he will be missed.

**Mr. Larry Allen:** APCD staff, addresses his leadership within the District and the State; indicates he will be missed. **No action taken.**

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

**Mr. Eric Greening:** addresses Item B-28A; questions the anticipated phasing of build-out for this Tract and whether this project exempt from any allocation list. **No action taken.**

3            B-1    Consent Agenda Item B-23 is amended to correct the coversheet by changing the amount  
thru        of the budget adjustment from \$57,210 to \$59,252. Item B-33 is added to the Consent  
B-33        Agenda. **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

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

Consent Agenda Items B-1 thru 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 and hearing:

B-1        Plans and specifications (Clerk's File) for asphalt concrete overlay of 1.96 miles of Los Osos Valley Road and 1.54 miles of South Bay Boulevard; 2nd District, **Approved and the Clerk is instructed to give notice of bid opening set for January 10, 2002, at 3:00 p.m..**

B-2        Introduction of a proposed ordinance amending Chapter 2.56.070 Pension Trust, of the County Code authorizing the Board of Supervisors to enter into contracts with public agencies in San Luis Obispo County to participate in the Pension Trust; All Districts, **Approved and the Clerk is directed to give notice of hearing date set for December 18, 2002, at 9:00 a.m..**

- B-3 **RESOLUTION NO. 2001-498**, to purchase real property located in the unincorporated area of San Margarita and adjacent to Santa Margarita Lake, using Proposition 12 - Per Capita Grant Funds to fund the acquisition, **Adopted and the Clerk is directed to give notice of hearing date set for January 22, 2002, at 9:00 a.m..**
- B-4 **RESOLUTION NO. 2001-499**, to lease County owned real property located at 717 Walnut Drive in the City of Paso Robles to a non-profit public benefit organization for the primary purpose of providing dental services to needy children, **Adopted and the Clerk is directed to give notice of hearing date set for January 15, 2002, at 9:00 a.m..**

Administrative Office Items:

- B-5 The 2001-2002 Visitors Services agreement with Cal Poly Arts to offset costs associated with the Stone Soup Ethnic Music Faire in Grover Beach, **Approved.**
- B-6 Amended memorandum of understanding with the Air Pollution Control District, converting the Air Pollution Control Officer/Director from a County position to an at-will contract position, **Approved.**
- B-7 **RESOLUTION NO. 2001-500**, amending the position allocation list for Budget Unit 2570 - Grand Jury, adding one half-time Administrative Assistant Series position, **Adopted.**

Board of Supervisors Items:

- B-8 Appointment of Don Talley to the Economic Advisory Committee, **Approved.**
- B-9 Allocation of \$1,500 from District Four Community Projects to the Nipomo Community Advisory Committee to cover costs associated with holding monthly advisory meetings, **Approved.**

County Fire Items:

- B-10 Agreement with Allan Hancock Joint Community College District and San Luis Obispo County Fire to provide fire technology instruction, **Approved.**
- B-11 Automatic-aid agreement for emergency response with Oceano Community Services District, **Approved.**
- B-12 Automatic-aid agreement with Santa Barbara County, United State Forest Service, Bureau of Land Management and the Highway Patrol for emergency responses along the Highway 166 corridor, **Approved.**

General Services Items:

- B-13 Lease agreement with Woods Humane Society Inc., for County owned property in the unincorporated area of San Luis Obispo, commonly known as the County Operation Center, **Approved.**
- B-14 Amendment to a lease agreement with Thomas and Gail Garris, dba Garris Properties, to continue leasing office space at 1035 Walnut Street, San Luis Obispo for County Counsel, **Approved.**
- B-15 Amended agreement with Douglas and Julie Wagnon, dba Spirit of San Luis Obispo, to allow for roof repairs in exchange for rental credits in an amount not to exceed \$14,505, **Approved.**
- B-17 **RESOLUTION NO. 2001-501**, authorizing execution of a notice of completion and acceptance for the Terminal Expansion project at the San Luis Obispo County Regional Airport, **Adopted.**

Health Items:

- B-18 Appointment of John Larson as the Public-at-Large Representative to the Independent Hearing Panel for Solid Waste Local Enforcement Agency, **Approved.**
- B-19 **RESOLUTION NO. 2001-502**, amending the position allocation list for Budget Unit 3000 - Public Health, by adding one full-time Accounting Technician position and deleting one full-time Administrative Assistant III position, **Adopted.**

Medical Services Items:

