

Tuesday, March 9, 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 K.H. 'Katcho' Achadjian, Michael P. Ryan and Vice Chairperson Shirley Bianchi

ABSENT: Supervisors Peg Pinard, and Chairperson Harry L. Ovitt

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY VICE CHAIRPERSON SHIRLEY BIANCHI.

SUM

AGN

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

Reverend C. Hite: speaks to the misuse of IRS deduction information.

Mr. Eric Greening: addresses a letter from the Health Commission requesting the Board revive the Task Force on land application of sewage sludge; questions the process of turning received suggestions into agenda items for action.

Mr. Brad Arnott: addresses the need for a motorcycle track in the County and questions the requirements to make it happen; states there is community interest and would like the Board to place this issue on a future agenda.

Mr. David J. Nichols: addresses the motorcycle track issue; states there is a lot of community support for a track; indicates there is a lot of money going outside the County because there is no safe or legal place to ride; urges the Board's support in helping with some kind of zoning variance.

Mr. Michael Kovacs: states it was enjoyable to hear the children sing about Nipomo last Tuesday; addresses the Election results and the importance of speaking the "truth."

Mr. Zac Baxter: states he is a professional motocross rider; urges the Board to help find solutions so that there is a legal and safe place to ride in the County.

Ms. Jennifer Wallingford: addresses the need for a motorcycle track in the County; indicates this is a sport their family enjoys and right now they have to travel miles away to find a place to ride; questions if zoning laws can be changed to allow this use in certain areas.

Mr. Tim Pilg: addresses the amount of sales tax dollars the motocross business brings to the County; feels it's an issue like the skateboard problem and believes it can be solved in the same manner; states this sport is family oriented and helps keep kids off the street; urges the Board to find a place for them to ride.

Mr. Jeff Baxter: states he created a track on his property however, it only has a limited use; indicates he would like to have the public be able to use his property to enjoy this great family sport; urges the Board to make motocross riding an allowable use on Ag land.

Mr. Jay O'Brien: states he supports the request for a motorcycle track; indicates they drive for two hours for a safe place to ride; discusses the benefits of having a track and urges the Board's help in this process.

Supervisor Ryan: responds to Mr. Kovacs indicating he did not prevail in the Election however, he was elected for four years and will serve until January; congratulates Mr. Patterson and wishes him the best; hands the Clerk a petition in favor of the motocross track; states he would like to direct staff to come back at a future date with a General Plan Amendment that would look at using agricultural land for motor sports either by conditional or incidental use.

Mr. David Edge: County Administrator, questions if Supervisor Ryan wants staff to bring back a discussion item on the Baxter property or a general discussion.

Board Members: concur they want a general discussion. **No action taken.**

2 B-1 This is the time set for members of the public wishing to address the Board on matters
thru other than scheduled items.
B-16

Vice Chairperson Bianchi: opens the floor to public comment without response.

Consent Agenda Item B-1 is amended to correct the coversheet and staff report from the 3rd District to the 2nd District. Items B-12 and B-13 are withdrawn. **Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian and on the following roll call vote:**

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

Consent Agenda Items B-1 through B-16, are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-16, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set hearing:

B-1 Plans and specifications (Clerk's File) for asphalt concrete paving on Foothill Boulevard west of the San Luis Obispo City limits to Los Osos Valley Road; 3rd District, **Approved as amended and the Clerk is instructed to give notice of Bid opening set for April 8, 2004 at 3:00 P.M..**

Board of Supervisors Items:

B-2 Appointment of Ernest Bryant III and Dean Thompson to the Grazing Advisory Board, **Approved.**

B-3 Reappointment of Tom Neve to the Assessment Appeals Board, **Approved.**

Clerk-Recorder Items:

B-4 Request to destroy County Board of Supervisors resolutions dated January 7, 2003 through June 17, 2003, ordinances dated February 4, 2003 through May 6, 2003, employee oaths and files that have been microfilmed, **Approved.**

B-5 Request to destroy unaccepted claims for damages against the County of San Luis Obispo and Assessment Appeal applications, **Approved.**

General Services Items:

