

Tuesday, January 8, 2002

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 SP **Chairperson Achadjian:** presents Mr. Jim Brabeck a plaque in recognition for his work in the Liberty Tattoo Removal Program.

Mr. Brabeck: thanks the Board for the recognition; states the people who were recognized on December 18, 2001 deserve the credit; indicates partnerships are instrumental in getting things done. **No action taken.**

2 A-1 This is the time set for reorganization of the Board of Supervisors; Election of Chairperson and Vice-Chairperson and presentation of San Luis Obispo County's 2001 "Year in Review".

Chairperson Achadjian: presents a brief overview of San Luis Obispo County's 2001 Year in review, highlighting key accomplishments of County departments; states he is very proud to have served as Chair for the Board; indicates these accomplishments would not have been possible without the efforts of staff; thanks them for all their hard work.

Chairperson Achadjian: calls for nominations for Chairperson for 2002.

Supervisor Ovitt: nominates Supervisor Bianchi, with Supervisor Ryan seconding the nomination.

There being no further nominations, nominations are closed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Ryan and on the following roll call vote:

AYES:Supervisor Ovitt, Ryan, Bianchi, Pinard, Chairperson Achadjian

NOES: None

ABSENT: None

the Board nominates Supervisor Bianchi to serve as Chairperson of the Board of Supervisors for 2002.

Chairperson Achadjian: calls for nominations for Vice Chairperson for 2002.

Supervisor Bianchi: nominates Supervisor Ryan, with Supervisor Ovitt seconding the nomination.

There being no further nominations, nominations are closed and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Ovitt and on the following roll call vote:

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

NOES: None

ABSENT: None

the Board nominates Supervisor Ryan to serve as Vice Chairperson of the board of Supervisors for 2002.

Chairperson Achadjian turns the "gavel" over to Supervisor Bianchi.

Chairperson Bianchi: thanks Supervisor Achadjian for his service as Chairperson for 2001 and presents him with a plaque:

The Board adjourns sine die.

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

ABSENT: None

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

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

NOES: None

ABSENT: None

RESOLUTION NO. 2002-01, resolution supporting the development of the Space Industry in San Luis Obispo County, adopted.

Supervisor Ovitt: reads the resolution and presents the same to Ms. Andrea Seastrand.

Ms. Seastrand: thanks the Board for the recognition and introduces Mr. Robert Davis, CEO of California Space Authority.

Mr. Davis: states San Luis Obispo County is the first County to adopt such a resolution; recognizes Ms. Seastrand for her work; addresses the impact aerospace will have on the economy; thanks the Board for their time and leadership.

Mr. Jesse Arnold: questions how this industry will benefit the ordinary citizen of San Luis Obispo County; hopes this will not be used by the Defense Department; questions buying the rights to high resolution pictures of Afghanistan taken by satellite which could block the media’s access to the pictures; questions the use of tax monies.

Ms. Sheila Baker: questions the environmental impact of this industry; addresses aerospace chemicals; recommends an EIR background check be done on each company.

Mr. Orville Osborne: states he opposes the resolution; feels this industry is not economically sustainable and will only have a short term stimulus; believes the focus should be on the growth of local businesses, agriculture and tourism.

Ms. Pam Heatherington: Director of the Environmental Center, urges the Board to be vigilant in reviewing the environmental impacts of the space industry; addresses the pollution this industry could cause.

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

Mr. Eric Greening: addresses Item B-9 regarding the absence of environmental review. **No action taken.**

5 B-1 Consent Agenda Items B-1 thru B-3 are amended by changing the hearing date to
thru February 19, 2002 from February 5, 2002. Item B-10 is withdrawn for separate action.

B-31 **Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian, and on the following roll call vote:**

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

NOES: None

ABSENT: None

Consent Agenda Items B-1 thru B-31, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Consent Agenda Items B-1 through B-31, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set for hearing:

B-1 **RESOLUTION NOS. 2002-02 & 2002-03, establishing a zone within County Services Area 21 for road improvements and proposing the adoption of a special tax for Emerson Road in the community of Cambria; 2nd District, Adopted as amended and the Clerk is instructed to give notice of hearing date set for February 19, 2002, at 9:00 A.M..**

B-2 **RESOLUTION NOS. 2002-04 & 2002-05, establishing a zone within County Services**

Area 21 for road improvements and proposing the adoption of a special tax for Pineridge Drive in the community of Cambria; 2nd District, **Adopted as amended and the Clerk is instructed to give notice of hearing date set for February 19, 2002, at 9:00 A.M..**

- B-3 **RESOLUTION NOS. 2002-06 & 2002-07**, establishing a zone within County Services Area 21 for road improvements and a resolution proposing the adoption of a special tax for Roscoe Place in the community of Cambria; 2nd District, **Adopted as amended and the Clerk is instructed to give notice of hearing date set for February 19, 2002, at 9:00 A.M..**

Clerk-Recorder Items:

- B-4 Minutes of the November 6, 13, and 20, 2001 Board of Supervisors' meetings, **Approved.**
- B-5 Destruction of process server registrations that expired two or more years ago, **Approved.**

General Services Items:

- B-6 Amended lease agreement with John Steffan to complete tenant improvements for Behavioral Health Department office space located in Arroyo Grande, **Approved.**
- B-7 Amended lease agreement with Heim-Hinkley Development Corporation extending the lease three years for the Sheriff's Department office space located in the community of Templeton, **Approved.**
- B-8 Budget adjustment in the amount of \$120,341 (\$70,341 from Public Facility Fees and \$50,000 from Proposition 12) for park play equipment projects located at Paul Andrew Park (\$30,856), C.W. Clarke Park (\$73,270), and El Chorro Park (\$16,215), **Approved.**
- B-9 Grant application to the Federal Aviation Administration (FAA) for an update of the San Luis Obispo County Regional Airport Master Plan, **Approved.**
- B-10 Increase the scope of an existing capital project to include improvements at the Information Services Mill Street facility; 2) cancel the capital project to install a microwave emergency generator at the County Operational Center; and 3) approve a corresponding budget adjustment in the amount of \$69,000 (from canceled capital project), **Withdrawn for separate action.**
- B-11 Waive the policy on contracting for services and approve a contract with Jay Farbstein and Associates for professional services to provide a needs assessment for expansion of the County Operations Center Juvenile Services Center, **Approved.**
- B-12 Bid opening report for job order contracting services (which streamlines and reduces costs associated with carrying out maintenance projects on County facilities); All Districts, **Approved and instruct Chairperson to sign contract documents with John Madonna Construction Company.**
- B-13 Disadvantaged Business Enterprise (DBE) Program and associated goals for the 2002 DBE Program, **Approved.**
- B-14 **RESOLUTION NO. 2002-08**, amending the position allocation list for Budget Unit 2180 - General Services deleting one full-time Storekeeper II and adding one full-time Senior Storekeeper, **Adopted.**

Medical Services Items:

- B-15 Contract with Carl Johnson, Jr., M.D. to maintain professional pathology services and Medical Director services at General Hospital's clinical laboratory, **Approved.**
- B-16 Contracts (Clerk's File) with James Coryell, M.D., Jeffrey Thompson, M.D., and Jon MacLean, D.O., to provide physician call coverage to pediatric patients of General Hospital and the Family Care Centers, **Approved.**

Personnel Items:

- B-17 **RESOLUTION NO. 2002-09 & 2002-10**, establishing salaries and benefits for the Law Enforcement Unit and Supervisory Law Enforcement Unit, **Adopted.**
- B-18 **RESOLUTION NO. 2002-11**, increasing the salary and benefits for the Sheriff-Coroner position in order to maintain a ten percent difference in salary ranges for the Sheriff and the highest paid peace officer, **Adopted.**
- B-19 **RESOLUTION NO. 2002-12**, establishing salaries and benefits for Management Peace Officer classes, **Adopted.**
- B-20 A representation petition by the Probation Department employees requesting to create their own bargaining unit (County Probation Peace Officers Association), **Approved and Petition is referred to Management Representative.**

Planning Items:

- B-21 **RESOLUTION NO. 2002-13**, accepting an avigation easement from Adolfo and Cynthia Martinez for property located near the Oceano Airport; 4th District, **Adopted.**
- B-22 **RESOLUTION NO. 2002-14**, accepting an avigation easement from Arthur Tognazzini Family Farms for property located near the Oceano Airport; 4th District, **Adopted.**

Public Works Items:

- B-23 Agreement (Clerk's File) with Mae Louise Palmer for the sale of Lake Nacimiento Water; 1st District, **Approved.**
- B-24 **RESOLUTION NO. 2002-15**, designating the Director and Deputy Directors of Public Works as agents for the San Luis Obispo County Flood Control and Water Conservation District in matters relating to the State of California Office of Emergency Services Hazard Mitigation Grant Program, **Adopted.**

Other Items:

- B-25 Amended contract with Gartner Consulting to increase funding for advisory services and plan development; and 2) a corresponding budget adjustment in the amount of \$16,000 from Sheriff-Coroner, District Attorney, Court and Probation for \$4,000 each to Budget Unit 2250 - Information Services, **Approved.**
- B-26 Re-appoint Coralie McMillian and appoint Charles Pritchard to the Agricultural Liaison Advisory Board, **Approved.**
- B-27 Employee contract (Clerk's File) with Joseph Pollon to provide marriage and family therapist intern services to clients at Mental Health, **Approved.**
- B-28 Appointment of Joel Diringer to the Children and Families Commission, **Approved.**
- B-29 **RESOLUTION NO. 2002-16**, authorizing the Administrator of Drug and Alcohol Services to accept a grant award from the California Department of Alcohol and Drug Programs, **Adopted**; 2) a corresponding budget adjustment in the amount of \$165,1757 (\$84,264 to Budget Unit 3075 - Drug and Alcohol Services and \$80,893 to Budget Unit 2660 - Probation; and 3) a contract with LifeSteps Foundation to provide vocational counseling services for the clients of the Drug Court Program, **Approved.**
- B-30 **RESOLUTION NO. 2002-17**, amending the retirement plan, to include contracting agencies and rules for the election of trustees, **Adopted.**
- B-31 Agreements (Clerk's File) with the Women's Shelter Program, Inc., and the North County Women's Resource Center/Shelter to disburse domestic violence and battered women's shelter funds, **Approved.**

- B-10 Increase the scope of an existing capital project to include improvements at the Information Services Mill Street facility; 2) cancel the capital project to install a microwave emergency generator at the County Operational Center; and 3) approve a corresponding budget adjustment in the amount of \$69,000 (from canceled capital

project), is presented.