- B-20 Contract amendment with Creekside Orthopedic Rehabilitation, Inc., to continue providing physical therapy services for Medical Services patients, **Approved.**
- B-21 Contract amendment with William J. Casey, Inc., to allow for the hiring of a Business Office Manager, **Approved.**
- B-22 Contract with Susan Smith, M.D. to provide physician services at the Atascadero Family Care Center Clinic, **Approved.**

Probation Items:

- B-23 **RESOLUTION NO. 2001-503**, authorizing the Interim Chief Probation Officer to accept a grant award in the amount of \$55,166 from the California Office of Criminal Justice Planning for the Juvenile Accountability Incentive Block Grant Program, and a request to approve a corresponding budget adjustment in the amount of \$57,210, **Adopted as amended.**
- B-24 **RESOLUTION NO. 2001-504**, authorizing the Interim Chief Probation Officer to accept a grant award in the amount of \$248,680 from the United States Department of Justice to support a sex offender management planning, and a request to approve a corresponding budget adjustment in the amount of \$248,680, **Adopted.**
- B-25 **RESOLUTION NO. 2001-505**, authorizing the Probation Department to pursue funding from the United States Department of Justice to implement the Juvenile Drug Court, **Adopted.**
- B-26 **RESOLUTION NO. 2001-506**, accepting a grant award from the California Youth Authority for a Young Men as Fathers Parenting/Mentoring Program, **Adopted and**; 2) a corresponding budget adjustment in the amount of \$52,760; and 3) a contract with Planned Parenthood, Inc., to implement the Young Men as Fathers Parenting/Mentoring Program, **Approved.**

Public Works Items:

- B-27 **RESOLUTION NO. 2001-507**, authorizing execution of a notice of completion for the construction of curb ramps at various location in the county; 1st, 2nd, 3rd and 4th Districts, **Adopted.**
- B-28 The following maps:
  - A. Tract 1933, Unit 3, a proposed subdivision resulting in 102 residential lots by Cypress Ridge Limited Partnerships, Halcyon Road at El Campo Road, Nipomo, **Approved**, and **RESOLUTION NO. 2001-508**, approving a road fee agreement; 4th District, **Adopted.**
  - B. Tract 2087, a proposed subdivision resulting in 7 lots, by George Newman et al, Eucalyptus Road, Nipomo, reject the offer of dedication without prejudice to future acceptance; 4th District, **Approved.**

Other Items:

- B-29 Contract with the State Victim Compensation and Government Claims Board to continue to provide direct payment of funeral/burial expenses and relocation expenses for victims of crimes, **Approved.**
- B-30 Contract (Clerk's File) with Victor Treatment Centers, Inc., dba Willow Creek Treatment Center, to provide group home services for Mental Health clients, **Approved.**
- B-31 **RESOLUTION NO. 2001-509**, adjusting the normal rate of employee contributions to the Pension Trust and reducing the scheduled increase to the Rate of Appropriation by the County, **Adopted.**
- B-32 **RESOLUTION NO. 2001-510**, approving the Proposed Mitigated Negative Declaration for the Lopez Lake Recreation Area Water Well Project; 4th District, **Adopted.**

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

- B-33 Appointment of Tom Blankenship, Robert Drue, and Karen Rooney to the Board of Directors of the Creston Hills Community Services District, **Approved.**

- C-1 This is the time set for hearing to consider an appeal by RRM Design Group of the Subdivision Review Board's approval of eight conditional Certificates of Compliance, for five

adjacent parcels of approximately 9.96 acres and three adjacent parcels of approximately 6.17 acres, located adjacent to Highway 101, south of the City of Atascadero; 5th District.

**Ms. Pat Beck:** Planning, asks the Board to continue this item to provide staff sufficient time to complete a review of new information submitted by RRM Design Group regarding the agricultural preserve status of the project site.

**No one appearing and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt and unanimously carried, the Board continues this item to February 26, 2002 at 9:00 a.m..**

- 5 C-2 This is the time set for hearing to consider an appeal by RRM Design Group of the Subdivision Review Board's approval of a conditional Certificate of Compliance for an approximate 3.14 acre property, located adjacent to Highway 101, south of the City of Atascadero; 5th District.

**Ms. Pat Beck:** Planning, asks the Board to continue this item to provide staff sufficient time to complete a review of new information submitted by RRM Design Group regarding the agricultural preserve status of the project site.

**No one appearing and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt and unanimously carried, the Board continues this item to February 26, 2002 at 9:00 a.m..**

- 6 C-3 This is the time set for hearing to consider an appeal by El-Jay Hansson of the Subdivision Review Board's approval of sixteen conditional Certificates of Compliance/Coastal Development Permit, for approximately 3.9 acres located in the village of Callender-Garrett, west of Nipomo, near Highway 1; 4th District.

