

Tuesday, March 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, K.H. 'Katcho' Achadjian and Chairperson Michael P. Ryan

ABSENT: Supervisor Peg Pinard

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY SUPERVISOR ACHADJIAN.

SUM AGN

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

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

RESOLUTION NO. 2003-66, resolution recognizing Georgann Arone for her service as an employee in the Assessor's Office, adopted.

Supervisor Bianchi: reads the resolution and presents the same to Ms. Arone.

Ms. Arone: thanks the Board for the recognition.

Mr. Tom Bordonaro: County Assessor, thanks Ms. Arone on behalf of the staff; indicates in his recent interviews with staff, the one concern most had was that Ms. Arone was leaving and what a large hole that was going to leave in the Department; wishes her well in her retirement.

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

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

RESOLUTION NO. 2003-67, resolution recognizing San Luis Obispo County as "2002 Employer of the Year" and Caryn Maddalena as "2002 Professional of the Year" as awarded by the International Right-of-Way Association, adopted.

Supervisor Ovitt: reads the resolution and presents the same to Ms. Caryn Maddalena.

Mr. Duane Leib: General Services Director, states it's a big deal when an outside agency recognizes outstanding County employees; presents Mr. Tim Smith, Right-of-Way Agent, with a plaque honoring the County as the Employer of the Year and presents Ms. Maddalena a plaque for "2002 Professional of the Year" from the International Right-of-Way Association (IRWA); thanks Tim and Caryn for the honor they have brought to the County.

Ms. Maddalena: thanks the Board for the recognition; presents a brief history of the IRWA; states she has benefitted both personally and professionally from her involvement with IRWA; recognizes her mentor (Tim Smith); states he has been key in her development as a professional public servant; dedicates her award to all the County mentors and professionals who have dedicated themselves in making this County a wonderful place to live and work.

3 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-9

Chairperson Ryan: opens the floor without response.

Item B-9 is added to the Consent Agenda. **Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and on the following roll call vote:**

AYES: Supervisors Achadjian, Ovitt, Bianchi, Chairperson Ryan

NOES: None

ABSENT: Supervisor Pinard

Consent Agenda Items B-1 through B-9 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-9; as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set for bid opening:

- B-1 Plans and specifications (Clerk's File) for asphalt concrete paving of various county roads, **Approved and the Clerk is instructed to give notice of bid opening set for April 3, 2003, at 3:00 p.m..**

Public Works Items:

- B-2 **RESOLUTION NO. 2003-68**, amending the County Traffic Regulation Code for the establishment of highways closed to commercial vehicles on Division Street east of Orchard Avenue, Grande Avenue east of Orchard Avenue, Story Street east of Orchard Avenue, Southland Street east of Orchard Avenue and on Tefft Street west of Eucalyptus Road, Nipomo; 4th District, **Adopted.**
- B-3 **RESOLUTION NO. 2003-69**, amending the County Traffic Regulation Code for the establishment of no parking and limited parking zones on Main Street, Eton Street and Hillcrest Drive in Cambria; Doris Avenue, Ninth Street and Tenth Street in Los Osos; Ocean Front Street and Cayucos Drive in Cayucos; Vachell Lane near San Luis Obispo; Route 1 in Oceano; Halcyon Road, Nipomo Mesa; and Nacimiento Lake Drive; 1st, 2nd, 3rd and 4th Districts, **Adopted.**
- B-4 The following maps:
- A. Tract 2249, a proposed subdivision resulting in 15 lots, by Templeton Hills, LLC, Templeton Hills Road, Templeton, reject the offer of dedication without prejudice to future acceptance; 1st District, **Approved.**
 - B. CO 89-0238, a proposed subdivision resulting in 2 lots by Marilyn Dauth, Nacimiento Lake Drive, west of Paso Robles, **Approved and RESOLUTION NO. 2003-70**, approving a mitigation agreement; 1st District, **Adopted.**

Other Items:

- B-5 Allocation of \$2,700 from Community Project Funds (District One - \$2,400, District Four - \$100, District Five - \$200) to the Paso Robles Visitors and Conference Bureau, a division of the Paso Robles Chamber of Commerce, to offset the cost of printing 3,000 Country Adventures advertising brochures, **Approved.**
- B-6 Minutes of the January 6, 7, 14 and 28, 2003 Board of Supervisors' meetings, **Approved.**
- B-7 Agreement (Clerk's File) with the California Department of Health for the Women, Infant and Children (WIC) to provide a supplemental nutrition program, **Approved.**
- B-8 Bid opening report for the final phase of the cell door operator replacements at the Sheriff's Main Jail, **Approved and the Chairperson is instructed to sign contract**

documents with Lee Wilson Electric Company, in the amount of \$236,000.

