

Tuesday, February 4, 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 VICKI SHELBY, CLERK FOR THE BOARD.

SUM AGN

1 Add **Chairperson Ryan:** indicates he has had a request by the League of Women Voters to add a presentation item to the agenda. **Thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Achadjian and unanimously carried, the Board adds to the agenda a presentation by the League of Women Voters to the Board of Supervisors regarding the SLO Action Heroes Program.**

2 A-1 **Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and on the following roll call vote:**

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

RESOLUTION NO. 2003-39, resolution proclaiming February 2003 as "National Meat Month" in the County of San Luis Obispo, adopted.

Supervisor Ovitt: reads the resolution and presents the same to Ms. Eleanor Truocchio, Cattlewomen's Association.

Ms. Truocchio: thanks the Board for the recognition, gives each Supervisor a package of gummy Lifesavers (which are a beef by-product) and indicates they are donating, in each Supervisor's name, \$50 to the Food Bank.

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

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

presentation of a Certificate of Appreciation from the League of Women Voters to the Board of Supervisors recognizing the Board's support of the League's Youth Recognition Program - SLO Action Heroes, approved.

Ms. Sara Horne: League of Women Voters President, presents the Certificate to the Board and thanks them for the support.

Mr. Michael Kovacs: states he submitted his request to speak prior to the meeting on the Presentation Calendar and questions why the Board didn't call for a moment of silence in remembrance of the crew of the space shuttle Columbia.

Mr. Eric Greening: asks if there is a list of the kids who received the SLO Action Heroes award by the League.

Ms. Horne: indicates she doesn't have a list of the eight kids who received this award with her, but that it was in the Sunday edition of *The Tribune*.

CHAIRPERSON RYAN REQUESTS A MOMENT OF SILENCE IN

REMEMBRANCE OF THE CREW OF THE SPACE SHUTTLE COLUMBIA.

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

Mr. Michael Kovacs: speaks to Item B-11 and the audit that was done on the Treasurer's Office; suggests that the Treasurer is not following the Code with respect to retention of records; requests that the County perform a "wall-to-wall" audit of all departments. **No action taken.**

- 5 B-1 **Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and thru**
B-12 **on the following roll call vote:**

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

Consent Agenda Items B-1 through B-12 are approved as recommended by the County Administrative Officer.

Consent Agenda Items B-1 through B-12 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 construction improvements of the water distribution system in County Service Area No. 10A, Cayucos; 2nd, **Approved and the Clerk is instructed to give notice of Bid Opening set for March 6, 2003 at 3:00 p.m..**
- B-2 Petition by the San Luis Obispo County Probation Peace Officers Association and the California Organization of Police and Sheriffs to establish two new bargaining units, **Approved and the Clerk is instructed to give notice of hearing date set for February 25, 2003 at 9:00 a.m..**

Administrative Office Items:

- B-3 **RESOLUTION NO. 2003-40**, revising the San Luis Obispo County Employee Relations Policy, **Adopted.**
- B-4 1) Acceptance of federal domestic preparedness terrorism readiness grant funds for the purpose of obtaining equipment and other resources for emergency responders; 2) a budget adjustment in the amount of \$134,896 for the Office of Emergency Services from federal grant funds; 3) an amendment to the fixed asset list of the Sheriff's Department to accept equipment purchased with grant funds; and 4) an amendment to the fixed asset list of County Fire to accept equipment purchased with grant funds, **Approved.**

Board of Supervisors Items:

- B-5 Request by Supervisor Achadjian to allocate \$2,000 from District Four Visitors Services Grant Funds, to the Dana Adobe Nipomo Amigos to be used to hold Rancho Nipomo Heritage Days on May 30-31, 2003, **Approved.**
- B-6 Request by Supervisor Bianchi to appoint Candace Vittitow as a District Two representative to the Commission on the Status of Women, **Approved.**

Clerk-Recorder Items:

- B-7 Minutes of the December 3, 10, and 17, 2002 Board of Supervisors' meetings, **Approved.**
- B-8 Request to destroy County Board of Supervisors resolutions, ordinances and files that have been microfilmed, **Approved.**

- B-9 Request to destroy unaccepted claims for damages against the County of San Luis Obispo and Assessment Appeal applications for the period January 1, 1997 through December 31, 1997, **Approved.**

Other Items:

- B-10 Bid opening report by Public Works for the Lopez Pipeline Cleaning, Zone 3 in County Service Area No. 12 and Avila Valley, **Approved and the Chairperson is instructed to sign contract documents with V. Lopez Backhoe Service in the amount of \$116,791.**
- B-11 Submittal by the Auditor-Controller of an unannounced cash count of the County Treasurer's Office conducted on December 11, 2002, **Received and Filed.**
- B-12 **RESOLUTION NO. 2003-41**, approving an agreement establishing restrictions and obligations for real property for lot line adjustment COAL 99-0180 with Gary and Cheri Silveira and Earl and Kathleen Gerber, located at 3750 Santa Rosa Creek Road, east of the community of Cambria; 2nd District, **Adopted.**

- 6 C-1 This is the time set for hearing (introduced January 7, 2003) to consider establishment of a zone of benefit within County Service Area No. 21 for road improvements and a request to call a special tax election for a portion of Burton Drive in the community of Cambria; 2nd District.

Mr. George Gibson: Public Works, presents the staff report and recommendation.

No one appearing 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**

RESOLUTION NO. 2003-42, resolution creating the Burton Drive Road Improvement Zone within San Luis Obispo County Service Area No. 21, adopted.

- 7 C-1 **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**

RESOLUTION NO. 2003-43, Mail-Ballot Election - County Service Area No. 21, Burton Drive Road Improvement Zone, a resolution calling for a special election in the Burton Drive Road Improvement Zone of County Service Area No. 21 of San Luis Obispo County for the purpose of submitting to the voters of the zone a measure for imposition of a special tax for road improvement services, adopted.

- 8 C-2 This is the time set for hearing (introduced on January 7, 2003) to consider establishment of a zone of benefit within County Service Area No. 21 for road improvements and a request to call a special tax election for a portion of Camborne Place in the community of Cambria; 2nd District.

Mr. George Gibson: Public Works, presents the staff report and an alternative assessment formula to better align the benefit received by each parcel with their final levy, for the Board's consideration.

Ms. Maureen Kispersky: questions the new language by Mr. Gibson and states she supports the project and formation of the district as presented.

Mr. Louie Lopez: wants the Board to stay with the original proposal, which was for everyone to pay for improvements to their own frontage.

Ms. Judy O'Brien: speaks in support of forming the assessment district.

Mr. Gibson: further explains the alternative process for determining the benefit received by each parcel.

Supervisor Bianchi: asks if staff will hold another meeting with the public to explain the process, with Mr. Gibson indicating he will.

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

RESOLUTION NO. 2003-44, resolution creating the Camborne Place Road Improvement Zone within San Luis Obispo County Service Area No. 21, adopted.

9 C-2 **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 approves the alternative assessment formula as follows: "The assessment amount shall be the proportionate share of one half of the total project costs assigned equally to each Assessor's parcel (25 parcels) plus the proportionate share of one half of the total project costs assigned equally to each of the underlying subdivision lots (63 lots) within the approved benefit zone" and RESOLUTION NO. 2003-45, Mail-Ballot Election - County Service Area No. 21, Camborne Place Road Improvement Zone, a resolution calling for a special election in the Camborne Place Road Improvement Zone of County Service Area No. 21 of San Luis Obispo County for the purpose of submitting to the voters of the zone a measure for imposition of a special tax for road improvement services, adopted.

