

Tuesday, January 28, 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 MR. DAVID EDGE, COUNTY ADMINISTRATIVE OFFICER.

SUM AGN

1 BPC This is the time set for members of the public wishing to address the Board on items set on the Consent Agenda.

Mr. Eric Greening: addresses Item B-10 questioning if there is a plan "B" if French Hospital were to close; thanks the Board for their support relating to Items B-12, B-13, B-15, B-21, B-24 and B-32.

Mr. Michael Kovacs: addresses Item B-46 and his concerns regarding hiring an outside consultant to evaluate departmental programs; speaks to Item B-38 feels destroying public records is a violation of the Public Records Act. **No action taken.**

2 B-12 Submittal of a resolution approving the San Luis Obispo County Arts Council participation in a State Local Partnership Program, is discussed.

Supervisor Ovitt: states the 2003-04 funding level will only be \$30,000; feels the commitment of the Board should be for \$30,000 instead of \$41,000.

A motion by Supervisor Ovitt to approve and sign the resolution approving the Arts Council participation in a State Partnership Program Fiscal Year 2003/04 for the amount of \$30,000, is discussed.

Mr. David Edge: County Administrative Officer, states this action can be taken however, the Board has traditionally agreed to do a match on a 50-50 basis and the language in this resolution states the Board agrees to partner with the local Arts Council in applying for grants up to \$41,000; states under the existing policy the County would only match the grant money.

Chairperson Ryan: suggests changing the language to say "actual match."

Mr. Edge: suggests the Board change the resolution to read "we agree to partner on a 50-50 basis up to \$41,000."

Supervisor Ovitt: amends his motion to add language to the resolution "or on an equal match basis", with Supervisor Bianchi seconding the motion.

Matter is fully discussed and 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

the Board amends the resolution to read "in an amount up to \$41,000 or on an equal match basis." This item, is placed back on the Consent Agenda for final action.

3 B-15 Submittal of a letter to the California Legislature supporting a proposal to maintain the Vehicle License Fee (VLF) revenue for local government, is discussed.

Chairperson Ryan: indicates he does not want to send a letter supporting raising the Vehicle License Fee; feels the letter should say that local government wants to maintain their share of money that comes from these fees.

Mr. David Edge: County Administrative Officer, hands the Board a copy of the Wesson Bill indicating the Bill only proposes to clarify existing law.

Supervisor Pinard: states she wants to see the State solve their budget problems and balance their budget; feels the letter should be rewritten to indicate what the Board wants and that is for the local portion of the Vehicle License Fee to go back to the cities and counties and honor the commitment that allows local government to do their job.

Matter is fully discussed and thereafter, on motion of Supervisor Pinard, seconded by Chairperson Ryan and unanimously carried, the Board directs staff to rewrite the letter to indicate the Board will only support the VLF backfill going to cities and counties and bring it back at 2:00 p.m. for final approval.

4 B-1 thru B-47 Consent Agenda Item B-12 was amended by prior action. Item B-15 was withdrawn and acted on previously. Item B-30 is withdrawn. Items B-28 and B-46 are withdrawn for separate action. Item B-36 is removed from the Consent Agenda and added to the hearing items. Item B-47 is added to the Consent Agenda. **Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Achadjian and on the following roll call vote:**

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

Consent Agenda Items B-1 through B-47 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-47, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set bid opening and hearing:

- B-1 Plans and specifications (Clerk's File) for the construction of an entry ramp and door at the Probation Department, **Approved and the Clerk is instructed to give notice of bid opening set for February 27, 2003, at 3:00 p.m..**
- B-2 Plans and specifications (Clerk's File) for the Planning Department remodeling project, **Approved and the Clerk is instructed to give notice of bid opening set for February 27, 2003, at 3:00 p.m..**
- B-3 Plans and specifications (Clerk's File) for asphalt paving repair, sealing and re-striping of roadways and parking lots at the Lopez Lake Recreation Area, **Approved and the Clerk is instructed to give notice of bid opening set for February 27, 2003, at 3:00 p.m..**
- B-4 Introduction of proposed ordinances amending the County Code relating to Title 2, Administration and Personnel and Title 15, Vehicles and Traffic; All Districts, **Approved and instruct the Clerk to give notice of hearing date set for February 4, 2003 at 9:00 a.m..**

