

Tuesday, October 21, 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 HARRY L. OVITT.**

**SUM**      **AGN**

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

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

**NOES:            None**

**ABSENT:        None**

**RESOLUTION NO. 2003-348, resolution recognizing October 2003 as "Disability Achievement Month" in San Luis Obispo County, adopted.**

**Supervisor Ovitt:** reads the resolution and presents the same to Mr. Mark Schaffer, Director for United Cerebral Palsy.

**Mr. Schaffer:** thanks the Board for the recognition and introduces and presents a recognition award to Mr. Warren Mattingly; highlights Mr. Mattingly's involvement, disabilities and accomplishments.

**Mr. Mattingly:** thanks Mr. Schaffer for the recognition and speaks to his involvement in helping people with disabilities become more independent.

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

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

**NOES:            None**

**ABSENT:        None**

**RESOLUTION NO. 2003-349, resolution proclaiming October 2003 as "National Dental Hygiene Month" in San Luis Obispo County, adopted.**

**Supervisor Pinard:** reads the resolution and presents the same to Ms. Diane Nash.

**Ms. Nash:** thanks the Board for the recognition, addresses the importance of good dental care and presents each Board member with a packet of dental products.

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

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

**NOES:            None**

**ABSENT:        None**

**RESOLUTION NO. 2003-350, resolution proclaiming Saturday, October 25, 2003 as "Make a Difference Day" in San Luis Obispo County, adopted.**

**Chairperson Ryan:** reads the resolution and presents the same to Mr. Dan Pronsolino, representing the Community Center at Cal Poly and Ms. Janna Nichols, United Way.

**Mr. Pronsolino:** thanks the Board for the recognition; states this is the third year they have partnered with United Way on this and speaks to the events that will occur this Saturday.

**Ms. Nichols:** states this has been a “key” event every year since it began.

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

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

**NOES: None**

**ABSENT: None**

**RESOLUTION NO. 2003-351, resolution proclaiming the month of October 2003 as “Stop Cancer Where it Starts Month” in San Luis Obispo County, adopted.**

**Supervisor Bianchi:** reads the resolution and presents the same to Ms. Genny Monteen and Ms. Susan Coward.

**Ms. Monteen:** thanks the Board for the recognition; provides statistics on cancer rates and feels that these figures can be reduced if toxins are eliminated; presents copies of a resolution and ordinance that were adopted in San Francisco.

**Ms. Coward:** addresses why stopping cancer is important to her.

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

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

**NOES: None**

**ABSENT: None**

**RESOLUTION NO. 2003-352, resolution to proclaim the week of October 23<sup>rd</sup> through October 31<sup>st</sup>, 2003 as Red Ribbon Week in San Luis Obispo County, adopted.**

**Supervisor Achadjian:** reads the resolution and presents the same to Ms. Kimberly Mott, Drug and Alcohol Services and Ms. Hailey Columbo and Ms. Hillary Borchard, students.

**Ms. Columbo:** thanks the Board for the recognition, presents each Board member with a packet of information and ribbons and asks them to wear their Red Ribbons for the week.

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

**Mr. Tom Guernsey:** addresses the Unocal oil contamination clean up at Avila Beach; presents a map showing the area around San Miguel Street that has not been cleaned up; comments on the final monitoring report that is now three years overdue.

**Mr. Don Maruska:** addresses a book he wrote and has been published regarding management issues and provides each Board member and the County Administrative Officer with a copy.

**Mr. David Broadwater:** speaks to the recent hearings by the Attorney General on the sale of French and Arroyo Grande Hospitals and the intervention by Mr. David Edge, County Administrative Officer to clear up misinformation regarding public input; states he is proud to have a public employee like Mr. Edge working in this County.

**Mr. Eric Greening:** agrees with comments by Mr. Broadwater; addresses his concern to the appearance of a lack of concern in the County regarding offshore oil; questions whether the voice of the County is being heard at the State and Federal level on this issue.

**Ms. Linda Hall:** speaks to an incident she got involved in with respect to a woman with Alzheimers and the Department of Social Services. **No action taken.**

7 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. Robert Mueller:** comments on Item B-12 regarding Oceano Airport; addresses his concern to the report on the Airport Land Use Plan indicating the Oceano Airport was not appropriate for expansion; suggests there is an inconsistency with respect to airport management and federal funding requirements; feels the Plan should be reviewed before this item is approved.

