

Tuesday, October 22, 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

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

1 A-1-C **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

RESOLUTION NO. 2002-407, resolution honoring Myron Graham for his unparalleled legacy of service to San Luis Obispo County, adopted.

Supervisor Pinard: reads the resolution; states that Mr. Graham is turning 90 years of age and there is a surprise party planned for this weekend; presents Ms. Chrissy Hewitt with the resolution and a box of graham crackers for Mr. Graham.

Ms. Hewitt: accepts the resolution on behalf of Mr. Graham; invites everyone to attend the party for him on Sunday, October 27th from 1-2:30 p.m. at the San Luis Obispo Arts Center.

2 A-1-B **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

RESOLUTION NO. 2002-408, resolution proclaiming October 20-26, 2002 as "National Character Counts Week" in San Luis Obispo County, adopted.

Supervisor Achadjian: reads the resolution and presents the same to Mr. Toby Charles.

Mr. Charles: thanks the Board for the recognition; speaks to the children of the future and the need to provide them with high standards and examples of good character.

3 A-1-A **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

RESOLUTION NO. 2002-409, resolution recognizing San Luis Obispo County Sheriff's Department Search and Rescue Unit, adopted.

Chairperson Bianchi: reads the resolution and presents the same to Sheriff Pat Hedges and members of the Search and Rescue Unit.

Sheriff Hedges: thanks the Board for the recognition of this Unit; states the department would be lost without these volunteers and introduces Mr. Bob Lewis, Chairperson for the Search and Rescue Unit Board of Directors.

Mr. Lewis: thanks the Board for the recognition; speaks to the various skills of these volunteers.

The Board takes a short recess to go outside and view the equipment used by the volunteers.

(SUPERVISOR MICHAEL P. RYAN IS NOW ABSENT.)

4 B-1 This is the time set for members of the public wishing to address the Board of items
thru set on the Consent Agenda.
B-24

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

Consent Agenda Items B-1, B-2 and B-3 are amended to correct the cover sheet to include the time of the hearing at 9:00 a.m.. Item B-24 is added to the Consent Agenda.

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

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

Consent Agenda Items B-1 through B-24 are approved as recommended by County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-24, as amended, are on file in the Office of the County Clerk-Recorder and available for public inspection.

Items set for hearing:

- B-1 Introduction of amendments to the Land Use Ordinance (Title 22 of the County Code) and the Land Use Element to: 1) reformat the Land Use Ordinance by moving the existing text to new sections and by changing the organization layout; 2) move the land use definitions, Table O and the Planning Area Standards from the Inland Area Plans and Framework for Planning to the reformatted Land Use Ordinance; and 3) change all references in the documents to accurately reflect the amendments, **Approved as amended and the Clerk is instructed to give notice of the hearing date set for November 5, 2002 at 9:00 a.m..**
- B-2 Introduction of a proposed ordinance amending section 2.44.060 of the County Code relating to sick leave, **Approved as amended and the Clerk is instructed to give notice of the hearing date set for November 5, 2002 at 9:00 a.m..**
- B-3 Introduction of a proposed ordinance amending section 2.48.095 of the County Code relating to the Board of Supervisor's salaries, **Approved as amended and the Clerk is instructed to give notice of the hearing date set for November 5, 2002 at 9:00 a.m..**

Administrative Office Items:

- B-4 Signature authority for the Federal Emergency Management Performance Grant Program

Approved.

- B-5 Agreements (Clerk's File) with the Children's Services Network and the Economic Opportunity Commission, to provide various preventive health services, **Approved.**
- B-6 Submittal of a report on the impact of the state budget reductions to the County's budget and programs, **Received and Filed.**
- B-7 **RESOLUTION NO. 2002-410**, establishing salary and benefit adjustments for General Management, General Management Appointed Department Heads, Elected Officials, Operations and Staff Management, Confidential Employees and represented Attorneys for fiscal year 2002-2003, **Adopted.**
- B-8 **RESOLUTION NOS. 2002-411, 2002-412 and 2002-413**, amending the fiscal year 1999-2004 Memorandum of Understanding for the Public Services, Supervisory, and Clerical Units and establishing fiscal year 2002-03 salaries and benefits, **Adopted.**
- B-9 **RESOLUTION NO. 2002-414**, amending the fiscal year 1999-2006 Memorandum of Understanding for the Trades, Crafts and Services Unit and establishing fiscal year 2002-03 salaries and benefits, **Adopted.**