10 C-3 This is the time set for hearing (introduced on January 28, 2003) to consider ordinances amending the County Code relating to Title 2, Administration and Personnel and Title 15, Vehicles and Traffic; All Districts.

Mr. Dave Flynn: Public Works, presents the staff report, outlining the changes that will allow traffic regulations to be approved through adoption of a resolution rather than the adoption of an ordinance; indicates they have spoken to all the law enforcement agencies involved, Superior Court and Clerk's Office regarding this; Public Works will maintain the Traffic Regulations book for the California Highway Patrol, Sheriff's Department, Superior Court and will also keep a copy of this book on file with the Clerk's Office.

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

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

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 2990, an ordinance amending the provisions of Title 2 relating to Administration and Personnel, adopted.

11 C-3 **No one appearing and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi and on the following roll call vote:**

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

NOES: None
ABSENT: None

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 2991, an ordinance amending provisions of Title 15 of the County Code relating to County Traffic Regulations, adopted.

12 C-4 This is the time set for hearing to consider an appeal by Mesa Dunes Properties regarding a rent review decision by the Mobilehome Rent Review Board; 2nd District.

Ms. Peggy Cox: Auditor-Controller's Office and staff to the Mobilehome Rent Review Board (MHRRB), presents the staff report, outlining the ruling by the Court, subsequent meetings held by the MHRRB on this ruling and their decision to adjust the total rent from \$4.55 per space to \$22.35; further, the MHRRB decided the effective date of this increase should be February 1, 2003 to avoid burdening the tenants with a two-year retroactive rent increase adjustment.

Mr. James Buttery: attorney representing the Park owners, states this only affects a limited number of spaces in the old portion of the Park; addresses the Judge's ruling; comments on his letter of January 23, 2003 to the Board of Supervisors and the options he has provided for the Board's consideration; asks that the Board set a hearing on this issue to allow for additional information to be provided to support this increase being retroactive to February 1, 2001.

Mr. John Belsher: attorney representing the Park tenants, addresses the Court's ruling; the affected Park tenants are willing to accept the increase to \$22.35 but not to have it be retroactive to February 1, 2001; indicates if it is made retroactive it will be a \$500 hit to the affected tenants and these folks are on fixed incomes; states they are agreeable to an evidentiary hearing based on information regarding the new sewer system which was added solely for the purpose of developing the new section of the Park; urges the Board to uphold the MHRRB's decision.

Board Members: address questions regarding the Court's ruling and the Board's options today, with Mr. Tim McNulty, Deputy County Counsel, responding.

Supervisor Bianchi: states she was on the Planning Commission when this development plan came before them; addresses the conditions of approval for the addition to the Park, indicating the improvements were because of the addition and not a government mandate; states she doesn't support anything above the \$4.55 per month.

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

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

the Board ratifies and adopts the decision and findings of the Mobilehome Rent Review Board made on December 20, 2002 as outlined in the staff report dated February 4, 2003.

13 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 ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.)* (6) *Berge v. County of San Luis Obispo* and (7) *Santa Maria Water Conservation District v. City of Santa Maria*.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.)
(4) *Significant exposure to litigation (Gov. Code, § 54956.9(b).)* No. of cases 3. 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.)

It is the intention of the Board to meet in Closed Session concerning the following item:
(8) *Approval of General Hospital Credentialing Report (Health & Safety Code §1461).*

Chairperson Ryan: opens the floor to public comment.

Mr. Michael Winn: President of the Nipomo Community Services District, states that the Board will be discussing the issue of a line easement through Nipomo Park.

Supervisor Achadjian: states that it has been requested that this issue not be discussed in Closed Session today and be continued one week, which he has agreed to.

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: the Board acted to approve the issuance of credentials to twenty-nine doctors at General Hospital; there was no discussion regarding the Nipomo easement problem which has been continued to next week and no other action was taken and the Board goes into Open Public Session.

