

Tuesday, November 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 Shirley Bianchi, Peg Pinard, K.H. 'Katcho' Achadjian, and Chairperson Harry L. Ovitt

**ABSENT:** Supervisor Michael P. Ryan

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

SUM

AGN

**(SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.)**

1 A-1-A **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

**RESOLUTION NO. 2004-351, resolution declaring November 2004 as Adoption Awareness Month, adopted.**

**Supervisor Bianchi:** reads the resolution and presents the same to Mr. Lee Collins, Social Services Director and Mr. Patrick Considine, Social Services staff.

**Mr. Considine:** thanks the Board for the recognition; thanks the many community partners and specifically thanks Univision Media Group, League of Women Voters, Charter Cable Television, Foster Parent Association, Foster Family Agencies (names several).

2 A-1-B **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

**RESOLUTION NO. 2004-352, resolution commending Enn Mannard, M.D. as Medical Director, Behavioral Health Services, for service to San Luis Obispo County, adopted.**

**Chairperson Ovitt:** reads the resolution and presents the same to Dr. Mannard.

**Dr. Dale Wolf:** retired Behavioral Health Director, comments on the years he worked with Dr. Mannard and that he will be missed; addresses Dr. Mannard's contributions to the department over the years.

**Dr. Mannard:** thanks everyone for the recognition.

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

**Chairperson Ovitt:** thanks the County Clerk-Recorder, Julie Rodewald, her entire staff and the 800 volunteers that did an outstanding job in conducting the election and commends them for the fine job they did.

**Supervisor Bianchi:** states she too wants to thank Ms. Rodewald and all her staff indicating that she was watching what was happening around the country during this election; in one area it showed that voters waited nine hours to vote and indicates that Ms. Rodewald was very concerned that someone had to wait 45 minutes to vote here; Ms. Rodewald and her staff did a really fantastic job.

**Mr. Eric Greening:** agrees with the Board members that Julie Rodewald and her staff did a great job; comments on Measure L not passing and suggests looking to the school districts for assistance for the libraries; suggests there should be a study session on ways to help out the libraries; speaks to the passage of Proposition 63 and the need for a study session here too; suggests the changes in the Legislature do not bode well for Amtrak.

**Mr. Jerry San Filippo:** presents the Board with a Declaration of Appreciation from the residents of Nacimiento Lake Drive and Anthony Way for the

completion of the road widening project; thanks County staff with a special thanks to Mr. Steve Frank; recognizes employees of Union Asphalt; also thanks Toste Grading and Paving and Baiba Safety Service.

**Mr. Bruce Deile:** states he is being denied medical treatment; speaks regarding a letter from a local doctor in support of Proposition 67; states he has been denied medical treatment in seven states; and has been denied treatment for Lyme Disease at both French Hospital and the public clinics.

**Ms. Susan Hughes:** First 5 Commission Chairperson, presents the Board with a revised copy of the Commission's strategic plan and outlines what the Plan includes; invites everyone to the First 5 Readiness Center that is opening in Oceano at the elementary school tomorrow.

**Mr. Michael Kovacs:** states he has been coming to the Board for years now asking the Board to address various things; addresses his concern to the lack of fiscal prudence by the Board.

**Mr. Ron Bearce:** speaks to Channel 2 television and offers its use for various types of programming including nonprofit organizations and gives the phone number to contact.

**Ms. Leslie Bearce:** thanks the Board for the recognition of the adoption program earlier today; supports the recognition of foster parents; speaks in support of community television.

**Mr. David Edge:** County Administrative Officer, addresses the comments by Mr. Deile and indicates that those issues he raised are outside the purview of the Board; states further his staff has been working with Mr. Deile on all of this. **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. Michael Kovacs:** speaks regarding Item B-2 and his displeasure at the continual increase of fees; believes these increases all occur to support salary increases and are not for cost recovery of services provided.

