

Tuesday, April 9, 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, Peg Pinard, K.H. 'Katcho' Achadjian, Michael P. Ryan and Chairperson Shirley Bianchi

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY CHAIRPERSON BIANCHI.

SUM AGN

1 BC **Supervisor Ovitt:** states he would like to wish Vicki Shelby, Clerk to the Board, well after her foot surgery and sends well wishes to Supervisor Bianchi on her future surgery.

2 A-1 **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

RESOLUTION NO. 2002-147, resolution proclaiming April 11, 2002 as "Casa Child Advocate Day" in San Luis Obispo, adopted.

Supervisor Bianchi: reads the resolution and presents the same to Ms. Wendy Most.

Ms. Most: thanks the Board for the proclamation; indicates because of the power of volunteers they are able to help many children; states this has been a difficult year for dependency groups; speaks to their association with the courts; states their commitment this year is to do better in this County; presents the Board with candles and invites them to join them on Thursday night to light a candle on behalf of the abused and neglected children in this County.

3 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-18

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

Consent Agenda Item B-13 is amended by correcting the figures on the agenda transmittal from \$5,975.94 and 71,711.27 to \$6,620 and \$19,900. Item B-18 is pulled for separate action and continued to the afternoon calendar.

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-18 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-18, 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 the construction of an addition to the office area at Animal Service; All Districts, **Approved and the Clerk is instructed to give notice of Bid Opening set for May 9, 2002, at 3:00 p.m..**

B-2 **RESOLUTION NO. 2002-148,** intention to vacate a portion of Santa Lucia Avenue (aka

Santa Paula Avenue) in the community of Los Osos; 2nd District, **Adopted and the Clerk is instructed to give notice of hearing date set for May 7, 2002, at 9:00 a.m..**

Behavioral Health Items:

- B-3 Contract (Clerk's File) with Milhous Children's Services, Inc., to provide group home services for Mental Health clients, **Approved.**
- B-4 Contract (Clerk's File) with Victor Treatment Center, Inc., of California, dba Victor Children's Service to provide group home services for Mental Health clients, **Approved.**

Board of Supervisors Items:

- B-5 Reappointment of Ralph Sawdy as a District One representative to the Shandon Public Cemetery District, **Approved.**
- B-6 Appointment of Carol Schreiber as a District Two representative to the San Luis Obispo Commission on Children and Youth, **Approved.**

Clerk-Recorder Items:

- B-7 Request to destroy files that are being maintained on microfilm, **Approved.**
- B-8 Request to destroy registration documents that have expired two or more years and are related to professional photocopiers and unlawful detainer assistants, **Approved.**

General Services Items:

- B-9 Amendment to extend a lease with the Secretary of the Army for the operation of a public park (Santa Margarita Lake) for recreational purposes located within the Salinas Dam and reservoir area, **Approved.**
- B-10 A new capital project to acquire and place boat docks at Lopez Lake Regional Park and a corresponding budget adjustment in the amount of \$95,000 from unanticipated revenues; 4th District, **Approved.**
- B-11 Bid opening report for the replacement of cell door operators at the Main Jail; 2nd District, **Approved and the Chairperson is directed to sign the contract documents with Lee Wilson Electric Company, in the amount of \$149,400.**

Medical Services Items:

- B-12 Contract (Clerk's File) with Victoria Sherwood, R.N., to provide nursing services at General Hospital, **Approved.**
- B-13 Contract (Clerk's File) with Deborah Hunter, R.N., to provide nursing services at General Hospital, **Approved as amended.**

Public Works Items:

- B-14 Agreement (Clerk's File) with Raines, Melton and Carella, Inc., to provide consulting services for preparation of six community drainage and flood control studies; 1st, 2nd, 4th and 5th Districts, **Approved.**
- B-15 Bid opening report for the installation of wastewater holding tanks and sewer line replacement at Lopez Lake recreation area; 4th District, **Approved and the Chairperson is directed to sign the contract documents with Souza Construction, Inc., in the amount of \$45,214.**

Sheriff-Coroner Items:

- B-16 **RESOLUTION NO. 2002-149**, amending the position allocation list for Budget Unit 2590 - Sheriff-Coroner by adding one Supervising Dispatcher position and deleting one Dispatcher position, **Adopted.**

