

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, K.H. 'Katcho' Achadjian, Michael P. Ryan and Chairperson Shirley Bianchi

**ABSENT:** Supervisor Peg Pinard

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

**(SUPERVISOR PEG PINARD IS NOW PRESENT.)**

**SUM      AGN**

1            A-1    Adoption and presentation of a resolution declaring the week of March 4, 2002 as "Anza Trail Week," is withdrawn by staff and continued to March 5, 2002.

2            B-1    This is the time set for members of the public wishing to address the Board on items set thru on the Consent Agenda.

B-16

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

Consent Agenda B-15 is amended to correct the cover sheet to reflect Budget Unit 2562 not 2563.

**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

**Consent Agenda Items B-1 through B-16 are approved as recommended by the County Administrative Officer and as amended by this Board.**

Consent Agenda Items B-1 through B-16, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Auditor-Controller Items:

B-1    Unannounced cash count of the Agricultural Commissioner's San Luis Obispo, Arroyo Grande, and Paso Robles offices, **Received and Filed.**

B-2    Unannounced cash count of the Farm Advisor Department's San Luis Obispo office, **Received and Filed.**

General Services Items:

B-3    1) Three year loan from the General Fund not to exceed \$50,000 to provide financing to purchase a new fairway mower for Dairy Creek Golf Course; 2) a budget adjustment in the amount of \$50,000 from Budget Unit 2002, 3060 Internal Loans; and 3) amend the fixed asset list for Budget Unit 4161 - Golf Courses to include a fairway mower, **Approved.**

B-4    2002 annual report from the Parks and Recreation Commission, **Received and Filed.**

B-5    **RESOLUTION NO. 2002-85**, amending the position allocation list for Budget Unit 2180 - General Services, adding one Senior Capital Project Coordinator, **Adopted.**

B-6    **RESOLUTION NO. 2002-86**, to purchase real property located in the unincorporated area of San Miguel to create passive recreation opportunities (e.g., hiking trails, open space, etc.), **Adopted.**

- B-7 **RESOLUTION NO. 2002-87**, accepting a grant deed for Lot 207, Unit 11, California Valley from Albert Sing, Trustee of the Charles L. Sing Jr. revocable living trust, **Adopted.**

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Planning Items:

- B-8 Submittal of a proposed mitigated Negative Declaration for the Poague Road Culvert repair project; 4th District, **Approved.**
- B-9 Submittal of a proposed mitigated Negative Declaration for the Pine Creek bank stabilization project along River Grove Drive; 1st District, **Approved.**

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Public Works Items:

- B-10 Contract amendment with Quincy Engineering, Inc., to provide preliminary engineering and environmental services for the replacement of River Road Bridge located in San Miguel; 1st District, **Approved.**
- B-11 1) Revised membership in the Nacimiento Participants Advisory Committee; and 2) an amended agreement with Carollo Engineers revising the engineering report to include the new project participants; All Districts, **Approved.**
- B-12 **RESOLUTION NO. 2002-88**, authorizing execution of a notice of completion for the excavation of excess materials from Arroyo Grande Creek Channel and Los Berros Creek Channel near the community of Oceano; 4th District, **Adopted.**

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Other Items:

- B-13 Request by Board Members to allocate \$2,000 from Community Project Funds (District Two - \$1,950 and District Four - \$50), to the Los Osos Community Services District to be used for the Los Osos Community Cleanup Days on April 20 and 21, 2002, **Approved.**
- B-14 Second quarter financial report; request to appropriate \$923,611 from General Fund contingencies to correct an error made in the 2000-01 year end closing process; acceptance of gifts/donations and approve budget adjustments to appropriate \$20,997; and a request to discharge bad debt in the amount of \$14,415 on behalf of Mental Health, **Approved.**
- B-15 Grant agreement with the State Department of Justice for administration of a domestic violence outreach and education grant; and, a request to approve a corresponding budget adjustment in the amount of \$20,133 for Budget Unit 2563 - Victim Witness, **Approved as amended.**
- B-16 **RESOLUTION NO. 2002-89**, amending the position allocation list for Budget Unit 3000 - Public Health, adding one Licensed Vocational Nurse position and deleting one Public Health Aide II position, **Adopted.**

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

- 3 C-6 Hearing to consider an appeal of the Subdivision Review Board's approval of the Santa Margarita Ranch lot line adjustment/development plan for the construction of roads and 36 residences, located on Norte Road east of Highway 101, adjacent to the community of Garden Farms; 5<sup>th</sup> District, is presented.

**Supervisor Ryan:** states he received a fax from Charles S. Crandall, representing SMART & Jude Rock and also signed by Karl Wittstrom (Santa Margarita Ranch) requesting that this item be continued to allow for additional time to complete the terms of the tentative settlement they have reached.