During the discussion on the Consent Agenda Supervisor Pinard requested this item be pulled for a separate vote, indicating she does not support the remodel; feels the department should hold off until the new government center is built.

Mr. John Wade: Information Services Director, indicates this office accommodates approximately 45 employees that are not going to be placed in the new government center.

Mr. David Edge: County Administrative Officer, states the new building has been downsized due to public concerns and will not be able to accommodate everyone.

Supervisor Pinard: feels the plans need to be re-evaluated.

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

AYES:Supervisor Ryan, Ovitt, Achadjian, Chairperson Bianchi

NOES: Supervisor Pinard

ABSENT: None

the Board approves the change in scope of work for Government Center - Improve ISD 4th Floor Offices, P5234; cancels the existing Capital Project County Operational Center - Sheriff's Microwave Generator P5275, and approves a budget Adjustment of \$69,000 from County Operational Center - Sheriff's Microwave Generator P5275, to Government Center - Improve ISD 4th Floor and Mill St. Offices P5234.

- 7 C-1 This is the time set for hearing to consider an amendment to the Urban County of San Luis Obispo Program Year 1995 Action Plan.

Mr. Tony Navarro: presents the staff report and recommendation.

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

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

NOES: None

ABSENT: None

RESOLUTION NO. 2002-18, resolution approving the amendment of the Urban County of San Luis Obispo Program Year 1995 Action Plan, adopted.

- 8 C-2 This is the time set for hearing to consider an appeal by Karen and Michael O'Brien of the Hearing Officer's approval of a minor use permit, allowing the installation of a wireless communication facility consisting of four six-foot panel antennas mounted on an existing twenty-four-foot tall water tank, located in the community of Garden Farms; 5th District.

Ms. Martha Needer: Planning, presents the staff report; describes the location and where the antennas will be mounted; states the concerns include: radio frequency; no legal access for a private corporation; no need for a wireless base station; and, poor road conditions; addresses the unnamed road that was offered for dedication and road maintenance.

Ms. Kandy O'Brien: Appellant, questions when the County accepted the road for dedication, with Ms. Needer responding.

Ms. O'Brien: states they have lived on this hill for 20 years and now a business will be in their backyard; addresses the lack of notification given to them; indicates this facility will be about 50 feet from their living room.

Mr. Mike O'Brien: Appellant, describes the location of his home compared to the proposed facility; indicates there is no need for this facility; questions the safety in the

technology; states he's confused regarding the offer of dedication for the unnamed road.

Ms. Samantha Kim: Edge Wireless, states they are new to the County and are affiliated with AT&T wireless; states they have legal access to the road; addresses health and safety issues regarding radio frequencies; speaks to the need for the site and indicates she is available for questions.

Mr. Joe Janowicz: states his concerns for this facility being so close to a residential area; hands the Board a letter signed by residents of the Garden Farms Community opposing the facility and urging the Board to deny the use permit.

Mr. Monte Jones: states he represents his mother-in-law and grandmother-in-law who own a piece of property that extends to the west and that intersects with the unnamed road; indicates there is no easement; addresses a possible conflict of interest with one of the Water Board members.

Ms. Janice Maxwell: General Manager of the Garden Farms Community Water District, states the Water Board's only involvement is as the property owner and leasing the property to Edge Wireless; believes Edge Wireless has also agreed to reduce the size of the building; addresses road maintenance.

Ms. El-Jay Hansson: states these sites are not appropriate in residential areas.

Board Members: discuss various issues, comments and concerns regarding: the existence of an easement on the unnamed road; if the appellants received the staff report; the notification process; the road maintenance; the possibility of a smaller footprint of the facility, with staff responding.

Ms. Kim: states they did offer to reduce the footprint; indicates the use of the road would be minimal; addresses the lease negotiations relating to sub-leasing.

Mr. O'Brian: states they only received the complete staff report a half an hour ago; feels there is no easement available to Edge Wireless; addresses the impact this will have on property values; speaks to a road maintenance agreement.

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

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

NOES: None

ABSENT: None

the Board denies the appeal and RESOLUTION NO. 2002-19, resolution affirming the decision of Hearing Officer and Conditionally approving the application of Garden Farms Community Water District/Edge Wireless for Minor Use Permit D000367P, adopted.

9

C-3 This is the time set for hearing to consider: 1) a request to certify the Woodlands Supplemental Environmental Impact Report and; 2) an amendment to the Growth Management Ordinance, Title 26 of the County Code, regarding the residential rate of growth for the Woodlands project located on the Nipomo Mesa; 4th District.

Mr. Bryce Tingle: Assistant Planning Director, introduces the item and presents a brief history of the project; addresses the South County Area Plan and how the Woodlands Project fits into that plan; speaks to the makeup of the Woodlands Specific Plan and how it will be phased in; indicates the ordinance before the Board today does several things: 1)separates the Woodlands area from the Nipomo Mesa 2.3% growth rate area; 2) allows development to occur within 15 years; and, 3) allows the developer the flexibility to obtain residential allocation for subsequent building permits; addresses the wording of the ordinance; states the goal is for project build-out within the next 15 years and to accomplish the goals and vision of a truly mixed use community; if adopted the Growth Management Ordinance will regulate the allocations.