- B-6 Ground lease agreement (Clerk's File) with Airtime Aviation, Inc., for a portion of lease site S at the San Luis Obispo County Regional Airport, **Approved.**
- B-7 **RESOLUTION NO. 2004-71**, authorizing a grant application under the Per Capita Grant category of Proposition 40 for upgrades at Lopez Lake recreation area and Santa Margarita Lake Regional Park, **Adopted.**
- B-8 **RESOLUTION NO. 2004-72**, authorizing a grant application under the Roberti-Z' Berg-Harris category of Proposition 40 for park and recreation upgrades throughout the county, **Adopted.**

Public Works Items:

- B-9 Agreement authorizing the Regional Transit Authority to provide transit administrative services for county transit operations; All Districts, **Approved.**
- B-10 **RESOLUTION NOS. 2004-73, 2004-74 thru 2004-75**, accepting conveyance from William and Mary McKean, Neil and Marcella Collins, and Wendy and Dennis Borg for the Old County Road Project in the community of Templeton; 1st District, **Adopted.**

Sheriff-Coroner Items:

- B-11 Application to the U.S. Department of Justice for partial reimbursement for expenses associated with incarcerating undocumented criminal aliens, **Approved.**
- B-12 Request to approve a Budget adjustment in the amount of \$11,130 from unanticipated revenue for the implementation of a Gang Task Force Grant for 2003-2004, **Withdrawn.**
- B-13 Request to approve: Implementation of a Marijuana Suppression Program; 2) a budget adjustment in the amount of \$227,135 from unanticipated revenue to Budget Unit 2590 - Sheriff-Coroner; and 3) an amendment to the fixed asset list adding a four wheel drive SUV for \$25,000 and a used motor home for \$7,980, **Withdrawn.**

Other Items:

- B-14 Distribution of excess proceeds from tax sale numbers 192, 193, and 194, **Approved.**
- B-15 Appointment of Penny Chamousis to an Indirect Provider position on the County Health Commission, **Approved.**
- B-16 **RESOLUTION NO. 2004-76**, accepting the exchange of property tax revenue and annual tax increment for Annexation No. 29 to the City of Arroyo Grande (St. John's Church), **Adopted.**

- 3 C-1 This is the time set for submittal of the Second Quarter Financial Report.

Mr. Jim Grant: Assistant Administrative Officer, introduces the item.

Ms. Leslie Brown: Administration, presents the staff report; speaks to the expense and revenue of all funds and the General Fund; presents an overview of fiscal impacts and shortfalls; addresses key issues in certain departments and added expenses; indicates expenditure patterns and revenue receipts closely resembling the prior year; states there will be a net loss of approximately five million dollars by the end of the fiscal year; indicates although the loss can be absorbed due to sufficient contingency funds there will be less revenue available to help with next year's budget; indicates departments have been asked to cut their budget for Fiscal Year 2004/2005;

states the full impact of revenue losses will not show up until the third and fourth quarters of the year.

Mr. Grant: explains that Non Departmental Revenue Funds are more than budgeted by probably three to four million dollars; so there is additional revenue on the non- discretionary side.

Ms. Brown: addresses the recommendation and urges the Board to adopt Items 1, 3, and 4 of the staff report dated 3-9-04 and defer Item 2 to a future hearing date as it requires a 4/5ths vote.

Mr. David Edge: County Administrator, state the current year does not deal with the challenges for next year; indicates the State's fiscal crisis continues to erode the county's financial health; states Workers Compensation and Liability Insurance costs are examples of factors that are increasing and are outside the County's controlled.

Supervisor Ryan: questions if the Social Services numbers include the two million discussed at an earlier meeting; addresses the CDF cost of living.

Mr. Michael Kovacs: states he thought the Board maintained a balanced budget and urges spending cuts.

Mr. Eric Greening: addresses spending cuts; thanks Mr. Edge for attending the League of Women Voters' forum on State and local finance; questions if the passing of Proposition 57 included 1/4 of a cent sales diversion from local government toward bond repayment and when does this "kick in"; addresses his concerns relating to the level of service being given and the impacts on the public.

Reverend C. Hite: believes the taxpayer is paying for failure; states there is a housing crises, a health crises and now Social Services is in crises; feels there should be an audit on how people are spending their time in Social Services.

Mr. Edge: responds to the public's comments stating this year the County will net out approximately five million in losses and that money will come from Contingencies; addresses the sales tax Mr. Greening referred to indicating it is not supposed to "harm" local governments; discusses the Social Services budget.