**Mr. Jesse Arnold:** addresses Items B-4, B-5, B-6 and B-7 and urges the Board to not approve these pay increases and if they are approved asks that the Board consider reducing them or explain why they should be approved. **No action taken.**

8 B-1 Consent Agenda Items B-5, B-6 and B-7 are listed incorrectly on the coversheet and are thru amended to reflect that Item B-5 is B-7, Item B-6 is B-5 and Item B-7 is B-6. Item B-9(2) B-25 is amended to reflect two (2) amended contracts with SAP Public Services Inc. Item B-22 is withdrawn. Item B-25 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, Pinard, Chairperson Ryan**

**NOES: None**

**ABSENT: None**

**Consent Agenda Items B-1 through B-25 are approved as recommended by the County Administrative Officer and as amended by this Board.**

Consent Agenda Items B-1 through B-25, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set for bid opening and hearing:

B-1 Plans and specifications (Clerk's File) for installation of infrastructure improvements at the North County Regional Center and a request to: 1) consolidate two existing capital projects (Replace Ag Commissioner Modular and Sheriff - North County Construct Sheriff Substation) into the Templeton-Development North County Regional Center capital project (P5742); 2) approve a budget adjustment transferring \$2,195,409 from the existing capital projects into the new capital project; and, 3) approve an agreement (Clerk's File) in the amount of \$58,000 with Omni Design Group for the design of the new Sheriff Substation portion of the new capital project, **Approved and the Clerk is instructed to give notice of Bid Opening set for November 20, 2003 at 3:00 p.m..**

B-2 **RESOLUTION NO. 2003-353**, of intention to vacate a portion of "J" Street and a portion of Pinal Avenue, in Santa Margarita, 5<sup>th</sup> District, **Adopted and the Clerk is instructed to give notice of hearing set for December 2, 2003 at 9:00 a.m..**

Administrative Office Items:

B-3 Funding for the Children's Health Insurance Initiative Program with fiscal year 03-04 Preventive Health Grant Funds in the amount of \$42,615, **Approved.**

B-4 **RESOLUTION NO. 2003-354**, amending the fiscal year 1999-06 Memorandum of Understanding (MOU) for the Trades, Crafts, and Services Unit, San Luis Obispo County Employees' Association (SLOCEA) and establish fiscal year 2003-04 salaries and benefits, **Adopted.**

B-5 **RESOLUTION NOS. 2003-355, 2003-356 and 2003-357**, amending fiscal year 1999-04 Memorandum of Understanding for the Public Services, Supervisory, and Clerical Units

and establish fiscal year 2003-04 salaries and benefits, **Adopted as amended.** (Clerk's Note: This item was originally listed as B-6 on the Agenda)

- B-6 **RESOLUTION NO. 2003-358**, adjusting 2003-04 salary and benefits, for general management, elected officials, operations and staff management, confidential employees and represented attorneys, **Adopted as amended.** (Clerk's Note: This item was originally listed as B-7 on the Agenda.)
- B-7 **RESOLUTION NOS. 2003-359 and 2003-360**, amending the fiscal year 1999-04 Memorandum of Understanding (MOU) for the Public Services and Supervisory Units and establish fiscal year 03-04 salaries and benefits for the Probation and Probation Supervisory Units, **Adopted as amended.** (Clerk's Note: This item was originally listed as B-5 on the Agenda)

Auditor-Controller Items:

- B-8 Submittal of an audit of the Treasurer-Tax Collector's redemption records and accounts from July 1, 1999 to June 30, 2002, **Received and Filed.**
- B-9 1) A contract with Government Finance Officers Association for Enterprise Financial System (EFS) project quality assurance; 2) contract amendment with SAP Public Services, Inc. for electronic delivery of EFS software; and 3) agreement with SAP for Preferred Training Card Services (Clerk's File), **Approved as amended.**

Board of Supervisors Items:

- B-10 Request by Chairman Ryan to reappoint Tom Baron and Kem Weber Jr. to the Assessment Appeals Board, **Approved.**
- B-11 Request by Supervisor Pinard to appoint Mary Ann Vasconcellos to the Agricultural Liaison Advisory Committee, **Approved.**

