

Tuesday, February 3, 2004

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

**ABSENT:** None

**PLEDGE OF ALLEGIANCE TO THE FLAG LED BY CHAIRPERSON HARRY L. OVITT.**

**SUM**

**AGN**

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

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

**NOES:** None

**ABSENT:** None

**RESOLUTION NO. 2004-38, resolution proclaiming February 2004 as "National Meat Month" in the County of San Luis Obispo, adopted.**

**Supervisor Achadjian:** reads the resolution and presents the same to Ms. Jane Kester, Cattlewomen's Association.

**Ms. Kester:** thanks the Board for the recognition; presents each Board member with a magazine/book entitled "The Romance and Reality of Ranching"; comments on the beef jerky packages they sent to Iraq and how they included the children from Shandon Elementary, Middle School and High School and Parkfield in this process; thanks the Board members for all their support for cattle and ranching activities; states they are presenting the Food Bank Coalition with five \$50 beef certificates in each Supervisor's name.

**Mr. Jim Kemper:** Food Bank Coalition, thanks the Board and Cattlewomen on behalf of the needy in the County and indicates that the certificates will go to a pantry in each Supervisor's District.

**Supervisor Ryan:** speaks regarding cattle ranching and the reality of the same.

**Supervisor Achadjian:** speaks to the award the Cattlewomen won for their annual year book.

**Chairperson Ovitt:** also comments on the Beef Backers Award they won.

**Ms. Kester:** they were honored to nominate McLintocks who won the Beef Backer Award this year; comments on the Scrapbook Award the Cattlewomen for San Luis Obispo County received at the last State convention.

**Supervisor Achadjian:** speaks to Vicki Janssen's involvement with this Scrapbook.

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

**Mr. Michael Kovacs:** states he is one of the last members of Citizens for Honest Representation; reads a 10-year-old letter from a Supervisor regarding restoring the County to #1 in the State; outlines what he believes this Supervisor has done in opposition to the letter.

**Ms. Julie Rodewald:** County Clerk-Recorder, states the election is 28 days from today; indicates there is still time to register to vote, with the last day being February 17<sup>th</sup> and urges folks not to wait until the last minute to register.

**Supervisor Pinard:** comments on the concerns that have been raised regarding the security of having a ballot backup and asks if all of the County's voting machines have backup.

**Ms. Rodewald:** responds that the County's optical scan system is basically a paper ballot system; these ballots are counted by machines at the precincts but every voter votes on a paper ballot; the Elections division does have touch screens that have been used in the past but are not being used this election; addresses the directive by the Secretary of State that all touch screen units have a voter verifiable paper trail and set a deadline of 7/1/05 for new systems and 7/1/06 for existing systems; states she will be asking for funding in the upcoming budget for next fiscal year, to retrofit the machines they have.

**Supervisor Bianchi:** questions the legality of the verifiable paper trail.

**Ms. Rodewald:** states that in addition to the directive from the Secretary of State they have tasked the Voting Systems Panel with setting out requirements and one of those is that ballots are machine readable.

**Mr. Eric Greening:** commends Ms. Rodewald and her staff for all that they do; addresses a prior suggestion he made regarding the "pink sheets" that show up at each meeting with changes and additions to the agenda; asks that when last minute items are added two findings be made and included on the coversheet to read: (1) why this couldn't have been done on time and why; and (2) why this can't be heard at the following meeting and why.

**Mr. Jesse Hill:** states that the Nipomo Community Advisory Committee has changed to a fully elected Board and Susie Hermrick is now the Chair; addresses concerns they have regarding illegal dumping in Black Lake Canyon; gives the Board an update on the water litigation; urges the City of Paso Robles to look at Los Gatos along with Santa Cruz when discussing restoration issues.

**Mr. David Edge:** County Administrative Officer, responds to adding items to the agenda, indicating that part of the reason this occurs is due to prior direction of the Board to have agendas out as early as possible for the public's review and consequently the next week's agenda is out on the Tuesday before; because of this early agenda deadline, items will come up later in the week that need to be added; in reviewing core agenda items, staff has found that 90% of the items for each meeting are on the regular agenda and 10% are on the core agenda. **No action taken.**

3 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:** comments on Item B-14 questioning Information Services departmental duties and the impacts of the changes in this resolution; questions Item B-4 and his concern to using an outside consultant; questions whether this position is really needed and urges the Board to not approve this item.

