

Ms. Linda Hall: speaks regarding a gentleman who owns property on Main St. in Cambria and the problems he is having with his development project due to impacts by the County.

Mr. Michael Kovacs: speaks to white collar crimes that have been committed by County employees and questions why these have never been addressed by the Board and/or County Administrative Officer; *The Tribune* states that there are more employees to be sentenced next week; suggests there needs to be more security for public funds.

Mr. Jesse Hill: comments on the Transfer of Development Credit Program that was discussed by the Board last week and his concerns regarding the same; reminds folks that the Parks Commission has a meeting on their master plan tomorrow night at the Veteran's Memorial Building in San Luis Obispo; there will be a candidates forum in South County on September 11th for the 3rd District Supervisorial candidates; comments on the Quimby fees that are collected for the South County and believes there is a shortage on what is owed to this area of the County. **No action taken.**

4 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. Eric Greening: comments on Items B-18 through B-22 and the importance of these items; Items B-20 and B-22 involve the environmental consequences of landfill excavation or expansion; B-18 and B-21 involve restoration or clean up efforts in territory covered by the Estero Area Plan; comments on the feasibility study for restoration of the Morro Bay Estuary and suggests it needs to go "hand in hand" with Area Plan policies; urges this be kept in mind when the Board begins work on the Estero Area Plan in September; the EIR on clean up of the Estero Marine Terminal property raises questions with respect to the extreme narrowness of the planning area and coastal zone in this here.

Mr. Joe Kelly: speaks on Item B-37 and the rules the Assessment Appeals Board operates under and suggests they are in conflict with State laws.

Mr. Michael Kovacs: speaks regarding Item B-6 and the Social Services Department response to the Grand Jury Report specifically the responses by the Director and his concerns to the same.

Ms. Linda Hall: comments on Item B-34 and her concern to the cost of fire services for the Los Osos Community Services District (CSD).

Mr. David Edge: County Administrative Officer, states that the Los Osos CSD will be paying this fee to the County for fire services; there is no money coming from the County on this, with Chief Dan Turner, County Fire and Mr. Bruce Buel, LOCSD Executive Director, concurring and explaining further what will occur. **No action taken.**

5 B-1 Consent Agenda Item B-22 is amended to reflect the 1st District not the 5th. Item B-26 is
thru amended to replace page 3 of the staff report to correct Performance Standard #1.
Items
B-42 B-38, B-39, B-40, B-41 and B-42 are added to the Consent Agenda.

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

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

NOES: None

ABSENT: None

Consent Agenda Items B-1 through B-42 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-42, 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 Phase 1 Improvements of the Master Plan for the Los Osos Community Park Project; 2nd District, **Approved and the Clerk is instructed to give notice of bid opening set for September 16, 2004 at 3:00 p.m..**
- B-2 **RESOLUTION NOS. 2004-271 and 2004-272**, calling for a public hearing to determine whether public necessity, health, safety or welfare requires the formation of an Underground Utility District at Los Osos Valley Road in Los Osos and El Camino Real in Santa Margarita; 2nd and 5th Districts, **Adopted and the Clerk is instructed to give notice of hearing date set for September 21, 2004 at 9:00 a.m..**

Administrative Office Items:

- B-3 Submittal of a notice to commence negotiations for the exchange of property tax revenue and annual tax increment for Annexation No. 70 to the City of San Luis Obispo (Bishop Knoll Estates), **Approved.**
- B-4 2004-05 Fish & Game Fines Committee Project Listing, **Approved.**
- B-5 Request by the Office of Emergency Services to: 1) accept federal grant funds for the purchase of equipment and other resources intended for use in response to terrorism incidents; 2) approve related budget adjustments for County Fire, Sheriff's Department, Public Health and Emergency Services; and 3) amend fixed asset lists of County Fire and the Sheriff's Department, **Approved.**
- B-6 Submittal of the Board of Supervisors' response to the 2003-2004 Grand Jury Report, **Adopted and filed.**

Auditor Controller Items:

- B-7 South County Sanitary Services Inc. base year solid waste rate adjustment for Avila Beach, Nipomo, rural Arroyo Grande, Halcyon and other unincorporated areas of South San Luis Obispo County effective October 1, 2004, **Approved.**
- B-8 Submittal of an unannounced cash count report of Behavioral Health Services conducted on June 9, 2004, **Received and Filed.**

