

Chairperson Ovitt: reads the resolution highlighting the incident that occurred on June 1, 2004 when Gloria Cooke became entangled in a ski-boat tow rope severely injuring her right hand; addresses the quick actions by Mr. Melin and Mr. Centeno to stabilize her while waiting for the ambulance to arrive; presents copies of the resolution to both Mr. Melin and Mr. Centeno.

Mr. Melin: thanks the Board for the recognition; speaks to the great staff at Lopez Lake and highlights other incidents that have occurred.

Mr. Centeno: thanks the Board for the recognition.

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

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

NOES: None

ABSENT: None

presentation of Employee Suggestion Awards commending Irene Bishop and Ronnie Simons, approved.

Mr. Ray Biering: Employee Suggestion Award Review Committee member, introduces Ms. Irene Bishop, Public Works, who suggested the placement of disposal cameras in County vehicles to be used in the event of an accident and for this suggestion receives a \$25 cash award and a Certificate of Commendation from the Board.

Mr. Bishop: thanks the Board and suggests that everyone should keep one of these cameras in their car in the event of an emergency.

Mr. Biering: introduces Mr. Ronnie Simons, Assessor's Office, who suggested the purchase of an Apex Sketch Program which has proven an increase in production, quality and overall streamlining of the new construction process and for his suggestion receives a \$1,000 cash award and Certificate of Commendation from the Board.

Mr. Simons: thanks the Board for the recognition and his supervisor Ms. Lesa Silva for her support.

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

Mr. Joe Kelly: requests that the Board review actions that have been taken by the Assessment Appeals Board; comments on the information pamphlet the Clerk provides applicants when their matter comes before the Appeals Board which had language that required the presence of professionals and since his hearing this language has been changed; states he was not allowed to present information based on this language and wants the Board to do a formal investigation of the Appeals Board.

Mr. Gary Fowler: Chairperson for the Commission on Aging, presents a packet of information for the record and addresses funding the Commission requested last year for a variety of causes; addresses the application they completed for grant funding; discusses the funding they were to receive from Community Project Funds; speaks about two employees from the Administrative Office who rejected the requests for funding for specific items (i.e., business cards, brochures, etc.).

Mr. David Edge: County Administrative Officer, apologizes to Mr. Fowler and the Commissioners for his office generating the sense of outrage that they are feeling; addresses the issue of what the Commission wanted to do; what his staff is charged to do in terms of overseeing appropriate expenditures of public funds; addresses how this could be handled in the future to avoid the frustration by the Commission; will work with the Commission to address their concerns. **No action taken.**

6 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. Joe Kelly: comments on Item B-14 and want the Assessment Appeals Board abolished and the Board of Supervisors to take this function back; urges the Board to tell the new appointees to the Appeals Board to follow the law.

Mr. Eric Greening: comments on Item B-8 and questions when LAFCO will hear this matter; speaks to Item B-9 regarding the General Plan Amendments affecting Shandon and advises folks listening that September 21st is the day the Board will be considering the next steps on this; feels the community needs to look at alternatives to conversion of the best, bottom land agricultural soils to development; regarding the “near term creation” of a community sewer system and hopes that it is truly an up to date siting, design and sludge handling system. **No action taken.**

7 B-1 Consent Agenda Item B-13 is amended to add Page 4 to the agreement which was thru inadvertently left out. Item B-14 is amended to correct the transmittal to reflect that the B-15 term for Ms. Kemper will expire 9/2/05 not 2008.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi and on the following roll call vote:

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

Consent Agenda Items B-1 through B-15 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-15, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set for hearing:

- B-1 Introduction of an ordinance adding the position of Nacimiento Project Manager to the unclassified service; All Districts, **Approved and the Clerk is instructed to give notice of hearing set for August 17, 2004 at 9:00 a.m.**
- B-2 **RESOLUTION NOS. 2004-261 and 2004-262**, of intention to make acquisitions and improvements and preliminarily approving Engineer's Report, set hearing and directing actions regarding the Sherwood Drive Underground Utility Assessment District Project Cambria; 2nd District, **Adopted and the Clerk is instructed to give notice of hearing set for October 26, 2004 at 9:00 a.m..**