Mr. John McKenzie: Planning, hands the Board a memorandum with added language that was inadvertently left out on page C-3-17 the last sentence should read as follows:

“Also, future development will be subject to the County’s Public Facility fee, which provides funding for public improvements and services, and community amenities, such as: public buildings, water storage structures, wastewater facilities, storm water and flood control, transportation and transit facilities, and parks and recreation facilities.; addresses the Supplemental Environmental Impact Review (SEIR) indicating there are no accumulative impacts; states fifteen comments have been received by members of the public and staff feels there is no need for additional analysis; urges the Board to certify the SEIR and adopt the ordinance.

Mr. John Janneck: Applicant, introduces Mr. Ken Bornholdt, attorney representing the Woodlands Project.

Mr. Bornholdt: reads Section 26.01.040.d of the Growth Management Ordinance and hands a copy to the Board; asks the Board to find and certify that the Final Supplemental Environmental Impact Report is adequate and complete and approve an amendment for the Woodlands Specific Plan to the Growth Management Ordinance; hands the Board proposed language for page C-3-13 Section II. The Record to read as follows: 1. “Documentary and oral evidence received and reviewed by the Board of Supervisors during the public hearings on the project, **including the initiation of the amendment on August 8, 2000 and the SEIR Scope on February 27, 2001.**”; urges the Board to add this language to the CEQA Findings should the Board approve the amendment; hands the Board a list of documents that he would like entered into the record which includes the following: 1) Nipomo Community Advisory Council letter dated August 7, 2000; 2) Minutes of the Board of Supervisors hearing on August 8, 2000; 3) Transcript of the testimony from the Board of Supervisors hearing on February 27, 2001; indicates while he is looking for the Cleath & Associates letter dated October 2, 2001; Mr. Montgomery will continue.

Mr. Vic Montgomery: representing the Developer for the Woodlands Project, hands the Board growth management comparisons; addresses the system of progression for the project; addresses Table 8 of his handout and indicates there is no timeline in the Specific Plan; speaks to the objective of phasing; feels the 80% residential completion is too high and it really should be driven by completion of infrastructure and mitigation; states their concern for the notion of linkage (completing non-residential components in order to get residential allocations for future phases).

Mr. Janneck: speaks to the concept of growth allocation units and building permits; states the reality is this project needs to accomplish 1A and 1B within five years; indicates they need 825 allocations for this project to be sustainable; states they hope to be the “Poster Child” of how to produce a well thought out development in the County.

Mr. Michael Winn: addresses Senate Bill 210 and cautions the Board to look into this matter before approving a SEIR; states his concern for the lack of a contract for the school site; urges that the infrastructure be complete.

Ms. Istar Holliday: states she is opposed to the Woodlands Project; feels there are inadequate resources for this project; urges the Board to refuse the exemption.

Ms. El-Jay Hannson: states she doesn’t understand why the Board would allow a change in the growth cap; addresses her concern relating to water availability.

Mr. Mike Sears: Deputy Superintendent of Lucia Mar Schools, states there is a mitigation agreement with the developer that addresses the impact the development will have on schools; indicates the School District has never asked the developer for a school site within the Specific Plan; states his concern for a letter by Mr. Bornholdt to Mr. McKenzie asking for the elimination of a school; indicates the most recent proposal calls for a joint County park/school site, no agreement has been reached however; indicates their goal is to see a school site in this project.

Chairperson Bianchi: continues this item to the afternoon calendar.

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 PG&E*, 2) *AT&T v. County of San Luis Obispo*, 3) *Mulholland v. County of San Luis Obispo*, 4) *Bravo v. Rodewald, et al.*, and 5) *Citizens for Tobacco Initiative v. County Clerk Recorder*. ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.) 8) *Save the Mesa v. County of San Luis Obispo*.

II. CONFERENCE WITH LEGAL COUNSEL - Anticipated Litigation (Gov. Code, § 54956.9)

6) *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. 7) *Initiation of litigation (Gov. Code, § 54956.9(c).) No. of cases 2.*

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

Thereafter, the Board goes into Open Public Session.

11 PC This is the time set for members of the public wishing to address the Board on items not set on the Agenda.

Mr. Bill Denneen: thanks the Board for broadcasting the meetings on the radio; for the opportunity to speak during Public Comment; and having Closed Session after 5:00 p.m.; hopes the Board continues to have Public Comment at 2:00 p.m.; states he appreciates the Bob Jones Bikeway and hopes it will be extended to San Luis Obispo; speaks to a County property exchange for Oso Flaco Lake; addresses his concern for the storage of nuclear waste.

Mr. Lester Goldfisher: addresses the closure of General Hospital.

Ms. El-Jay Hansson: questions why Cypress Ridge is on the agenda.

Ms. Linda McEluer: President of Canaries Foundation, states the County just spent \$5,000 for the research and development of gopher control; presents the Board with a copy of The Best Control by Stephen Tvedten that has hundreds of alternatives to pesticide uses.

Mr. Tom Guernsey: indicates there are still toxic areas in Avila Beach and would like an EIR completed.

Mr. Michael Kovacs: addresses campaign promises; indicates last year the Board did well relating to property rights and enhancement of quality growth, however failed in the area of fiscal management; states his concern for the increased budget.