- B-17 **RESOLUTION NO. 2002-150**, amending the position allocation list for Budget Unit 2590 - Sheriff-Coroner by deleting the Secretary-Confidential position and adding a Departmental Personnel Technician-Confidential position, **Adopted.**

Other Items:

- B-18 Agreement (Clerk's File) with Morro Group, Inc., to prepare an environmental impact report for the County Growth Management Ordinance (Title 26) relating to the exemption of 180 units in the South County planning area; and 2) a corresponding budget adjustment in the amount of \$234,000 from General Fund contingencies; 4th District, **Pulled for separate action and continued to the afternoon calendar.**
- 4 C-1 This is the time set for hearing to consider formation of Tract 2299 Assessment District for drainage basin maintenance; 4th District.
- Mr. Richard Marshall:** Public Works, presents the staff report and recommendation.
- No one appearing 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 closes the public hearing portion of this item, directs the Clerk to open and tabulate the ballots received for the Tract 2299 Assessment District and continues this hearing to April 23, 2002 at 9:00 a.m. for final action.**
- 5 C-2 This is the time set for hearing to consider formation of Tract 2346 Assessment District for drainage basin maintenance; 4th District.
- Mr. Richard Marshall:** Public Works, presents the staff report and recommendation.
- No one appearing and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Pinard and unanimously carried, the Board closes the public hearing portion of this item, directs the Clerk to open and tabulate the ballots received for the Tract 2346 Assessment District and continue this hearing to April 23, 2002 at 9:00 a.m. for final action.**
- 6 C-3 This is the time set for hearing to consider formation of Tract 2409 Assessment District for drainage basin maintenance; 4th District.
- Mr. Richard Marshall:** Public Works, presents the staff report and recommendation.
- Ms. Laurie Tamura:** states she has been working with the developer of the Vista Verde Project in Nipomo; thanks staff and the Board for moving forward with the creation of this District.
- Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Pinard and unanimously carried, the Board closes the public hearing portion of this item, and directs the Clerk to open and tabulate the ballots received for the Tract 2409 Assessment District and continue this hearing to April 23, 2002 at 9:00 a.m. for final action.**
- 7 D-1 This is the time set for a request by Supervisor Pinard to authorize processing of a General Plan amendment to expand the commercial retail standards in the inland San Luis Bay Area Plan for the Avila Village in San Luis Bay Estates.
- This item at the request of Supervisor Pinard and with the Board concurrence, was continued to a date to be determined in the future.**
- 8 E-1 This is the time set for consideration of the proposed memorandum of agreement for the Sphere of Influence Update for the City of Pismo Beach.
- Mr. Warren Hoag:** Planning, presents the staff report; indicates LAFCo has prepared a

proposed Sphere of Influence (SOI) Update and Municipal Service Review (MSR) for the City of Pismo Beach; states the purpose is to analyze the City's capability to serve existing and future residents and to establish a SOI boundary for the City's probable growth and service area over the next 20 years; describes the proposed and existing SOI; states the Mankins Ranch is not proposed to be included with the updated SOI because it is in an agricultural preserve and under land a conservation contract; states two properties that will be included are: 1) the coastal portion of the Thille ownership; and 2) the King South Ranch; addresses the involvement of the City of Pismo Beach and LAFCo; indicates a proposed Memorandum of Agreement (MOA) between the City and County has been prepared for the Board's consideration.

Supervisor Achadjian: questions the sewer plant capacity and service availability; asks if there is a concern by the Avila Valley Area Council or the City of Arroyo Grande, with Mr. Hoag and Supervisor Pinard responding.

Mr. Paul Hood: LAFCo, states if the Board adopts the MOA today it will be presented to LAFCo next week; indicates there was a meeting last night in Cypress Ridge about Arroyo Grande's intention regarding their Sphere of Influence; indicates he is available to answer questions.

Mr. Eric Greening: states he appreciates the work that has been done; indicates any concerns he has relates to the County's policies and setting a precedent; addresses concern for compliance with Ag Policy #24; feels there is not enough information in the staff report to base the findings on page E-1-15; questions if the Board signs the MOA does this compromise or enhance the ability to enforce compliance, with Mr. Hoag and Mr. David Church, LAFCo, responding.