Auditor Controller Items:

- B-3 Submittal of an unannounced cash count report of the Assessor's Office conducted on June 10, 2004, **Received and Filed.**
- B-4 Submittal of an unannounced cash count and review of imprest cash accounts of the District Attorney's Office, Victim/Witness Assistance Center and Economic Crime Unit conducted on June 23, 2004, **Received and Filed.**

Clerk-Recorder Items:

- B-5 Port San Luis Harbor District 2004-05 Final Budget, **Approved.**
- B-6 Request to submit a grant application to the Secretary of State for Help America Vote Act Funds, **Approved.**

Planning and Building Items:

- B-7 Agreement (Clerk's File) with Morro Group Inc., for preparation of an environmental impact report for the Craig/Lucia Mar Unified School District Land Use Ordinance/General Plan Amendment (G9900025M, ED00-124); 4th District, **Approved.**
- B-8 Memorandum of agreement with the City of Paso Robles regarding the City's Sphere of Influence, **Approved** and **RESOLUTION NO. 2004-263**, acknowledging consistency of the memorandum of agreement with the City's General Plan and associated environmental documents; 1st District, **Adopted.**
- B-9 Submittal of a status report regarding proposed general plan amendments affecting the community of Shandon - Halpin/Arciero (G030013M - Specific Plan), Blumer (LRP2003 - 0002 - Specific Plan) and County-Initiated (LRP2003-0004 - Update Shandon Community Plan); 1st District, **Received and Filed.**
- B-10 **RESOLUTION NO. 2004-264**, approving an avigation easement from Herbert and Diane Filipponi for property located near the San Luis Obispo County Regional Airport; 3rd District, **Adopted.**
- B-11 **RESOLUTION NO. 2004-265**, approving an avigation easement from Eugene and Donna Barre for property located near the Paso Robles Municipal Airport; 1st District, **Adopted.**
- B-12 **RESOLUTION NO. 2004-266**, approving an avigation easement from Glenda Guiton and Reeta Newlander for property located near the Oceano Airport; 4th District, **Adopted.**
- B-13 **RESOLUTION NO. 2004-267**, approving Amendment No. 2 (relating to Lot 8) to an agreement for mitigations for Tract 1694 with Ramgar Interests, LLC, a Delaware Limited Liability Company; 4th District, **Adopted as amended.**

Other Items:

- B-14 Request by Chairperson Ovitt to appoint Thomas Erskine Sr. and Marti Munis Kemper as alternate members to the Assessment Appeals Board, **Approved as amended.**
- B-15 Request by Public Works to waive the request for proposal process and approve an engineering services contract (Clerk's File) with MNS Engineers, Inc., for inspection and plan checking of the Woodlands Tract 2341 and approve a corresponding budget adjustment in the amount of \$500,000; 4th District, **Approved.**
- 8 C-1 This is the time set for hearing to consider an appeal by San Luis Obispo (SLO) Botanical Garden of public facility fees, construction and land use permit fees and all miscellaneous fees of approximately \$14,182 applied to construction of a proposed education center in Rancho El Chorro County Park; 2nd District.

Ms. Kim Murry: Planning, presents the staff report and the recommendation to uphold the appeal and waive the applicable fees.

Supervisor Achadjian: asks if this facility is on County owned land with Ms. Murry responding that it is.

Ms. Gaby Levine: SLO Botanical Gardens, addresses the work they have done on the garden; development of the education center for the public; asks that the Board waive the fees.

Ms. Eve Vigil: SLO Botanical Gardens, addresses their goals over the past ten years and what they have accomplished; thanks the Board for their ongoing support.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Pinard and on the following roll call vote:

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

NOES: None

ABSENT: None

the Board upholds the appeal; waives the payment of the applicable public facilities fees, construction permit fees and all miscellaneous fees in the amount of \$14,182 and RESOLUTION NO. 2004-268, resolution of the Board of Supervisors of the County of San Luis Obispo approving the appeal of the San Luis Obispo Botanical Gardens on the application of Public Facilities Fees and all permit fees related to their application for a building permit for an education and office building associated with the San Luis Obispo Botanical Gardens located in El Chorro County Park in the rural part of Estero Planning Area, San Luis Obispo County, adopted.