General Services Items:

- B-12 Contract (Clerk's File) with Tartaglia Engineering for design and construction of the runway pavement at the Oceano Airport, **Approved.**
- B-13 Budget adjustment in the amount of \$77,890 from general fund contingencies and funding of current year special assessment costs associated therewith for the purpose of purchasing 66 parcels of tax-defaulted land in Cayucos, La Grande Beach, and California Valley, **Approved.**
- B-14 Amended contract with ANVI, Inc., for operation of Lopez Lake Marina and Santa Margarita Lake Marina concessions, **Approved.**

Public Works Items:

- B-15 Bid opening report for the construction of guard railing on portions of Cemetery Road, Cross Canyons Road, Interlake Road, Lopez Drive, River Road and Wellsona Road; 1<sup>st</sup> & 4<sup>th</sup> Districts, **Approved and the Chairperson is instructed to sign contract documents with Alcorn Fence Company in the amount of \$165,208.00.**
- B-16 Request to approve an extension to an agreement with Ride-On Transportation to provide Dial-a-Ride services within the Nipomo Area through June 2004; 4<sup>th</sup> District, **Approved.**
- B-17 **RESOLUTION NO. 2003-361**, authorizing Execution of Notice of Completion for the installation of traffic signals on South Bay Boulevard at El Moro Avenue in Los Osos; 2<sup>nd</sup> District, **Adopted.**
- B-18 The following parcel map has been received and has satisfied all the conditions of approval that were established in the public hearing on the tentative map, and: CO 99-

0028, a proposed subdivision resulting in 2 lots, by George and Sigrid Green, Branch Mill Road, northeast of Arroyo Grande; 4<sup>th</sup> District, **Approved.**

Treasurer-Tax Collector Items:

- B-19 **RESOLUTION NO. 2003-362 and 2003-363**, accepting notice and approving sales of tax-defaulted property subject to the Tax Collector's power to sell, **Adopted.**
- B-20 Agreement (Clerk's File) to purchase tax-defaulted land, **Approved.**

Other Items:

- B-21 Request by Medical Services to approve a lease payoff with Kansas State Bank of Manhattan for a C-Arm X-Ray unit, **Approved.**
- B-22 Request by Public Health to approve the annual Child Health and Disability Prevention Program (CHDP) and California Child Services (CCS) Plan for FY 2003-04 (Clerk's File), **Withdrawn.**
- B-23 **RESOLUTION NO. 2003-364**, to approve an open-space agreement from Kevin Lee Hunstad and Jacqueline Sue Hunstad; 4<sup>th</sup> District, **Adopted.**
- B-24 Contract (Clerk's File) with Jean Dansereau, M.D., to provide psychiatric services for Mental Health clients, **Approved.**

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

- B-25 Three easement agreements (Clerk's File) affecting a portion of interest in County owned real property in the City of San Luis Obispo, located at 995 Palm Street (City/County Library Building), **Approved.**

9

- C-1 This is the time set for hearing (introduced on October 7, 2003) to consider an ordinance amending Section 2.48.095 of the County Code relating to the Board of Supervisor's salaries.

**Ms. Sue Wilkison:** Administrative Office, presents the staff report; outlines the requirements of the County Code regarding the Board's salaries; the comparable counties that were surveyed and based on the survey it was determined that a change in salary has occurred for the Board members; staff is recommending the Board adopts the ordinance that will adjust their salaries +4.14% effective January 1, 2004.

**Mr. Eric Greening:** suggests this is ill-timed based on the State budget but is also on the side of paying for the increase.

**Mr. Jesse Arnold:** suggests if the Board members answer to the electorate, then their salaries should be handled at the same time as they are elected/reelected.

**Ms. Linda Hall:** questions her understanding of the Prevailing Wage Ordinance and its requirements; addresses her concern to comparing to other counties instead of the local private sector.

**Mr. David Broadwater:** questions the median salary in the County versus the Board members' salaries and suggests the Board's pay should be tied to the median local salary.

**Board Members:** address their views on the salary increase.

**Mr. David Edge:** County Administrative Officer, addresses his years of involvement in this process; addresses the changes to the process as to how the salary is determined and suggests this is not a discussion on how much a Supervisor position should make, but rather a discussion on what change, if any, should be made from last year to this year.