Mr. George Layman: states he would like the radio station to continue airing the meeting until its finished and not stop at 5:00 p.m..

Ms. Pamela Dean: speaks to the community center in Oceano and her objection to it.

Ms. Peggy Wilson: lists her objections to the Oceano Community Center.

Mr. Joe Kelly: addresses the economic impact of money being spent in the County versus what is happening at the State.

Mr. Bob Blair: feels Highway 101 should be improved and widened in San Luis Obispo County.

Supervisor Pinard: addresses the situation in Avila indicating there are on-going efforts to get things done. **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: No report required because no final action was taken.

13 C-3 Consider action of the Woodlands Project is brought back on for hearing.

Mr. Eric Greening: feels this project will be adding to the sprawl that already occurs in South County; believes this project should be part of a TDC program; feels there is a problem with the Supplemental Environment Impact Report.

Ms. Cindy Hawley: Coalition to Save Cambria and San Simeon; feels this SEIR and the amendment to the Growth Management Ordinance violates the rights of citizens; urges the Board to deny the certification of the SEIR.

Ms. Coralie McMillan: believes this project takes away private parties' entitlements; feels an individual's project should come before a developer's.

Ms. Istar Holliday: reads notes from Marianne Buckmeyer indicating this exemption should not be given; questions where the cumulative water study is; how are the road fees going to be collected during the phasing element; and when the project is sold how will the promises be handled by the subsequent developer.

Mr. Bob Blair: states he's in favor of the project; indicates water is not critical; urges the Board to allow the Woodlands Project to continue forward.

Mr. Jesse Arnold: states this project will have a Countywide impact; urges the Board to uphold the Growth Management Ordinance.

Ms. Nora Jena: questions why the amendment is being considered today; states the water is in an overdraft condition; indicates there is no new school scheduled to be built and feels the character of Nipomo will be robbed.

Mr. Bill Denneen: addresses the 1% growth cap in Nipomo; states the South County is exploding; urges the Board to enforce the 2.3% growth cap; states he would like to see a building moratorium.

Mr. Gordon Hensley: Environmental Defense Center, states his concern that today's action will violate the conditions of the Save the Mesa settlement; addresses environmental review relating to water and traffic; staff has provided no evidence of a need for this amendment; questions the public benefit; urges the Board to deny the certification.

Mr. Babak Naficy: Environmental Defense Center, hands the Board a letter he would like entered into the record; addresses the issue of whether this is an exemption or an amendment; indicates there is no evidence showing the need to advance the rate of growth to make this project feasible and it is a violation of the Specific Plan.

Ms. Kathy Longacre: believes the Growth Management Ordinance should apply to all projects; urges the Board to assure the community that the promises made to the residents of the area by the developer be kept.

Mr. George Layman: addresses the alternatives that could be put in Nipomo instead of the Woodlands project; states this area needs to take some growth; feels this is a well thought out project and he wants to see it completed.

Mr. Michael Kovacs: feels the Board should do away with the Growth Management Ordinance; addresses over regulation at the cost to the taxpayer.

Ms. Peggy Wilson: addresses the decision making process.

Mr. Ken Bornholdt: representing the Woodlands Project, hands the Board a letter from Cleath & Associates that addresses the comments made to the SEIR relating to water supply; indicates Senate Bill 221 is a law that requires an applicant to establish sufficient water supply in order to get approval of a tentative map; states it would be premature to discuss this today, however, both the EIR and the SEIR did a comprehensive water analysis; states the school site is not part of the Specific Plan; the Specific Plan requires a 10 acre park; states the applicant has no objection to a park/school site; states the Board has no requirement for an analysis under CEQA for the school site in their opinion.

Ms. Jan Di Leo: General Services, speaks to alternative designs for a park/school site; states they have also looked at joint use agreements; indicates there will still need to be

an EIR done for the school; feels County Parks and the School District could come to an agreement regarding joint use for the site.

Mr. Vic Montgomery: representing Woodlands, assures the Board there has been no amendment to the Specific Plan and the trails, the butterfly park, the public park, the site plan, the illustrations and the Specific Plan itself are intact.

Board Members: discuss various issues, comments and concerns regarding: the final DWR report; the benefit to the community to move this project forward; the need for the school site to be a part of the project; land was zoned Industrial; Senate Bill 221 relating to the map; addresses the water issues; the State enforcing growth on the County; keeping all conditions unchanged; making minor changes to the ordinance by replacing the number of new dwelling units from 616 to 825; and adding Phase 1B; changing the threshold by the developer from 80% to 60%; addresses the language on page C-3-35 “c”. relating to the completion of the primary infrastructure and related mitigation measures of the previous phase(s); economic factors and the business park; page C-3-36 addressing the allocations being issued to the Woodlands Project as non-transferable and terminating at the issuance of a permit; water resources not being available, with staff responding.

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

AYES: Supervisor Achadjian, Ryan, Ovitt, Pinard

NOES: Chairperson Bianchi

ABSENT: None

the Board certifies the Supplemental Environmental Impact Report in accordance with the applicable provisions of the California Environmental Quality Act based on the attached findings and statement of overriding considerations as outlined in the staff report dated January 8, 2002..

