

Tuesday, January 14, 2003

The Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, met in regular session at 9:00 A.M..

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

**ABSENT:** None

**PLEDGE OF ALLEGIANCE TO THE FLAG LED BY SUPERVISOR PEG PINARD.**

SUM            AGN

1            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-11

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

Consent Agenda Item B-11 is added. **Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Bianchi and on the following roll call vote:**

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

**Consent Agenda Items B-1 through B-11 are approved as recommended by the County Administrative Officer and as amended by this Board.**

Consent Agenda Items B-1 through B-11, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set bid opening:

B-1    Plans and specifications (Clerk's File) for replacement of cell door operators at the Sheriff's Main Jail, **Approved and the Clerk is instructed to give notice of bid opening set for February 13, 2003, at 3:00 p.m.**

Administrative Office Items:

B-2    Amended agreement with Greg Clayton for investigative services in connection with claims and employment disputes involving the County, **Approved.**

B-3    Settlement of the Burnside liability claim against the County, **Approved.**

B-4    **RESOLUTION NO. 2003-18**, accepting the exchange of property tax revenue and annual tax increment for Annexation No. 20 to the Templeton Community Services District (Adams); 1st District, **Adopted.**

General Services Items:

B-5    Ground lease (Clerk's File) with the City of Paso Robles to allow the County to construct a North County Superior Courthouse facility at the site, **Approved.**

B-6    Lease agreement with William and Kathleen Stefanek for office space located at 1030 Vine Street in Paso Robles, for Mental Health, **Approved.**

Public Works Items:

B-7    Agreement with the State Department of Transportation for the installation of traffic signal and lighting at Route 1/Cambria Drive intersection in Cambria; 2nd District, **Approved.**

- B-8 **RESOLUTION NO. 2003-19**, approving the Lopez Water Treatment Plant Upgrade Project, Adopted; 2) an agreement (Clerk's File) with Black and Veatch for specialized engineering services to design the Lopez Water Treatment Plant Upgrade, 3) authorizing the Director of Public Works to issue a notice to proceed on Phase I work; and 4) authorizing the Director of Public Works to issue a notice to proceed on Phase II work established in the contract when an increase in the project budget is approved by your Board; 3rd and 4th Districts, **Approved**.

Other Items:

- B-9 Minutes of the November 5, 12, and 26, 2002, Board of Supervisors' meetings, **Approved**.
- B-10 An amended agreement (Clerk's File) with Life Steps Foundation, Inc., increasing the funding; and 2) a corresponding budget adjustment in the amount of \$45,436 from state funds, **Approved**.

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

- B-11 **RESOLUTION NO. 2003-20**, recognizing the dedication of the Iron Road Pioneers Sculpture in Railroad Square, city of San Luis Obispo, **Adopted**.

2

- C-1 This is the time set for hearing to consider an appeal by Robert and Julie Kocher of the Planning Department Hearing Officer's approval of the Gillingham Minor Use Permit/Coastal Development Permit (D010340P), to construct a single family residence on a 7,000 square feet site located in the community of Cambria; 2nd District.

**Mr. Matt Janssen:** Planning, introduces the item.

**Ms. Kerry O'Neill:** Planning, presents the staff report; addresses the issues of the appeal; presents slides of the proposed project; states staff recommends denying the appeal and add conditions 17 (Water Conservation) and 18 (Landscape Plan) which are already included in the resolution.

**Chairperson Ryan:** asks if the main issue is water; states the Cambria Community Services District (CCSD) issued the Will-Serve letter and this water was already considered before the moratorium, with Ms. O'Neill agreeing.

**Mr. Arthur Gillingham:** Applicant, indicates he would like to reserve the opportunity to comment later, with Chairperson Ryan agreeing.

**The Appellant did not appear.**

**Supervisor Bianchi:** states water is always a problem in Cambria; states she doesn't like what the CCSD Board did by issuing the intent to serve letters for those applicants that were already in the "pipeline", however it was their decision.