- 9 C-2 This is the time set for continued hearing (continued from July 20, 2004) to consider appeals by R.F. Mueller and the San Luis Obispo Pilots Association of the Planning Commission's approval of a Minor Use Permit for a 10-unit hotel located west of Strand Way, approximately 200 feet North of Pier Avenue, within the community of Oceano, in the San Luis Bay Planning Area; 4th District.

Ms. Pat Beck: addresses the item and the direction by the Board at the prior hearing; reminds the Board of the requirement for a 4/5th vote if the Board approves something other than what the Airport Land Use Commission (ALUC) is recommending.

Supervisor Ryan: states that he was not present at the last hearing but has listened to the CD from that meeting so that he can participate in this hearing.

Supervisor Achadjian: questions whether a new environmental review would be required if the full 25 units were recommended.

Ms. Beck: responds it would require CEQA review and would also have to go back to the ALUC.

Supervisor Achadjian: questions the access/circulation at the site.

Mr. Richard Marshall: Public Works, speaks regarding the circulation plan for this area and staff review of the same; concerns raised regarding Habitat Protection on the Smith Avenue side of the project and altering the circulation to address this; presents several schematic alternatives to the traffic flow versus what is currently in the Conditions of Approval; addresses discussions he had with the local fire department this morning regarding emergency circulation needs in this area; regarding a fax from the fire department showing the types of turnarounds they require.

Mr. Robert Mueller: Applicant/Appellant, states he believes he summed up his preferences at the last hearing; he followed the requirements of the Land Use Ordinance (LUO); believes his design is the most efficient for the area and to address the traffic concerns; addresses his concern to the loss of financial income through any reductions in size to this proposal; states the community is in support of this application.

Mr. Robert Tefft: speaking as a private individual (is also a member of the ALUC) addresses his concern to public safety and that this should take priority; addresses the responsibility of all the people staying in the hotel; ALUC has provided information in support of their recommendation for no more than 4 units at this hotel and anything greater than that should not be approved.

Supervisor Ryan: questions how you rationalize the safety of the people staying in 4 units versus 25.

Mr. Tefft: responds outlining the charge of the ALUC; personally believes there shouldn't be a hotel there at all.

Mr. Oscar Bayer: SLO Pilots Association (Appellant), states their concern is that the runway is less than a ½ mile long and what could occur with pilot error.

Supervisor Bianchi: states her concern is strictly from a safety standpoint and this is not an appropriate place for a hotel.

Supervisor Pinard: questions the Community Plan for this area and what was included with respect to the Airport; presents maps showing the aviation safety zones and the accident probability diagram for the Oceano Airport and questions various aspects of the same.

Mr. John Hand: Planning, responds as to what was discussed during the Oceano Specific Plan with respect to the Airport.

Mr. Tefft: addresses the maps and the safety zones; comments on what the ALUC looked at for the hotel and the standards; further addresses the issue of liability and the ALUC being relieved of this if the Board doesn't adopt their recommendation.

Supervisor Achadjian: addresses the request before the Board.

A motion by Supervisor Achadjian, seconded by Supervisor Ryan to partially uphold the appeal and adopt the resolution approving 16 units and allow for a manager's unit, is discussed.

Ms. Beck: addresses the changes that will need to occur to Condition Nos. 1, 2 and 25.

Supervisor Pinard: addresses her concern to the whole process surrounding the issues relating to the Airport and zoning of properties that allow development near it.

The motion maker and second agree to amend their motion to include the changes to Condition Nos. 1, 2 and 25.

Ms. Beck: addresses changes that will need to occur to several of the Findings.

The motion maker and second agree to amend their motion to include the changes to the Findings C, J and P.