Board of Supervisors Items:

- B-9 Request by Supervisor Pinard to appoint William (Bill) Storm to the San Luis Obispo County Commission on Aging, **Approved.**
- B-10 Request by Supervisor Ryan to reappoint James E. Eells, Tim Mazzacano and Susan L. Molle to the Santa Margarita Public Cemetery District, **Approved.**
- B-11 Request by Supervisor Bianchi to appoint Susan Lynn Warren as District Two Representative to the Children's Services Network Council, **Approved.**

General Services Items:

- B-12 Bid opening report for the new Sheriff Station and Agricultural Commissioner Facility at the North County Regional Center in Templeton; and request to approve two

corresponding budget adjustments in the amount of \$117,500 and \$388,500; and approve the Mitigated Negative Declaration for the project; 1st District, **Approved and the Chairperson is instructed to sign contract documents with Rarig Construction, Inc. in the amount of \$1,657,000.**

- B-13 Bid opening report for the new restroom/shower facility at the Lopez Lake marina; 4th District, **Approved and the Chairperson is instructed to sign contract documents with Voss Construction in the amount of \$287,889.**
- B-14 Bid opening report for the construction of a new Fire Station at the San Luis Obispo County Regional Airport; and approve a corresponding budget adjustment in the amount of \$198,273; 3rd District, **Approved and the Chairperson is instructed to sign contract documents with Leon Construction in the amount of \$2,360,963.**
- B-15 Food and beverage concession contract (Clerk's File) for the new County Government Center with Cornerstone Market, Inc. dba Higuera Street Café, **Approved.**
- B-16 Agreement with the State Military Department for continued occupancy of the buildings and areas currently utilized by County Fire at Camp San Luis Obispo National Guard Training Facility, **Approved.**
- B-17 Amended lease agreement (Clerk's File) with Airport Facilities Inc., Mike Dacey, and Aviation Consultation Inc. at the San Luis Obispo County Regional Airport allowing the demolition of building no. 2 on lease site "G," **Approved.**

Planning and Building Items:

- B-18 Amendment to an agreement with the U.S. Army Corps of Engineers to facilitate completion of a feasibility study for restoration of the Morro Bay Estuary; 2nd District, **Approved.**
- B-19 Agreement (Clerk's File) with MRS Environmental, Inc. for environmental monitoring services associated with the remediation of the Guadalupe oil field; 4th District, **Approved.**
- B-20 Agreement (Clerk's File) with Padre Associates, Inc. to perform mitigation monitoring services associated with the excavation of Module 8 at the Cold Canyon Landfill; 4th District, **Approved.**
- B-21 Agreement (Clerk's File) with Rincon Consultants, Inc. to prepare an environmental impact report for the Chevron Marine Terminal Clean Up Development Plan; 2nd District, **Approved.**
- B-22 Agreement (Clerk's File) with EMC Planning Group, Inc. for preparation of an environmental impact report for the Chicago Grade Landfill Expansion Development permit; 5th District, **Approved as amended.**

Probation Department Items:

- B-23 Contract with Atascadero Unified School District in the amount of \$41,429 to provide a Deputy Probation Officer at the Atascadero High School campus, **Approved.**
- B-24 Renewal contract with Lucia Mar Unified School District in the amount of \$46,523 to provide a Deputy Probation Officer at the Arroyo Grande High School campus, **Approved.**

Public Works Items:

- B-25 Agreement with Jack and Cynthia Bodger for paving a section of Sandydale Drive, Nipomo; 4th District, **Approved.**
- B-26 **RESOLUTION NO. 2004-273**, extending the Solid Waste Collection Franchise agreements with Paso Robles Country Disposal, San Miguel Garbage, South County

Sanitary Services, Mission Country Disposal and San Luis Garbage, **Adopted as amended.**