Matter is fully discussed and thereafter, on motion of Supervisor Pinard, seconded by Supervisor Ryan and unanimously carried, the Board adopts the proposed "Memorandum of Agreement Between the City of Pismo Beach and the County of San Luis Obispo regarding the Sphere of Influence.

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) *Buena Vista Mines v. County of San Luis Obispo*, 3) *Tosco 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.)** 7) *Paso Watch v. County of San Luis Obispo*.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.) 4) *Significant exposure to litigation (Gov. Code, § 54956.9(b).)* No. of cases 2. Facts and circumstances not known to potential plaintiff which indicate significant exposure to litigation. 5) *Initiation of litigation (Gov. Code, § 54956.9(c).)* No. of cases 2.

II. PERSONNEL (Gov. Code, § 54954.5.) It is the intention of the Board to meet in Closed Session to: 6) Consider Public Employee Performance Evaluation for the Position of *Public Health Officer*.

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 items not set on the Agenda.

Mr. Terril Graham: states this Board has imposed its legislation on parts of the County that is not in the Board's jurisdiction; addresses the significance of a Grand Jury Report; urges the Board to conform to State law.

Mr. Cliff Thurber: states his concern for the proposed secondary access for Tract 2162.

Mr. Bob Blair: addresses the annexation going on in Nipomo; states he's a Director for the Nipomo Community Services District (NCSD) and usually a request for annexation would come before their Board; states the County has initiated a General Plan Amendment where they want an area annexed into the District before the District has asked for it; states he does not like it when people go around the District.

Ms. Janis Meyer: states it has recently come to the neighbors attention that Oak Shores Development Company is intending to connect Tract 2162 to their private road instead of using County Road #22; addresses the distance of each road and compares the number of trees that would have to be removed.

Mr. Jan Bohrbach: states the Board counts on staff for Updates; feels staff has made an error because no one has been notified of this expansion (Tract 2162) or the proposal to take over of their private road.

Ms. Carolyn Thurber: believes County Road #22 is designated as a public road; states they pay taxes on their private road; feels five to ten years from now the secondary and emergency status on the road will change.

Mr. Don Cameron: feels if this project (Tract 2162) makes their road a secondary access he will have lost his privacy.

Mr. Rob Meyer: describes the area with the use of a map; presents the reasons why County Road #22 should be used instead of their private road.

Mr. Gary Hazard: states Central Coast Engineering has been coming in on this private property without permission or an easement; indicates the current property owners have been told that the County will come take the road through eminent domain.

Mr. Eric Greening: Life on Planet Earth, addresses an active case relating to the Ag and Open Space Element; states he wants to bring to the Board's attention a settlement offer dated January 7, 2002; questions the status.

Supervisor Ovitt: indicates Oak Shores is an approved subdivision; states one of the conditions of this subdivision is they need an alternate access; indicates he is meeting with staff tomorrow relating to this item; states County Road #22 will be part of their conversation and indicates this is not a done deal.

Supervisor Ryan: states eminent domain is seldom done.

Mr. Hazard: indicates he was told by a department head that if they didn't sell their property there was a possibility the County would use the eminent domain process to take the property.

Supervisor Achadjian: speaks to the comments made by Mr. Blair; indicates the item he was referring to did go before the NCSD. **No action taken.**

- 11 B-18 Agreement (Clerk's File) with Morro Group, Inc., to prepare an Environmental Impact Report for the County Growth Management Ordinance (Title 26) relating to the exemption of 180 units in the South County Planning Area; and 2) a corresponding budget adjustment in the amount of \$234,000 from General Fund contingencies; 4th District, is discussed.

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

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

the Board approves a budget adjustment, for BU 2800, increasing the appropriation in Professional Services for \$234,000 and fund the increase with General Fund Contingencies, and the agreement with Morro Group, Inc.

- 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 is required because no

final action was taken.

- 13 F-1 This is the time set for consideration of a report on bio-terrorism and a request to approve: 1) a budget adjustment in the amount of \$50,000 from unanticipated revenue; and 2) an amendment to the fixed asset list adding one fax server at a cost of \$7,230 to rapidly broadcast bio-terrorism emergencies to physicians and hospitals in the community; All Districts.