A motion by Supervisor Achadjian to allow a buildout of the Woodlands Specific Plan Area to occur within 15 years in accordance with the phasing plan and adopt the Specific Plan; amend the ordinance from 616 new dwelling units to 825 and also changing 80% to 60% and under no circumstance that this project will go beyond 1320 dwelling units, is discussed.

Supervisor Ryan: asks Supervisor Achadjian if his motion includes the phasing of 165 units a year as referred to on page C-3-36, with Supervisor Achadjian agreeing to the addition.

Mr. Tim McNulty: Deputy County Counsel, refers to page C-3-8; suggests changing 616 to 825 and after the words “new dwelling units add the phrase “*at the rate of 165 units per year*”; adding Phase 1B to the first five years; states in paragraph (b) delete Phase 1B; after the word “sequentially” add the phrase “*at the rate of 99 units per year*”; changing 80% to 60%; after the word “upon” add the phrase “*completion of primary infrastructure and related mitigation measures.*”

Supervisor Ryan: states he wants the allocations issued to the Woodlands Project non-transferable and terminated at issuance of permit.

Mr. Bryce Tingle: Assistant Planning Director, suggests this language become a new (c) and (c) would become (d).

Supervisor Ryan: seconds the motion including the suggested changes.

Mr. John McKenzie: Planning, reminds the Board of the amended language relating to the CEQA findings that needs to be added.

Supervisors Achadjian and Ryan: agree to add the amendment to their motion.

Mr. James Lindholm: County Counsel, addresses indemnification.

Mr. McNulty: states the County proposed an indemnity agreement and the applicant in turn proposed their own indemnity agreement that the County does not like as well; states

staff requests the Board require the applicants enter into the indemnity agreement proposed by the County.

Supervisor Ryan: states he would like to separate the indemnity issue in another motion.

Mr. McNulty: asks if the Board could make the motion on the floor a tentative motion and then a final motion after an agreement of the indemnity is reached, with Supervisor Achadjian and Ryan agreeing.

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

AYES:Supervisors Achadjian, Ryan, Ovitt, Pinard

NOES: Chairperson Bianchi

ABSENT: None

the Board tentatively approves a buildout of the Woodlands Specific Plan Area to occur within 15 years in accordance with the phasing plan and adopts the Specific Plan; amends the ordinance on page C-3-8 from 616 new dwelling units to 825 and changes 80% to 60%; after the words “new dwelling units” adds the phrase “at the rate of 165 units per year”; adds Phase 1B to the first five years; in paragraph C-3-8 (b) deletes 1B; after the word “sequentially” adds the phrase “at the rate of 99 units per year”; after the word “upon” adds the phrase “completion of primary infrastructure and related mitigation measures”; adds the language “allocations would be issued to the Woodlands Project non-transferable and terminate at issuance of permit” as a new (c) and changes the existing (c) to (d) and adds the language that was inadvertently left incomplete under the CEQA findings Section for “Public Services” C-3-17 as submitted by Mr. McKenzie and dated 1-8-2002.

Mr. Tingle: clarifies that the building permits and the allocations run with the land.

Mr. Bornholdt: states they have agreed to sign the indemnity agreement proposed by the County with two exceptions: “1) the indemnity would not apply to a lawsuit based solely on the claim that there’s been a breach of paragraph 2 of the Save the Mesa agreement because the County has failed to prepare an EIR on the 180 pipeline projects, and 2) in the event there was a judgment against the County for violating paragraph 2 of the Save the Mesa settlement agreement for failing to prepare an EIR on the 180 pipeline projects and that judgment would include damages, costs and attorney fees, they would defend the County on that claim as part of a larger lawsuit but in the event the County was found liable for failing to prepare an EIR on the 180 pipeline projects that would be the County’s responsibility not theirs.”

Mr. Lindholm: suggests the Board agree to enter into the indemnification agreement with the applicant based upon what was submitted to the Board and amended by Mr. Bornholdt on the record.

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

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

NOES: None

ABSENT: None

the Board approves the Amendment to the Indemnification Agreement with the applicant based upon what was submitted to the Board dated 1-4-02 and as amended by Mr. Bornholdt on the record.

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

AYES:Supervisors Achadjian, Ryan, Ovitt, Pinard,

NOES: Chairperson Bianchi

ABSENT: None

the Board approves the buildout of the Woodlands Specific Plan Area to occur within 15 years in accordance with the phasing plan and adopts the Specific Plan; amends the ordinance on page C-3-8 from 616 new dwelling units to 825 and changes 80% to 60%; after the words “new dwelling units” adds the phrase “at the rate of 165 units per year”; adds Phase 1B to the first five years; in paragraph C-3-8 (b) deletes 1B; after the word “sequentially” adds the phrase “at the rate of 99 units per year”; after the word “upon” adds the phrase “completion of primary infrastructure and related mitigation measures”; adds the language “allocations would be issued to the Woodlands Project non-transferable and terminate at issuance of permit” as a new (c) and changes the existing (c) to (d) and adds the language that was inadvertently left incomplete under the CEQA findings Section for “Public Services” C-3-17 as submitted by Mr. McKenzie and dated 1-8-02; and the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 2957, an ordinance amending Title 26 of the County Code, the Growth Management Ordinance, establishing the allowable growth rate for The Woodlands Specific Plan Area, adopted as amended.