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

Mr. Dennis Cassidy: speaking as a private citizen and resident of Paso Robles, comments on creating a monument honoring public safety employees which is to be placed at the new Public Safety Center in Paso Robles; the intent of the monument is to honor all those public safety employees who serve the public daily and those that have paid the ultimate price ensuring the safety of our citizens; the intent is to honor all our local public safety employees with this bronze statue and also to have a bronze plaque displayed remembering our fallen fellow police officers, firefighters and rescue workers who died on September 11, 2001; this is a private project with funding being raised through private donations; they have received enough funding to begin construction of the statue and need a total of \$150,000 to complete this; presents a packet of information, along with a photograph of the statue, to each Board member.

Mr. Michael Kovacs: comments on white collar crimes; speaks to missing money in the County Treasury and wants a State/Federal investigation of this. **No action taken.**

15 D-1 This is the time set for a report on the impacts of the Governor's Proposed Budget on the County Budget for 2003-04.

Mr. David Edge: County Administrative Officer, addresses the proposed budget by the Governor; speaks to news articles that outline the impacts of the State budget problems on counties; outlines the impacts of the Governor's proposals on the County's budget: loss of \$11.5 million in Vehicle License fees to the General Fund next year; the mandate reimbursement deferral (SB 90 claims) is a loss of \$2.5 million; loss of open space subvention - \$1.1 million; cuts in program revenues for roads, libraries, health, welfare & law enforcement - \$3.4 million; with the Governor's proposal there is a potential loss to the County of \$18.5 million; State realignment which would transfer responsibility of programs from the State to the County would cost \$8.2 million; suggested methods by the Governor to pay for the realignment of the \$34 billion deficit include increasing the sales tax, adding 10% & 11% to personal income tax brackets, \$1.10 tax increase on cigarettes and other tobacco products; believes even with these increases they will not keep pace with the loss of State funding for the County; outlines the budget balancing equation for the County.

Board Members: address various issues, comments and concerns regarding: the County

being required to have a balanced budget but the State does not have the same requirement; feels the State has mismanaged their budget and any new taxes will just create more mismanagement; questions the State's thinking in raising the tax for cigarettes, when programs are trying to reduce cigarette use; believes all revenue sources have not yet been tapped by the State; concerns about Federal impacts on medicaid.

Mr. Edge: responds to questions by the Supervisors; comments on other areas of the budget that could be vulnerable; addresses available financing; highlights local budget issues and balancing of the same; discusses undesignated reserves; indicates they are seeing higher revenues than were anticipated in some areas and there are some areas that are targeted for cuts; comments on financing requirements relating to current costs, capital costs and contingencies.

Board Members: address various comments, issues and concerns regarding: capital costs relating to the new government center; anticipated losses such as decreased taxes from Diablo Canyon and how this affects the budget.

Mr. Edge: responds that while utility taxes from Diablo have declined, the overall property taxes have been going up.

Mr. Gere Sibbach: County Auditor-Controller, states the County has two healthy reserves, one from the settlement with PG&E and the other is the Tax Reduction Reserve; states the PG&E settlement fund has been shared with other local agencies, primarily schools; the Tax Reduction Reserve is from the TEETER Plan and this one is still building up.

Mr. Michael Kovacs: states he moved to this County when it was ranked #1 in the State; believes the Board has 100% discretion over salaries and benefits and should start looking at these.

Mr. Eric Greening: addresses his concern to relying on incentives to aid the economy; speaks to the Vehicle License Fee and suggests vehicles are like tobacco as both are bad for our lungs; believes increasing the Vehicle License Fees are a necessary part of the package; addresses his concern regarding the contracts for inpatient indigent care and questions what assumptions are being made there with respect to other hospitals.

Mr. Edge: responds that the issue of indigent care is part of the information that will be coming to the Board next week when the issue of the closure plan for General Hospital will be discussed.