Administrative Office Items:

- B-5 The 2002-03 Fish and Game Fines Committee Project listing, **Approved.**
- B-6 Contract with the Society Group to administer the Physician Sub-Account of the Maddy Emergency Medical Services Funds and the Physician Account of the Tobacco Settlement Funds, **Approved.**
- B-7 Authorize the Office of Emergency Services to apply for federal grant funds to update and enhance emergency operation plans; and 2) approve a governing body resolution as part of the grant application, **Approved.**

- B-8 Authorize the Office of Emergency Services to apply for federal grant funds to support community emergency response team training; and 2) approve a governing body resolution as part of two grant applications, **Approved.**
- B-9 **RESOLUTION NO. 2003-23**, reviewing the conflict of interest code submitted by the Cambria Cemetery District, **Adopted.**
- B-10 Application (Clerk's File) for licensing of the inpatient psychiatric unit of General Hospital as a freestanding Psychiatric Health Facility and an agreement with French Hospital for medical evaluation and care of inpatient psychiatric patients, **Approved.**
- B-11 **RESOLUTION NO. 2003-24**, reviewing the conflict of interest code for the In-Home Supportive Services Public Authority, **Adopted.**
- B-12 **RESOLUTION NO. 2003-25**, approving the San Luis Obispo County Arts Council participation in a State Local Partnership Program, **Adopted as amended by prior action.**
- B-13 **RESOLUTION NO. 2003-26**, resolution supporting an application by the City of San Luis Obispo for grant funds in support of purchase of a conservation easement on the Brughelli Ranch on Buckley Road, **Adopted.**
- B-14 **RESOLUTION NO. 2003-27**, ratifying the Templeton Community Services District adopted fire code, **Adopted.**
- B-15 Submittal of a letter to the California Legislature supporting a proposal to maintain the Vehicle License Fee Revenue for Local Government, **Withdrawn and acted on previously.**

Auditor-Controller Items:

- B-16 Audit report on the implementation of prior audit recommendations related to callback pay policies and procedures in the Child Welfare Services Division of the Department of Social Services, **Received and Filed and staff is directed to return with status report within four months.**
- B-17 Report on the contract audit between Transitions - MHA, Behavioral Health Services and Social Services, **Received and Filed.**
- B-18 Audit report on the Probations Department's Comprehensive Youth Services Act contracts with Life Steps Foundation, Inc., Friends Outside and San Luis Obispo Legal Alternatives Corporation, **Received and Filed and staff is directed to review contract changes with the Auditor-Controller's Office.**
- B-19 **RESOLUTION NO. 2003-28**, adopting the Countywide Cost Allocation Plan for 2003-04, **Adopted.**
- B-20 Interim rate adjustment of 2.00% for San Luis Garbage Company, **Approved.**

Board of Supervisors Items:

- B-21 License agreement with the Santa Margarita Ranch LLC, facilitate a greenwaste chipping day for the community of Santa Margarita, **Approved.**
- B-22 Rescind a Community Project agreement with the Mothers for Peace in the amount of \$6,500 and allocate \$6,500 from Community Project Funds to the Avila Beach Community Foundation to be used to disseminate information relating to radioactive waste storage and transportation safety issues at Diablo Canyon, **Approved.**
- B-23 **RESOLUTION NO. 2003-29**, recognizing the Boys and Girls Club of South San Luis Obispo County, **Adopted.**
- B-24 **RESOLUTION NO. 2003-30**, amending Resolution Number 2003-17 replacing American Land Conservation with American Land Conservancy in the second and third paragraphs, **Adopted.**

General Services Items:

- B-25 Amend the Bay Street project name and scope to the Los Osos Coastal Access Improvement and approve a corresponding budget adjustment in the amount of \$35,380 from unanticipated revenue, **Approved.**
- B-26 Contract (Clerk's File) with Golden State Golf Company, dba Chalk Mountain Golf Course for the operation and maintenance of Chalk Mountain Golf Course located in Atascadero, **Approved.**
- B-27 Amended agreement with Fiduciary Properties, Inc., extending the Family Court Services office space lease an additional two years, **Approved.**
- B-28 Request to approve a contract (Clerk's File) with Vanir Construction Management, Inc., to provide construction management services for the new Superior Court Facility located in Paso Robles, **Withdrawn for separate action.**
- B-29 Contract (Clerk's File) with Fraser Seiple Architects to design the new Superior Court facility located in Paso Robles, **Approved.**
- B-30 Request to approve creation of a new capital project to install above-ground fuel storage tanks at Lopez Lake Recreation Area and Santa Margarita Lake Park and approve a budget adjustment in the amount of \$180,000 from Proposition 12 Per Capita Grant Funds, **Withdrawn.**

Public Works Items:

- B-31 The implementation of the "Commute +" program and a corresponding budget modification for Budget Unit 0610 0 - San Luis Obispo County Area Transit (SLOCAT) increasing expenditures and Transportation Development Act revenues by \$40,000, **Approved.**
- B-32 Memorandum of understanding with other tri-county agencies and organizations to pursue federal and state funding established for Pacific Coast Salmon and Steelhead Recovery, **Approved.**
- B-33 Amended agreement with Quincy Engineering, Inc., to provide preliminary engineering and environmental services for the River Road Bridge Replacement Project in San Miguel, **Approved.**
- B-34 Bid opening report for the installation of drainage improvements along Los Osos Valley Road at Sombrero Drive in the community of Los Osos; 2nd District, **Approved and the Chairperson is instructed to sign contract documents with Souza Construction in the amount of \$117,735.**
- B-35 **RESOLUTION NO. 2003-31**, accepting conveyance from Adele Stern for the Orcutt Road Project, south of the City of San Luis Obispo; 4th District, **Adopted.**
- B-36 Submittal of a resolution granting a variance and modifying certain construction standards of the coastal zone land use ordinance in a flood hazard area for a proposed modular structure at the Cambria Youth Center; 2nd District, **Removed from Consent and added as a hearing item.**
- B-37 The following subdivision map:
 - A. Tract 2470, a proposed subdivision resulting in 2 lots by Monte Cool, Jasmine Way, Nipomo; 4th District, **Approved.**

Other Items:

- B-38 **RESOLUTION NO. 2003-32**, authorizing the destruction of obsolete records, **Adopted.**
- B-39 **RESOLUTION NO. 2003-33**, authorizing the Sheriff-Coroner to submit an application and execute contract documents for grant funding to the Department of Boating and Waterways to purchase safety equipment, **Adopted.**

- B-40 **RESOLUTION NO. 2003-34 and 2003-35**, amending: 1) Resolutions 2002-452 and 2002-453, and 2) the position allocation list for Budget Unit 2250 - Information Technology reorganizing the department and decreasing one full-time position, **Adopted**.
- B-41 **RESOLUTION NO. 2003-36**, approving an avigation easement from John and Marilyn Kuden for property located near the San Luis Obispo County Regional Airport; 3rd District, **Adopted**.
- B-42 Contract (Clerk's File) with the State Department of Mental Health designating Behavioral Health as the provider of Medi-Cal services, **Approved**.
- B-43 Agreement with the State Department of Forestry and Fire Protection to provide fire protection services, **Approved**.
- B-44 Contract (Clerk's File) with the Economic Opportunity Commission to provide a parent education program for high-risk families, **Approved**.
- B-45 Agreements (Clerk's File) with the Women's Shelter Program, Inc., and the North County Women's Resource Center/Shelter to assist battered women and their children, **Approved**.
- B-46 Request by Personnel Department to approve; 1) contract with Cooperative Personnel Services to evaluate departmental programs, systems and processes; and 2) a corresponding budget adjustment in the amount of \$60,000, **Withdrawn for separate action**.