Matter is fully discussed and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian, with Supervisor Pinard and Chairperson Ovitt being absent, motion carries and the Board approves a budget adjustment transferring \$55,000 from the Court Civil Assessment Fees into the Trial Court Maintenance of Effort

Reimbursement Account, to help pay the County's \$238,000 share of the State required payment associated with Undesignated Court Revenues; approves requests to discharge bad debts from Behavioral Health Services for the first and second quarter of FY 2003/04, totaling \$22,279 and receives, reviews and files the Fiscal Year 2003-04 second quarter financial report and defers accepting gift funds and donations on behalf of several County departments totaling \$17,263 and approve associated appropriation transfers on behalf of Social Services and the Library operating budgets to a future hearing date..

- 4 D-1 This is the time set for submittal of six community drainage and flood control studies (Clerk's File) for the communities of Cambria, Cayucos, Nipomo, Oceano, Santa Margarita and San Miguel.

Mr. Glen Priddy: Public Works, introduces the item.

Mr. Dean Benedix: Public Works, presents a brief background on the studies and how they were funded; addresses the Study Elements and the goals for those Elements; speaks

to the problem solution process and the steps completed by the FC&WCD studies; highlights each individual community study and the common issues; addresses key administrative issues raised during the study; states the next immediate steps is to have the Chairperson sign letters transmitting studies to community agencies and meet one more time with community agencies; addresses the County's role in the future which includes: 1) general drainage information; 2) guidance to individuals and agencies; 3) project programming assistance; 4) staff project management of community supported projects under governance of Board of Supervisors; and 5) County Road drainage facility maintenance; states the studies were successful, comprehensive and complete, with extensive community input and representative agency interaction; urges the Board to receive and file Drainage and Flood Control Studies and direct staff to transmit those studies to designated agencies and local CSD's; direct Chairman of Board to sign transmittal letters sending studies to designated agencies and CSD's and direct staff of Public Works and Planning & Building to jointly review and report on recommendations regarding County drainage regulations, management, planning, processing and approval.

Mr. Eric Greening: questions implementation with reference to the recommendation in Nipomo and Santa Margarita plans.

Ms. Connie Davidson: reads a letter from Vern Hamilton, Cambria Community Services District, (CCSD) indicating the District is not prepared to take the role of lead agency for this project.

Mr. Michael Kovacs: questions the cost for the six studies; were outside consultants used; could internal staff have been used and where did the funds come from.

Reverend C. Hite: addresses storm water drainage and ADA accessibility, with staff responding to public comment.

Board Members: discuss various issues, comments and concerns regarding: the Board maintaining the responsibility for the issues that deal with drainage; the efforts of the Advisory Boards being acknowledged and scheduling workshops at times when the public can attend; the requirements of the lead agency; communities qualifying for State or Federal funding; agencies responsibilities and powers, with staff responding.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ryan, with Supervisor Pinard and Chairperson Ovitt being absent, motion carries and the Board receives and files the completed drainage and flood control studies for the communities of Cambria, Cayucos, Nipomo, Oceano, Santa Margarita and San Miguel; directs staff to transmit copies of the completed studies to the designated advisory agencies and local Community Service Districts; directs the Vice Chairperson of the Board of the Flood Control District to sign the transmittal letter, as included in Attachment 2; and directs staff of the Departments of Public Works and Planning and Building to jointly review and report on the recommendations relative to County drainage regulations, management, planning processing and approval, including possible modifications to current rules, ordinances and policies.

5 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) *AT&T v. County of San Luis Obispo*, 5) *MCI WorldCom v. County of San Luis*

Obispo, 6) Before It's Gone v. County of San Luis Obispo, et al., 7) Naimark v. County of San Luis Obispo, et al., 8) Schoenfield v. California Coastal Commission, 9) Harker Wade v. San Luis Obispo County Assessment Appeals Board, 10) Los Osos Community Services District v. Southern California Water, et al., 11) California Farm Bureau Federation v. California Department of Forestry and Fire, (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement) 15) Crawford & Company, et al. v. County of San Luis Obispo and 16) Borsotti v. County of San Luis Obispo.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.) 12) 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. 13) 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: 14) Negotiator's Name: Santos Arrona, Gail Wilcox Name of employee organization: Deputy Sheriff's Association

Vice Chairperson Bianchi: opens the floor to public comment and welcomes the students from Mission College Prep.

Mr. Michael Kovacs: states of the 14 items on the Closed Session agenda ten of them are lawsuits against the government; feels this number reflects the level of dissatisfaction with the County's services.