Board Members: address various concerns regarding: having to approve a budget that relies on State funding prior to the State adopting their budget; concerns that the Democratic and Republican State Legislators are not really working on a budget but rather on who to "sock the bill to"; questions the right time to say to the State "No, not until you fix your own budget."

Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Achadjian and unanimously carried, the Board receives and files the staff report dated February 4, 2003.

16 E-1 Submittal of a response to the 2001-02 Grand Jury Report of June 2002, recommending the consolidation of the Public Works and General Services garages, is withdrawn from the Agenda at the request of staff.

17 F-1 This is the time set for consideration of a request to authorize the processing of amendments to the Land Use Ordinance regarding a rural planned development ordinance.

Ms. Kami Griffin: Planning, presents the staff report and indicates the wording in the report is not the final wording, just a starting place for staff.

Chairperson Ryan: addresses his concern to referring to agricultural property as open space.

Mr. Eric Greening: states he appreciates the intent to provide incentives, sort of a pseudo clustering, as an alternative to sprawling ranchettes in the more rural areas of the County; believes the County should still move with caution, suggesting what this is trying to do is encourage the development that occurs in rural areas to be better planned but the risk is that the effect would simply be to encourage more development in rural areas where it is the least appropriate; his primary concern is the inclusion of the Agricultural land use category in this proposal; suggests there are already agricultural cluster policies that are supposed to protect agriculture from the impacts of incompatible residential development and vice versa; feels this proposal looks like an “end run” around existing policies; believes these are pseudo clustering processes that don’t meet existing standards; states the primary use of agriculture is for food and fiber not for housing; existence of antiquated lots doesn’t change the inherent incompatibility of the two land uses; wants agriculture removed from this proposal and if that’s not possible, wants an explanation as to how compatibility with the Ag & Open Space Element will be achieved; questions what type of environmental review this proposal will receive.

Mr. Jesse Hill: speaks in support of this proposal and urges the Board to authorize processing of the amendment.

Thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Achadjian and unanimously carried, the Board approves the recommendations of the subcommittee and authorizes processing of the amendments as outlined in the staff report dated February 4, 2003 and to take into consideration the concerns raised by Mr. Greening.

18 F-2 This is the time set for consideration of a report on the results of the New Towns workshops and a request to authorize an amendment to the Framework for Planning regarding proposals for new towns.

Mr. Dana Lilley: Planning, presents the staff report, outlining the prior direction by the Board; comments on the ad-hoc committee and the makeup of the same and this group held two public workshops; outlines the recommendations of the ad-hoc committee, indicating the language is intended to be a starting point for the amendment.

Chairperson Ryan: indicates his understanding is that staff is really putting this on the “back burner” at this point; states that creating new towns was originally being looked at as a way to help alleviate the State requirement to build 18,000 homes in the County.

Ms. Pat Beck: Planning, states that they currently don’t have any additional staff to put on this and would need to change priorities in the Department if the Board wants this to be moved forward.

Supervisor Achadjian: indicates he would like to see costs and associated impacts if this was moved up on the priority list for Planning; questions whether there is funding for this from the State.

Mr. Lilley: responds that he is aware of a couple of funding programs at the State level for this type of project.

Mr. Eric Greening: addresses the public workshops that were held; believes new towns are worth exploring only if the new towns would remove development rights from surrounding rural areas.

Mr. Jesse Hill: states he learned a lot from the workshops that were held; suggests areas that should be looked for new towns should be areas that already have paved roads, etc.

Supervisor Achadjian: states he supports the new town concept and wants to see cost estimates, up front, versus putting this on the back burner.

Mr. Lilley: provides a rough outline of what would need to occur and the associated costs.

Supervisor Bianchi: suggests revitalizing existing towns versus creating new towns.

Matter is fully discussed and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Achadjian and unanimously carried, the Board directs that this come back at budget time and have it evaluated to move new towns forward.

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, February 4, 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/Vicki M. Shelby,
Deputy Clerk-Recorder

DATED: February 6, 2003

vms