Dr. Greg Thomas: Public Health Agency Director, presents the definition of Bio-terrorism; speaks to potential agents and the public health impacts; presents a list of recent bio-terrorism attacks; indicates a number of hoaxes occur and still have to be dealt with; describes anthrax; feels important resources include training and education; addresses the County's current plans and its level of preparedness; addresses funding; indicates \$50,000 was received from the State for bio-terrorism preparedness and response; states these funds will allow the Department to improve in several areas including: early detection and notification; command and control; mass antibiotic immunization and antibiotic treatment; environmental assessment and security; epidemiology and analysis; and the training of staff and key partner agencies.

Board Members: discuss various issues, comments and concerns regarding: Public Health's relationship with the Office of Emergency Services; if there is a plan for integration of plans between agencies; spending the money on what people are fearing the most; the protection of the canal that runs almost the length of the State; not losing site of common sense in the planning process, with Dr. Thomas responding.

Ms. Michelle Groff: states she supports Dr. Thomas; indicates bio-terrorism is different because we don't have a lot of the facts; states there is a small window of opportunity between the time the agent is identified and the second wave of infection; indicates that's why communication is so important; feels we need to build on what we have but there is the added dimension to bio-terrorism.

Mr. Eric Greening: addresses the users of State Water and agrees with Supervisor Pinard that the canal could be very attractive to a bio-terrorist; feels the County should work with the Central Coast Water Authority and the Department of Water Resources to understand which hazards would or would not get through the treatment plant; commends the Department for their preparedness; believes one should always expect the unexpected.

Chairperson Bianchi: reads a letter written by the National Disaster Preparedness Office recognizing Ms. Groff for her work relating to the workshop on bio-terrorism and describes the workshop that was held; states many of the questions raised today were answered at the workshop; believes terrorists can and will strike anywhere and at any time.

Board Members: discuss various issues, comments and concerns regarding: page F-1-4 which outlines the distribution of the \$50,000; bringing this item back at budget time; if this item needs a 4/5's vote; if this money is being spent where it is needed, with staff responding.

Mr. James Lindholm: County Counsel, states they spoke to the Auditor's office regarding the need for a 4/5's vote and the reason it requires this vote is because it's increasing the overall budget, however the Auditor indicated if the item does not receive a 4/5's vote they would like the opportunity to further research the issue.

Ms. Meg Swearingen: Office of Emergency Services, addresses the need for badges; states the Health Department's plan comes from experts in their field and will be consistent with all emergency planning.

A tentative motion by Supervisor Ovitt, seconded by Supervisor Achadjian to approve staff's recommendation, is discussed.

Supervisor Ovitt: feels the money spent here is one more link in the chain to provide a better response system.

Supervisor Pinard: doesn't believe this proposal will provide that link in the chain and she does not the motion.

Supervisor Ryan: questions why this is a tentative motion and is it true that this money will be sent back to the Federal Government if it is not used this calendar year, with Mr. Lindholm responding.

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

AYES: Supervisors Ovitt, Achadjian, Ryan, Chairperson Bianchi

NOES: Supervisor Pinard

ABSENT: None

the Board approves an amendment to the Fixed Asset List adding one Fax Server to rapidly broadcast bio-terrorism emergencies to physicians and hospitals in the community, and a related budget adjustment for BU 3000 - Public Health in the amount of \$50,000 from Unanticipated Revenue.

14 E-2 This is the time set for consideration of the annual report on the Transfer of Development Credit (TDC) Program and amendments to modify the existing program.

Mr. Victor Holanda: Planning and Building Director, introduces the item and apologizes for the staff report indicating he realizes it was not what the Board asked for as staff was directed to come back with a mechanism to do away with the TDC program.

Supervisor Bianchi: states she also recalls the Board directing staff to put together criteria if the Board decided not to phase the TDC program out.

Mr. Holanda: indicates Kami Griffin, Planning will present the staff report starting with Section II: Authorize Amendments to Phase Out Program and then provide additional information.