**Mr. Eric Greening:** addresses Item B-10 suggesting that stability shouldn't be routine to creeks; there is a need to continue efforts upstream where things aren't in place for this creek; comments on the language in the Morro Group letter on page B-10-13 of the staff report that states that CEQA attorneys are suggesting that EIR's not be prepared as they are not holding up in court. **No action taken.**

4 B-1 Consent Agenda Items B-2 and B-6 are withdrawn.  
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B-14 **Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian and on the following roll call vote:**

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

**NOES: None**

**ABSENT: None**

**Consent Agenda Items B-1 through B-14 are approved as recommended by the County Administrative Officer and as amended by this Board.**

Consent Agenda Items B-1 through B-14, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Board of Supervisors Items:

- B-1 Request by Supervisors Bianchi to reappoint Robert Heald, Ray Hopkins, and Robert Williams as District Two Representatives to the Cambria Public Cemetery District, **Approved.**
- B-2 Request by Supervisor Pinard to appoint Andrea Zeller to the Commission on the Status of Women, **Withdrawn.**
- B-3 Request by Supervisor Ryan to reappoint Gloria Robinson as a District Five Representative to the Atascadero Public Cemetery District, **Approved.**

Clerk-Recorder Items:

- B-4 Employee contract with Monica McKnight to provide automation support to the Clerk-Recorder's Office, **Approved.**
- B-5 Minutes of the December 2, 9, 16, and 29, 2003 Board of Supervisors' meetings, **Approved.**

General Services Items:

- B-6 Bid opening report for the San Luis Obispo Veterans Building remodel for ADA compliance and new restrooms, **Approved and the Chairperson is instructed to sign contract documents with Vernon Edwards Constructors, Inc. in the amount of \$215,100.**
- B-7 Rental agreement with Pigs Can Fly, for a portion of lease site "C" at the San Luis Obispo County Regional Airport, **Approved.**

Planning Items:

- B-8 Proposed mitigated negative declaration for the Salinas Pipeline at Trout Creek Replacement Project (ED 02-263); 5th District, **Approved.**
- B-9 **RESOLUTION NO. 2004-39**, (Clerk's File) acknowledging certification by the California Coastal Commission of Local Coastal Plan Major Amendment #1-02 - Amendments to the San Luis Bay Local Coastal Plan to Incorporate the Oceano Specific Plan; 4th District, **Adopted.**

Public Works Items:

- B-10 Amended agreement between the San Luis Obispo County Flood Control and Water Conservation District Zone 9 and the City of San Luis Obispo for a waterway management plan for San Luis Obispo Creek and approve a budget adjustment in the amount of \$40,208 from designated reserves; 2nd, 3rd, 4th and 5th Districts, **Approved.**

B-11 **RESOLUTION NO. 2004-40**, accepting conveyance from Avila Valley Vineyard Partners, for property interests within the Avila Bikeway parking area near Ontario Road in the community of Avila Beach, **Adopted**.

B-12 The following parcel map has been received and has satisfied all conditions of approval that were established in the public hearing on its tentative map: COAL 02-0298, a proposed lot line adjustment of 2 lots, by Woulbroun Construction, Inc., Nacimiento Lake Drive, northwest of Paso Robles; 1st District, **Approved**.

Other Items:

B-13 Submittal by the Auditor Controller of an unannounced cash count report of the San Luis Obispo County Library cash handling procedures at the Atascadero, Morro Bay, South Bay, South County, and San Luis Obispo branches, conducted December 1 and 2, 2003, **Received and Filed**.

B-14 **RESOLUTION NO. 2004-41**, reviewing the conflict of interest codes for the Information Technology Department, **Adopted**.

5 C-1 This is the time set for continued hearing (continued from January 13, 2004) to consider an appeal by Sylvia Alcon on the Planning Commission's approval of a tentative tract map 2571 and development plan authorizing the subdivision of a 15,000 sq. ft. parcel into eight residential airspace condominium units ranging in size from 684 sq. ft. to 1339 sq. ft. located on the northwest corner of 2nd and San Miguel Streets in the community of Avila Beach in the San Luis Bay Coastal Planning Area; 2nd District.

**No one appearing and thereafter, on motion of Supervisor Pinard, seconded by Supervisor Achadjian and unanimously carried, the Board continues said hearing to February 10, 2004 at 9:00 a.m..**

6 C-2 This is the time set for hearing to consider on ordinance calling for a special tax election on May 4, 2004, in County Service Area No. 9, Zone I, Los Osos, to fund the emergency fire and medical response that is provided by the Los Osos Community Services District; 2nd District.

**Mr. Will Clemens:** Public Works, presents the staff report and the recommendation to take this issue to the voters; outlines how this will affect the property owners if it passes by the required two-thirds majority; states this went to the voters previously and did not get the required two-thirds majority.

**Mr. David Edge:** County Administrative Officer, states that staff is not advocating for or against this tax increase; the citizens of this area want a higher level of service than is currently provided by the Los Osos Community Services District (LOCSD); states the County is the fiscal agent processing this based on the information, as to cost, by the LOCSD.