**Mr. Eric Greening:** speaks regarding Item B-3 and suggests the Willow Road extension could be a smaller project with less impacts and urges slowing growth in this area. **No action taken.**

5 B-1 Consent Agenda Item B-1 is amended to replace pages 00010-1 and 00010-2 of the bid thru packet due to a technical correction. Items B-2 and B-5 are withdrawn for separate action. B-14 Item B-9 is moved to the hearing calendar and placed on the agenda after Item C-5.

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

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

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

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

Items set for bid opening and hearing:

B-1 Letter transmitting unit price books and specifications (Clerk's File) for public bidding of construction services under Job Order Contract, PJOC5 **Approved as amended** and **RESOLUTION NO. 2004-352**, authorizing continued use of Job Order Contracting as an approved method of construction project delivery; All Districts, **Adopted and the Clerk is instructed to give notice of bid opening set for December 16, 2004 at 3:00 p.m..**

B-2 Introduction of an ordinance amending the County Fee Schedule for Fiscal Year 2005-2006 and calendar year 2005 for Parks, Golf Course and Airport fees; All Districts **Withdrawn for separate action.**

Public Works Items:

- B-3 Extension of the State Transportation Improvement Program funding expenditure deadline for the Willow Road extension and Willow Road/Hwy 101 Interchange; 4th District, **Approved.**
- B-4 Contract amendment with Quincy Engineering, Inc., for design and environmental preliminary engineering for the Price Canyon Road widening project; 3rd and 4th Districts, **Approved.**
- B-5 Request to approve the installation of speed humps on Eucalyptus Road, between Tefft Street and Osage Road, Nipomo; 4th District, **Withdrawn for separate action.**
- B-6 **RESOLUTION NO. 2004-353**, amending the traffic regulation code regarding stop intersection control on Oakhurst Drive at Hartford Street, Cambria; and on Stagecoach Road at Paloma Place near Arroyo Grande; 2nd and 4th Districts, **Adopted.**
- B-7 **RESOLUTION NO. 2004-354**, amending the traffic regulation code establishing speed limits on Grande Avenue, Nipomo; Stagecoach Road near Arroyo Grande; and Paso Robles Street, Oceano; 4th District, **Adopted.**
- B-8 **RESOLUTION NOS. 2004-355 and 2004-356**, vacating a portion of 12th Street, west of Paso Robles, and a pedestrian pathway between Wilton Drive and Burton Circle in Cambria, by summary vacation; and approval of related conformity reports; 1st and 2nd Districts, **Adopted.**
- B-9 Submittal of a resolution adopting the engineer's report, confirming the assessment and ordering the work and acquisitions, and request to declare the results of the assessment ballots, for the formation of the Sherwood Drive Underground Utility Assessment District; 2nd District, **Withdrawn and moved to the hearing calendar to be heard after Item C-5.**

Other Items:

- B-10 Request by Supervisor Bianchi to allocate \$1,500 from District Two Community Project Funds, to the Cayucos Citizens Advisory Council to be used for costs associated with holding public meetings, **Approved.**
  - B-11 Request by the Auditor-Controller to: 1) amend the fixed asset list by adding a laser check system printer at the cost of \$8,500; and 2) approve a budget adjustment in the amount of \$8,500 from unanticipated revenue, **Approved.**
  - B-12 Request by Social Services to approve various appointments to the Child Care Planning Council, **Approved.**
  - B-13 **RESOLUTION NO. 2004-357**, commending J.R. Davis upon his retirement from service after 35 years, **Adopted.**
  - B-14 **RESOLUTION NO. 2004-358**, by the Planning Department accepting an avigation easement from Oceano Homes, a General Partnership, Frederick and Carmen Muller, for the Oceano County Airport; 4th District, **Adopted.**
- 6 B-2 Introduction of an ordinance amending the County Fee Schedule for Fiscal Year 2005-2006 and calendar year 2005 for Parks, Golf Course and Airport fees; All Districts, is presented.

During discussion on the Consent Agenda Supervisor Pinard expressed her concerns regarding unfunded State mandates of programs specifically and highlights changes in the State law with respect to general plan amendments.

