

Tuesday, July 23, 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            A-1    **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. 2002-296, resolution commending Frank Heinsohn for 37 years of service as an employee of the San Luis Obispo County Department of Planning and Building upon retirement effective August 2, 2002, adopted.**

**Chairperson Bianchi:** reads the resolution and presents the same, along with a plaque, to Mr. Heinsohn.

**Mr. Heinsohn:** thanks the Board for the recognition; states he has enjoyed his years with the County and has worked with great people and names several folks he has worked with, from various departments.

**Mr. Victor Holanda:** Director of Planning and Building, highlights events, from around the country, that occurred on the date that Mr. Heinsohn started working for the County; indicates these all pale next to Mr. Heinsohn's accomplishments and wishes him the best in his retirement.

**Mr. Warren Hoag:** Planning, speaks to the number of years he has worked with Mr. Heinsohn; addresses his work with the Ag Preserve program; states he considers Mr. Heinsohn a valued friend and a role model for all; he will miss him and all his knowledge.

**Mr. Don Weaver:** states he has been trying to retire for five years and his advise to Mr. Heinsohn is to "just do it."

**Supervisor Ryan:** states he worked with Mr. Heinsohn, with the Ag Preserve program, prior to becoming a Supervisor ; comments on what the County is losing with his retirement.

**Chairperson Bianchi:** states Mr. Heinsohn will really be missed; indicates she has known him for over 21 years and he is someone everyone wants to be like and he is a "great guy" and wishes him well in his retirement.

**Supervisors Achadjian and Ovitt:** both comment on Mr. Heinsohn's achievements and wish him well in his retirement.

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

**Ms. Pam Heatherington:** ECOSLO, thanks the Board for their support of Item B-27.

**Mr. Steve Mathieu:** AGP, thanks the Board for their support of Item B-27 and highlights the three meetings they will be broadcasting, in conjunction with ECOSLO, with this funding; asks the Board to consider increasing the amount to help them get

closer to the halfway point.

**Mr. Michael Kovacs:** urges more responsibility with respect to the use of public funds; addresses his concern to more outside management groups being hired to oversee inside management; comments on the contract for Mental Health. **No action taken.**

- 3 B-1 Consent Agenda Item B-18 is amended to approve the appointment of the two members  
thru to the IHSS Public Authority Governing Board, with the establishment of the terms of  
B-27 office for all the appointments to come back on August 13, 2002. Item B-27 is added to  
the Consent Agenda.

**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-27 are approved as recommended by the County Administrative Officer and as amended by this Board.**

Consent Agenda Items B-1 through B-27, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Administrative Office Items:

- B-1 Budget adjustment in the amount of \$196,890 from unanticipated revenue to Budget Unit 2550 - Public Defender to cover expenses associated with providing defense services in a homicide trial, **Approved.**
- B-2 Contract with William J. Casey, Inc., to provide management services at the Medical Services Department, **Approved.**
- B-3 **RESOLUTION NO. 2002-297**, (Clerk's File) approving the conflict of interest code for the Creston Hills Ranch Community Services District, **Adopted.**

Behavioral Health Items:

- B-4 Request to appoint William Boyd to the Mental Health Board, **Approved.**
- B-5 2002-03 contract (Clerk's File) with Intelistaf Health Services to provide skilled nursing services for Mental Health clients, **Approved.**
- B-6 Contract (Clerk's File) with Transitions-Mental Health Association to provide mental health services, **Approved.**

General Services Items:

- B-7 Extension of the emergency action to excavate and dispose of contaminated soil at the New County Government Center building site, **Approved.**
- B-8 Request to declare various equipment and miscellaneous items surplus, **Approved.**

Personnel Items:

- B-10 **RESOLUTION NO. 2002-298**, amending the salary resolution by adding salary ranges and bargaining units for four new job classifications approved in the 2002-03 budget, **Adopted.**
- B-11 **RESOLUTION NOS. 2002-299 and 2002-300**, establishing salaries for fiscal year 2002-03 for the District Attorney Investigators' Unit and District Attorney Investigators Supervisory Unit and approving an associated memorandum of understanding, **Adopted.**

Planning and Building Items:

- B-12 **RESOLUTION NO. 2002-301**, accepting an avigation easement from Jack and Donna Baldwin for property located near the Paso Robles Airport; 1st District, **Adopted**.
- B-13 Request to approve the proposed mitigated negative declaration for the Wineman Road Culvert Repair Project; 4th District, **Approved**.