**Supervisor Ryan:** questions what a benefit unit consists of and what area is included, with Mr. Clemens responding.

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

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

**the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3021, an ordinance calling for a special election in County Service Area No. 9, Zone I, of San Luis Obispo County for the purpose of submitting to the voters of the Zone a proposition for**

**imposition of a special tax for emergency fire and medical response services, adopted.**

7

C-3 This is the time set for continued hearing (continued from January 27, 2004) to consider: 1) findings of the Nipomo Traffic Impact Fee Task Force; 2) a request to initiate the process to contract a traffic engineering consultant to prepare the required five-year update of the Nipomo Area Traffic Circulation Plan; and 3) a budget adjustment in the amount of \$116,000 from Road Improvement Fees; 4th District.

**Mr. Dale Ramey:** Public Works, provides a brief history on this issue and the direction the Board gave to staff to work with the Nipomo Community Advisory Committee's (NCAC) Traffic and Circulation Committee and other representatives of the area, to form a Traffic Impact Fee Task Force to evaluate ways to reduce the impact fees while still providing delivery of needed projects; outlines the recommendations of the Task Force; comments on funding for the 5 year Update.

**Supervisor Achadjian:** thanks all those who worked on this; indicates he still has concerns regarding this matter but will support the staff recommendations.

**Mr. Michael Kovacs:** wants the wasteful spending of the County's tax dollars to stop; addresses his concern to another consultant being paid for.

**Mr. David Watson:** Task Force member, states this was a positive experience and highlights what he learned from it; requests that an additional recommendation be considered which is to dedicate staff time to continue working with the Task Force.

**Mr. Jerry Bunin:** Government Affairs Director for the Home Builders Association and Task Force member, supports the recommendations and reduction of fees; feels these fees are still too high; addresses his concern to statements in the staff report; addresses what he feels the study, by the consultant, should concentrate on.

**Mr. Greg Nester:** Task Force member, agrees with all the comments by prior speakers and feels this group all worked very well together.

**Mr. Jesse Hill:** comments on the information by staff regarding the changes being recommended.

**Mr. Noel King:** Public Works Director, speaks to the request to dedicate more staff time to these types of groups and the budget constraints they are experiencing which will make this difficult to do; states they fully intend to continue staff's support to committees/groups such as this one but will be looking at reducing the amount of overtime by staff.

**Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi and unanimously carried, the Board directs staff to initiate the process to contract with a qualified traffic engineering consultant for the preparation of the five-year South County Circulation Study Update and approves the appropriation adjustment in the Roads Budget to fund the study in the amount of \$116,000.**

8

D-1 This is the time set for consideration of a letter of response to the California Coastal Commission regarding the status of the Periodic Review of the County's Local Coastal Program.

**Mr. John Euphrat:** Planning, presents the staff report outlining what the Local Coastal Plan (LCP) entails; outlines the phased approach for implementing the recommendations from the California Coastal Commission (Commission); Phase 1 is completed and was approved by the Board and submitted to Commission for their review on 7/29/03 with the first public hearing tentatively scheduled before the Commission sometime this month; Phase 2 has also been authorized by the Board but staff will wait for final approval of Phase 1 before completing and releasing the public review draft; outlines the specific recommendations in both Phase 1 and 2; comments

on the Summary Report Table (in the staff report) that provides more detail on each recommendation; addresses a review by the Commission, on September 29, 2003, of the County's progress to date in responding to their recommendations and their vote to send a detailed letter to the County (Attachment C of the staff report) and highlights the same; addresses the draft letter they are requesting the Board send to the Commission in response to their letter.

**Supervisor Ryan:** questions the amount of reimbursement from grants, with Mr. Euphrat responding that they receive funding as work is completed.

**Mr. Eric Greening:** addresses points of agreement he has: agrees with staff's agreement with the Commission's request to prioritize ESHA recommendations 4.08a, 4.26 and 4.32 and to incorporate them into a more comprehensive analysis of ESHA issues in Phase 2; agrees with points raised in the letter, on pages D-1-8 and 9 of the staff report, that the Commission needs to understand that a thorough public hearing process does indeed take time; disagrees with adopting phased LCP Updates, if that means following the pattern set with North Coast Area Plan of artificially separating urban and rural; his biggest concern is to the language in the first paragraph on page D-1-4 that says "the County will likely meet some, but not all of the suggested dates" and the first reason for this is stated as "limited funding"; questions where the funding for the Susan McCabe contract was found and suggests giving McCabe and Company thirty days notice of cancellation and announce a commitment to using the money that would have paid her to move forward with the Update on the LCP.

**Ms. Tarren Collins:** Sierra Club Chair, addresses the Board's past "bad decisions" on development; wants the Board to adopt all of the recommendations from the Commission as soon as possible; urges the Board to stop the delays with respect to this.

**Mr. Michael Kovacs:** addresses the increase in property values over the last 10-15 years and believes this document is completely environmentally unfriendly.