**Matter is fully discussed and thereafter, a motion by Supervisor Bianchi, seconded by Chairperson Ryan to adopt an ordinance amending Chapter 2.48 of Title 2 of the San Luis Obispo County Code, fails on the following roll call vote:**

**AYES:Supervisors Bianchi**

**NOES: Supervisors Chairperson Ryan, Ovitt, Pinard, Achadjian**

**ABSENT: None**

10 C-2 This is the time set for hearing to consider an appeal by Alison Denlinger, James Sampson, Donald Frames, Mary McElroy, Michael Sampson, A.E. Norman, John Swanson and Lorrie Golanty of the Planning Commission's decision to approve the proposal by Chris Behr for a minor use permit to allow the construction of a wind electric conversion facility with an 80-foot tower supporting an 11.5 foot radius blade, located at 7383 Vineyard Drive, near the community of Templeton; 1st District. (Additional information was added to the staff report.)

**Ms. Kami Griffin:** Planning, introduces the item.

**Ms. Susan Callado:** Planning, presents the staff report outlining the Applicant's request for a wind energy conversion facility; corrects page C-2-24 of the staff report indicating that the vote of the Planning Commission was 3-2 and not unanimous; addresses several issues of the appeal and staff's response; presents photographs of the site; states they have presented the Board with revised conditions that now include Condition #14 regarding indemnification; indicates the Applicant has submitted a modified project which improves the location for the wind machine and staff as a revised resolution if the Board chooses to approve this.

**Supervisor Achadjian:** questions whether the revised project changes the concerns regarding visibility and noise, with staff responding.

**Mr. Jim Sampson:** Appellant, states he is representing all the Appellants; indicates the change in location for the wind machine is positive but there isn't a new environmental determination for this; presents a photograph showing where the wind machine would be located and a contour map showing the location of the windmill; if the project is approved they are requesting the following be included: (1) the exact location of the proposed turbine be specified with GPS coordinates; (2) the applicant be required to install a system performance meter to measure the amount of energy production which as of March 2003 became a requirement of the California Energy Renewal Rebate Program; (3) within a specific time period the Applicant be required to remove the wind turbine and tower in the event he does not qualify for the rebate specified in their second request; (4) require the painting of the wind turbine and tower in a color more in keeping with the forested viewshed; states for the record that they take exception to the report by Planning staff as they feel there are many errors in it.

**Mr. Chris Behr:** Applicant, introduces Mr. Vic Montgomery of RRM Design.

**Mr. Montgomery:** highlights the document they presented titled "Behr Wind Turbine - Minor Use Permit #D020069P" and explains the photographs of the site and surrounding area; addresses the site plan showing the approved and new location for the wind turbine; shows how the wind machine will look; presents computer enhanced photographs of the wind machine location from various points at both the approved and modified locations.

**Mr. Behr:** addresses the location of the wind machine; states that after the Planning Commission approved their request they met with the neighbors to try to further address their concerns and are requesting that be allowed to move the wind tower in response to those concerns; comments on a letter, they have presented, from Bergey WindPower who responded to issues raised by the Appellants; states with the proposed location change they are further addressing concerns regarding visual and noise impacts; addresses the letter from Dr. Wes Armstrong regarding the wind turbine he placed on his property.

**Ms. Mary McElroy:** Appellant, addresses the need to protect agriculture pursuant to State Law; states allowing this wind machine will set a precedent and opposes this

project.

**Mr. Duane Waddell:** speaks in support of the Behr request and feels if there is a precedent it is one that supports alternative energy.

**Mr. Matthew Tritt:** states he is in the wind energy business and speaks in support of the application.

**Mr. Robert Nanninga:** states he has heard that bicyclists are opposed to this project and as a bicyclist he is unsure why; supports the application.

**Ms. Aeron Arlin Genet:** Air Pollution Control District staff, urges the Board to support wind energy, deny the appeal and allow this project to move forward.

**Ms. Alison Denlinger:** states she is pleased they are going to move this wind machine further away but still doesn't want to see this move forward; urges the Board to uphold the appeal.