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

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

the Board partially upholds the appeal and amends Finding C to amend the second sentence to read "... from a 25 unit to a 16 unit hotel with ~~no~~ a manager's unit ..."; Finding J is amended to read: "Natural features and topography have been considered in the design and siting of all proposed physical improvements because the project has been designed to avoid impacts to dune habitat by deleting improvements to Smith Avenue Road right-of-way."; Finding P is amended to change the fifth sentence to read "... reduce the number of units to 16 and ~~does not authorize~~ a manager's unit."; Condition #1 is amended to read: "This approval authorizes the construction of a 16 unit hotel and manager's unit." The project includes the following; Condition #1-d is deleted; Condition #2-a is amended to read: "Maximum of 16 hotel units and a manager's unit.";

Condition #25-c is deleted; and, RESOLUTION NO. 2004-269, resolution affirming and modifying the decision of the Planning Commission and conditionally approving the application of Robert Mueller/Oceano Pavilion, LLC for a Minor Use Permit D010378P, adopted as amended.

10 D-1 This is the time set for consideration of a draft letter to the State Coastal Commission regarding appeal of the Board of Supervisors approval of the Los Osos Sewer Project; 2nd District.

Mr. John Euphrat: Planning, presents a copy of a revised letter for the Board’s consideration and outlines the same; indicates this letter is specifically addressing the conditions of approval dealing with the preparation of the Habitat Conservation Plan (HCP) and how the HCP will be dealt with as part of the update for the Estero Area Plan.

Supervisor Pinard: addresses the letters they have received asking the Board to not take a position on this.

Mr. Eric Greening: strongly urges the Board to not send this letter; addresses his concern to the Board determining what should be in the Update and why.

Ms. Karen Vega: representing the Los Osos Community Services District (LOCSD), presents a letter and information from Mr. Bruce Buel, LOCSD General Manager, urging support of the letter to be signed by the Board.

Ms. Julie Tacker: President for the “Concerned Citizens” group, states they are also concerned about the short time frame for these documents; urges the Board to not send this letter to the Commission; wants more time for input from the community.

Ms. Pam Heatherington: questions why this can’t wait until the HCP is finalized and the Estero Update is complete; feels it’s all right to back up and take this slow.

Mr. James Tkach: representing Los Osos Technical Task Force-Scientist’s Engineers Firm, Environmentally Responsible Waste Water Project; states he is speaking on behalf of Lisa Schicker (presents a copy of her letter for record) opposing the letter being sent by the Board.

Mr. Al Barrow: Citizens for Affordable and Safe Environment, states the HCP needs to be approved by the Coastal Commission before this is approved; suggests the issue of a water supply for Los Osos needs to be addressed.

Mr. Bruce Payne: states the letter should also include information that was not known at the time the County approved this development plan; addresses the concern about the sewer crossing over creeks and changes in the sludge issues.

Supervisor Bianchi: addresses the letter and her understanding that it only deals with the two conditions regarding the HCP; states the Regional Water Quality Control Board (RWQCB) has indicated they are ready to start imposing the fines on this area if this project doesn’t start moving forward.

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

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

the Board approves the revised letter to the Coastal Commission, submitted by staff today, and directs the Chairperson to sign the same.

11 E-1 This is the time set for consideration of the Adult Services Policy Council Annual Report.

Ms. Angie King: Chairperson for the Adult Services Policy Council, presents a video that was made with local folks involved in and receiving the services provided by the County; thanks the Board for their recent support of these services by not cutting funding to them during the Budget Hearings; provides a brief overview of what they have accomplished in the past year.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi and unanimously carried, the Board receives and files the staff report dated August 10, 2004.

12 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) *AT&T v. County of San Luis Obispo*, (2) *MCI WorldCom v. County of San Luis Obispo*, (3) *Davis v. Special Disability Benefits Committee of the County of San Luis Obispo* and (4) *County of San Luis Obispo v. Bean*.

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, Ellen Aldridge*, Name of employee organization: *San Luis Obispo County Probation Peace Officers' Association*; (9) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *District Attorney Investigators Association* and (10) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *SLOCEA*.