**Matter is discussed and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Ryan, with Supervisor Pinard casting a dissenting vote, motion carries and the Board reviews the Coastal Commission's letter of September 10, 2003 and directs staff to submit the letter, as presented in the staff report dated February 3, 2004, and the summary report to respond to the request by the California Coastal Commission.**

9 E-1 This is the time set to consider the request to approve Psychiatric Health Facility documents (Clerk's File) and consideration of future options for the facility.

**Dr. Dale Wolff:** Behavioral Health Director, presents the staff report providing a history of what has occurred; addresses the need to become Medicare certified and what they have done, to date, to try and accomplish this; addresses fiscal issues and funding lost because they have not been successful in getting the State and Federal authorities to certify this facility; outlines the staff recommendations.

**Supervisor Pinard:** states she thought everything was done and questions what is different today versus earlier; speaks to the delays by the State causing \$1.5 million loss to Behavioral Health, with Dr. Wolff responding.

**Mr. David Edge:** County Administrative Officer, indicates that the State has done to the County, on this issue, what they have done to the County on items in the past, indicating that they gave an unqualified commitment more than one year ago "that this was no problem," that it sounds like a good idea and they would make it happen for us; since that time the State has done a 180 on this and around the middle of last summer started "putting all the road blocks" in front of the County that they could think of to delay this; the revenue loss is approximately \$5,500 a month; now staff is working on the State's commitment to be here any day for an "unannounced visit."

**Mr. Brian Davison:** Behavioral Health, outlines what this means in the way of dollars lost to the Department if they don't get the Medicare certification.

**Ms. Charmaine Quinlan:** addresses the need to have a facility to safely protect our residents; the facility needs to be safe, accommodate seniors, children, etc. and keep them in our County.

**Ms. Rae Belle Gambs:** Mental Health Advisory Board Member, supports the staff recommendations and addresses the negative impacts these delays have on our mental health patients.

**Thereafter, on motion of Supervisor Pinard, seconded by Supervisor Ryan and unanimously carried, the Board approves: (1) the amended Bylaws for Governance and Administration, including delegation of approval of the additional policies and procedures, job functions, personnel and medical staff appointments, and other day-to-day operations of the facility to the facility's Chief Executive Officer (the Director of Behavioral Health Services); (2) Administrative Policies and Procedures Manual, including Medical Staff Bylaws and Rules and Regulations, descriptions of job functions in the facility, quality assurance activities and numerous other provisions for operation of the facility in compliance with State and Federal regulations and conditions of participation as an Acute Psychiatric Hospital; and (3) Clinical Policies and Procedures Manual, including policies regarding Nursing Services, medical records, patient rights and other clinical functions of the facility.**

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

10 F-1 This is the time set for consideration of interpretation of the County's Lot Consolidation Ordinance set forth in Title 23, Section 23.04.048 of the Coastal Zone Land Use Ordinance.

**Mr. John Euphrat:** Planning, indicates this issue was raised last week during an appeal that was heard; outlines the staff recommendation.

**Mr. James Lindholm:** County Counsel, states the Board should be looking at ways to amend the ordinance and explains.

**Mr. Euphrat:** indicates the recommendations would include bringing back amendment(s) to the ordinance and outlines how staff will treat this issue until that occurs.

**Supervisor Ryan:** addresses the width requirements in the ordinance and indicates he does not agree with these and would like staff to look at changing these to only address square footage.

**No one appearing and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Ryan and unanimously carried, the Board approves the staff interpretation of the term "vacant" as outlined in the staff report dated February 3, 2004 and directs the Department to administer the Lot Consolidation Ordinance using the strictest possible interpretation, including measures to discourage further fracturing or building on lots not meeting the minimum width and size requirements, revise Department policies and procedures and consider future changes as part of area plan and ordinance amendments.**

11 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) Lum v. County of San Luis Obispo ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.) (9) AT&T v. County of San Luis Obispo, (10) MCI WorldCom v. County of San Luis Obispo and (11) McGurn v. County of San Luis Obispo.*

**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.

**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: (7) Negotiator's Name: *Santos Arrona, Gail Wilcox*, Name of employee organization: *Deputy Sheriff's Association*. (8) Negotiator's Name: *Santos Arrona, Gail Wilcox*, Name of employee organization: *Sheriff's Management*.

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

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: the Board discussed the items listed on the Agenda and the following occurred with respect to Item #3-NRC Proceeding concerning Spent Fuel - there has been an Appeal filed by the Mothers for Peace with the 9<sup>th</sup> Circuit Court of Appeals on the decision by the NRC refusing to have a hearing on the ISFSI (Individual Spent Fuel Storage Installation) and the Board of Supervisors has unanimously decided, in Closed Session, to file an Amicus Brief in support of that Appeal 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, February 3, 2004, 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, 2004  
vms