**Clerk:** indicates staff is requesting this item be continued to January 15, 2002.

**No one appearing and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Bianchi and unanimously carried, the Board continues this item to January 22, 2002 at 9:00 a.m..**

- 7 D-1 This is the time set for request to accept bid results, award a construction contract with Speciality Construction Inc., of San Luis Obispo for demolition and excavation in the amount of \$1,350,300 and approve the Negative Declaration (Clerk's File) for the new County Government Center.

**Mr. Duane Leib:** General Services Director, presents the staff report; presents an update on the project; addresses fiscal uncertainty at the State and local levels; discusses several reasons why staff feels the project should move forward: 1) the construction would serve as a stimulus to the local economy; 2) the near-term local bidding climate is favorable due to the recession; 3) the lowest interest rates in recent history are available while the future rates are unclear; 4) completing this project will realize rental savings of about \$450,000 per year while a delay would require lease extensions with potential increased costs; 5) project momentum is currently at a peak; a delay or stoppage would trigger changes due to new or modified codes and regulations in addition to remobilization or restart fees to design consultants; 6) the efficiency of departmental consolidation and the need for the Courts expansion gained through this project will become more pressing in the future; 7) all funding for this project is currently appropriated and approximately \$4 million has been spent; 8) delaying the project could put its construction timing in conflict with other downtown projects; recommends the Board accept the results of the public bid opening; award a construction contract in the amount of \$1,350,300 to the low bidder, Specialty Construction Inc. of San Luis Obispo and approve the Mitigated Negative Declaration for the New County Government Center, P5302.

**Mr. Eric Greening:** states he understands the reasons why the County does not want to lose momentum however, at this time the project does not have a very good perception when the County is below the nationwide standard when it comes to libraries; addresses the downtown viability and hopes if the Board has any questions regarding the future of this project they will postpone the demolition.

**Mr. David Edge:** County Administrator, states Mr. Greening "hit the nail on the head" indicating if the Board feels there will be a delay in the future they may not want to move forward with the demolition; states Mr. Leib did a good job in outlining the County's position; the funding is in place and the need for a new facility is unchanged.

**Board Members:** discuss various issues, comments and concerns regarding: the perception of moving forward with this project during a recession; the project being an opportunity to

save money for the County; employing local people during a recession and taking advantage of the low interest rates; funding; the plan for library expansion; delaying the project will increase the price.

**Supervisor Bianchi:** states she has received many letters asking how the County can think of building a New Government Center when General Hospital is in the state it's in; asks Mr. Jim Grant, Administration Office, to address the financial issue.

**Mr. Grant:** explains the combination of funding sources.

**Mr. Edge:** states General Hospital is an operational issue for the Board and is in the process of a three year turn-around plan and if successful, the next goal would be to find a physical facility; indicates it's not a matter of General Hospital or the Government Building as they are on two separate tracks.

**A motion by Supervisor Ovitt, seconded by Supervisor Bianchi to accept the results of the public bid opening; award a construction contract in the amount of \$1,350,300 to the low bidder, Specialty Construction, Inc. of San Luis Obispo and approve the Mitigated Negative Declaration for the New County Government Center, P5302, is discussed.**

**Supervisor Ryan:** indicates he will not support the motion due to the "perception" it will have on constituents; feels the future holds too many financial unknowns.

**Matter is fully discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Bianchi, with Supervisor Ryan casting a dissenting vote, motion carries and the Board accepts the results of the public bid opening; awards a construction contract in the amount of \$1,350,300 to the low bidder, Specialty Construction, Inc. of San Luis Obispo and approves the Mitigated Negative Declaration for the New County Government Center, P5302.**

8

F-1 This is the time set for submittal of a resolution amending the ballot question wording for Measure A-02, Tobacco Settlement Funds Initiative.

**Ms. Julie Rodewald:** County Clerk-Recorder, presents the staff report; addresses the proponents concern regarding the County failing to include language that was required by the Elections Code and also objecting to wording in the proposed ballot question and particularly to the use of the word "subsidizing"; hands the Board a revised copy of the resolution and another document with proposed ballot measure wording and reads the amended language.

**Ms. Linda Somers Smith:** states Ms. Rodewald presented a good summation of the controversy surrounding this issue; indicates they still have problems with the wording in the ballot question; ask that the ballot question language be simplified and mirror the language in the initiative; states they object to the use of the word "subsidizing" and feel the word is not impartial and should be removed.