**Mr. Eric Greening:** speaks in support of denying the appeal and in support of wind energy.

**Ms. Arlene Winn:** states she is representing ECOSLO, Sierra Club and a bicyclist group and is in support of the wind turbine and the application.

**Ms. Jan Howell Marx:** attorney for the Applicant, reads the letter from Wes Armstrong, DDS, dated September 29, 2003, into the record.

**Ms. Pam Heatherington:** Director for ECOSLO, speaks in support of the Behrs' right to put a wind machine on their property.

**Mr. David Broadwater:** presents a letter from Holly Sletteland and Doug Anderson in support of the project, for the record; and speaking for himself he is also in support as he believes the windmills are quieter than most farm equipment.

**Ms. Henriette Groot:** speaks to folks' "addiction" to fossil fuel and supports this application.

**Mr. Mark Phillips:** speaks in support of windmills and the Behrs' request; urges the Board to deny the appeal.

**Mr. Jerry Baltzer:** states he is a neighboring property owner and believes you will still see the windmill from the new location and suggests the Behrs should be looking at solar use instead.

**Chairperson Ryan:** continues this hearing to 2:00 p.m. today.

11 CS **Chairperson Ryan:** opens the floor to public comment on the Closed Session without response; indicates the Board will be going into Closed Session at 1:30 p.m..

12 SP This is the time set for a presentation by the Cattlemen's Association of the Cattleman of the Year.

**Mr. Roger Miller:** President of the Cattlemen's Association, introduces Mr. George Hearst as the Cattleman of the Year and a provides a brief background on Mr. Hearst.

**Mr. Hearst:** thanks the Cattlemen's Association and the Board for the recognition. **No action taken.**

**THE BOARD DOES NOW ADJOURN TO THE MADONNA INN FOR A LUNCHEON WITH THE CATTLEMEN'S ASSOCIATION.**

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*, (4) *County of San Luis Obispo v. Spinelli, et al.*, (5) *Duke Energy Morro Bay v. San Luis Obispo County Tax Collector* and (6) *South San Luis Obispo County Sanitation District v. County of San Luis Obispo*.

**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.

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 and the Board goes into Open Public Session.

14 C-2 Appeal by Alison Denlinger, James Sampson, Donald Frames, Mary McElroy, Michael Sampson, A.E. Norman, John Swanson and Lorrie Golanty of the Planning Commission's decision to approve the proposal by Chris Behr for a minor use permit to allow the construction of a wind electric conversion facility with an 80-foot tower supporting an 11.5 foot radius blade, located at 7383 Vineyard Drive, near the community of Templeton; 1st District, is brought back on for hearing.

**Chairperson Ryan:** opens the floor to public comment.

**Mr. Peter Wagner:** representing the Sierra Club, speaks in support of the Applicant and wind energy.

**Ms. Linda Behr:** Applicant, comments on working with the neighbors after the Planning Commission hearing to further address their concerns; several of the neighbors indicated they would be satisfied if the wind machine was moved further back on the property; states this has been a very stressful situation; feels some of the neighbors are on a "witch hunt" and they have also been threatened; urges the Board to approve their request.

**Mr. Justin Marshall:** states he has a wind machine for frost and no other use; states if the application is approved he wants the Behrs to be required to use their own money and not the State's money to build this.

**Mr. Dennis Kime:** states he is an engineer and has worked in the wind energy field; urges approval of the application.

**Mr. Cayetano Moreno:** doesn't believe this is the right thing to do as he believes it will destroy the environment.

**Mr. Chris Behr:** Applicant, responds to issues raised by the public.

**Mr. Vic Montgomery:** representing the Applicant, presents three photographs, one the Appellants provided and two more showing the actual location of the wind machine.

**Ms. Jan Howell Marx:** attorney for the Applicant, addresses her letter of October 17, 2003, that she previously sent to the Board; states the environmental determination is adequate for the revised project; and presents arguments in support of approving the application.

**Dr. Jon Swanson:** representing the Appellants, presents their closing arguments; believes that solar power makes more sense in this area than wind power; presents a chart regarding wind speed; feels the appeal process has been confused with the submittal of the revised project by the Applicant; they would like this matter continued to allow for time to review the new design.

**Supervisor Ovitt:** indicates he does not believe this project would be precedent setting and that each request, in the future, would stand on its own; indicates he would like to see conditions added that would require removal of the wind machine if it becomes non-operational, a performance meter and the color of the tower to meet County Code.