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

- B-47 Appointments of Board members to various committees and commissions, **Approved**.

- 5 B-28 Request to approve a contract (Clerk's File) with Vanir Construction Management, Inc., to provide construction management services for the new Superior Court Facility located in Paso Robles, is presented.

During discussions on the Consent Agenda Chairperson Ryan requested a separate vote on this item because he feels there needs to be more diversity in construction managers for County projects.

Matter is fully discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Bianchi, with Supervisors Pinard and Chairperson Ryan casting dissenting votes, motion carries and the Board approves the contract with Vanir Construction Management, Inc. in the amount of \$287,120.

- 6 B-46 Request by Personnel Department to approve: 1) contract with Cooperative Personnel Services to evaluate departmental programs, systems and processes; and 2) a corresponding budget adjustment in the amount of \$60,000, is presented.

Supervisor Pinard: indicates she will be casting a dissenting vote in order to be consistent with her previous votes.

Matter is fully discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Bianchi, with Supervisor Pinard casting a dissenting vote, motion carries and the Board approves the contract with CPS for a maximum fee of \$60,000 and the appropriation transfer of \$60,000 from contingencies to Budget Unit 2110 covering the costs associated with all strategic planning efforts.

- 7 B-36 Submittal of a resolution granting a variance and modifying certain construction standards of the Coastal Zone Land Use Ordinance in a flood hazard area for a proposed modular structure at the Cambria Youth Center; 2nd District, is presented.

Mr. Richard Marshall: Public Works, presents the staff report; describes the site and location; addresses the applicant's request for modification; comments on the required findings and grounds for granting a variance; indicates staff's recommendation is for approval.

Supervisor Achadjian: questions the need for indemnification, with staff 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

RESOLUTION NO. 2003-37, resolution granting a variance and exception waiving certain construction standards of the Coastal Zone Land Use Ordinance in a Flood Hazard Area, adopted.

8

C-1 This is the time set for hearing to consider a resolution amending the Urban County of San Luis Obispo 2000 Consolidated Plan and reallocation of Community Development Block Grant Funds under the 2001 and 2002 Action Plans; All Districts.

Mr. Tony Navarro: Planning, presents the staff report indicating in collaboration with the participating cities, staff is proposing to amend the Consolidated Plan to raise the priority of affordable rental housing over that of ownership housing for potential use of Federal funds and reallocation of CDBG funds.

Chairperson Ryan: questions what the advantage would be to change the Consolidated Plan's priorities, with staff responding.

Mr. George Moylan: City of San Luis Obispo Housing Authority, states they did not request the change, however they do support the change based on the cost of housing accelerating to a point the program cannot work.

Mr. Jerry Bunin: Home Builders Association, states he would like to be involved in whatever is done with a inclusionary housing ordinance.

Ms. Peggy Wilson: states she supports the staff's recommendation.

Supervisor Bianchi: agrees with the change in priorities indicating the reality is, at this time, home ownership is out of reach.

Chairperson Ryan: states he is not in support of changing the priorities; indicates he doesn't want to change the focus of home ownership being the number one goal.

Board Members: question why this change should be done if there is no advantage.

Mr. Dana Lilley: Planning, indicates the difference is minimal however, it makes it clearer to the public and consistent with what is happening today.

Mr. Moylan: indicates the only advantage is in writing an application for funding.

Matter is fully discussed and 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

RESOLUTION NO. 2003-38, resolution amending the Urban County of San Luis Obispo 2000 Consolidated Plan and reallocation of Community Development Block Grant Funds under the 2001 and 2002 Action Plans, adopted.

9

D-1 This is the time set for consideration of a request by the Los Osos Community Services District to enter into a memorandum of understanding for the preparation of the Los Osos Habitat Conservation Plan.

Ms. Ellen Carroll: Planning, presents the staff report indicating the Los Osos Community Services District (LOCSO) is requesting that the Board sign the Memorandum of

Understanding (MOU) for the Los Osos Habitat Conservation Plan (LOHCP); states this would be the first step towards the County becoming a co-applicant for the LOHCP.