**No one appearing and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Ovitt and unanimously carried, the Board continues said hearing to March 5, 2002 at 9:00 a.m..**

- 4 C-1 This is the time set for hearing to consider the resolution of intention to surplus and sell County owned real property to an adjacent property owner in the unincorporated area of

Paso Robles, and the approval of an appropriation transfer in the amount of \$26,000; 1st District.

**Ms. Caryn Maddalena:** Property Manager, presents the staff report and presents the Clerk with one sealed bid.

**Clerk:** opens the bid and announces it is from R.H. Miller in the amount of \$20,000.

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

**Supervisor Pinard:** questions the location of the property and the appraisal; concerns that this property is being under assessed.

**Supervisor Ovitt:** states the bidder, Mr. Miller, owns several properties in this area; there is no road to this property so it is landlocked which decreases its value.

**Supervisor Ryan:** addresses the appraisal process and obtaining comparable sales.

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

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

**the Board accepts the bid from R.H. Miller in the amount of \$20,000 and RESOLUTION NO. 2002-90, resolution authorizing the sale of County owned real property to an adjacent property owner in the unincorporated area of Paso Robles, adopted.**

5 C-2 This is the time set for hearing to consider an ordinance establishing Tobacco Settlement Allocation Plan; All Districts.

**Mr. David Edge:** County Administrative Officer, presents the staff report; comments on the forums he has been attending on the pros and cons of Measure A02 and comments he's heard from the public; this ordinance will formalize the Board's existing policy of allocating 100% of all Tobacco Settlement Funds to delivering health related programs and services to the County; indicates the ordinance will go into effect 30 days from today and that may be a moot point if Measure A02 passes on March 5, 2002.

**Ms. Pam Marshall Heatherington:** thanks the Board for standing up against Measure A02 and applauds the Board's efforts today.

**Mr. Eric Greening:** states one of the things the public has been concerned about is the lack of public hearings on these types of issues and if Measure A02 passes there won't be any more public hearings on the issue.

**Supervisor Pinard:** addresses the issue and from all the comments she has been hearing from supporters of Measure A02, this isn't about the money being used for health programs but rather about the doctors salaries; the proponents of Measure A02 will tell you it's modeled after a similar initiative in Orange County but this group has removed the language that would require a public hearing process.

**Chairperson Bianchi:** agrees with comments by Supervisor Pinard and expands on comments by the doctors and where they think the money from this settlement should go.

**Supervisor Ovitt:** addresses the differences between what the ordinance will do and what will occur if Measure A02 passes.

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

**AYES:** Supervisors Ovitt, Achadjian, Pinard, Ryan, 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. 2960, ordinance to establish a Tobacco Settlement Allocation Plan for San Luis Obispo County, adopted.**

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C-3 This is the time set for hearing to consider an appeal by David and Linda Richards of the Subdivision Review Board's decision to approve a parcel map to subdivide an 11.38 acre parcel into two parcels, located at 255 Broken Arrow Road, one-half mile west of Foothill Road, 3 miles north of the community of Nipomo; 4th District.

**Ms. Lynda Auchinachie:** Planning, presents the staff report and gives an overview of the site; presents a location map; outlines the issues raised in the appeal and staff's response to the same; requests modifying the language of Conditions #15 and #16 to read "within 90 days of the Board's approval" instead of "prior to map recordation."

**Board Members:** address various issues, comments and concerns regarding: the primary residence and replacement of the same.

**Mr. Dave Richards:** Appellant, states he is disappointed by the actions of the Planning Department; since the beginning of this issue they have been telling staff that the mobilehome on the property is not permitted; they feel that Ms. Auchinachie has taken an adversarial position against them and is siding with the Applicant, Mr. Brad Vernon; addresses the barn that Mr. Vernon is building and believes with all the extra work on this barn he intends to make it a residence; addresses the fire that burned the primary residence down on the property and the impacts of the same on the neighborhood; suggests that Mr. Vernon is doing things on the property without permits, such as plumbing; Mr. Vernon has also done extensive grading on the property and presents photographs of the same.

**Supervisor Ryan:** questions when the residence burned down, with Mr. Richards responding that it happened Thanksgiving Eve in 1999.

**Mr. Brad Vernon:** Applicant, feels the Richards' have shown a blatant disrespect for his property rights; addresses his work with staff; questions if this is such a problem, why none of his other neighbors are here; states he agrees with all the conditions presented by staff.

**Chairperson Bianchi:** questions the interior description of the barn by Mr. Richards, with Mr. Vernon responding that he is just trying to "do a nice job on the barn."