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

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

**the Board introduces an ordinance amending the County Fee Schedule for Fiscal Year 2005-2006 and directs the Clerk to prepare a quarter page display advertisement for publication in a newspaper of general circulation to provide information about the fee ordinance changes and sets the hearing for November 23, 2004 at 9:00 a.m..**

- 7 B-5 Request to approve the installation of speed humps on Eucalyptus Road, between Tefft Street and Osage Road, Nipomo; 4th District, is presented.

During discussion on the Consent Agenda Supervisor Ryan expressed his concern regarding speed humps and believes they cause as many problems as they cause solutions.

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

<b>AYES:</b>	<b>Supervisors</b>	<b>Achadjian, Bianchi, Pinard, Chairperson Ovitt</b>
<b>NOES:</b>	<b>Supervisor</b>	<b>Ryan</b>
<b>ABSENT:</b>	<b>None</b>	

**the Board authorizes the Department of Public Works to install permanent speed humps on Eucalyptus Road between Osage Road and Tefft Street.**

- 8 C-1 This is the time set for hearing to consider a request by the City of Paso Robles to amend the Urban County of San Luis Obispo Program Year 2002 and 2004 Action Plans, in order to reallocate Community Development Block Grant funds for public facility projects in the City of Paso Robles; 1st District.

**Mr. Tony Navarro:** Planning, indicates the City of Paso Robles has requested a continuance of this item to January; the City Council will reconsider the reallocation of the CDBG funds at their December 21, 2004 meeting.

**No one appearing and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Bianchi and unanimously carried, the Board continues said hearing to January 4, 2005 at 9:00 a.m..**

- 9 C-2 This is the time set for continued hearing (continued from October 26, 2004) to consider an appeal by Andy Graves of the Planning Commission's denial of the Graves Family Trust's request for a reconsideration of conditions of approval for Tract 2365, located on the north and east sides of Santa Rita Road, approximately 100 feet south of Vineyard Drive, west of Templeton; 1st District.

**Ms. Martha Neder:** Planning, presents the staff report; presents comments from two individual Templeton Area Advisory Council members regarding this project; addresses the Findings and Conditions and highlights additional changes to Finding E and Conditions 13 and 15.

**Mr. Jeremy Freund:** Wallace Group and representing the Graves Family, addresses the revised setback requirements and presents maps showing the same; presents language to revise types of crops to be grown on one of the parcels.

**Supervisor Pinard:** expresses her concern to pulling this out of dry farming, with Mr. Freund responding.

**Supervisor Ryan:** suggests it should stay in dry farming and explains.

**Mr. Freund:** responds that the change to annual grasses was only in response to concerns by the neighbors.

**Mr. Ed Rambuski:** states that what the Wallace Group is proposing is not too bad but does not support what is in the staff recommendations; states the real owner of the property is Mr. Olsen and not the Graves as the property is in escrow; feels there needs to be a limit on the types of crops on the two orchards.

**Mr. Eric Greening:** states he shares the same concerns raised by Mr. Rambuski.

**Mr. Freund:** indicates that the Land Management Plan can be incorporated into the conditions.

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

<b>AYES:</b>	<b>Supervisors</b>	<b>Chairperson Ovitt, Achadjian, Pinard, Ryan</b>
<b>NOES:</b>	<b>Supervisor</b>	<b>Bianchi</b>
<b>ABSENT:</b>	<b>None</b>	