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

- 4 B-9 Request to cancel the March 18, 2003 Board of Supervisors Meeting, **Approved.**
- C-1 This is the time set for hearing to consider an appeal by Julie Tacker/Concerned Citizens of Los Osos, of the Planning Commission's approval of a Development Plan/Coastal Development Permit proposal by Alex Benson, to allow a two phase project consisting of 18 new guest rooms with a new hotel building and 2 new hotel buildings consisting of a total of 22 guest rooms, located at 1370 2nd Street in the community of Baywood in Los Osos; 2nd District.

Ms. Kerry O'Neil: Planning, presents the staff report; describes the project location; states the Applicant is proposing a two phased project and explains each phase; addresses the issues of appeal; indicates staff is recommending denial of the appeal.

Ms. Julie Tacker: Appellant, presents the issues of appeal including: the size of the proposed project; obstruction of view; exterior lighting; parking; fire safety; drainage; a Negative Declaration should not be allowed; the building height is not in sync with the neighborhood; air quality; wastewater discharge; compliance with the Los Osos Building Moratorium; the use of the Uniform Plumbing Code; indicates the Concerned Citizens of Los Osos encourage the Board to deny the project until the Los Osos Building moratorium is lifted.

Mr. Alex Benson: Applicant, indicates in a letter dated 2-7-03, Mr. David Brannon, Project Architect, addressed all issues of the appeal; states they started designing the project three years ago with the Estero Area Plan in mind; indicates plans and studies were done and the public input was solicited; states the Environmental Coordinator, Planning and Public Works have reviewed the project and added 21 Conditions to the project; indicates he concurs with the staff recommendation.

Mr. Ben Difatta: states he is opposed to this project; addresses his concerns relating to human waste discharge; feels Mr. Benson should wait for the sewer; indicates he is puzzled by the support of the Los Osos Community Services District (LOCSO) and the Los Osos Community Advisory Committee (LOCAC).

Ms. Cynthia Mulligan: addresses a sale of a septic tank credit; feels there are unfair bureaucratic practices going on to circumvent the building moratorium.

Mr. Chris Allebe: states this item seems to be a "no brainer"; addresses the Los Osos building moratorium and the projects that have been built since the moratorium; speaks to the runoff into the Bay and the increase in traffic in Los Osos.

Mr. Al Barrow: hands the Board a document entitled "Human Viruses Found in Groundwater Recharge Sites"; addresses the issues of the viewshed and setbacks and indicates this project is in direct violation of the intent of the Coastal Act; addresses the loss of coastal access, the little outdoor pavilion, and a parking lot.

Ms. Gwynn Taylor: feels this project should be deferred until the sewer is in; addresses the parking problems and to approve a waiver for parking would be wrong; speaks to the impacts to the community relating to safety and drainage; feels any additional structures should be one story and a permit should not be valid for more than four years.

Mr. Eric Greening: indicates he interpreted the Grand Jury report differently than the Appellant, indicating the Grand Jury thought that there was a pattern of inappropriate Negative Declarations, not that they should never do a Negative Declaration; feels a case could be made to do a focused EIR relating to the issues of runoff and wastewater.

Mr. Ross Dechombeau: states he supports both Ms. Tacker and Mr. Benson as concerned good neighbors and would want an effective compromise in upgrading Baywood Village.

Ms. Linde Owen: feels the parking issue needs to be contained within the Applicant's property; believes the moratorium laws are relaxing; addresses the wastewater issue and contaminants in the groundwater basin; feels this project should be held off until after the sewer is installed.

Mr. Brian Pritt: feels Mr. Benson is only trying to better the community.

Mr. Richard Leslie: Vice Chairperson of the Los Osos Community Advisory Committee, states this proposal was heard by LOCAC in July, with the full committee present and they unanimously approved the application for expansion; indicates there were no negative comments from the public at that time except for the proposed amphitheater, which has since been removed from the project; addresses parking; urges approval of the staff recommendation.

Ms. Mary Grden: states she supports the project; indicates the area is zoned Commercial-Residential; feels this project will promote safe and positive growth; believes this project is being developed in the most noninvasive way.

Ms. Paula McMahon: states the local businesses would be willing to share any street parking that would be needed for the overflow; indicates the surrounding businesses welcome the business that will be brought in by this project; feels this is a well thought out project; believes this project would mitigate many of the runoff problems in the area.