**Chairperson Ryan:** states he went out and looked at this site and didn't like where the windmill was first located but believes the new location is a good site; addresses his concern to adding a condition regarding removal if the windmill becomes non-operational and what that time period would be; questions the need for the condition regarding the performance meter if it's required under State law.

**Supervisor Bianchi:** addresses the issue and agrees that Planning should choose the color for the windmill.

**A motion by Supervisor Ovitt, seconded by Supervisor Bianchi to partially uphold the appeal; that this will not be precedent setting; adding conditions that would require removal of the windmill if it is non-operative for more than one (1) year, the exact location included through GPS standards, the performance meter be required and the color of the tower is to be determined by County Planning and adopt the resolution and conditions as a modified, is discussed.**

**Chairperson Ryan:** states he does not support the addition of the conditions regarding removal of the windmill and the performance meter.

**Ms. Kami Griffin:** Planning, highlights the changes to the resolution and conditions based on the motion; indicates conditions regarding the performance meter and color already exist; addresses changes/additions to Conditions 1-d, 2-e, 14 and 15; states that Finding C needs to be modified to remove the wording "does not satisfy."

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

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

**the Board determines that this project will not set a precedent and partially upholds the appeal by approving the revised project location, requiring the addition of conditions regarding: (a) removal of the windmill if it is non-operative for more than one (1) year, (b) the exact location of the windmill through GPS standards, (c) requirement for a performance meter and (d) the color of the tower to be determined by County Planning; and, Finding C is amended to delete the wording "does not satisfy"; Condition 1-d is added to read: "The Wind Electric Conversion Facility shall be located behind the residence in the vacant field approximately 1,100 feet from Vineyard Drive at a Latitude 35 degrees 35.653' Longitude 120 degrees 49.946'."; Condition #2-e is amended to read: "tower, blades and all other structural features shall be painted a color that will blend in with the surrounding environment and shall be selected by the Department of Planning and Building."; Condition #14 is added to read: "The applicant shall as a condition of approval of this minor use permit defend, at his sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this minor use permit or the manner in which the County is interpreting or enforcing the conditions of this minor use permit; or any other action by a third party relating to approval or implementation of this minor use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition."; Condition #15 is added to read: "The applicant shall install a system performance meter to measure the amount of energy production.", the resolution is amended to correct where it reads "affirming" to "affirming and modifying" throughout the resolution and RESOLUTION NO. 2003-365, resolution affirming and modifying the decision of the Planning Commission**

**and conditionally approving the application of Chris and Linda Behr for Minor Use Permit D020069P, adopted as amended.**

15 C-3 This is the time set for hearing to consider an appeal by Julie Tacker for Concerned Citizens of Los Osos and Al Barrow for Citizens for Affordable and Safe Environment of the Planning Commission's approval of the Planning Commission's approval of the Los Osos wastewater project, a request by the Los Osos Community Services District to construct and operate a community wastewater project to include a collection system, treatment facility plant, effluent disposal system, harvest well system and all related infrastructure, located in the community of Los Osos; 2<sup>nd</sup> District.

**Ms. Nancy Orton:** Project Manager for the County, presents the staff report; outlines the location of the project; addresses the issues of the appeal; comments on drawings of the proposed sewer site; corrects Conditions #73 and #74, the beginning of the paragraph, to read: **"Prior to Approving Sewer Hookups for New Construction."**; recommends adoption of the resolution upholding the Planning Commission's recommendation and deny both appeals.

**Ms. Julie Tacker:** Appellant (Concerned Citizens of Los Osos), states she is representing 108 concerned citizens; believes the EIR is not complete for the proposal before the Board; urges the Board to delay or deny this request until this EIR has been completed; gives a video tape presentation of her appeal which outlines her concerns to the Tri-W site; no study being done on the impacts to the downtown businesses; concerns regarding sludge, septage, water, hydrology, drainage, ESHA (Environmentally Sensitive Habitat Areas), SSMP (Septic System Management Plan), economics, assessment and the conditions of approval.

**Mr. Al Barrow:** Appellant (Citizen's for Affordable and Safe Environment), presents his personal background; states he only received the staff report four days ago; addresses the issues of his appeal; refers to a letter from Jim Kreissl in response to comments he made.