the Board upholds the appeal and Development Plan Conditions to add Condition #15 to read: "(Easements) - Open space easements shall be recorded for the open space parcels in phase 1 and 2. Each open space parcel is to be held in single ownership or transferred to a public trust or conservancy agency approved by the Planning Director. The open space parcel is to be maintained as long as the clustered lots exist. The open space easement shall not allow rangeland use. The open space easement on Lot 19 shall not allow irrigated farm crop production other than planting for personal use such as private garden or personal orchard. The open space easement on Lot 1 shall allow irrigated farm crop production. Any agricultural activity conducted on the site shall be located not closer than 250 feet to the nearest adjacent residential structure and not closer than 600 feet to any future school facilities. The open space easement on Lot 1 shall allow no more than one agricultural accessory structure located no more than 100 feet from the residential building envelope boundary. The agricultural accessory structure shall not exceed 3,000 square feet and the height of the building must not exceed one story."; the Findings for Tract 2365, E is amended to read: "The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat due in part to the cluster design which avoids the steep slopes and preserves the wetland/riparian areas, establishes permanent open space on the site, ~~and eliminates irrigated crop production and range land use~~ *eliminates rangeland use on all lots, and eliminates irrigated crop production on all lots except Lot 1* to reduce potential water use."; and, Condition #13 for Tract 2365 is amended to read: "(Easements) - Prior to or concurrent with the recordation of the final map, open space easements shall be recorded for the open space parcels in phase 1 and 2. Each open space parcel is to be held in single ownership or transferred to a public trust or conservancy agency approved by the Planning Director. The open space parcel is to be maintained as long as the clustered lots exist. ~~The open space easement shall not allow irrigated farm crop production or rangeland use other than planting for personal use such as a private garden or personal orchard.~~ *The open space easement shall not allow rangeland use. The open space easement on Lot 19 shall not allow irrigated farm crop production other than planting for personal use such as private garden or personal orchard. The open space easement on Lot 1 shall allow irrigated farm crop production. Any agricultural activity conducted on the site shall be located not closer than 250 feet to the nearest adjacent residential structure and not closer than 600 feet to any future school facilities. The open space easement on Lot 1 shall allow no more than one agricultural accessory structure located no more than 100 feet from the residential building envelope boundary. The agricultural accessory structure shall not exceed 3,000 square feet and the height of the building must not exceed one story.*"; and, RESOLUTION NO. 2004-359, resolution reversing the decision of the Planning Commission and partially approving the request by the Graves Family Trust for a reconsideration of Conditions of Approval for Tract 2365 and its accompanying Development Plan (S990166U), adopted as amended.

10 C-3-A This is the time set for hearing to consider eight proposals to establish or alter boundaries of agricultural preserves, one proposal to establish a farm land security zone and two requests to disestablish agricultural preserves; 1st, 2nd, 4th and 5th Districts. (This item was amended at the beginning of the meeting to list each of the eleven items, being considered today, separately.)

**Mr. Warren Hoag:** Planning, introduces the item and outlines what is before the Board today.

**Mr. Terry Wahler:** Planning, presents the staff report on the first request for **MICHAEL GRISSOM (File AGP2003-00004)** a request to amend the boundaries of an existing agricultural preserve, rescind an existing land conservation contract and simultaneously enter into a new land conservation contract by adding 3 acres and removing 2 ½ acres to reflect lot line adjustment COAL 00-0269; the resulting contracted acreage is 363 acres; the site is located about three miles east of the town of Creston along Ryan Road; APNS: 043-093-018, 019, 020 & 022; Supervisorial District 5.

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

<b>AYES:</b>	<b>Supervisors Ryan, Achadjian, Bianchi, Pinard, Chairperson Ovitt</b>
<b>NOES:</b>	<b>None</b>
<b>ABSENT:</b>	<b>None</b>

**RESOLUTION NO. 2004-360, resolution altering the boundaries of El Pomar Agricultural Preserve No. 1 pursuant to the California Land Conservation Act of 1965, adopted.**

- 11 C-3-B This is the time set for hearing to consider the request of **GLENN AND EVE CHERRY (AGP2003-00005)** a request to amend the boundaries of an existing agricultural preserve, rescind a portion of an existing contract and simultaneously enter into a new land conservation contract to reflect lot line adjustment COAL 03-0149; the resulting contracted acreage is 386 acres; the site is located on the western and eastern sides of Avenales Ranch Road approximately 3/4 of a mile south of Pozo Road and about 3 3/4 miles east of Pozo; APNS: 071-211-022, 023 & 024; Supervisorial District 5.