- B-27 **RESOLUTION NO. 2004-274**, amending the Traffic Regulation Code for the establishment of no parking and/or limited parking zones on Old County Road, Templeton; and First Street, Avila Beach; 1st and 3rd Districts, **Adopted.**
- B-28 **RESOLUTION NO. 2004-275**, amending the Traffic Regulation Code regarding stop intersection control on Seventh Street at El Moro Avenue, and Fourth Street at Pismo Avenue in Los Osos; Shearer Avenue at Haines Avenue in Cayucos; and Camino Caballo at Olympic Way in Nipomo; 2nd and 4th Districts, **Adopted.**
- B-29 **RESOLUTION NO. 2004-276**, accepting a pedestrian easement on 22nd Street, County Road No. 1083 in Oceano; 4th District, **Adopted.**
- B-30 The following maps have been received and have satisfied all the conditions of approval that were established in the public hearings on their tentative maps:
- A. COAL 03-0220, a proposed lot line adjustment of 3 lots by Robert Lyndwood and Eileen Theresa Blair on Frontage Road south of Arroyo Grande; 4th District, **Approved.**
- B. CO 99-0243, a proposed subdivision resulting in 2 lots by Fred Soto on Tefft St., Nipomo; reject the offer of dedication without prejudice to future acceptance; 4th District, **Approved.**

Social Services Items:

- B-31 Thirteen service contracts (Clerk's File) with community organizations in support of Child Welfare Services and the CalWORKs Program, **Approved.**
- B-32 Request in conjunction with Behavioral Health Services to approve five service contracts (Clerk's File) with public and non-profit community organizations in support of Child Welfare Services and the CalWORKs program, **Approved.**

Other Items:

- B-33 Agreement (Clerk's File) with the State Department of Health Services for Bioterrorism Preparedness Activities for local hospitals and emergency medical services; and request to approve a corresponding budget adjustment in the amount of \$49,989, **Approved.**
- B-34 Cooperative fire protection agreement (Clerk's File) with the Los Osos Community Services District; and to approve a corresponding budget adjustment in the amount of \$943,890, **Approved.**
- B-35 Contracts (Clerk's File) with Youth Connection of Ventura County, dba Casa Pacifica, Families First, Inc., Rebekah Children's Services, Summitview Child Treatment Center and Victor Treatment Centers, Inc. to provide group home services for Mental Health clients, **Approved.**
- B-36 **RESOLUTION NO. 2004-277**, 1) authorizing the Personnel Director to review unit designation for confidential positions; and 2) amending the Position Allocation List and salary for Budget Unit 2340 - Risk Management deleting one Human Resources Analyst Aide-Confidential and adding one Human Resource Analyst Aide position, **Adopted.**
- B-37 Policies and Procedures for the Assessment Appeals Board, **Approved.**

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

- B-38 Request by Board Members to allocate \$2,500 from District Community Project Funds (District One - \$250, District Two - \$250, District Three - \$1,500, District Four - \$250, District Five - \$250) to the San Luis Obispo Symphony for rental of buses to

shuttle residents and visitors to and from the 2004 Pops by the Sea concert.(RECOMMEND APPROVAL AND INSTRUCT THE CHAIRPERSON TO SIGN.)

- B-39 Request by Board Members to allocate \$2,500 from Community Project Funds (District Two - \$200, District Three - \$1,000, District Four - \$1,300) to the Boys and Girls Club of South County for their after school programs. (RECOMMEND APPROVAL AND INSTRUCT THE CHAIRPERSON TO SIGN.)
- B-40 Request by Board Members to allocate \$1,400 from Community Project Funds (District One - \$1,120, District Two - \$280) to the Adelaida Historical Foundation for the Lincoln-Adelaida School renovation project. (RECOMMEND APPROVAL AND INSTRUCT THE CHAIRPERSON TO SIGN.)
- B-41 Submittal of a notice to commence negotiations for the exchange of property tax revenue and annual tax increment for Annexation No. 87 to the City of Paso Robles (Beechwood). (RECOMMEND APPROVAL.)

(THIS ITEM WAS ADDED BY PRIOR ACTION OF THE BOARD TODAY.)

- B-42 Request to approve amendments (Clerk's File) with the San Luis Obispo Visitors and Conference Bureau and the Economic Vitality Corporation for Contributions to Other Agencies that were approved for funding during the 2004-2005 budget hearings. (RECOMMEND APPROVAL AND INSTRUCT THE CHAIRPERSON TO SIGN.)

- 6 C-1 This is the time set for hearing to consider the 2004 Update report of the North Coast Circulation Study and a resolution continuing the existing road improvement fees for the North Coast Area; 1nd District.

Mr. Dave Flynn: Public Works, presents the staff report; highlights the various projects being recommended; areas for proposed traffic signals; the deletion of two passing lane projects from the Update; indicates no changes to the fees are being recommended.