**Ms. Linda Richards:** Appellant, states they did not trespass on the Vernon property; the information they have regarding the barn comes from the Normans (neighboring property owners) who were invited by Mr. Vernon to see the property; questions the motivations by Mr. Vernon when he has done so much without permits; urges the Board to uphold their appeal.

**Mr. Vernon:** gives his closing comments indicating that the mobilehome was there before he purchased the property and he was told it was there legally and the taxes had been paid up to date on it; reads a letter from Launa Norman (neighboring property owner) in support of his project and presents the same for the record.

**Mr. Richards:** gives his closing comments, indicating that Mr. Vernon knew the mobilehome was not permitted because he had several discussions with him about that; reads from a letter to Ms. Auchinachie from Code Enforcement regarding the mobilehome.

**Mr. Art Trinitade:** Code Enforcement, indicates that when this issue came to their attention it was a very difficult case and it took a lot of research to determine it was not permitted; indicates if this was difficult for them it would also have been hard for Mr. Vernon; addresses the inspection they requested by Environmental Health with respect to an allegation of a failed septic system and they did not find any evidence of this.

**Board Members:** address various issues, comments and concerns regarding: the date the construction on the barn began; when school fees are required; the role of Planning to bring a property into permit compliance, including proof that a septic system is in proper working order; questions regarding the grading permit; questions when is a barn a barn and when is

it a residence, with staff responding.

**Mr. Mike Whitaker:** Chief Building Inspector, addresses the processes they use to inspect dwellings, septic systems, leach fields, etc.; how they handle inspection processes that have turned into something other than what was permitted.

**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, Chairperson Bianchi  
**NOES:** None  
**ABSENT:** None

**the Board denies the appeal, amends Conditions #15 and #16 to delete the wording “Prior to map recordation” at the beginning of each condition and replacing the language with “Prior to issuance of a building permit”; and, RESOLUTION NO. 2002-91, resolution affirming the decision of the Subdivision Review Board and conditionally approving the application of Bradley Vernon for a tentative parcel map for Parcel Map CO 01-0164, adopted as amended. Further, the Board approves the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et. seq. and the California Code of Regulations Section 15000 et. seq..**

7 C-4 This is the time set for continued hearing (continued from December 11, 2001) 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 total acres and three adjacent parcels of approximately 6.17 total acres, located adjacent to Highway 101, south of the City of Atascadero; 5th District.

**Ms. Jo Manson:** Planning, presents the staff report, outlining their work with County Counsel and the Applicant/Appellant to reach a compromise; staff is recommending that the Board partially uphold the appeal based on the compromise.

**Ms. Terry Payne:** RRM Design Group, states they are in agreement with the staff recommendation.

**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 partially upholds the appeal and RESOLUTION NO. 2002-92, resolution upholding the appeal in part and modifying the decision of the Subdivision Review Board and approving the issuance of eight (8) Conditional Certificates of Compliance pursuant to the application of Eagle Ranch, LLC for Certificates of Compliance C99-329, adopted.**

8 C-5 This is the time set for continued hearing (continued from December 11, 2001) 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. Jo Manson:** Planning, presents the staff report, outlining their work with County Counsel and the Applicant/Appellant to reach a compromise; staff is recommending that the Board partially uphold the appeal based on the compromise.

**Ms. Terry Payne:** RRM Design Group, states they are in agreement with the staff recommendation.

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

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

**the Board partially upholds the appeal and RESOLUTION NO. 2002-93, resolution upholding the appeal in part and modifying the decision of the Subdivision Review Board and approving the issuance of one (1) Conditional Certificate of Compliance pursuant to the application of Eagle Ranch, LLC for Certificate of Compliance C99-326, adopted.**

9 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 PG&E*, (2) *Save the Mesa v. County of San Luis Obispo*, **ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.)** (5) *Brown v. County of San Luis Obispo* and (6) *Mulholland, et al. v. County of San Luis Obispo*.

**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.

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

**II. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code § 54956.8)**  
It is the intention of the Board to meet in Closed Session to have a conference with its Real Property Negotiator concerning the following: (7) Property Description: *Property between Mission Street and N Street and between 11<sup>th</sup> Street and 14<sup>th</sup> Street, San Miguel*, Parties with whom Negotiating: *Ted Stenstrom, Union Pacific Railroad*, Instructions to Negotiator will concern: *price, terms and conditions*; (8) Property Description: *910 Arrow Drive, San Luis Obispo*, Parties with whom Negotiating: *Craig Cowan*, Instructions to Negotiator will concern: *price, terms and conditions*.

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

Thereafter, the Board goes into Open Public Session.