Mr. Benson: states the project was initially built in 1990 which included a 1200 square foot restaurant; the restaurant was closed in 1997; indicates the septic system was sized to include the restaurant and now the wastewater that was created by the restaurant will be converted to the new rooms and no impact was foreseen by the Regional Water Quality Control Board (RWQCB); states this project includes a gray water system to water the landscape; addresses a filtering system that will be used to address the runoff issue.

Ms. Tacker: states she doesn't know if the RWQCB understands that the restaurant in the Baywood Inn has moved to Mar Blu; indicates the discharge credits have been moved, not removed.

Board Members: discuss various issues, comments and concerns regarding; Mar Blu had their own discharge from the Salty Pelican; whether this project will include low flow showers and toilets; the zoning in the surrounding area, 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, Achadjian, Chairperson Ryan

NOES: None

ABSENT: Supervisor Pinard

the Board denies the appeal and adopts the Mitigated Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. and RESOLUTION NO. 2003-72, resolution affirming the decision of the Planning Commission and conditionally approving the application of Alex Benson for Development Plan/Coastal Development Permit D010088D, adopted.

5

D-1 This is the time set for submittal of the second quarter financial report and a request to accept donations and discharge of bad debts.

Ms. Leslie Brown: Administration, highlights the report; indicates revenues are considered to be in normal range; addresses the State Budget impacts; indicates they anticipate some Departments needing money from the General Fund contingencies in the third quarter; states two of the largest concerns are: 1) Workers Compensation expenditures; and 2) Medical Services; indicates she is available for any questions the Board may have.

Chairperson Ryan: questions the Worker Compensation claims, with Ms. Deb Hossli, Risk Manager, responding.

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, Chairperson Ryan
NOES: None
ABSENT: Supervisor Pinard

the Board receives and files the second quarter financial report; directs all County department heads to continue their efforts to decrease non-essential discretionary spending without adversely impacting services to the public; accepts gifts or donations on behalf of the Library and Department of Social Services in the amount of \$28,233 along with associated budget adjustments totaling \$28,233; and approves a request to discharge bad debt in the amount of \$34,868 on behalf of the Behavioral Health Department.

6 E-1 This is the time set for request to authorize an application to the State Jobs Housing Balance Incentive Grant Program and select the Tefft Street/Olde Towne Nipomo construction project for funding through this grant.

Mr. Dana Lilley: Planning, presents the staff report; states the County will be eligible to receive a grant estimated at \$186,300 from the State's Jobs Housing Balance Incentive Grant Program this summer; staff is recommending the grant money be used to allow the Nipomo Community Services District (NCSD) to fill a funding gap identified as part of street enhancements to Tefft Street between Thompson and Nipomo Creek; these monies would enable the NCSD to install sewer and water laterals before Tefft Street is repaved, preventing future degradation of the street; states the application deadline is March 24, 2003.

Supervisor Achadjian: addresses the 41% growth in the Nipomo area and the benefit of obtaining these funds; indicates he would like the funds, if they are for future road enhancements, to stay in Olde Towne Nipomo, meaning for use on Thompson or West Tefft where work is occurring now to re-enhance that location; and, if the funds are for use for the benefit of the community at-large, he wants to see it go toward the Recreation Department which needs to find a new location.

Mr. Lilley: suggests when the County receives the grant agreement in late summer they can execute a written agreement between the County and the Nipomo Community Services District (NCSD) and set forth these parameters.

Mr. Jim Kinninger: Chairman for the Nipomo Community Advisory Committee, states he supports the staff recommendation to fund the water and sewer laterals in Nipomo preventing future degradation of Tefft Street; indicates they appreciate the help.

Mr. Michael Winn: President of the Nipomo Community Services District, appreciates this idea for laterals; states the expertise of County staff in partnership with the NCSD would be helpful in the administration of the monies.

Mr. Jesse Hill: thanks the Board and staff for considering this idea for Nipomo; questions the pay back allocation if the NCSD funds this project up front.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi, with Supervisor Pinard being absent, motion carries and the Board authorizes an application to the State of California's Jobs Housing Balance Incentive Grant Program and select the Street Enhancements as part of the Tefft Street/Olde Towne Nipomo construction project between Thompson Road and Nipomo Creek Project for funding through this grant, with the understanding that when the grant arrives that the funding for Nipomo be used as previously stated by Supervisor Achadjian.