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

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

**RESOLUTION NO. 2003-21, resolution disapproving the appeal, modifying the decision of Hearing Officer and conditionally approving the application of Arthur Gillingham for Minor Use Permit D010340P, adopted.**

3

- C-2 This is the time set for hearing to consider an appeal by Ken Renshaw and Lila Evans of the Planning Department Hearing Officer's approval of the Barker/Delp Minor Use Permit/Coastal Development Permit (D000482P) to construct a single family residence on a 10,444 square feet site located in the community of Cambria; 2nd District.

**Ms. Karen Nall:** Planning, presents the staff report; addresses the issue of the appeal, which is water availability; states staff recommends disapproving the appeal with added conditions 11 (Water Conservation) and 12 (Landscape Plan) which are already included in the resolution.

**Mr. Matt Janssen:** Planning, hands the Board a revised Condition 6 and 7 at the request of the Applicant.

**Chairperson Ryan:** believes the revised Conditions 6 and 7 would cause enforcement headaches, with Mr. Janssen concurring.

**Ms. Cynthia Hawley:** Appellant, hands the Board a packet of information; states the County cannot make the finding on water availability; indicates the Intent to Serve letter from the Cambria Community Service District (CCSD) is not a binding commitment; addresses Resolution No. 2-2000, adopted by the CCSD, regarding a water shortage emergency; states the CCSD does not have enough water and the retrofit program is not adequate; believes water savings should not go toward new development; requests if the Board does approve this project that the Coastal Development Permit only be effective after the completion of the retrofit.

**Ms. Lila Evans:** Appellant, hands the Board a letter written by Susan Chambers and reads her objections relating to the Transfer of Development Credits and the shortage of water in Cambria; indicates State law is not being followed.

**Ms. Stephanie Dall:** representing the Applicant, states the Applicants received the Will Serve letter prior to the moratorium and this project qualifies as a pipeline project; addresses the revised Conditions 6 and 7.

**Mr. Larry Kelley:** states he is the designer and contractor for the Applicants and is available for questions.

**Ms. Hawley:** points out that Resolution 2-2000 states Cambria is out of water; indicates water availability is for current users.

**Supervisor Bianchi:** agrees Cambria has been water deficient since 1985, however the decision of the majority of the Board was for a 1% growth rate.

**A motion by Supervisor Bianchi, seconded by Supervisor Ovitt to adopt the resolution disapproving the appeal, modifying the decision of Hearing Officer and Conditionally approving the application of Glen Barker and Sharon Delp for Minor Use Permit D000482P and not include the revised Conditions 6 and 7, is discussed.**

**Chairperson Ryan:** questions what the driving force was for the revised conditions, with Ms. Dall responding.

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

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

**the Board does not include revised conditions 6 and 7 and RESOLUTION NO. 2003-22, resolution disapproving the appeal, modifying the decision of Hearing Officer and conditionally approving the application of Glen Barker and Sharon Delp for Minor Use Permit D000482P, adopted.**

4 D-1 This is the time set for consideration of a request to approve appointments to the Solid Waste Local Enforcement Agency Independent Hearing Panel.

**Mr. Curt Batson:** Environmental Health, presents the staff report and hands the Board an additional option which is to appoint three members of the Board of Supervisors instead of a representative from a Local Governing Body, a public at large position and

a technical expert position.

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

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

**NOES: None**

**ABSENT: None**

**the Board appoints Supervisors Ovitt, Pinard, and Chairperson Ryan to serve on the Local Enforcement Agency Independent Hearing Panel.**

5 D-2 This is the time set for discussion regarding the formation of a Vector Control District.

**Mr. Curt Batson:** Environmental Health, presents the staff report; states San Luis Obispo County is one of the few counties in California that currently does not have a special assessment district or other source of funding to respond to vector-related complaints or emergencies; describes what a vector is and the purpose of the survey; indicates Mr. Paul Hood, LAFCO and Ms. Julie Rodewald, County Clerk-Recorder are available for questions.