Public Works Items:

- B-14 Amended agreement with John L. Wallace and Associates for engineering consulting services as well as environmental services for the widening of Tefft Street in Olde Towne Nipomo; 4th District, **Approved**.
- B-15 **RESOLUTION NO. 2002-302**, appointing Chris Helenius as the County Service Area No. 12 alternate member to the San Luis Obispo County Flood Control and Water Conservation District - Zone 3 Advisory Committee; 3rd and 4th Districts, **Adopted**.
- B-16 **RESOLUTION NO. 2002-303**, providing for a service charge credit/rebate for the landscape maintenance project in County Service Area No. 1A (Galaxy Park, Tract 1898, Nipomo); 4th District, **Adopted**.
- B-17 **RESOLUTION NO. 2002-304**, authorizing execution of Notice of Completion for the widening of a portion of Orchard Avenue, Nipomo; 4th District, **Adopted**.

Social Services Items:

- B-18 Request to appoint Katie Phillips and Barbara Porter to the Governing Board for the In-Home Supportive Services Public Authority, **Approved as amended**.
- B-19 Budget adjustment in the amount of \$95,000 from federal and state revenue for various foster care expenditures, **Approved**.
- B-20 Budget adjustment in the amount of \$290,000 from federal and state revenue to the Social Services Administration budget to pay for higher than expected expenses in various accounts, **Approved**.
- B-21 Contract (Clerk's File) with the Women's Shelter Program, Inc., to provide domestic violence and dating violence prevention services, **Approved**.
- B-22 Contract (Clerk's File) with San Luis Obispo Legal Alternative Corporation (Creative Mediation Services) to provide family group decision making services, **Approved**.
- B-23 Contract (Clerk's File) with LifeSpan Services Network, Inc., to provide community service placements, **Approved**.
- B-24 Two contracts (Clerk's File) with the California State Association of Counties and the Electronic Data Systems Corporation for the management and maintenance of automated welfare programming services, **Approved**.

Other Items:

- B-25 Submittal by the Auditor-Controller of an audit report on the trust fund administration and internal controls for the Probation trust fund for the period from July 2001 through January 2002, **Received and Filed**.
- B-26 **RESOLUTION NOS. 2002-305, 2002-306 and 2002-307**, (Clerk's File) honoring the "Cattlemoan of the Year," "Cattleman of the Year" and "Agriculturalist of the Year," **Adopted**.

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

B-27 Request by Board Members to allocate \$3,000 from Environmental Project Funds (District Two - \$2,000, Districts Three and Four - \$500 each) to the Environmental Center of San Luis Obispo (ECOSLO) to be used to cover costs associated with the broadcasting and taping of the California Fish and Game Commission, the Monterey Marina Sanctuary Advisory Council and the California Coastal Commission public meetings, **Approved.**

C-1 This is the time set for hearing to consider an appeal by Robert Klein of the Administrative Hearing Officer's decision to approve a minor use permit to allow an exception to the edge of Nipomo Mesa standards to allow construction of two single family residences on two existing legal lots of record, located in the County at the southeast corner of Camino del Oro and Calle Cielo, in the community of Nipomo; 4th District.

**Ms. Kami Griffin:** Planning, presents the staff report, outlines the issues raised in the appeal and staff's response to the same.

**Supervisor Achadjian:** questions requirements to have a building permit issued.

**Mr. Forrester Wermuth:** Chief Building Inspector, outlines what they review before a building permit is issued and they will review the revised geology report.

**Supervisor Achadjian:** questions the earthquake fault in this area.

**Mr. Lou Rosenberg:** County Engineering Geologist, indicates there is a fault called the Oceano Fault be it is not on the list as active; addresses the conditions on page C-1-23 of the staff report.

**Board Members:** question the size of the parcels; setback requirements to adjacent parcels; and the recent "blow out" on the bluffs, with staff responding.

**Mr. Robert Klein:** Appellant, addresses his appeal and addresses his concerns which includes environmental issues, drainage and septic.

**Ms. Sue Klein:** Appellant, states she and her family have lived here since 1989 and were told at the time they purchased that no one would ever build in front of them.