**Mr. Terry Wahler:** Planning, presents the staff report and recommendation.

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

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

**RESOLUTION NO. 2004-361, resolution altering the boundaries of La Panza Agricultural Preserve No. 1 pursuant to the California Land Conservation Act of 1965, adopted.**

- 12 C-3-C This is the time set for hearing to consider the request of **CARRASCO, L. P. (AGP2003-00006)** a request to establish a Farm Land Security Zone and enter into a Farm Land Security Zone Contract on 121.5 acres; the site is located at 2710 Ranchita Canyon Road, approximately one mile from the intersection of Estrella Road and Ranchita Canyon Road and approximately 5 miles from the community of San Miguel; APNS: 019-071-039 & 43; Supervisorial District 1.

**Mr. Terry Wahler:** Planning, presents the staff report and recommendation.

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

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

**RESOLUTION NO. 2004-362, resolution establishing a Farmland Security Zone within an existing Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.**

**(SUPERVISOR SHIRLEY BIANCHI DISQUALIFIES HERSELF AND LEAVES THE BOARD CHAMBERS ON THE NEXT ITEM DUE TO A CONFLICT OF INTEREST AS SHE SHARES A PROPERTY LINE WITH THIS APPLICANT.)**

- 13 C-3-D This is the time set for hearing to consider the request of **TIM WINSOR (AGP2003-0009)** a request to amend the boundaries of an existing agricultural preserve and contract to add 120 acres; the site is located at the northern terminus of Red Mountain Road on the northern side of San Simeon Creek Road about 4 miles north by northeast of Cambria; APN: 011-291-018, 011-291-045 & 011-291-049; Supervisorial District 2.

**Mr. Terry Wahler:** Planning, presents the staff report and recommendation.

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

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

**RESOLUTION NO. 2004-363, resolution altering the boundaries of San Simeon Agricultural Preserve No. 7 pursuant to the California Land Conservation Act of 1965, adopted.**

**(SUPERVISOR SHIRLEY BIANCHI IS NOW PRESENT.)**

14 C-3-E This is the time set for hearing to consider the request of **MICHAEL DRUCKER (AGP2004-00001)** a request to establish an agricultural preserve to enable the applicant to enter into a land conservation contract on 160 acres; the site is located on the northeastern corner of the Estrella Road and Pleasant Road intersection about 5 & ½ miles northeast of Paso Robles; APN: 027-191-018; Supervisorial District 1.

**Mr. Terry Wahler:** Planning, presents the staff report and recommendation.

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

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

**RESOLUTION NO. 2004-364, resolution establishing an Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.**

15 C-3-F This is the time set for hearing to consider the request of **NELSON CUEVAS (AGP2004-00003)** a request to establish an agricultural preserve to enable the applicant to enter into a land conservation contract on 80 acres; the site is located on the eastern side of Pleasant Road about 1200 feet south of Cross Canyon Road and about 5 miles east of San Miguel; APN: 027-071-024; Supervisorial District 1.

**Mr. Terry Wahler:** Planning, presents the staff report and recommendation.

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

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

**RESOLUTION NO. 2004-365, resolution establishing an Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.**

16 C-3-G This is the time set for hearing to consider the request of **JUDITH B. FRIEND (AGP2004-00004)** a request to establish an agricultural preserve to enable the applicant to enter into a land conservation contract on 128 acres; the site is located on the western side of Branch Mountain Road at Gaviota Trail on the western edge of California Valley four miles south of the intersection of Soda Lake Road and Highway 58; APN: 072-201-015; Supervisorial District 5.

**Mr. Terry Wahler:** Planning, presents the staff report and recommendation.

**Supervisor Pinard:** questions the dissenting vote by Irv McMillan on the Agricultural Liaison Board on this request, with Mr. Wahler responding.