**Mr. Bob Lilley:** Ag Commissioner, addresses the effort to build community support and raise the awareness level of a safety threat; indicates staff recommends the Board conceptually support the formation of a vector control district, direct the Public Health Department to conduct a survey of San Luis Obispo County residents, funded by the General Fund, to determine if there is support for a vector control district, and return with the results.

**Board Members:** discuss various issues comments and concerns regarding: having the Board of Supervisors act as the Vector Control District; which districts in California are new; if there is an advantage in setting up the District without an election and without the funding; the cost of the election, with staff responding.

**Ms. Pam Heatherington:** Director of the Environmental Center, if the Board moves forward with a Vector Control District she hopes there will be a register for sensitive people; addresses material safety data sheets.

**Mr. Eric Greening:** states the results of the survey will depend on the questions; questions what will be asked and who will review the questions; indicates he is opposed to only having property owners vote; addresses accountability to all people.

**Ms. Linda McEler:** President of the Canaries Foundation, states the Board is not considering the risk; addresses how chemicals in the air affect her personally; states pesticides are not the only answer; feels Government cannot be trusted to protect the people; suggests giving donations to groups in order for them to do the research on how to prevent West Nile from becoming a problem.

**A motion by Supervisor Bianchi, seconded by Supervisor Ovitt to adopt staff's recommendations at outlined in the staff report dated 1-14-03, is discussed.**

**Board Members:** discuss various issues, comments and concerns regarding: the questions on the survey and directing that the proposed survey come back to the Board for approval.

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

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

**NOES: Supervisor Pinard**

**ABSENT: None**

**the Board conceptually supports the formation of a vector control district and directs the Public Health Department to : 1) conduct a survey of San Luis Obispo**

**County residents to determine if there is support for a vector control district, 2) approve one-time expenditure from the General Fund of \$20,000 to conduct the survey and return to the Board with the results of the survey and seek direction on continuing with the benefit assessment process required to fund the vector control district.**

6 Add This is the time set to consider adding an item to the Closed Session agenda. Thereafter, a motion by Supervisor Ovitt, seconded by Supervisor Achadjian, to add *Linder vs. Co.* to Closed Session Agenda fails with Supervisor Pinard casting a dissenting vote..

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*, 3) *NRC Proceedings Concerning Spent Fuel*, 4) *Rodrigues v. County of San Luis Obispo*, and 5) *Duke Energy Morro Bay v. San Luis Obispo County Tax Collector*.

**B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.)** 6) *Significant exposure to litigation (Gov. Code, § 54956.9(b).)* No. of cases 2. Facts and circumstances not known to potential plaintiff which indicate significant exposure to litigation. 7) *Initiation of litigation (Gov. Code, § 54956.9(c).)* No. of cases 2.

**Chairperson Ryan:** 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 matter other than scheduled items.

**Mr. Michael Kovacs:** addresses the right of an United States citizen to speak freely at any level of government; addresses why attendance is low at the Board of Supervisors meetings; recommends the Board read the new Brown Act.

**Mr. Eric Greening:** addresses adding items to the State Legislative Platform; states there is a need to oppose the Governor's proposal to divert proposition funds, already approved by the people for specified programs, to where they would be used instead of operating costs of the present State Budget; addresses the public process relating to the EIR regarding Pierce's disease.

**Ms. Linda Hall:** requests the Board's help relating to a Adult Protective Services case involving a women in Cambria being taken out of her home; questions on whose authority she was removed; states she has discussed this issue with Administration and is waiting to hear from them. **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 E-1 This is the time set for consideration of: 1) the County Treasury Oversight Committee Annual Investment Policy Compliance Audit report; 2) the County Treasury Investment Policy (Clerk's File) for 2003; and 3) appointments to the County Oversight Committee for 2003; All Districts.

**Mr. Frank L. Freitas:** Treasurer-Tax Collector-Public Administrator and **Mr. Gere Sibbach** Auditor-Controller, present the report; address the duties of the Treasury Oversight Committee; the objectives of the Investment Policy and the revisions; discusses the Treasury website and the Treasury Pool performance; names the 2003 Nominees for the County Treasury Oversight Committee.