Mr. Eric Greening: welcomes the students; addresses the 10th amendment as it relates to the PG&E items.

Thereafter, the Board goes into Open Public Session.

6 D-2 This is the time set for review and approval of policies and correspondence on environmental issues and permits including the Klau/Buena Vista Mine, the Las Tablas Creek TMDL, the Arroyo Grande Creek Habitat Conservation Plan (Clerk's File), Storm Water Programs, and other regulatory compliance direction; All Districts, **Approved.**

Mr. Paavo Ogren: Public Works, discusses general policies and goals associated with the environmental programs within the Public Works Department.

Mr. Mark Hutchinson: Public Works, explains and discusses each recommendation and the issues relating to those recommendations.

Mr. Eric Greening: addresses the efforts to clean Las Tablas Creek and hopes those efforts are expedited; speaks to the Arroyo Grande Creek Habitat Conservation Plan; questions why the Plan stops at Fair Oaks; addresses his concerns relating to low flows and bank stabilization in drought years; feels the Habitat Conservation Plan needs its own separate hearing.

Matter is fully discussed and thereafter, on motion of Supervisor Ryan, seconded by

Supervisor Achadjian, with Supervisor Pinard and Chairperson Ovitt absent, motion carries and sitting as the Board of Supervisors approves the letters supporting the placement of the Klau/Buena Vista Mine superfund site on the National Priorities List; adopts the proposed policy responding to the Las Tablas Creek Total Maximum Daily Load TMDL order; adopts the proposed policy on the implementation of storm water programs in "non-designated" communities; receives the status reports on the Department's response to the issues regarding the Clean Water and Endangered Species Acts; directs staff to

develop a resolution authorizing the Director of Public Works to sign environmental regulatory permits and sitting as the Board of Supervisors of the San Luis Obispo County Flood Control and Water Conservation District release the Arroyo Grande Creek Habitat Conservation Plan (Clerk's file) for review; and directs staff to develop a resolution authorizing the Director of Public Works to sign environmental regulatory permits.

7 CS Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: Items 1 through 16 were discussed and - No public report is required because no final action was taken, and the Board goes into Open Public Session.

8 E-1 This is the time set for consideration of a request to authorize the processing of an application (G030016L; Paso Pacific Properties, LLC/Pacific Tank and Construction, Inc.) for a Land Use Ordinance amendment to replace a current limitation allowing only automotive recycling and scrap for a site in the commercial service category; 1st District.

Mr. Jim Lopes: Planning, presents the staff report; describes the site; speaks to the zoning and land use; addresses the site improvements; indicates staff is recommending authorization of the processing of this application.

Mr. Greg McMillian: presents statistics on the sales and amount of steel being brought to the site; addresses his concerns regarding traffic, air quality, and polluting the water of Cholame Creek; urges the Board to not authorize the processing for this application.

Ms. Loretta Morgan: states she is pleased the site has been cleaned and she has no problem with the company.

Mr. Rusty Pauls: Applicant, states the site has been cleaned; indicates the community is pleased that this project will bring jobs to the area; states they are working with Shandon High School to provide a ROP program; addresses the traffic and noise; states he has a notice to construct from the Air Pollution Control District; urges the Board's approval.

Mr. Ken White: Chairperson of the Shandon Citizens Advisory Committee, states they support the project; feel this is a class act operation and addresses the need for more commercial zoning in Shandon; indicates the town of Shandon needs a vision.

Mr. Tom Yanaga: General Manager of Pacific Tank and Construction, indicates they train welders and provide good paying jobs for the community; urges the Board to consider the general plan amendment.

Mr. Jim Jeffers: President of Pacific Tank and Construction, indicates the statistics provided by Mr. McMillian are false and the information obtained is coming from direct competitors.

Board Members: discuss various issues, comments and concerns regarding: the project having the blessing of Cal Trans; if approved it would not set a precedent; when this item comes back the Board would like the report to include the soil type and how it is currently used and the type and amount of water on the site, with staff responding.

Matter is fully discussed and thereafter, on motion of Supervisor Ryan, seconded by

Supervisor Achadjian, with Supervisor Pinard and Chairperson Ovitt being absent, motion carries and the Board authorizes for processing G030016L Paso Pacific Properties, LLC/Pacific Tank and Construction, Inc.

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 9, 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/Cherie Aispuro,
Deputy Clerk-Recorder

DATED: 3-11-04
cla