Supervisor Bianchi: states that the Tamson signal project (page C-1-18) will not be done until approximately 2020.

Ms. Linda Hall: comments on the Tamson signal project; suggests these types of projects are to be paid by the private property owner and that isn't occurring for this project.

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 Board receives the 2004 Update Report for the North Coast Circulation Study as presented in the staff report dated August 17, 2004 and RESOLUTION NO. 2004-278, resolution of the Board of Supervisors of the County of San Luis Obispo modifying the Road Improvement Fees for all developments within the North Coast Planning Area of the County of San Luis Obispo and adopting the required Annual Report, adopted.

- 7 C-2 This is the time set for hearing (introduced on August 10, 2004) to consider an ordinance exempting the Nacimiento Project Manager position from the County's Civil Service Ordinance; adoption of the position's job specification; and submittal of a resolution amending the Position Allocation List for Budget Unit 2900 - Public Works; All Districts.

Mr. Paavo Ogren: Public Works, presents the staff report; comments on creation of the position and also establishing the salary range; recommends adoption of the ordinance and resolution creating this position.

Supervisor Ryan: questions the difference between this position and the one created for Lopez Lake, with Mr. Ogren responding.

Supervisor Pinard: questions the need for creating positions for special projects, with Mr. Ogren responding.

Mr. David Edge: County Administrative Officer, further addresses the creation of the position.

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

AYES: Supervisors Ryan, Bianchi, 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. 3035, ordinance adding the position of Nacimiento Project Manager to the Unclassified Service, adopted.

8 C-2 **Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Bianchi and on the following roll call vote:**

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

RESOLUTION NO. 2004-279, resolution amending the position allocation list and salary resolution for Fiscal Year 2004-05, adopted.

9 C-3 This is the time set for hearing to consider a resolution of the San Luis Obispo County Flood Control and Water Conservation District approving water supply contracts (Clerk's File) in connection with the Nacimiento Water Supply Project; and approve an appointment to the Nacimiento Commission; All Districts.

Mr. Paavo Ogren: Public Works, presents the staff report outlining the staff recommendation to approve the water supply contracts with the City of Paso Robles, City of San Luis Obispo, Atascadero Mutual Water Company and Templeton Community Services District; comments on the creation of the Nacimiento Commission and appointing a Board member to sit on this Commission.

Supervisor Pinard: addresses her concern to the potential conflict of interest if a Board member sits on this Commission, as decisions by this body can be appealed to this Board; suggests the possibility of appointing a staff member to the Commission instead.

Mr. Ogren: indicates there is no requirement that it be a Board member, that is staffs suggestion; the other agencies involved all have elected officials as their appointees.

Chairperson Ovitt: states there are other committees that Board members sit on that can have their decision appealed to this Board and does not believe a conflict exists.

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

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

the Board approves the contracts with the City of Paso Robles, Atascadero Mutual Water Company and the Templeton Community Services District; approves the contract with the City of San Luis Obispo with the two additions to the language in Article 16 (C)(1) to include "Unit T11" under the existing heading of "Project Segment" and "100.00" under the existing heading of "Participant's Unit Percentage Share"; and, RESOLUTION NO. 2004-280, resolution of the Board of Supervisors approving a water supply contract in connection with the Nacimiento Water Supply Project, adopted as amended. Further, the Board appoints Chairperson Harry L. Ovitt to the Nacimiento Commission.

(SUPERVISOR MICHAEL P. RYAN IS NOW ABSENT.)

10 C-4 This is the time set for hearing to consider a temporary commercial outdoor entertainment license application for the "San Luis Obispo Symphony Pops By The Sea" event held at the Avila Beach Resort in the community of Avila Beach; 3rd District.

Ms. Bernita D'Ambrosio: Tax Collector's Office, presents the staff report and the options for the Board's consideration. **(SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.)**

Ms. Sandy Segerson: Executive Director for the SLO Symphony, states she is here to answer questions.

Ms. Cyndy Marie Absey: SLO Symphony Board President, addresses their mission, the concert and meeting the needs associated with this event.

Mr. Dan Manion: urges the Board to approve the application for this event and waive the fees.

Ms. Patti Thayer: Assistant Executive Director for the SLO Symphony, addresses the process they had to go through this year versus prior years for the same event; highlights what they have in place to help ensure this event runs smoothly.