**Mr. Michael Kovacs:** states there is no mention as to what the committee will manage and questions why there is only one person from the public on the committee; feels having Mr. Sibbach on the Committee is a conflict of interest; urges the Board to have an independent audit of public funds.

**Board Members:** discuss who's in the pool composition; if there is an independent audit conducted; if the Investment Policy Document is available in the libraries, with staff responding.

**Supervisor Pinard:** states Sacramento needs Mr. Sibbach; compliments both Mr. Freitas and Mr. Sibbach for the jobs they perform.

**Mr. Sibbach:** thanks Supervisor Pinard for her compliment; indicates the County has a conservative budget; speaks to the conflict of interest issue indicating State law establishes the Auditor as a member of the Oversight Committee and the system is working.

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

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

**the Board receives and files the Annual Investment Policy Compliance Audit Report; approves the Investment Policy for Calendar Year 2003; and confirms Mr. Clark Channing, Ms. Gaye Lowe, Mr. Gere W. Sibbach, Mr. Eric Smith, and Ms. Gail Wilcox as members of the County Treasury Oversight Committee for the 2003 calendar year.**

11 F-1 This is the time set for submittal of a resolution acknowledging receipt and agreeing to the California Coastal Commission's modified language pertaining to the Coastal Zone Land Use Ordinance.

**Mr. John Euphrat:** Planning, presents the staff report and the options that are available to the Board; discusses each option and indicates the Farm Bureau is requesting this item be referred back to the Planning Commission.

**Ms. Joy Fitzhugh:** Farm Bureau, hands the Board a letter from the Agricultural Liaison Advisory Board requesting this item be referred to the Planning Commission and return to the Board of Supervisors as part of the Comprehensive Periodic Review related to the LCP Update.

**Ms. Pam Heatherington:** Director of the Environmental Center, supports staff's recommendation and also concurs with Ms. Fitzhugh that this needs the public process.

**Mr. Eric Greening:** states the entire context of the periodic review has consisted of "yellow, green and red light issues"; indicates the issues today consist of the green light issues; questions the timetable for engaging in real dialogue with the Commission to begin resolving the yellow and red light items.

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

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

**the Board directs staff to refer LCP Amendment #1-01 to the County Planning Commission and return it to the Board as part of the more Comprehensive Periodic Review related changes to the LCP.**

G-1 This is the time set for consideration of: 1) policies relating to the San Luis Obispo County Flood Control and Water Conservation District's State Water Entitlement and the Water Resources Advisory Committee, 2) appointments to the advisory committee; and 3) review of groundwater basin evaluations and other district projects.

**Mr. Paavo Ogren and Ms. Christine M. Ferrara:** Public Works, present the staff report, indicating the purpose of today's hearing is to seek approval or direction on two policy items, approval of two business items and review a number of Flood Control District projects; addresses the general organization and the 2002-03 District revenues and expenditures; addresses the historic efforts relating to the State Water Excess Entitlement issue; hands the Board a revised proposed Excess Entitlement Policies and reviews each priority; addresses wheeling contracts; the Water Resources Advisory Committee (WRAC) guidelines for planning project referrals; the WRAC appointments and the report released by the Department of Water Resources; indicates staff is requesting the Board initiate a 60-day public comment period on the report; discusses major projects and special studies that are underway in the Flood Control District.

**Board Members:** discuss various issues, comments and concerns regarding: the timetable for a Master Water Plan; the language on No. 4 relating to priority of use for the Excess Entitlement Policies needing modification; the Monterey agreement relating to water transfers; no permanent sales outside the District; money being spent to keep the water; if there is a sale of water will the taxpayers receive a rebate; the treatment plant at Colonial Pass; can State Water be used to recharge or can it be used in storage if it has already been treated, with staff responding.