Ms. Griffin: indicates there are three sections to the staff report; addresses issues relating to phasing out the TDC Program on page E-2-4 of the staff report; presents an update of the Program; states 44 credits have been transferred and approximately 1,391 acres have been preserved in conservation easements; indicates there are another 4,000 acres earmarked for conservation as part of the purchase of 90 credits that will occur as part of a recently approved receiving site; states there has been an increase in the number of receiving site applications, with four applications being submitted within the last year; indicates if the Board were to authorize staff to modify the TDC Ordinance and keep it in place she would be happy to cover any of the specifics in the staff report.

Supervisor Ryan: states on June 19, 2001 the Board directed staff to come back with an amendment to the TDC ordinance to eliminate any further processing of TDC sending units and to sunset the existing sending units in five years; questions where he can find this in the staff report.

Ms. Griffin: indicates relating to authorizations, staff never prepares an ordinance; staff prepares a report that requests the Board either authorize or not authorize the preparation of the ordinance/general plan amendment; states because of changes in State law and the increase in the use of the program, staff felt that the Board would want additional information.

Board Members: discuss various issues, comments and concerns regarding: planning development overlay; credit banking; and Hearst Ranch, with staff responding.

Mr. Eric Greening: feels there was a wrong turn made when the process was detached as a planning tool; states there has not been a public process or consensus on the location of the sending and receiving areas; indicates as the ordinance was implemented it became a "floating currency" that could be applied as a sending or receiving site anywhere; he would like to see a legal opinion relating to the site on transfer program; hopes the dialogue continues.

Ms. Gayle Peron: Bornholdt, Peron & Pratt, hands the Board two letters from Mr. Bornholdt regarding the Bonnheim Family and Martin Farrell Homes; states they are opposed to a sunset clause in the ordinance that would prohibit the Bonnheim family from pursuing what they have already begun; states the Bonnheim Family has put a lot of

property into the preserve; indicates the family is still eligible to transfer approximately 140 more credits and it may take time to find appropriate receivers; addresses Martin Farrell Homes; indicates their concern is any Board action may be a violation of the Subdivision Map Act; would hate to see the program abandoned.

Mr. Donn Bonnheim: states he's working very hard to preserve the land; describes his land by using a map and photo of their ranch and presents these to the Board; indicates he would hate to see the program abandoned and recommends the Board move forward.

Mr. Ray Belknap: Land Conservancy, states he supports the program with caution; addresses the ordinance and feels it does have some problems; indicates this program is getting Statewide attention; addresses the possibility of a TDC Bank; speaks to the amount of land this program has protected; feels the longterm viability of the program will rest in the hands of the community-based programs.

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

Mr. Chay Casso: hands the Board a report studying Transfer of Development Right's (TDR) programs across the United States and economic development pressures in San Luis Obispo County with respect to the Transfer Development Credit Program; indicates they would like the program kept in place; suggests creating more local based programs; establish a credit bank; and, use the GIS capabilities to display maps on the Web for public access; states he's available to answer any questions the Board may have.

Mr. Jon Martin: Martin Ferrell Homes, feels the lack of support for the program is the fear of the unknown and the fear of over urbanization; states his project has been received with open arms; supports the staff and hopes the Board will be open minded.

Mr. Jesse Hill: hands the Board a copy of the Nipomo Community Based TDC Plan; feels this plan does what TDC's were meant to do; indicates there are a lot of problems in the South County because everyone is a sender site; indicates Black Lake Canyon needs to be protected; states at the least he would like to see the Board approve the Nipomo Community Based TDC Program.

Mr. Chad Wittstrom: state the TDC process has been "cut and dry"; indicates he is in favor of keeping the TDC program in it's current or modified configuration.

A motion by Supervisor Ryan to reaffirm the action of June 19, 2001 to put a sunset on existing sending units for 5 to 7 years and eliminate further processing of TDC sending units, dies for lack of a second.

Matter is fully discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Achadjian and unanimously carried, the Board accept the annual report on the TDC program pursuant to Section 22.04.600c.

Matter is further discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Achadjian, with Supervisor Ryan casting a dissenting vote and Supervisor Pinard abstaining, motion carries and the Board establishes a committee of four people (a representative of North County, South County, Supervisor Ovitt, and Supervisor Achadjian) to work with staff and discuss any modifications to the TDC program and/or additional programs such as planned development and report back to this Board in three months.

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, April 9, 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: 04/12/2002

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