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

(SUPERVISOR MICHAEL P. RYAN IS NOW ABSENT.)

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 because no final action was taken and the Board goes into Open Public Session.

(Items C-3 and C-4 are incorrectly numbered in the agenda packet and have been switched to reflect the cover sheet.)

13 C-3 This is the time set for continued hearing (continued from June 22, 2004) to consider a request by the County to amend the Land Use Ordinance (Title 22 of the County Code)

to modify the County's Transfer of Development Credit (TDC) Program - G020021L; All Districts.

Ms. Kami Griffin: Planning, addresses the hearing on June 22, 2004 and continuing that hearing to today to allow staff time to respond to comments at that last meeting; addresses Receiver Sites in Agriculture; provides three options for the Board's consideration for direction on possible future changes to the TDC program as it relates to agriculturally zoned land.

Ms. Maria Lorca: Creston Citizens for Agricultural Land Preservation, suggests tightening up how TDC's can be used does more harm in the Creston area; presents copies of a petition against the use of TDC's on agricultural zoned land.

Ms. Tobey Osgood: EMK, states her job is to assist her clients in understanding and following the rules; addresses her concern to advising her clients on how to follow the rules and still having their application denied.

Mr. Richard Pettit: speaks to sharing a property line with agriculturally zoned land; (**SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.**) and this property doesn't come close to meeting the requirements of the TDC program but is being approved for this use; urges the Board to protect agricultural lands and dissolve this program all together.

Ms. Pam Heatherington: urges the Board to adopt the option that directs staff to come back with an amendment to stop the use of the TDC program on agriculturally zoned land.

Ms. Melissa Guise: Air Pollution Control District staff, speaks to a letter they sent the Board outlining their concerns and recommendation that the TDC program not be allowed on agriculturally zoned land.

Mr. Eric Greening: speaks to the development of TDC's ten years ago through a conference on "Designing the Future"; suggests the need for an annual report on the locale of all the sending/receiving sites in the County; requests that the Board direct staff to come back with an amendment that would ban the use of the TDC's on agricultural land.

Mr. Greg Shipley: states he has an application in for the use of the TDC program on agricultural land and opposes these changes when he is already in processing; suggests this should be looked at, area by area, and not Countywide.

Mr. Michael Winn: states the Nipomo Community Advisory Council has been trying for years to have the Board eliminate the TDC program all together; urges the Board to approve Option 2 as direction to staff.

Ms. Dorothy Jennings: Chairperson for the Templeton Area Advisory Group, addresses their desire to work with staff on this issue and recommends adoption of Option 3 to remove agricultural land from the TDC program.

Board Members: address various issues, comments and concerns regarding: tightening up the TDC program; agricultural land break down to 20 acres; the program not being created for agricultural land and wanting to see "cluster" type transfers between agriculturally zoned land instead; never intended to allow for the fracturing of agricultural land; addresses the community-based program that was developed in the Nipomo area; with staff responding.

Thereafter, a motion by Supervisor Bianchi, seconded by Supervisor Pinard to direct staff to return with a request to authorize amendments to the TDC program that do not allow land in the Agriculture land use category to be used as receiver sites, fails on the following roll call vote:

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

A motion by Supervisor Bianchi, seconded by Supervisor Achadjian to approve direction to staff as outlined in Option 2 is discussed.

Supervisor Ryan: addresses the motion and suggests adding a review of the maximum size of agricultural parcels to be created, with the **motion maker and second agreeing to add that to the motion.**

Thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Achadjian and on the following roll call vote:

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

the Board directs staff to return with a request to authorize amendments to the TDC program that look at adding additional criteria to the receiving site criteria where the receiving site is in the Agriculture land use category; the criteria could include: exclusion of Class I and II soils, agriculture viability on the resulting parcels, consistent surrounding parcel sizes (either in general or through averaging of the surrounding parcel sizes), smaller distance measurements from urban or village areas, impact to the use of the existing parcel for agriculture or the surrounding parcels for agriculture, and use of road miles for the distance measurement; and, also look at the maximum size of agricultural parcels that could be created.