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

**Ms. Julie Rodewald:** County Clerk-Recorder, states she is here to remind voters that today is the last day the department can accept requests to mail an absentee ballot and gives the department's fax number to send in requests today; after today if a person wants an absentee ballot they will have to appear in person to get their ballot; the Clerk's office will be open this weekend, Saturday and Sunday, from 9:00 a.m. to 1:00 p.m. for folks to come in and pick up absentee ballots or to vote on the new touch screens in the office.

**Mr. Richie Ray Walker:** speaks regarding the Courts and these being here for all people; addresses justice and equality for all; speaks to a "scandal" that occurred in the District Attorney's Office in Fresno and a Deputy District Attorney that was arrested for drunk driving; comments on a contract he entered into with Cell Asylum and it being a "bogus" contract and he has turned it over to the District Attorney's Office and Congresswoman Capps.

**Mr. Terry Graham:** speaks (while presenting a roll of paper with written comments on it) regarding Grand Jury reports relating to Negative Declarations; presents a packet of information relating to a filing he has submitted to the Supreme Court of the State of California.

**Dr. Steve Hansen:** addresses the ordinance adopted by the Board earlier today regarding the Tobacco Settlement monies, indicating it was right on target and the people from Phillip Morris would have been proud of what was done here; states this ordinance locks in how the money from the Settlement is to be spent; addresses how counties use this money as a “slush fund.”

**Mr. Michael Winn:** addresses an appeal that was heard earlier today and the hostile treatment toward staff; indicates the advisory groups are working on ways to address this type of situation.

**Mr. David Broadwater:** presents written information entitled “Agricultural Productivity, Marking & Economic Risks of Sewage Sludge Land Application” and addresses the same; outlines some of the effect’s sludge as on agriculture.

**Ms. Brooke West:** states she lives in Los Osos and is here representing a group of people who have concerns regarding the sewer system proposal for Los Osos; addresses impacts they believe the sewer will have on the area.

**Mr. Dan DeVaul:** states he lives on Los Osos Valley Road and owns several acres there and wants to build affordable housing on this land and indicates he will be looking to the Board for help with this process.

**Supervisor Peg Pinard:** (speaking as a member of the public) presents an video excerpt of from a forum that was held, showing Dr. Steve Hansen speaking regarding the Tobacco Settlement funds and the need for these funds to pay doctors not receiving payment for emergency room services; states she believes this is what Measure A02 is all about, which is that doctors are not getting paid.

**Supervisor Ryan:** addresses the issue of Measure A02 and believes the only ones fighting for its passage are the doctors; these doctors are fighting the Board who is trying to use this money in the most efficient way for health care services; addresses the percentage of this money that will go to the doctors and hospitals if this measure passes. **No action taken.**

11 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.

12 D-1 This is the time set for presentation recognizing the success of the Nipomo Community Cleanup; 4th District.

**Ms. Marie Cowan:** Code Enforcement, presents the staff report and asking the Board to recognize the community of Nipomo for the cleanup event held last October; while Code Enforcement initiated the event, it was run almost completely by community volunteers; recognizes a number of the volunteers, with special thanks to Mike Winn and Jim and Georgia Kinninger; presents photographs of the volunteers and cleanup process; volunteer services included a car crusher and towing services; other agencies that assisted that day included Environmental Health, California Highway Patrol, Sheriff’s Department and Supervisor Achadjian; Mr. Kinninger and his wife took the leadership role for the volunteers and organization.

**Supervisor Achadjian:** introduces Jim Kinninger and thanks him and his wife, Georgia, for opening their home to all involved and for chairing this event; states he wanted to set money aside in the County’s budget to help fund these types of events; presents Ms. Cowan with a Certificate of Appreciation, for all her work, on behalf of the County and the community.

**Mr. Jim Kinninger:** states the process for the October cleanup began in June; speaks to the spirit of cooperation that came out of the community; they now have a transfer station in South County that is owned by Chicago Grade Landfill; highlights the items they were able to recycle that normally would have been handled as garbage.

**Mr. Michael Winn:** states it was exciting to see the community come together for this event; thanks the Kinninger’s for all their leadership and work; praises the Code Enforcement staff for all their work; and, thanks the Board for their support.

**Mr. Art Trinidad:** states that community cleanups are a good example of a partnership between County staff and communities; feels it is really the community who makes this happen.

**Supervisor Ovitt:** comments on the cleanup in San Miguel and working with Mr. Trinidad; indicates this isn't a one time event, but rather is ongoing; appreciates all the work by staff and the community.

**Supervisor Achadjian:** again thanks Georgia Kinninger, Chicago Grade Landfill, Noel King, Public Works Director, the California Highway Patrol and the Sheriff's Department for all their work. **No action 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, February 26, 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/Vicki M. Shelby,  
Deputy Clerk-Recorder

DATED: February 28, 2002  
vms