- 14 D-1 This is the time for consideration of: 1) the County Treasury Oversight Committee Annual Investment Policy Compliance Audit report; 2) the County Treasury Investment Policy (Clerk's File) for 2002; and 3) appointments to the County Oversight Committee for 2002; All Districts.

Mr. Frank Frietas: County Treasurer-Tax Collector, presents the staff report and recommendation.

Mr. Michael Kovacs: addresses the make-up of the County Treasury Oversight Committee for 2002.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan and unanimously carried, the Board receives and files the Annual Investment Policy Compliance Audit Report; approves the Investment Policy for Calendar Year 2002 and confirms Clark Channing, Gaye Lowe, Gere W. Sibbach, Eric Smith, and Gail Wilcox as members of the County Treasury Oversight Committee for the 2002 calendar year.

- 15 E-1 This is the time set for discussion regarding transfer of funds for General Hospital.

Mr. Gere Sibbach: Auditor-Controller, presents the item indicating this is a request for \$850,000 to get the hospital through the month of January; indicates staff is looking for direction as to where the funds should come from.

Supervisor Ovitt: questions if this amount is for payroll, with Mr. Sibbach responding.

Mr. Bob Rossi: addresses the excellent care given by the Family Care Center; states this health care crisis requires new thinking; hands the Board a flyer explaining the Charitable Foundation for San Luis Obispo General Hospital and the Family Care Clinics.

Mr. Eric Greening: states the contingency fund should be used for times like this not selected budget units.

Ms. Pamela Heatherington: addresses the critical health care situation in this County; urges the Board to support the request of \$850,000.

Ms. Vita Miller: addresses the health care crisis; states she supports the request by Medical Services; feels the three year turn-around plan should continue.

Mr. Michael Kovacs: states there should be budgetary discipline; supports Mr. Greening's comments; feels anything other than what was approved on the budget should be denied.

Supervisor Ovitt: states the interim plan is not working; feels if the original plan of closing the hospital were to have taken place; the Board would not be in this situation today and the clinics would have a better system.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian,

seconded by Chairperson Bianchi and on the following roll call vote:

AYES:Supervisors Achadjian, Chairperson Bianchi, Ovitt, Pinard

NOES: Supervisor Ryan

ABSENT: None

the Board authorize a transfer of \$850,000 from General Fund Contingencies to BU 3280, Medical Services Assistance.

Supervisor Ryan: states he will not support anything at this point that is not tied to the closure of General Hospital.

Chairperson Bianchi: questions if the \$850,000 is enough to keep the County's credit in good standing, with Mr. Sibbach responding.

Matter is further discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Ryan and unanimously carried, the Board directs staff to schedule a meeting to discuss the continuation of the interim plan before another allocation is given.

Mr. David Edge: County Administrator, indicates he will make time on an upcoming agenda to schedule this item.

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

16 C-4 This is the time set for hearing to consider an ordinance amending Chapter 5.16 to Title 5 of the County Code relating to agricultural land, operations, and right to farm; All Districts.

Mr. Richard Greek: Agricultural Commissioner/Sealer, introduces the item and Mr. Robert Hopkins, Agricultural Commissioner staff.

Mr. Hopkins: presents the staff report; speaks to pesticide complaints, disclosure changes, new program enhancements and a new brochure that speaks to the rights of neighbors relating to pesticides.

Mr. Greek: states the Right-to-Farm ordinance has served the County well and urges the Board to approve the Negative Declaration and adopt the ordinance.

Mr. Eric Greening: states he strongly supports the protection of preexisting agriculture from intrusion of incompatible neighboring uses; addresses the use of the words "subject to" as not being appropriate with the words "legal pesticide use"; states this ordinance should not deprive neighbors of redress against illegal application; addresses the word "fertilizer" and it should exclude land applied sewage sludge; speaks to the environmental check list; urges staff to define firm boundaries.

Ms. Pam Heatherington: feels this ordinance does not go far enough when it comes to: 1) agricultural processing and 2) the good neighbor policy; addresses the rights of the property owner being free from pesticide drift; speaks to potential property owners having no rights and little opportunity to voice complaints.

Ms. Sandra Sarrouf: states she supports the comments of Mr. Greening and Ms. Heatherington; addresses pesticide drift; notification of pesticide application and the rights of neighbors.

Mr. Daniel Neill: states he lives near a strawberry field; describes his illness which he believes is from pesticides being applied to the strawberries; states there is never notification of the application; hopes the ordinance will spell out his rights; urges the Board's help in this matter.

Ms. Linda McEluer: President for the Canaries Foundation, states the Government institutes an acceptable risk; states there is no testing, no doctors and no monitoring; feels there needs to be disability access, buffer zones, mandated testing and public protection over profit.

Ms. Carol Pimentel: states her backyard backs up against a vineyard; feels the disclosure doesn't go far enough; asks the Board to include a minimum required setback to separate Ag land from residential.

Ms. Karen Merriam: states she doesn't want the farmer and the neighbor at odds; supports the rights of neighbors; feels communication will go a long way; addresses the pesticide drift issue.

Ms. Joan Adams: addresses the idea of enforcing reasonable setbacks.

Mr. Joe Kelly: addresses the need for simplicity in the ordinance; states he did not see protection for longterm fallowed agriculture property, agriculture property in the Conservation Reserve Program (CRP) program and agriculture property used as a hobby farm.