7 F-1 This is the time set for review and discussion of solid waste franchise fees.

Mr. Mark Sullivan: Public Works, provides the background on solid waste collection in the County; the use of the Franchise Fee; addresses the projected Franchise Fee revenues and related expenditures; compares franchise fee rate with other California jurisdictions, and local coastal counties; describes recent changes such as transition of authority to Community Services Districts and a new Franchisee (Mid-State Solid Waste & Recycling); addresses the Waste Management Budget.

Board Members: discuss various issues, comments and concerns regarding: only 45% of the people are being charged; mandatory collection; garbage haulers having a set area without competition; lowering the franchise fee would not increase the number of customer, with staff responding.

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

AYES: Supervisors Bianchi, Ovitt, Achadjian
NOES: Chairperson Ryan
ABSENT: Supervisor Pinard

the Board receives the information presented by staff dated 3-4-03 and directs staff to continue as that have in the past.

8 G-1 This is the time set to consider a request to approve Allied Health Professional Rules and Regulations, protocols and related credentialing forms, as submitted by the San Luis Obispo General Hospital Medical Executive Committee.

Mr. John Wilson: County Executive Officer for General Hospital, states this is a routine item; indicates the rules and regulations have been reviewed by the Medical Executive Committee and recommends approval.

No one appearing and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi, with Supervisor Pinard being absent, motion carries and the Board approves the following Allied Health Professionals Rules & Regulations for: Certified Nurse Midwives, Nurse Practitioners, and Physician Assistants; approves the “Request for Practice Prerogatives Form: Dependent Allied Health Professional” for: Certified Nurse Midwives (CNM), Nurse Practitioners (NP), Physician Assistants (PA), Registered Nurse First Assistant (RNFA); approves the RNFA Protocols: Emergency Absence of Surgeon, Intraoperative Tissue Manipulation, Providing Exposure, and Providing Hemostasis and approves the “Written Supervisory Agreement Between Supervising Physician and The Dependent Allied Health Practitioner” (CNM/NP/PA/RNFA).

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

Rev. C. Hite: addresses housing discrimination; provides a phone number for more information.

Ms. Jay Adams: addresses a letter written by the California Attorney General Mr. Bill Lockyer regarding proposed independent spent fuel storage installation at Diablo Canyon Nuclear Power Plant.

Mr. Klaus Schumann: speaks to the Nuclear Regulatory Commission’s studies regarding spent fuel; addresses his concern for storing highly radioactive waste at Diablo; wants the following questions answered: 1) how much radioactivity is already out there; 2) how much radioactivity was Diablo originally licensed for; how much more radioactivity will be stored there if PG&E’s applications are granted; what are the ramifications of a catastrophic events, such as a 9/11 style terrorist attack, a major earthquake or a waste pool fire; and how likely is it that such events will happen.

Mr. Michael Winn: addresses housing in Nipomo; urges the Board to not allow single family housing to be built on multi-family zoning; addresses the need for multi family housing.

Mr. Richie Ray Walker: suggests a way to fix the old stop signs and save money at the same time. **No action taken.**

10 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) *Vadnais v. Cambria Community Services District*.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.) 5) *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. 6) *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.)** 9) *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.

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

II. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code, § 54957.6.) It is the intention of the Board to meet in Closed Session to have a conference with its Labor Negotiator concerning the following: 8) *Negotiator's Name: Gail Wilcox; Name of employee organization: SLOCEA.*

III. TRADE SECRETS, MEDICAL QUALITY HEARINGS. It is the intention of the Board to meet in Closed Session concerning the following items: Trade Secrets, Medical Quality Hearings Exception (Gov. Code, §54957) 10) *Consideration of confidential quality assurance medical reports. (Health & Safety code, §1461.*

IV. PERSONNEL (Gov. Code, § 54954.5) It is the intention of the Board to meet in Closed Session to: 11) *Consider Complaints or Charges Against a Public Employee.*

Chairperson Ryan: opens the floor to public comment.

Ms. Linda Hall: questions why the County is dealing with the Cambria Community Service District's (CCSD) legal problems.

Mr. James Lindholm: County Counsel, states this was a lawsuit by Mr. Vadnais against the CCSD and the County; indicates the lawsuit went to the Court of Appeals and a decision against the plaintiff was handed down.

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: the Board met as the governing Board of General Hospital and acting in that capacity it approved credentials for 32 physicians and 14 Allied Health Practitioners and no other report required as no final action was taken and the Board goes into Open Public Session.

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

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

County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, March 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/Cherie Aispuro,
Deputy Clerk-Recorder

DATED: 03/07/2003
cla