**Ms. Rosemary Bowker:** Los Osos Community Services District (LOCSD) President, presents letters of support for the project from Senator Bruce McPherson, Assemblyman Abel Maldonado and Congresswoman Lois Capps.

**Mr. Bruce Buel:** LOCSD Manager, presents an overview as to how they arrived at the proposal before the Board today; site evaluations they performed; addresses the vote that occurred in Los Osos on the sewer.

**Mr. Steve Hyland:** Engineer representing the LOCSD, addresses the odor control approach they are taking with respect to this project.

**Mr. Gearhart Hubner:** Regional Water Quality Control Board (RWQCB), addresses the water and groundwater issues of concern; presents a chart regarding the average nitrate concentrations; agrees with the recommendation by the Planning Commission; states the problems are only going to get worse and this needs to move forward.

**Ms. Joyce Albright:** states she voted for the assessment, supports the sewer and the proposed site.

**Mr. Mike Multari:** Morro Bay National Estuary Program Manager, supports the application and urges denial of the appeals.

**Ms. Cathy Gentilucci:** speaks in support of the LOCSD plan and sewer project; feels some folks will use any excuse to further delay this.

**Mr. Gijai Rosen:** states he moved to this area for health reasons and wants the sewer moved from the proposed location.

**Ms. Elsie Deitz:** reads a letter from Celeste Royer to deny the appeal and support the project.

**Ms. Monica Hunter:** states she supports the sewer project but not at the Tri-W site.

**Ms. Pandora Nash-Karner:** believes the work done by the LOCSD has been outstanding and urges the Board to deny the appeals.

**Mr. Cayetano Moreno:** speaks in support of the LOCSD request and urges denial of the appeals.

**Ms. Sharon Kroll:** states she does not support the proposed location for the sewer.

**Mr. Jim Havlena:** urges the Board to deny the appeals and support the LOCSD request.

**Ms. Della Haight:** states she does not support the sewer being in the center of town.

**Mr. Allen Wicker:** urges support for the project and denial of the appeals.

**Mr. Ted Dobias:** questions how the residents of Los Osos will be helped through outside funding.

**Ms. Doris Williams:** wants the sewer moved out of the center of town.

**Ms. Karen Huntoon:** urges the Board to deny the appeals as further delays will only make this project more expensive.

**Mr. Tom Nichols:** feels there is no reason to put the sewer in the middle of town and feels there other sites that should be looked at.

**Ms. Bonnie Deringer:** states she moved to this area for her health and her health problems were created by contaminated water.

**Ms. Diane Wright:** opposes the proposed sewer location and urges denial of the application.

**Ms. June Wright:** urges the Board to deny the appeals so the project can move forward.

**Ms. Lila Bhuta:** addresses her concern to the purity of drinking water and presents her comments for the record.

**Mr. Jerry Deitz:** feels the location is the best compromise that could occur and urges the Board to move this project forward.

**Mr. Frank Freiler:** urges the Board to approve this project.

**Ms. Vita Miller:** urges the Board to support the appeals; explains why she believes this is a bad decision.

**Mr. Jack Borgess:** urges the Board to uphold the appeals.

**Mr. Larry Santoyo:** urges the Board to uphold the appeals.

**Ms. Pam Heatherington:** ECOSLO, addresses her concern regarding sludge and the need to assure that it will be capped.

**Ms. Kathryn Santoyo:** states she does not support the sewer and believes there are other alternatives.

**Mr. Albert Downs:** does not want the sewer placed in town.

**Thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Achadjian and unanimously carried, the Board agrees to continue the meeting past 5:00 p.m..**

**Mr. Eric Greening:** presents his comments for the record and highlights the same

regarding cultural resources, sludge and septage.

**Mr. John Perkins:** urges the Board to deny the appeals and approve the sewer project; believes more delays will just make this project more expensive.

**Mr. Keith Swanson:** states he went to the Pacifica Plant and it does “stink”; doesn’t want this plant placed in the center of town.

**Ms. Gewynn Taylor:** states she doesn’t want this plant in the middle of town and supports the appeals.

**Mr. E.E. Clabaugh, Jr.:** questions the language in the notice of hearing regarding the wetland setbacks and suggests these need special considerations to be approved; states a sewer in the middle of town is going to “stink” and believes the EIR doesn’t cover all the issues.