Ms. Carla Bittner: Avila Valley Advisory Council (AVAC) Chairperson, presents a letter for the record and highlights the same stating they support the application; addresses their concern that all visitors to Avila Beach still have access to the beach during this event.

Ms. Becky Baer: Arroyo Grande resident, speaks in support of the Symphony and presents a video showing prior events by the Symphony.

Mr. Brendan Morris: Board member for the SLO Symphony, addresses his concern to the process this year; looking at other ways to approve this in the future; concerns to the cost associated with the application process.

Mr. John Cribb: speaks in support of the "Pops"; addresses his concern to the process and the number of County departments this had to go through.

Mr. Carl Dudley: suggests there are many other events in the County that have a larger impact than this one; urges approval of this application.

Ms. Linda Ashworth: Symphony member, speaks to joining the Symphony two years ago and her involvement during that time; speaks in support of how this process was previously handled.

Ms. Ursula Fitzgerald: North County Symphony Guild President, speaks in support of this event.

Ms. Donna Kean: Hospice Director, states they use Avila Resort every year for an event to support Hospice; speaks to the impacts of this type of application process to non-profit groups.

Mr. Archie McLaren: addresses the need for advanced planning and for these types of events to occur in Avila.

Mr. Eric Greening: speaks in support of the application; gives “kudos” to the Symphony for the use of free public transit for those folks with tickets who are attending the concert.

Mr. Jim Black: speaks in support of the application.

Mr. Rob Rossi: speaks to the application; states that the requirements in the application packet are already the way they have always handled these types of events; urges approval of the request.

Gentleman: speaks stating he is a music instructor and these types of events bring out a lot of children and families and how important it is to promote events that do this.

Supervisor Pinard: states this is a fantastic event; addresses the application process; comments on the issues raised by AVAC, the issues raised today by the public and the level of detail required; suggests this process needs to be looked at and simplified.

Supervisor Ryan: addresses the ordinance that established the rules for this application in 1969; suggests the ordinance may be obsolete; supports the application and will also support direction to staff to bring back an agenda item to abolish the ordinance; suggests the current Land Use Ordinance addresses these issues.

Thereafter, on motion of Supervisor Pinard, seconded by Supervisor Ryan and unanimously carried, the Board approves the application for a Temporary Commercial Outdoor Entertainment License Application for the event “San Luis Obispo Symphony Pops by the Sea” to be held at the Avila Beach Resort on September 5, 2004.

A motion by Supervisor Pinard, seconded by Supervisor Achadjian to direct that this be a general approval to cover all other non-profits that have been traditionally served, is discussed.

Chairperson Ovitt: addresses his concern that this motion is not specific to any organization nor will this ordinance be impacting any applications before it comes back to the Board; suggests there is a need to direct staff to get the ordinance back quickly for the Board’s consideration.

Supervisor Pinard: states she wants other applications to be handled under a “general permit” versus having to come to the Board.

The Clerk restates the motion that it is to give general approval of any other applications that come in between now and the time that the ordinance comes back to the Board for any changes, and that these applications are handled at the staff level and not by the Board.

Supervisor Pinard: indicates that is correct with the addition that this is only for non-profits; and explains that the reason is that currently 3,000 attendees is the trigger for this permit and there could be other events with more than 3,000; wants this addressed for the Avila Area which has been challenged and whether or not there is a need to have a general permit to have events here; states she wants this issue to be clear that while the Board is working on the ordinance, the issue of any permit that comes forward will go to AVAC but will be handled at the staff level.

Mr. John Euphrat: Planning, states there is a need to provide direction to staff as it relates to this particular property; this property has had a long and good history; what is unclear is the past permitting history; states the issue today is strictly the business license but would like direction for future administration; addresses this specific property and the number of events that have occurred on this property and believes the Applicant would like to convince the Board that these events are grand fathered in and should not have to go through this process; believes after examining the record there is a case for the non-profit, fund-raising event but is not clear that the same argument can be made for the for-profit, stand-alone concerts.

Mr. James Lindholm: County Counsel, states the way the Board should proceed is to first consider the ordinance and decide whether or not to repeal it or amend it; and if the Board is concerned about making the rules clear for the Avila Beach Resort, then the Board should set it for a hearing and have the Planning Department report on what the issues are and how the Board would go about assuring that they were allowed to have the particular activities the Board would like them to have.

Supervisor Pinard: addresses the issue further and what she believes needs to occur today.