General Services Items:

- B-10 Extension of the emergency action to excavate and dispose of contaminated soil at the New County Government Center building site, **Approved.**
- B-11 Pilot program for the promotion and marketing of County-operated recreational facilities through the distribution of low-cost merchandise and recreational services, **Approved.**
- B-12 Amended agreement with the Regents of the University of California on behalf of the Cooperative Extension of the University of California to allow the continued use of approximately five acres of County owned property, **Approved.**
- B-13 Amended agreement with Drake Farms Trucking to allow the continued use of approximately thirty-eight acres of County owned property, **Approved.**
- B-14 Amended agreement with Drake Farms Trucking to allow the continued use of approximately twenty-nine acres of County owned property, **Approved.**

Probation Items:

- B-15 Contract with AmeriCorps Mentoring to provide mentoring services to at-risk youth, **Approved.**
- B-16 **RESOLUTION NO. 2002-415**, accepting a grant award from the California Youth Authority for a Young Men as Fathers Parenting/Mentoring Program and a request to approve a corresponding budget adjustment in the amount of \$21,032, **Adopted.**

Public Works Items:

- B-17 Purchase of a previously budgeted pick-up truck for the Lopez Recreation Area, **Approved.**
- B-18 **RESOLUTION NOS. 2002-416 and 2002-417**, approving a dispute review board three-party agreement and construction change orders for the Lopez Dam Seismic Remediation Project; 3rd and 4th Districts, **Adopted.**
- B-19 **RESOLUTION NO. 2002-418**, authorizing execution of a notice of completion for the reconstruction of Neal Spring Road, Templeton; 1st District, **Adopted.**

- B-20 **RESOLUTION NOS. 2002-419 and 2002-420**, accepting conveyance from George Trust and Green Trust for the Olde Towne Nipomo Enhancement Project; 4th District, **Adopted.**

Other Items:

- B-21 Contract with Marian Medical Center to provide medical services to medically indigent adults and jail inmates, **Approved.**
- B-22 Contract (Clerk's File) with ECHO Consulting Services to provide software maintenance and support for Mental Health's Management Information System, **Approved.**
- B-23 Request to appoint Supervisor Ovitt as the County's representative to the California Association of Counties, **Approved.**

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

- B-24 **RESOLUTION NO. 2002-421**, declaring an emergency change in work and authorizing a contract change order for the construction of a safety project on a portion of Noyes Road, between Ormonde Road and Highway 227, near Arroyo Grande, 3rd District, **Adopted.**

(SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.)

- 5 C-1 This is the time set for hearing to consider a resolution authorizing conveyance of a portion of Avila Beach Drive to the Kiessig Family Trust, located near the community of Avila Beach; 3rd District.

Mr. Tim Smith: Right-of-Way Agent, asks the Board for a continuance to allow additional time to work with the Kiessig family.

No one appearing and thereafter, on motion of Supervisor Pinard, seconded by Supervisor Achadjian and unanimously carried, the Board continues said hearing to November 26, 2002 at 9:00 a.m..

- 6 C-2 This is the time set for continued hearing (continued from October 1, 2002) to consider an appeal by Carriage Home/Carl Moreland of the staff determination that the expiration date of the vesting tentative map for Tract 1747 does not qualify for an automatic time extension, located at the intersection of Thompson and Chestnut Avenues, in the community of Nipomo; 4th District.

Ms. Pat Beck: Planning, introduces the item, indicating the issue before Board is the recognition of the potential for an additional 3-year automatic extension based on specific criteria in the Subdivision Map Act; the issue is what is the status of this map and can it be acknowledged to have the 3-year automatic extension; corrects page C-2-3, first paragraph, the last sentence to read: "There is **nothing in** the legislative history . . ."; two primary points that are remaining: (1) what can count as the basis for meeting the \$154,000 off-site expenditures that will allow a project to qualify for this additional time frame if they use a phased map; and (2) who is responsible or who can assume the responsibility for establishing the phasing schedule, does it have to be done through the advisory agency (in this case the Planning Commission) or can it be done through the County Public Works' office; in reviewing the legislative history you'll hear from the applicant information about their evaluation of what it says and both staff and the applicant agrees that it is quite gray, there is nothing that explicitly says fees can be used but there is nothing that says fees explicitly cannot be used as a basis for this; because it's the County's administrative practice not to have counted fees as meeting this particular requirement, this should remain our recommendation to the Board; if the Board determines that fees seem to be an appropriate way to fulfill this you can provide

direction to staff through this action today and staff would use that in reviewing future projects; with respect to the phasing portion of this, there are portions of the Subdivision Map Act that clearly say that the Public Works Department, in concert with the applicant, can establish a phasing schedule and that is in fact what happened with this project; there is another section, which appears to suggest that can't be done with Public Works, but in those incidents should have gone back to the Planning Commission.