**A motion by Supervisor Ryan, seconded by Supervisor Bianchi to adopt the second amended resolution, is discussed.**

**Board Members:** discuss various issues, comments and concerns regarding: the definition of "subsidizing"; the order of the percentages in the ballot question; the last sentence in the ballot question being moved, with staff responding.

**Mr. James Lindholm:** County Counsel, states staff has a recommendation before the Board and the Board has the discretion to make any changes; indicates in listening to Ms. Smith the only issue they have presently is with the word "subsidizing".

**Supervisor Ryan:** modifies his motion to have the percentages put in descending order, with **Supervisor Bianchi concurring.**

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

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

**the Board directs staff to change the order of the percentages in the ballot questions to descending order and RESOLUTION NO. 2001-510, a resolution amending resolution #2001-455, changing the Ballot Question wording for Measure A-02 to be submitted to the voters on the March 5, 2002 Primary Election Ballot, adopted as amended.**

**Ms. Rodewald:** states due to the ballot language being changed asks if the Board and the proponents would sign a statement as to whether or not they would like to amend their original arguments; indicates both parties have until 5:00 p.m. on Thursday to make any changes.

**Mr. Edge:** states he doesn't believe the change of language has impacted what was submitted and would sign a letter on behalf of the Board a letter indicating that to Ms. Rodewald.

9 G-1 This is the time set for a request for Board direction on processing of appeals on the decision of the Subdivision Review Board concerning the lot line adjustment/development plan for the Santa Margarita Ranch and the lot line adjustment for the Oak Shores Development Company.

**Mr. Vic Holanda:** Planning and Building Director, states the Subdivision Review Board took action on December 3, 2001 to approve a lot line adjustment and development plan for Santa Margarita Ranch (COAL 00-0292/D000195D) and a lot line adjustment for the Oak Shores Development Company (COAL 99-0141); indicates an appeal was filed contesting several items in the conditions of approval for COAL 00-0292/D000195D; states other appeals can be filed during the 14 day appeal period that ends at the close of business on December 17, 2001; indicates the Department is requesting Board direction on when to set the matter for hearing.

**Mr. Eric Greening:** addresses the fast tracking of this process with no analysis of conditions; speaks to the lack of community support; addresses traffic issues; wants to know if other applicants have been given the opportunity to state what makes their projects special; urges the Board not to set a special hearing.

**Mr. Steve Crandall:** states this project should not be rushed; feels it has safety concerns; indicates they want the full amount of time for their appeal.

**Ms. Jude Rock:** requests the hearing on the appeal be scheduled on a Board Agenda like any other hearing; indicates SB 497 is not a new law but an amendment to an existing law; addresses the application submitted; states the project was approved with conflicting conditions by the Subdivision Review Board; the Board's job is to uphold the law and honor the public process and to work for the good of the community; questions the cost of a special meeting and the community interest being served by having a special meeting on the New Years Eve holiday.

**Mr. Rob Rossi:** states they don't suggest having a special meeting; they are prepared to let the project run it's course; indicates he's available for any questions the Board may have.

**Matter is fully discussed and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt and unanimously carried, the Board sets the date of January 22, 2002 at 9:00 a.m. for the hearing on Santa Margarita Ranch.**

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

**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*, and 2) *In re PG&E*.

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

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

Thereafter, the Board goes into Open Public Session.

**(SUPERVISORS PEG PINARD AND MICHAEL P. RYAN ARE NOW ABSENT.)**

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

**Mr. Tom Barrett:** introduces the new Police Chief for Pismo Beach, Mr. Joe Cortez.

**Mr. Cortez:** states he is excited to be back in California and working in Pismo Beach.

**(SUPERVISORS PEG PINARD AND MICHAEL P. RYAN ARE NOW PRESENT.)**

**Ms. Jonni Biaggini:** addresses the new Destination Guide; states they still have not recovered from September 11, 2001; urges the Board to help promote San Luis Obispo County by wearing the products (baseball hat, t-shirt, etc.) given to them today; wishes the Board a happy holiday season.

**Ms. Linda McElver:** speaks against the “Right to Farm” amendment and urges the Board to deny it.

**Dr. Greg Thomas:** Health Agency Director, speaks to an incident regarding a member of the public threatening a County employee with anthrax; states this threat was taken seriously and the individual was arrested; thanks the Planning and Sheriff’s Departments for their cooperation; wants everyone to be aware that bio-terrorism threats will not be taken lightly.

**Mr. Art Trinidad:** Code Enforcement, states there are public servants out in the field everyday and any kind of hoax or threat will not be taken lightly; indicates this kind of activity puts quite a burden on the Health and Sheriff’s Departments.