The Clerk restates the motion indicating that her understanding is that this is specific to Avila Beach Resort property and the non-profit applications associated with it, with Supervisor Pinard concurring.

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

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

the Board directs that staff give general approval, without bringing them back to the Board, of any other applications that come in between now and the time that the ordinance comes back to the Board for any changes, as it relates to non-profit groups using the Avila Beach Resort property.

Supervisor Ryan: states he wants the current ordinance abolished but not before there is a pathway for these folks to come through with their applications.

Matter is further discussed 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

staff is directed to return to the Board, as soon as reasonably possible, with a report on the options that are available to the Board on this permitting issue (Countywide) and also on the ordinance with recommendations to either eliminate it completely, modify it or create a new ordinance.

Chairperson Ovitt: directs that this matter come back to the Board within the next 90 to 120 days.

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) *AT&T v. County of San Luis Obispo*, (2) *MCI WorldCom v. County of San Luis Obispo* and (3) *Dudich v. County of San Luis Obispo*.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.) (4) 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. (5) 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: (6) Negotiator's Name: Santos Arrona, Gail Wilcox, Name of employee organization: Deputy Sheriff's Association. (7) Negotiator's Name: Santos Arrona, Gail Wilcox, Ellen Aldridge, Name of employee organization: San Luis Obispo County Probation Peace Officers' Association. (8) Negotiator's Name: Santos Arrona, Gail Wilcox, Avery & Associates, Name of employee organization: District Attorney Investigators Association. (9) Negotiator's Name: Santos Arrona, Gail Wilcox, Avery & Associates, Name of employee organization: SLOCEA.

II. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code, § 54956.8.) It is the intention of the Board to meet in Closed Session to have a conference with its Real Property Negotiator concerning the following: (10) Property Description: 4398 Santa Fe Road, SLO, Parties with whom negotiating: James P. and CJ Filbin, Instructions to Negotiator will concern: Price, Terms and Conditions.

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.

12 C-5 This is the time set for hearing to consider the South County Air Quality Mitigation Program Update (2003) (Clerk's File); 4th District.

Mr. John McKenzie: Planning Department - Environmental Division, presents the staff report and corrections to two pages on Appendix 1 relating to the Bike Lane - Air Quality Benefit and Ranking discussions and at the end of the Additional Fee Calculation discussion; addresses the annual update for this program, the purpose, strategies, air quality benefits, financial/timing highlights and the staff recommendation.

(SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.)

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

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

NOES: None

ABSENT: None

the Board approves the 2003 South County Air Quality Mitigation Program Annual Report and RESOLUTION NO. 2004-281, resolution of the Board of Supervisors of the County of San Luis Obispo amending the South County Air Quality Mitigation Program, adopted as amended.

13 C-6 This is the time set for continued hearing (continued from August 3, 2004) to consider an appeal by Dann Russell, on behalf of Creston Citizens for Ag Land Preservation, of the Subdivision Review Board's decision to approve Parcel Map CO 03-0253 allowing the reconfiguration of two existing parcels into three parcels using a lot line

adjustment with a concurrent division and purchasing one Transfer Development Credit; 5th District.

Mr. John Busselle: Planning, presents the staff report outlining the tentative action taken by the Board on August 3, 2004 to uphold the appeal and reverse the decision of the Subdivision Review Board.

Mr. Eric Greening: speaks in support of the appeal and believes the action today should have been the recommendation the Subdivision Review Board gave on this project.

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

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

NOES: **None**

ABSENT: **None**

RESOLUTION NO. 2004-282, resolution reversing the decision of the Subdivision Review Board and disapproving the application of the Anderson Family Trust for a tentative parcel map for Parcel Map CO 03-0253, adopted.

14 C-7 This is the time set for hearing to consider an appeal by James Pudwill and Greg Nester of the Planning Commission's denial of a vesting tentative tract map and conditional use permit for a clustered subdivision, and submittal of a revised tentative tract map, located in the Residential Rural Land Use Category of the South County Planning Area; 4th District.

Mr. James Lopes: Planning, presents the staff report outlining the denial of the vesting tentative Tract Map 2384 by the Planning Commission on July 8, 2004; the Planning Commission found that the map was not consistent with the zoning ordinance and explains; the Applicant submitted a revised tentative map proposal on August 4, 2004 that supercedes and sets aside the issues concerning the appeal, since the new map contains an adequate open space area to conform with the Land Use Ordinance standards, staff can recommend approval of the revised application.