Mr. Dick Montague: states this ordinance is just a better understanding of what real life is all about; urges the adoption of the ordinance; states the alternative to Ag is development; the Right-to Farm is a necessary right.

Ms. Joy Fitzhugh: urges the Board to adopt the ordinance amendment and approve the Negative Declaration; states this will be a changing the ordinance and provides a process and format to resolve complaints and conflicts.

Mr. Mark Moore: states he agrees with Ms. Fitzhugh and urges the adoption of the ordinance; addresses the greenhouse operation in Nipomo that has worked to find a middle ground with the community.

Mr. Don Warden: Chairperson of the Ag Liaison Board, hands the Board the minutes from their meeting approving the draft of the Right-to-Farm Ordinance; addresses the definition of "nuisance" and the protection of agriculture; states the disclosure is important; states the Ag Board supports the ordinance.

Mr. Greek: addresses the public's concerns relating to Ag processing, application of sewage sludge and bio-solids; the only recourse is civil litigation; agriculture drift is not accepted; there are legal uses of pesticides; states there is a meeting relating to the Pesticide Regulatory Program on Monday January 14, 2002 at 6:00 p.m. at the County Library in Arroyo Grande; addresses setbacks, CRP land and hobby farms relating to a change in agriculture practices; and the recording of a document of disclosure and the Right-to-Farm.

Ms. Julie Rodewald: County Clerk-Recorder, indicates these disclosures and Right-to-Farm documents can be recorded if they are signed by the property owners.

Board Members: discuss various issues, comments and concerns regarding: CRP land; drainage off the plastic of a strawberry field; keeping track of pesticide complaints.

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

AYES: Supervisor Ryan, Ovitt, Pinard, Achadjian, 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. 2958, an ordinance adding Chapter 5.16 to Title 5 of the San Luis Obispo County Code relating to agricultural lands, operations, and the Right-to-Farm, adopted.

(SUPERVISOR MICHAEL P. RYAN IS NOW ABSENT.)

17 F-1 This is the time set for consideration of modification to the criteria for using State Water and contracts and other actions to sell County Service Area 16 (Shandon's) State Water allocation (Clerk's File); 1st, 2nd, 3rd and 4th District.

Mr. Paavo Ogren: Public Works, presents the staff report; addresses the criteria for

using State Water indicating there are two proposed changes endorsed by the Water Resources Advisory Committee: 1) recommendation No. 5, in the second sentence, adding the word “fully” before the word “mitigated” and in the third sentence remove the words “be consistent with” and replace them with the word “consider”; 2) recommendation No. 9 instead of saying “no water is to be” it should read “Water may be” and at the end of the sentence add the language “if approved or requested by the City Council”; states there are four requests for water: 1) City of Morro Bay, 2) County Service Area No. 12 (Dr. DeVincenzo’s Project), 3) Camp San Luis California National Guard, and 4) Nipomo Valley Mutual Water Company, and explains each request.

Mr. Michael Winn: Member of Water Resource Advisory Committee, (WRAC), states he would like to clarify an issue relating to the Nipomo Valley Mutual Water Company that the water does not need to be for agriculture use only.

Lieutenant Brian Keels: Camp San Luis Obispo, states the Camp is not seeking water for private residential development.

Mr. John Wallace: urges the approval of both the CSA #12 and Nipomo Valley Water Company and explains the need for each.

Mr. Eugene Mehlschau: states the Nipomo Valley Mutual Water Company will use the water primarily for Ag use however, there is a need for flexibility.

Ms. Donna Mehlschau: Nipomo Valley Mutual Water Company, states the water will not only be used in case of drought but also to improve the quality of the water.

Mr. Mark Moore: discusses a mitigated Negative Declaration for the environmental review being warranted; asks that “Ag use only” be removed.

Supervisor Achadjian: states he supports staff recommendation however would like to change No.8 under criteria by adding the word “primarily” before the word “agricultural”.

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

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

NOES: None

ABSENT: None

the Board approves the modifications to the Criteria for Using State Water reflected in Exhibit “A” and with the following amendments: Criteria No. 5) in the second sentence add the word “fully” before the word “mitigated” and in the third sentence remove the words “be consistent with” and replace them with the word “consider”; Criteria No. 8) add the word “primarily” before the word “agricultural”; Criteria No. 9 replace “no water is to be” to read “Water may be” and at the end of the sentence add the language “if approved or requested by the City Council”; approves the sale of Shandon’s State Water Allocation to the City of Morro Bay (75 acre feet) and to CSA #12 on behalf of Dr. John DeVincenzo (15 acre feet), and direct the Chairperson to execute the contract documents included in Exhibits “E”, “F”, and “G.” of the staff report dated 1-8-02; directs the Chairperson to sign the attached letter (Exhibit “B”) to Camp San Luis offering assistance in efforts to obtain other water supplies; authorizes the Public Works Director to execute an amendment to the existing “Drought Buffer Water Agreement” with the City of Morro Bay increasing the Contractors Drought Buffer Water from 1,313 acre feet to 165% of the amount of water allocated to the City under the terms of Water Supply Contracts and authorizes staff to work with other local State Water contractors who may wish to sell a portion of their entitlement to optimize the overall results from all transfers.

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, January 8, 2002, 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: 01-15-02
cla