**Mr. Don Weaver:** Geologist representing the Kleins, addresses the letter he submitted on July 16, 2002 regarding the geological report prepared by staff after the Minor Use Permit hearing; believes the Negative Declaration needs to be reviewed; suggests there are highly sensitive geological conditions in this area; urges the Board to uphold the appeal until further study is done; addresses their concern with respect to the slope and runoff; believes an EIR is necessary before approval is given; presents his comments for the record.

**Mr. Paul Geih:** Attorney representing the Kleins, addresses his concern to the County Geologist not getting involved until 13 days ago; comments on the requirements of the Subdivision Map Act; presents a copy of a document recorded in 1989 that states "no structures shall be located below the 960-foot contour interval"; incorporates his letter that was previously sent and dated 7/19/02 into the record and presents another letter dated July 23, 2002 for the record; urges the Board to uphold the appeal.

**Ms. Lynne Borges:** Applicant, states she and her mom are working together on this and trying to get it completed; they have owned the property for over 30 years; addresses delays that have occurred with respect to developing this site; comments on runoff by current residential properties in the area.

**Mr. Richard Post:** Geo-Solutions representing Applicant, addresses his study of the site and no one was more skeptical than he was in the beginning; supports the comments by Mr. Rosenberg as he believes these support his own conclusions.

**Mr. Terry Orton:** Westland Engineering, representing the Applicant, give a brief history of the site, outlining the original lot split, original building designs and changes in the law; highlights a topographic map of the site; comments on the "blow out" that

occurred down the street, indicating it was completely due to drainage from the street.

**Mr. Craig Macmillan:** states he lives on Lot 38 and is a neighboring property owner, addresses his experience with agricultural development; believes this proposal presents an extreme risk to the area; feels the access to the property is questionable and urges the Board to uphold the appeal.

**Mr. Charles Gulyash:** states he objected to this back in 1987 when the parcels were split; suggests the only way to make this safe is to require a 250+ foot retaining wall; urges the Board to uphold the appeal.

**Ms. Laurie Doss:** neighboring property owner, indicates that all of the neighbors she has spoken to are concerned about the septic system for this project and drainage; urges the Board to uphold the appeal.

**Mr. Eric Greening:** suggests it is a misuse to call this area the “mesa” and provides the definition of the same; suggests that instead of calling this the “mesa” it should be called the “sand pile” and urges the Board to uphold the appeal.

**Mr. Dean Teixeira:** neighboring property owner and also farms below this site, speaks against this project.

**Mr. Dan Piester:** states he lives in the area and is next to a catch basin for drainage and how this has impacted his property; addresses his concern to erosion in the area; urges the Board to deny this project.

**Ms. Sari Sinans:** questions the location of the residences on these two parcels and supports comments by previous speakers.

**Ms. Tanya Winans:** addresses her concerns to drainage and is against building on this site.

**Mr. Orton:** gives the closing comments for the Applicant and addresses the higher building standards they will need to meet in order to build and that these are higher standards than what currently exists in the neighborhood.

**Mr. Weaver:** gives the closing comments for the Appellant and presents an overhead entitled “Conceptual Site Plan” and highlights the same.

**Mr. Geihs:** gives closing comments for the Appellant with respect to their concerns regarding the current setback requirements for the bluff and septic system requirements; urges the Board to uphold the appeal.

**Supervisor Achadjian:** addresses the safety issues raised today.

**Ms. Griffin:** responds to comments by the public; addresses the conditions for this project; comments on the additional information that has been presented today and over the past several days; suggests the Board may want to continue this and allow staff and the new County Geologist to review this information.

**Board Members:** address various issues, comments and concerns regarding: setback requirements for the two parcels; suggests one parcel is buildable, and this is not one closest to the bluff.

**Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan and unanimously carried, the Board continues this item to September 17, 2002 at 9:00 a.m. to allow staff time to review new information that has been received and to also look at combining both lots into one.**

**Mr. James Lindholm:** County Counsel, indicates that while staff can review looking at the effect of combining the lots that cannot occur through this project and would be subject to a future hearing.

D-1 This is the time set for consideration of a status report for the California Coastal Commission's Periodic Review of the Local Coastal Program; 2nd, 3rd and 4th Districts.

**Mr. John Euphrat:** Planning, presents the staff report, providing a brief overview of the Local Coastal Program (LCP); outlines the changes to the LCP that are being addressed by the Coastal Commission and staff's response to these; the goal is to have the Periodic Review ready by September 2002; comments on the Coastal Commission meetings scheduled in August at the Embassy Suites in San Luis Obispo and what they will be hearing with respect to the Periodic Review, Cambria Elementary School, Los Osos Sewer and LCP amendments with respect to procedure.