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

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

**RESOLUTION NO. 2004-366, resolution establishing an Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.**

17 C-3-H This is the time set for hearing to consider the request of **ARTHUR L. VON DOLLEN & ROBERT T. O'DELL (AGP2003-00008)** a request to amend the boundaries of existing agricultural preserves, rescind two separate land conservation contracts and simultaneously enter into two new contracts for each property owner, to reflect a lot line adjustment; the 2,334.7 acre O'Dell site is located between Vineyard Canyon Road and Mahoney Canyon Road south of and bordering the Monterey County line about one half mile northeast of San Miguel; the 1,019 acre Von Dollen site is located along Lowes Canyon Road south of and bordering the Monterey County line, about 4 miles northeast of San Miguel; APNS: Von Dollen: 27-021-021, 025 & 026; 027-031-003, 004, 006, 007 & 008; 027-041-005 & 006; and 027-071-018 & 019; O'Dell: 027-421-002, 003, 006, 007, 008, 009, 010 & 011; Supervisorial District 1.

**Mr. Terry Wahler:** Planning, presents the staff report and recommendation.

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

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

RESOLUTION NO. 2004-367, resolution altering the boundaries of Estella Agricultural Preserve No. 24 pursuant to the California Land Conservation Act of 1965, adopted.

18 C-3-H No one appearing and thereafter, on motion of Supervisor Ryan, seconded by Supervisor Achadjian and the following roll call vote:

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

RESOLUTION NO. 2004-368, resolution altering the boundaries of Estella Agricultural Preserve No. 24 pursuant to the California Land Conservation Act of 1965, adopted.

19 C-3-I This is the time set for hearing to consider the request of **SURREY SIX HOLDINGS, LLC (AGP2004-00002)** a request to establish an agricultural preserve to enable the applicant to enter into a land conservation contract on approximately 211 acres; the site is located on the northern and southern sides of 10<sup>th</sup> Street, approximately 0.8 of a mile west of San Miguel; APN: 027-051-015,019,029 & 027-061-001; Supervisorial District 1.

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

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

RESOLUTION NO. 2004-369, resolution establishing an Agricultural Preserve pursuant to the California Land Conservation Act of 1965, adopted.

20 C-3-J This is the time set for hearing to consider the request of **KAY WILLIAMS (File A030011A)** a request to disestablish a portion of the existing Arroyo Grande Valley Agricultural Preserve No. 30 by altering the boundaries to exclude the Williams property consisting of 228 acres; the site is located at 111 E. El Campo Road, on the southeast corner of El Campo and Los Berros Roads, approximately 1&1/8 miles south of Arroyo Grande; APN: 075-081-005; Supervisorial District 4.

**Mr. Terry Wahler:** Planning, presents the staff report and outlines the request to disestablish the agricultural preserve.

**Supervisor Ryan:** questions why this occurs and suggests that the rules need to be changed to handle this with the notice of nonrenewal.

**Ms. Jamie Kirk:** representing Vaughan Surveys and the Applicant, explains the lack of understanding as to what needs to occur when coming out of an agricultural preserve.

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

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

RESOLUTION NO. 2004-370, resolution disestablishing a portion of and altering the boundaries of the Arroyo Grande Valley Agricultural Preserve No. 30 pursuant to the California Land Conservation Act of 1965, adopted.

21 C-3-K This is the time set for hearing to consider the request of **JAN SHERRILL (File No. A030012A)** a request to disestablish a portion of the existing El Pomar Agricultural Preserve by altering the boundaries to exclude the Sherrill property consisting of 80 acres; the site is located



at 4565 S. El Pomar Drive, on the southeast corner of S. El Pomar and Almond Drive, approximately 4&1/2 miles east of Templeton; APN: 034-211-009, Supervisorial District 1.

**Mr. Terry Wahler:** Planning, presents the staff report; addresses the issue of disestablishing and the use of the Transfer of Development Credits (TDC) on Agricultural land.

**Ms. Jamie Kirk:** representing the Applicant, states they are in agreement with the staff report; indicates the TDC issue and this are separate and should be treated that way.

**Mr. Eric Greening:** addresses the lack of discretion by both the Board and the Planning Commission on this issue; questions the timing of this process; questions recommended changes to the process and the timing of the same; questions the criteria for TDC's on Agricultural land.