Supervisor Achadjian: questions the proximity to the Nipomo Community Services District, with Mr. Lopes responding and Mr. Jim Orton, Deputy County Counsel, further addressing the issue of ordinance requirements relating to open space.

Mr. James Pudwill: Applicant/Appellant, states that he agrees to the condition regarding the on-site water system with the condition that the operator will seek and not object to annexation to the Nipomo Community Services District; states that Mr. Nester has been handling this and would like this matter delayed until Mr. Nester is here.

Chairperson Ovitt: continues this matter to the end of the agenda.

15 D-1 This is the time set for consideration of a report prepared by the U.S. Geological Survey on liquefaction susceptibility of the Oceano area related to the December 2003 San Simeon Earthquake.

Mr. Lew Rosenberg: County Geologist, comments on the earthquake in December 2003 and the severe damage experienced in Oceano from it; he requested that the U.S. Geological Survey (USGS) perform an investigation into the causes of this damage; outlines what the USGS work included; the study showed that the combinations of man-made fill, amplification of ground shaking and the shallow groundwater were major causes of the severe liquefaction; presents photographs of the area after the earthquake; impacts weren't just on buildings but also agricultural lands; shows photographs of a home that cracked and the lateral spreading of the levee; outlines why there was so much damage in this area; comments on the USGS subsurface exploration program; states this report will be available on the USGS

internet site for free starting today; addresses the liquefaction potential index; historical seismicity in the County; areas for improved information include fine tuning the existing County Hazard maps; require liquefaction studies per the UBC (Uniform Building Code) and liquefaction mitigation measures.

Supervisor Achadjian: questions whether the same problems can or would occur in areas such as Nipomo and Pismo Beach, with Mr. Rosenberg indicating they possibly could but the study was limited to the Oceano area.

Supervisor Pinard: questions whether there are any other indicators for areas other than the coastal communities to show where there might be problems, with Mr. Rosenberg responding.

Mr. Eric Greening: addresses the other areas of the County that need to be reviewed, with Mr. Rosenberg responding to his comments.

Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Pinard and unanimously carried, the Board received and files the report dated August 17, 2004.

16 C-7 Appeal by James Pudwill and Greg Nester of the Planning Commission's denial of a vesting tentative tract map and conditional use permit for a clustered subdivision, and submittal of a revised tentative tract map, located in the Residential Rural Land Use Category of the South County Planning Area; 4th District, is brought back on for hearing.

Mr. Greg Nester: Applicant/Appellant, addresses their amended application; speaks to the potential annexation to Nipomo Community Services District (NCSD) and a letter the NCSD sent saying they are not in a position to do that at this time; addresses their first map that showed an open space parcel that was 22.38 acres which was a little bit short of the 60-40 ratio that the clustering clause requires for Residential Rural zoning in this area; they attempted to exceed the 60% by putting a 200-foot open space easement across the back of the lots which increased them to 69%; states this change did not get support from either County Counsel or staff; they then looked at reducing the parcel size to the 60-40 ratio that the open space requirement called for and providing a community water system and this is what is before the Board today; the map that is being presented is 60% open space parcel with 40% making up the balance of the lots; that makes the size of the seven lots under 2.5 acres each; understands these requirements are from the State and the County can't grant a variance to that; asks the Board to consider a small reduction in the open space ratio from the 24 acres to 22.38 acres to maintain their 2.5 minimum parcel size so they can put individual wells there.

Supervisor Achadjian: questions a community well option and allowing for an easier annexation to the NCSD rather than the individual wells; states his choice would have been to keep the open space lot the size required and go smaller on the parcels.

Mr. Nester: responds and addresses prior discussions with the NCSD staff.

Supervisor Ryan: addresses the issue and believes this should have a small water system to allow for a future community hookup.

No one appearing and thereafter, a motion by Supervisor Achadjian, seconded by Chairperson Ovitt to reduce the open space slightly to 22.38 and allow for the seven structures with the separate wells, fails on the following roll call vote:

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

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

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

**the Board denies the appeal and RESOLUTION NO. 2004-283,
resolution modifying the decision of the Planning Commission and conditionally
approving the application of James Pudwill and Greg Nester for a revised vesting
tentative Tract Map for tract 2384, adopted.**

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 17, 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 25, 2004
vms