**Supervisor Ryan:** questions the language of some of the proposed changes with staff responding.

**Mr. Eric Greening:** thanks the staff for all their work; comments on page D-1-28 and the language relating to drainage and the use of street sweepers; suggests this language should be enacted Countywide and not just in the coastal areas; comments on bluff top language on pages D-1-66 and 67.

**Mr. Peter Chaldecott:** Cambria Community Services District (CCSD), addresses their concerns regarding language proposed for the Cambria area (page D-1-20) and the need for more dialog on this language.

**Chairperson Bianchi:** states the language Mr. Chaldecott is speaking to is the Coastal Commission language and the staff rewrite is below it.

**Mr. Bob Gresens:** CCSD, presents a letter for the record and highlights the same, discussing a graph that shows the outflow estimates for Santa Rosa and San Simeon Creeks.

**Supervisor Pinard:** asks if the CCSD wants their letter included with the staff information for the Coastal Commission's review, with Mr. Gresens indicating they would.

**Mr. Wayne Parrack:** addresses Sections 2.13 and 2.16 and additional language he would like added; his concerns on page D-1-22 with respect to there being a total of 7,421 dwelling units.

**Ms. Joy Fitzhugh:** Farm Bureau, addresses the letter they have submitted regarding agriculture and indicates they are available to work with staff on these issues.

**Ms. Pam Heatherington:** ECOSLO, addresses the issue and suggests they vacuum streets instead of using a sweeper as this will help keep more contaminants from getting into the water.

**Mr. Babak Naficy:** Environmental Defense Center, commends the staff for all their work; speak to page D-1-27 and wants to see the water quality language and the language with respect to riparian uses in water corridors strengthened.

**Board Members:** address various issues, comments and concerns regarding: the language that reads "any type of development" and clarifying this to lessen the "appealability" of projects going to the Coastal Commission - wanting to see more issues remain at the local level; concerns raised regarding water quality and there is a lot the County can do to manage this at the local level; wants the permits for the outflow from San Simeon and Santa Rosa Creeks included in the report; ensuring that the public understands this is a draft and still needs to go through the public hearing process.

**Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian and unanimously carried, the Board (1) reviews the status of the Periodic Review and County staff's progress in developing draft implementation measures that the Board agreed to consider, (2) directs staff to advise the Coastal Commission of progress prior to their August meeting in San Luis Obispo and (3) directs staff to continue addressing the recommendations of the Periodic Review, by drafting proposed**

**amendments to applicable County plans, ordinances and procedures. Further, staff is to take comments today into consideration when doing the above.**

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

**Mr. Bill James:** Port San Luis Fishermen's Association, presents the Board with copies of the agenda for an upcoming Fish and Game Committee meeting to be held in San Luis Obispo County and urges the Board members to attend this meeting.

**Mr. David Broadwater:** presents two reports on biosolids and addresses health issues associated with this.

**Ms. Linda Hall:** commends Supervisor Pinard for her activities with respect to issues in the County.

**Ms. Nancy Castle:** AGP, thanks the Board for the funding that was approved this morning and clarifies comments made earlier by outlining what they will be taping with respect to the three meetings being covered. **No action taken.**

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

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

**A. Conference with Legal Counsel - Existing Litigation (Gov. Code, § 54956.9(a). (Formally initiated)** (1) *In re PG&E Bankruptcy*, (2) *NRC Proceedings re License Transfer*, (3) *NRC Proceedings re ISFSI*, **ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.)** (6) *Lum v. County of San Luis Obispo* and (7) *Mulholland 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.

**ADDED (All requirements of the Brown Act were met as this was 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: (8) Property Description: *1911 Johnson Avenue, San Luis Obispo or 345 Halcyon Road, Arroyo Grande*, Parties with whom negotiating: *Joe Nolan*, County Negotiator: *Gail R. Wilcox*, Instructions to Negotiator will concern: *Price, Terms and Conditions*.

**Chairperson Bianchi:** opens the floor to public.

**Ms. Pam Heatherington:** wishes the Board well in their discussions today.

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 and the Board goes into Open Public Session.

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, July 23, 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: July 29, 2002

vms