Supervisor Achadjian: questions how many other jurisdictions are involved and what could be the County's liability, with staff responding.

Mr. Eric Greening: states his concerns regarding monitoring and indicates he would like to see a full discussion take place on a future agenda relating to the shifting of monitoring.

Mr. Allen Minker: Chairperson of Los Osos Community Advisory Committee (LOCAC), urges the County to become co-applicants for the Los Osos Habitat Conservation Plan (LOHCP); addresses growth and enforcement issues.

Mr. Stan Gustafson: Vice-President Los Osos Community Services District (LOCSD), indicates the Coastal Commission will require the County to participate in a conservation plan as a condition of the Estero Area Plan Update; addresses what the CSD can do regarding a Habitat Conservation Plan (HCP) and the need for the County to become a co-applicant; urges the Board's support.

Mr. Bruce Buel: LOCSD General Manager, states this is a good first step towards a win-win partnership; addresses the liability issues.

Mr. Ron Strole: urges the Board to become a co-applicant for the LOHCP.

Ms. Rosemary Bowker: addresses environmental protection; states this is a good example of interagency cooperation and thanks staff for all their hard work to date; indicates this request makes sense and urges the Board to approve this item.

Mr. Leon Van Beurden: requests the Board sign the Memorandum of Understanding (MOU); states the individual permit process is difficult; indicates this partnership will also help the County meet the State's mandate for growth.

Mr. Mark Alfirevik: urges the Board's approval; states individual homeowners have tried to do a HCP and it's too difficult; hopes the Board will help individuals build their homes and consider the State mandate for growth.

Ms. Kathryn Donovan: states she owns 17 acres on the Bay and her family wants to develop; states her family would support anything that would make the process more streamlined.

Mr. Chris Clark: states this is a two step process: 1) is to prepare a habitat conservation plan; and 2) issue Section 10 permits by Fish and Wildlife, which are permits that would allow development; states LOCSD is committed to preparing a HCP for all of Los Osos; states Fish and Wildlife Service has unofficially stated that the LOCSD could hold a permit by themselves and that permit would be for the 5,600 property owners within the sewer service area.

Mr. Frank McGnern: urges the Board's approval of the staff's recommendation.

Mr. Jeff Edwards: states he echos the support of the MOU; indicates there are still details to be worked out, but LOCSD and County staff have worked hard to remove one layer of complexity.

Mr. Brian Romig: urges the Board's support; states streamlining through the HCP will be beneficial and it will also help create affordable housing.

Board Members: recognize staff and the LOCSD for all their hard work.

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, Chairperson Ryan
NOES: None
ABSENT: None

the Board considers the Memorandum of Understanding (MOU) for the preparation of a Los Osos Habitat Conservation Plan (LOHCP).

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

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) *Linder v. County of San Luis Obispo*, 5) *Duke Energy Morro Bay v. San Luis Obispo County Tax Collector*, and 6) *NRWMAC v. Monterey County Water Resources Agency*.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.) 7) *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. 8) *Initiation of litigation (Gov. Code, § 54956.9(c).) No. of cases* 2.

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

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.

11 B-15 Submittal of a letter to the California Legislature supporting a proposal to maintain the Vehicle License Fee Revenue for Local Government, is presented.

Mr. David Edge: County Administrative Officer, outlines the changes in the letter.

Matter is fully discussed and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Ovitt and unanimously carried, the Board approves the letter as presented by the County Administrative Officer and directs staff to send them to the local state legislators.

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

Mr. Michael Kovacs: addresses the Board's responsibility to the unincorporated residents and his concerns regarding the handling of public funds.

Mr. John Donovan: thanks the Board for approving Consent Agenda Item B-31 (the Commuter Plus Program); indicates by approving this program the Board showed great leadership. **No action taken.**

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

I, **JULIE L. RODEWALD**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, January 28, 2003, 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: 01/31/2003
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