Mr. Richard Marshall: Public Works, describes and provides a brief background on the tract; the original tentative approval was in October 1999, by the Planning Commission; since that time no requests for a standard time extension have been filed; staff's position is that the tentative map expired in October 2001; subsequent to the public hearing before the Planning Commission, the developer filed a request for two phased final maps, the first of which created 109 lots and was recorded in June 2001, which was prior to the original two year expiration date; the two issues are: (1) the determination by the advisory agency and (2) whether or not certain expenditures meet the requirements as qualifying for the dollar value; staff has been meeting with the applicant and while staff has received more information, the recommendation to the Board remains the same.

Board Members: address various issues, comments and concerns regarding: if the applicant is required to start over again, whether new fees would be imposed; concerns raised by the community with respect to drainage and whether that can be addressed in this hearing; concerns regarding a grading violation that may have occurred; who approved the first phase of the tract map; what fees were included with this phase.

Mr. Marshall: responds that staff would not propose that the applicant pay fees twice for the same project; this hearing does not open up changes to conditions and the project has already bonded for certain improvements that are required; addresses the grading violation.

Mr. Jeffrey Emrick: EDA and representing the Applicant, introduces those present who will be presenting the Applicant/Appellant's case.

Mr. John 'Buzz' Kind: presents a packet of information for the record; outlines what they have done and the time frames they were operating under; water and sewer fees have been paid to the Nipomo Community Services District (NCSO); believes the Map Act is on their side with respect to this issue and believes they have been operating in good faith; states they have heard the concerns by the community and indicates he is willing to meet with them to work out these concerns; addresses permits that are in place and delays with respect to permits from the Army Corp. of Engineering.

Mr. Mike Durkee: attorney representing the Applicant, asks that all the information they have presented and the letter he sent to the Board be made part of the record; thanks staff for all their work; speaks to the fees; believes the Map Act requirements have been satisfied; addresses the intent of the Act as it relates to this application.

Mr. Jesse Hill: states the Advisory Group took an action in support of the staff recommendation on this issue; speaking for himself, addresses the issue of fees.

Mr. Daniel Diaz: presents for the record, information and photographs relating to this project; comments on drainage and the areas on this property where it drains and seeps back into the ground; speaks to flooding that occurred in his home last year and he lives near this site.

Supervisor Pinard: questions the issues that have been raised regarding drainage and flooding; questions recharging of the aquifer, with staff responding.

Chairperson Bianchi: addresses her concerns and why she will not support upholding the appeal.

A motion by Supervisor Achadjian, seconded by Supervisor Ryan, to uphold the appeal, is discussed.

Ms. Beck: suggests that the Board make this a tentative motion and direct staff to prepare findings in support of the motion and return this afternoon so the Board can take final action on this item, **with Supervisors Achadjian and Ryan agreeing to amend the motion to include this recommendation.**

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

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

the Board tentatively upholds the appeal and directs staff to return this afternoon with findings to support this action.

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 Concerning Diablo Canyon License Transfer* and (3) *NRC Proceedings Concerning Spent Fuel*.

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.

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

Thereafter, the Board goes into Open Public Session.

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

Mr. Richie Ray Walker: thanks Chairperson Bianchi for her continuing support of General Hospital; feels the Hospital was “short-changed” last week by the Board; addresses his concerns to safety issues with respect to Diablo Canyon.

Mr. David Broadwater: presents a flyer regarding a Peace Walk on October 26th and invites everyone to attend; asks the Board to say they will support a war against Iraq only under the condition that there is a formal Congressional Declaration of War, under Article I, Section 8 of the U.S. Constitution, which states “Congress shall have power to declare war”; no President, tyrant, King or single individual can single-handedly plunge us into war. **No action taken.**

9 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 as no final action was taken.