**Mr. Eric Greening:** requests that the Board not direct that the Master Water Plan contain language that would permanently forbid selling the State Water Project Entitlement at this point; addresses the public process and the environmental review process; urges the adoption of the WRAC policies as amended by Supervisor Bianchi; addresses alternative treatment for recharge.

**Board Members:** discuss various issues, comments and concerns regarding: no members of the public representing Avila on the WRAC; the need for a complete updated WRAC membership list; turning the WRAC into a 30 member planning commission based completely on water; the expertise of the WRAC; not having the WRAC be another level of processing but a body to protect water resources.

**A motion by Supervisor Ovitt, seconded by Supervisor Bianchi, that the Water Resource Advisory Committee (WRAC) be notified on the same and equal basis as Area Advisory Committees; that the working relationship between Public Works staff and the Planning Department continue and that WRAC would be referred any General Plan Amendments or items dealing with water on the same basis that area advisory committees receive information, is discussed.**

**Supervisor Pinard:** states major water issues should go to the WRAC.

**Chairperson Ryan:** states he will not support this motion; feels the WRAC should only deal with water resources.

**Thereafter, a motion by Supervisor Ovitt, seconded by Supervisor Bianchi, that the Water Resource Advisory Committee (WRAC) be notified on the same and equal basis as Area Advisory Committees; that the working relationship between Public Works staff and the Planning Department continue and that WRAC would be referred any General Plan Amendments or items dealing with water on the same basis that area advisory committees receive information, fails on the following roll call vote:**

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

**Chairperson Ryan:** states the direction to staff would be to continue doing what has been done in the past.

**A motion by Supervisor Bianchi, seconded by Supervisor Ovitt to adopt the revised policies handed out by staff with the language modified in #4 relating to the utilization of the Districts excess State Water Entitlement changing the words after “adopted by the Board of Supervisors,” to read “and then out of District transfers can only take place if consistent with the adopted Master Plan”, with the understanding there will be no permanent sales outside the District, is discussed.**

**Supervisor Achadjian:** clarifies that the motion includes no permanent sales outside the District, with Supervisor Bianchi agreeing.

**Chairperson Ryan:** questions if the language would be no permanent sale until the Master Water Plan.

**Supervisor Bianchi:** indicates that is not right; states the language would state “no permanent sale outside the District.

**Supervisor Pinard:** states her understanding of the motion regarding policy number 3 was different; indicates the Board is pre-empting any decision that would have occurred through a public review process.

**Chairperson Ryan:** states he would like the language to state “no permanent sale.”; indicates he would like to keep the water available.

**Supervisor Bianchi:** states that was the intent of her motion.

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

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

**the Board adopts the revised policies handed out by staff with the language modified in #4 relating to the utilization of the Districts excess State Water Entitlement changing the words after “adopted by the Board of Supervisors,” to read “and then out of District transfers can only take place if consistent with the adopted Master Plan”, with the understanding there will be no permanent sales outside the District.**

**Chairperson Ryan:** directs Item No. 3 relating to the Water Resources Advisory Committee membership be referred back to staff for clarification and come back as a consent agenda item.

**Mr. Ogren:** states the only other action needed by the Board is Item No. 4 to Initiate a 60-day public comment period on the “Water Resources of the Arroyo Grande-Nipomo Mesa Area” Report prepared by the California Department of Water Resources, dated 2002.

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

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

**the Board initiates a 60-day public comment period on the “Water Resources of the Arroyo Grande-Nipomo Mesa Area” Report prepared by the California Department of Water Resources, dated 2002 and directs staff to return to the Board with those comments including any related recommendations.**

**Chairperson Ryan:** directs staff to receive and file this report.

On motion duly made and unanimously carried, the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, does now adjourn.



I, **JULIE L. RODEWALD**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, January 14, 2002, by the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts.

**JULIE L. RODEWALD**, County Clerk-Recorder  
and Ex-Officio Clerk of the Board of Supervisors

By: /s/Cherie Aispuro,  
Deputy Clerk-Recorder

DATED: 01/17/03  
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