**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. 2004-371, resolution disestablishing a portion of and altering the boundaries of the El Pomar Agricultural Preserve No. 1 pursuant to the California Land Conservation Act of 1965, adopted.**

22 C-4 This is the time set for hearing (introduced on November 2, 2004) to consider an ordinance amending water service charges in San Luis Obispo County Service Area No. 23, Santa Margarita Water System; 5th District.

**Mr. Will Clemens:** Public Works, presents the staff report; addresses the public meetings that were held; discusses the reserve balances and the reduction in the same; indicates the recommended rate increase is not due to increased labor/staffing costs but rather operational costs; outlines what the average increases will be.

**Mr. Michael Kovacs:** addresses his concern to the increased rates; states folks who live in this area are poor and urges the Board to not approve this increase.

**Matter is discussed 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. 3050, ordinance establishing water service charges for San Luis Obispo County Service area No. 23 (Santa Margarita), adopted.**

23 SP **Chairperson Ovitt:** addresses the Open World Program and introduces the visiting Russian Educators who are here today: Gennadiy Igoshin (Deputy Director - Zhigulevsk City Engineering College); Yelena Yevgenyevna Nazimova (Director - Zelenogradskiy Municipal Secondary School); Olga Vasilyevna Pastushenko (Project Manager and Interpreter - Charitable "Kidsave International" nonprofit corporation); and Tatyana Viktorovna Utkina (Chief Specialist, Nizhniy Novgorod Regional Administration - Education Committee).

**Ms. Pastushenko:** thanks the Board for the recognition; speaks regarding the program and its history indicating it is done through the International Rotary Club; presents the Supervisors with a small gift of a pen and calendar. **No action taken.**

24 CS The Board cancels the Closed Session.

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

**Mr. Michael Kovacs:** questions the items discussed "behind closed doors" and suggests only those items under "anticipated litigation" should be confidential.

**Mr. Eric Greening:** questions to ensure there has been no discussion about any of the items on the agenda if the Closed Session was cancelled both this week and last. **No action taken.**

**(SUPERVISOR MICHAEL P. RYAN IS NOW ABSENT.)**

**CHAIRPERSON OVITT ASKS THAT MS. TONI PRENTICE, GENERAL SERVICES, BE REMEMBERED IN YOUR PRAYERS AS SHE IS BEING TREATED FOR THROAT CANCER. FURTHER, ASKS THAT MR. RICHARD MACEDO, LEGISLATIVE ASSISTANT FOR SUPERVISOR BIANCHI, BE KEPT IN EVERYONE'S PRAYERS AS HE IS RECOVERING FROM SURGERY AND WISHES HIM THE BEST IN HIS RECOVERY.**

25

C-5 This is the time set for hearing to consider an appeal by Thomas Rodman/E.C. Holland/Anastasi Development of the Planning Director's interpretation for a stay of expiration due to a lawsuit involving the approval or conditional approval of tentative tract map, for property located at the northwestern corner of Pecho Road and Los Osos Valley Road, in the Estero Planning Area; 2nd District. (Staff added information to this item at the beginning of today's meeting)

**Ms. Kerry Brown:** Planning, presents the staff report addressing the denial of the stay of expiration for Tract 1646/1091 by the Planning Director; presents a copy of an email from Matthew Jenkins and a letter from Martin Bragg, for the record.

**Mr. Richard Nyznyk:** representing the Applicant, states they are seeking an extension of time for the Tract; **(SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.)** presents language to amend Exhibit A and language for a motion to extend the date for the map so it will not expire until 6/14/2011; indicates he has a legal opinion that the date can be extended; addresses comments in a letter by Mr. Gordon Hensley representing the Environment in the Public Interest; states this tract map was originally approved by operation of law.

**Mr. Gordon Hensley:** Environment in the Public Interest, addresses their concern to this request; believes the Subdivision Map Act Section 66452.6(b)(1) was improperly applied.