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

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

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3034, an ordinance amending Title 22 of the San Luis Obispo County Code, the Land Use Ordinance Chapter 22.24 relating to the TDC Program and Section 22.70.050 relating to appeals, adopted.

14 C-4 This is the time set for continued hearing (continued from June 22, 2004) to consider amendments to the Land Use Ordinance and Coastal Zone Land Use Ordinance, Titles 22 and 23 to implement Agriculture and Open Space Element Policies 21, 22 and 23; All Districts.

Ms. Kami Griffin: Planning, addresses the staff report and the direction by the Board on June 22, 2004 to respond to questions raised during that meeting; indicates the overall question appears to be whether the amendments follow the policies in the Ag and Open Space Element; highlights sub-issues relating to: (1) minimum parcel size; (2) modifying the land capability test; (3) the Williamson Act contract, in addition to the open space easement, should not be required over the non-developed land in an Ag Cluster; (4) the last sentence in the introduction paragraph in the Agricultural Cluster section should not be deleted; (5) regarding an automatic Environmental Impact Report; and (6) why aren't the Rules of Procedure to implement the Land Conservation Act of 1965 being amended consistent with the Ag and Open Space Element; provides staffs' response to each of these issues.

Supervisor Achadjian: questions the 90% issue and whether infrastructure is included or is it part of the 10%, and believes it should be part of the 90% as it is part of the operation; questions easements that are created by clustering and whether there are any options as to what the agency could be and whether it could be a non-profit organization, government, church, etc.

Mr. Jim Orton: Deputy County Counsel, responds as to how these have been handled in the past and the grants have been made to the County with the exception of a Coastal development permit in the Cambria area, where the land trust was the recipient; they could also be conveyed to State Parks; and, they can be conveyed to non-profits that the Board approves.

Board Members: address various issues, comments and concerns regarding: why cluster subdivisions have to be in the Williamson Act and if they don't qualify for the Williamson Act is there some way to still cluster; the potential for concentrating more on Ag easements versus Open Space easements, with Mr. Orton responding.

Mr. Eric Greening: addresses the minimum parcel size language and agrees with the 90% Rule; addresses his concerns regarding clustering.

Mr. David Pereira: addresses his letter of 8/9/04 that he has presented to the Board and highlights his suggested changes relating to proposed parcel size and easements; comments on the issue of non-profits.

Ms. Carol Florence: Oasis Associates, presents a letter, dated 8/10/04, for the record, and highlights the same, outlining their concerns regarding Section 22.22.040 - Agriculture Category, B.1. Use Test and C.1. Land Capability Test; further another suggestion not included in the letter is to possibly come up with some criteria for on-site buffers instead of using Appendix D which is in the Ag & Open Space Element, that would recognize the fact that if you are creating a cluster division you can, through disclosure, tell the people that they are going to be living next to specific crops.

Mr. Don Warden: speaks as an individual, addresses his concern regarding the large parcel rules and its relationship to clustering; his concern regarding the 90% Rule; addresses the position of the Agricultural Liaison Board on these issues.

Mr. Ken Bornholdt: presents a letter for the record, dated 8/10/04 and references two additional letters he previously sent the Board; highlights the letter and his concern regarding AGP5 impacts when implementing AGP21; indicates that AGP5 clarifies that residential density must be consistent with AGP21 when a land division is proposed on property with Class I and II irrigated soils; wants deletion of the use test; also wants projects in the "pipeline" grandfathered in and not subjected to any changes in these rules; asks that the Laetitia Project be exempted from these changes.

Mr. Vic Montgomery: presents information for the record regarding existing LUO (Land Use Ordinance) Language versus Proposed LUO Language; addresses the importance of this document and wants the language to remain as currently written.

Mr. John Janneck: representing Laetitia Winery & Vineyard, states they have been working on an agricultural clustering project for two years under the current rules and want these rules to remain as currently written.

Mr. Jeff Ferber: RRM Design, speaks to a letter he sent the Board, yesterday, regarding the Biddle Ranch Project and believes this project shows the success of the ordinance as currently written.