10 C-2 Appeal by Carriage Home/Carl Moreland of the staff determination that the expiration date of the vesting tentative map for Tract 1747 does not qualify for an automatic time extension, located at the intersection of Thompson and Chestnut Avenues, in the community of Nipomo, is brought back on for hearing.

Ms. Pat Beck: Planning, presents Findings regarding Tract 1747 in support of the

Board's tentative action this morning; corrects Finding #7, second last line to read ". . . Code section 66452.6 ~~(H)~~(A) and to a stay . . ."; indicates the applicant has received a copy of this and agrees with the same.

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

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

the Board upholds the appeal and adopts the findings as presented and amended this date and titled "Exhibit A - Findings Regarding Tract 1747."

- 11 D-1 This is the time set to consider the request to initiate review of ordinances and area plan standards to provide streamlining improvements, clarify the process, or respond to changes in State requirements.

Ms. Pat Beck: Planning, presents the staff report and indicates they are looking for direction from the Board for potential amendments to existing ordinances and area plan standards that could (1) streamline the process for applicants and staff, (2) clarify the process so that applicants, staff and the community will better understand the requirements and (3) respond to changes required under new legislation; the possible changes include: (1) standards for Pre-1976 mobilehomes;(2) Secondary dwellings and density bonuses based on AB 1866; and, (3) Changes to the Grading Requirements for (A) agricultural exemptions, (B) exemption from environmental determinations and (C) exemption to streamline soil conservation projects undertaken by the Resource Conservation District within the Morro Bay watershed. .

Board Members: address various issues, comments and concerns regarding: what brought up the issue of Pre-1976 mobilehomes; problems with trying to upgrade wiring in these mobilehomes; concerns about disposal of old mobilehomes and the need to find sources that can dismantle and dispose/recycle them, with staff responding.

No one appearing and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Achadjian and unanimously carried, the Board directs staff to initiate the review of the ordinances and area plans relating to the issues outlined in the staff report dated October 22, 2002 and to bring forward amendments as needed.

- 12 E-1 This is the time set for consideration of a proposed increase in the amount paid to election day pollworkers.

Ms. Julie Rodewald: County Clerk-Recorder, presents the staff report, indicating the Board directed her to return to look at increasing the stipend paid to election day pollworkers to assist in increasing community participation in this vital service; review of how much the stipend could be increased showed that there is a State law that limits the amount of pay to pollworkers to less than \$200 in a calendar year; the current Federal limit is \$1,000 in a calendar year; the California Association of Clerks and Elections Officials has proposed in the past and is continuing to propose legislation to make the California limit conform to the Federal limit; she has also included support of this proposal in the legislative platform for the County which will be presented to the Board at a later date; even with this limitation, indicates she is providing a proposal that does represent a 53% increase for clerks and 63% increase for inspectors; the increase includes an additional \$5 for training incentive, an additional \$15 for inspectors, who pick up, review and prepare their supplies before election day; and, an increase in the stipend of \$32 for clerks and \$37 for inspectors; in addition to stipends and incentives, the workers are eligible for up to \$48 in meal reimbursements; this proposal would result in a total payment of \$107 to clerks and \$147 to inspectors; the resolution also includes an amount paid to half-day workers and stipulates that County employees who serve at the polls would be eligible for the half-day stipend only plus the training incentive and

supply incentive if they serve as inspectors; the increased cost of this proposal is \$27,060 over the current budgeted amount for election day pollworkers; asks the Board to adopt the resolution increasing the pay for pollworkers and to establish an effective date for this increase.

Supervisor Ryan: questions whether the limit on the amount that can be paid takes in all elections that occur within a calendar year and whether the lobbying they are doing is per election versus calendar year.

Ms. Rodewald: responds that the current amount is for however many elections occur in a calendar year and the lobbying they are doing is to increase the amount to the Federal limit of \$1,000.

Ms. Terry Reeves: states she has worked election day for the department since the 1980's; states many of the pollworkers are senior citizens and feels increasing the amount paid will help entice younger folks to work.

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

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

RESOLUTION NO. 2002-422, resolution establishing fixed amount of payment for Election Day Pollworkers, adopted. Further, the Board establishes the effective date of the resolution as October 22, 2002 and approves a budget adjustment to the County Clerk-Recorder's budget in the amount of \$27,060 to be funded from General Fund contingencies.

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, October 22, 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: October 23, 2002
vms