**Ms. Catherine Corbett:** presents copies of her comments and information for the record; states she opposes the zoning change that would allow this plant to be placed in town; suggests the Andre site is more appropriate.

**Dr. Pravin Bhuta:** presents copies of his information/comments for the record and suggests that because there are no storm drains in town it will be a major reason for sewer failures; suggests this system will affect the groundwater and urges the Board to deny the project.

**(SUPERVISOR HARRY L. OVITT IS NOW ABSENT.)**

**Mr. Brad Smith:** speaks to the site selections and only two of those sites were looked at seriously; addresses a hybrid extended aeration system and believes this is the best; addresses the costs associated with placing this on other sites; speaks against the project being in the downtown area.

**Ms. Linde Owen:** presents a petition with 430 signatures to move the plant outside of the town, for the record.

**Mr. Toby Sacher:** urges the Board to uphold the appeals.

**Mr. Mark Skinner:** wants this project located away from the downtown area.

**Mr. Bruce Payne:** addresses his concern regarding sludge and removal of the same.

**Ms. Cynthia Mulligan:** doesn’t believe the LOCS D has done their homework and does not want this project approved.

**Ms. Jane Grover-Smith:** suggests that sewers should not be placed near schools and also this location is in an earthquake zone; feels the sewer should be away from the downtown area.

**Mr. Ben DiFatta:** suggests the LOCS D did not take the low and fixed income folks into consideration; addresses his concern to odors from the plant.

**Mr. Tom Salmon:** reads a letter (previously submitted to the Board) from the Diocese of Monterey opposing the location of the sewer plant; speaking for himself he is also opposed to the project.

**Mr. David Broadwater:** presents his comments for the record and highlights the same regarding sewage sludge; suggests all the issues have not been addressed and urges the Board to uphold the appeal.

**Mr. Ed Schafer:** speaks against the proposed sewer location.

**Ms. Betty Field-Haley:** presents a drawing of the “yellow corporate sewer dragon” and

tells a story about why she is opposed to the sewer being downtown.

**Ms. Linda Hall:** suggests the EIR does not match the project.

**Mr. Richard Legros:** LOCSD Board Member, states they are 250 days away from the scheduled start day for the construction of the sewer; urges the Board to deny the appeals.

**Ms. Daniela Arnon:** feels the project has been flawed from the beginning; if it has to be done then suggests it be done on the Andre property; suggests there are also smaller systems that can be built; presents a letter and information from James Kreissl for the record.

**Mr. Stan Gustafson:** LOCSD Board Member, addresses several issues that have been raised today and urges the Board to deny the appeals.

**Mr. Galen Ricard:** speaks against the project location; concerns regarding odor and feels this is not smart planning; suggests there are alternative sites that could be looked at.

**Mr. Jon Seitz:** LOCSD Counsel, addresses the resolutions adopted by the RWQCB back in 1983 and the prohibition on septic tanks.

**Mr. Bruce Buel:** LOCSD Manager, gives his closing comments and urges the Board to uphold the Planning Commission recommendations.

**Mr. Al Barrow:** Appellant, gives his closing comments.

**Ms. Julie Tacker:** Appellant, gives her closing comments and believes that a subsequent EIR needs to be done before the Board can make an informed decision.

**Supervisor Bianchi:** enters all the documents, a list of phone calls and letters she has received into the record; comments on her original support of ponding systems; responds to comments by the public; states she doesn't like the site either but it is a compromise.

**Chairperson Ryan:** speaks to his history with the project and in support of the LOCSD.

**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, Achadjian, Chairperson Ryan**

**NOES: None**

**ABSENT: Supervisor Ovitt**

**the Board denies both appeals, Conditions #73 and #74 are amended to change the first sentence to read: "Prior to Approving Sewer Hookups for New Construction." and RESOLUTION NO. 2003-366, resolution affirming the decision of the Planning Commission and conditionally approving the application of Los Osos Community Services District for Development Plan/Coastal Development Permit D020283D, adopted as amended.**

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

I, **JULIE L. RODEWALD**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, October 21, 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: October 24, 2003

vms