Ms. Joy Fitzhugh: speaks to the letter from the Farm Bureau dated June 24th addressing their concern to losing the incentive to cluster with the proposed

changes; addresses their concern to the 90% Rule being added; further, addresses their concern to the impacts these changes would have on projects in the “pipeline.”

Chairperson Ovitt: states he wants to discuss the proposed ordinance’s page by page with the understanding that the same changes in the Title 22 ordinances would also be in the corresponding proposed ordinances for Title 23.

Proposed ordinance marked as Exhibit G010014L:A is discussed.

Supervisor Ryan: comments on **page 2 of the proposed ordinance**, indicating he does not agree with the change from 20 to 40 acres for minimum parcel size; also, disagrees with the language regarding the 90% Rule under #1 - Use Test.

Board Members: address various issues, comments and concerns regarding: references in the ordinance to the 90% Rule; land size and clustering and what the intent of this is; the need to re-evaluate the 90% Rule on parcels over 40 acres; suggests using actual acreage rather than the 90% Rule; and leaving the minimum parcel size at 20 acres.

The Board agrees to direct staff to delete the last sentence in 22.22.040B1 - Use Test (page 2 of the ordinance) which reads: “each proposed parcel must have at least 90 percent of the acreage of the total site in the existing use that is being used as the basis for division for that proposed minimum parcel size.” and, deletes the reference to “corn, sugar beets, cotton” in 22.22.040B1a Crop Production (the chart).

Page 3 of the proposed ordinance is discussed without change.

Page 4 of the proposed ordinance is discussed.

Chairperson Ovitt: polls the Board members on changing the **Land Capacity Test - minimum parcel size back to 20 acres for Class I and II soils** with Supervisors Achadjian, Ryan and Chairperson Ovitt agreeing to that change.

The Board agrees to direct staff to further change the chart on page 4 of the proposed ordinance (in the chart) to read “or” instead of “and” between the various soil classes being referenced; further, the Board directs that the second sentence is changed to put the stricken language back in the second sentence and remove the language following that stricken language.

Pages 5 and 6 are discussed without change (the Title 23 ordinance marked as G0100114L:B is to have the same changes made to it).

Proposed ordinance marked as Exhibit G010014LC is discussed.

Chairperson Ovitt: questions the difference between “major” and “minor” agricultural cluster projects with Ms. Griffin and Mr. Warren Hoag, Planning, responding.

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

Chairperson Ovitt: asks that the language on “Base Parcel Calculation (page 8, C1) have the duplicate language from A1b that reads “(a combination of the use and the land capability tests may be used) added to it.

Mr. Bornholdt: states that what they were looking for was for a Major Cluster that you have the alternative of using either the Use Test or the Land Capability Test and his concern to moving the language as being suggested.

Mr. Montgomery: comments on the change in Major Agricultural Cluster Projects at the end of 1b that reads “reduced down to 26 percent of the maximum potential . . .” and the difference in “minor” projects; suggests changing the language on **Page 8, C2.**

Ms. Jackie Fredericks: comments on the issue of soil classes.

The Board members discuss the issue and direct staff to come back, on page 8 of the proposed ordinance and add language to C1 from Page 1, 1-b of the ordinance that reads “(a combination of the use and land capability tests may be used) and add to the end of the C1 the following “Section 22.22.0840.B.1.b(1) shall not apply to the calculation of base density of the purposes of a Major Agricultural Cluster”; and, amend C2 to delete the words “ranging from 26 to” and further directs that the same changes occur in the proposed ordinance marked as G010014L:D.

Mr. Jim Orton: Deputy County Counsel, addresses the proposed ordinances and suggests an effective date for these ordinances to address those applications already in the “pipeline” and suggests that date be August 10, 2004 and all applications prior to this date would fall under the current ordinance requirements.

Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian and unanimously carried, the Board directs staff to bring back ordinances with the changes as outlined today and continues said hearing to September 14, 2004 at 9:00 a.m. for final action.

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, August 10, 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: August 23, 2004
vms