**Ms. Pamela Dean:** speaks to the Oceano/Halcyon Advisory Committee in respect to their actions regarding the Oceano Community Center; addresses alcohol being served at the proposed Center; states they have asked the Planning Commission to make this a drug free zone; indicates they have filed an appeal.

**Ms. Peggy Wilson:** states she helped finance the appeal against the Oceano Community Center; speaks to the reasons why she moved to Oceano; addresses the make-up of the 12 member Oceano Community Center, Inc. Board indicating only 4 of the members are from Oceano; states without the County Board of Supervisor’s support this project would not be going forward.

**Mr. David Edge:** County Administrator, addresses the safety of County employees; states he would hope the public would treat County employees the way they would expect to be treated.  
**No action taken.**

12 CS Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: in the case of 1) *In re Lum* a notice of withdrawal was filed and the Civil Service Commission accepted the withdrawal of the appeal; states the termination of Mr. Lum is now final; no additional report is required because no final action was taken.

13 E-1 This is the time set for consideration of three proposals on solid waste franchise services and review of franchise fees.

**Mr. Paavo Ogren:** Public Works, presents the staff report; indicates the purpose of this discussion is to review issues and proposals recently received from a new franchisee; reviews franchise fees charged to waste haulers; and discusses related solid waste policy issues; presents a brief background regarding solid waste franchise services and recent changes which include the transition of authority to community services districts for Heritage Ranch, Oceano, Templeton, Los Osos, and Nipomo and a new Franchisee, Mid-State Solid Waste & Recycling; addresses three proposals and explains each: 1) not to exceed rates; 2) frequency of service; and, bin services vs. roll-off services.

**Board Members:** discuss various issues, comments and concerns regarding: how an incentive program would work; accountability; having local management establish the incentive program; “not to exceed” rates; volume based billing, with staff responding.

**No one appearing and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt and unanimously carried, the Board supports the concept of a “new customer incentive program” and directs staff to process proposals by solid waste franchisees provided that the franchisee’s rate schedule includes variable can rate structures pursuant to existing Board policy on AB 939.**

**Mr. Ogren:** presents a brief background regarding franchise fees and the use of the fees; describes the solid waste franchise fees and expenditures for Budget Year 2001-02; presents surveys of local franchise fees and one from El Dorado and Santa Barbara counties; feels the 10% fees the County charges are not unreasonable fees.

**Supervisor Ryan:** feels the franchise fee approach should remain the way it is, with the Board concurring.

14 H-1 This is the time set for consideration of Charter Communication’s Petition with the Federal Communications Commission for Determination of Effective Competition.

**Mr. Paavo Ogren:** Engineering, presents the staff report; indicating on November 26, 2001 Charter Communications submitted to the Federal Communications Commission (F.C.C.) a petition for Determination of Effective Competition; states if the petition is approved by the F.C.C. it would deregulate Charter's cable rates in the unincorporated areas of the County; presents a brief background on existing policy; a chart of customer refunds as a result of a Board Order; gives a chronology of a 2001 rate proposal by Charter; speaks to the impacts of "effective competition"; addresses Rate Regulation versus Franchising Authority; explains the "test" for effective competition; recommends comments to F.C.C. be based on review of Charter's factual assertions; zip code areas do not coincide with either the franchise area or the area Charter is actually providing service and therefore, the information included in the petition is insufficient to factually determine whether Effective Competition exists; alternative recommendations include: 1) provide no comments to F.C.C.; or 2) staff's recommendation plus a) F.C.C. should require Charter to prepare additional, factual information or b) F.C.C. should provide the County with additional time to prepare additional factual information; states no comment would be in support of Charter and the comment period ends December 31, 2001.

**Board Members:** discuss various issues, comments and concerns regarding: verifying Charter's numbers; methodology used in obtaining the numbers; the overlapping of zip code numbers in and outside the city limits; no real competition in the area.

**Mr. Ed Merrill:** General Manager of Charter Communications, states the information and calculations provided are the best they can do; indicates the information come directly from the satellite providers themselves; indicates they compile the zip codes, service areas and census information to make a reasonable number for the calculation; states there is competition out there; indicates they are trying to meet the F.C.C. requirements.

**A motion by Supervisor Ryan, seconded by Supervisor Ovitt, to provide no comment to the F.C.C., is discussed.**

**Supervisor Pinard:** states she cannot support the motion; feels the Board has a responsibility to see that reliable information is communicated to the F.C.C.

**Matter is fully discussed and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt, with Supervisors Bianchi and Pinard casting a dissenting vote, motion carries and the Board will not provide comment to the F.C.C.**

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, December 11, 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: 12/14/2001  
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