**Board Members:** address various comments, issues and concerns regarding: why the extension wasn't applied for prior to this date; whether the situation has gone beyond the control of the Applicant.

**Mr. Tim McNulty:** Deputy County Counsel, addresses the time extension requirements pursuant to the Subdivision Map Act and what he believes the Board will need to do if they want to approve the five year extension based on the moratorium issue.

**Supervisor Ryan and Chairperson Ovitt:** address the issue of the various moratoriums in this area that have limited the Applicant's ability to move forward with their tract map.

**Supervisor Pinard:** believes this has gone beyond the Applicant's control based on a number of things that have occurred.

**Supervisor Bianchi:** addresses the issue.

**Mr. McNulty:** indicates that the Applicant, in the Findings he distributed, has attempted to deal with the issue by asking the Board to agree that the lawsuits are not an adequate basis for a further extension, in section A; then in Section B he provides the Board with language to support their request because the development moratorium continues to exist and that there should be five additional years granted for that reason.

**A motion by Supervisor Bianchi, seconded by Supervisor Ryan to tentatively uphold the appeal not based on the lawsuit criteria but on the moratoria criteria and continue the hearing to November 23, 2004 for final action is discussed.**

**Supervisor Ryan:** questions what will come back in the Findings, with Mr. McNulty responding.

**Mr. Nyznyk:** questions whether the motion includes a date that the map will be extended to.

**The motion maker and second amend their motion to extend the map for five years.**

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

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

the Board tentatively upholds the appeal, not based on the lawsuit criteria but on the moratoria criteria, extends the map for five years and continues the hearing to November 23, 2004 at 9:00 a.m. for final action.

26 B-9 This is the time set for continued hearing (continued from October 26, 2004) to consider the submittal of a resolution adopting the engineer's report, confirming the assessment and ordering the work and acquisitions, and request to declare the results of the assessment ballots, for the formation of the Sherwood Drive Underground Utility Assessment District; 2nd District.

**Mr. Dean Benedix:** Public Works, presents the staff report indicating that the Clerk has certified the election with 64% for and 36% against which indicates passage; it was determined that only those ballots that had been signed could be counted and there were eleven ballots that had not been signed so the final percentage was 62% for and 30% against; based on this staff is recommending approval of the resolution forming the district.

**Mr. James Dingman:** feels that \$12,000 is too much to pay for "bird droppings"; still wants to be excluded from the district as he is at the extreme end of the boundary line and was originally excluded.

Public Comment is closed.

Matter is 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

the Board declares the results of the Assessment ballots and RESOLUTION NO. 2004-372, a resolution adopting Engineer's Report, confirming the Assessment and Ordering the Work and Acquisitions, and directing actions with respect thereto for Sherwood Drive Underground Utility Assessment District, adopted.

(SUPERVISORS PEG PINARD AND MICHAEL P. RYAN ARE NOW ABSENT.)

27 D-1 This is the time set for consideration of the acquisition of right-of-way for requirements of Tract 2559, Templeton; 1st District.

**Mr. Richard Marshall:** Public Works, presents the staff report and the potential condemnation of right-of-way from a property owner along the alignment of an access road which is required as a condition of Tract 2559; addresses the staff recommendation.

(SUPERVISORS PEG PINARD AND MICHAEL P. RYAN ARE NOW PRESENT.)

**Mr. Mike Rider:** owner of Tract 2559, states he has been working with the neighbors, the Arons family, and have not been able to reach an agreement with them.

**Chairperson Ovitt:** states he has discussed this with all the parties involved.

**Supervisor Bianchi:** addresses the requirements of the Subdivision Map Act and her concerns regarding condemning someone's property to benefit another.

Matter is fully discussed and thereafter, on motion of Supervisor Ryan, seconded by Chairperson Ovitt, with Supervisors Bianchi and Pinard casting dissenting votes, motion carries and the Board authorizes the Director of Public works to (1) acquire the right-of-way by negotiation, then if needed, (2) commence proceedings pursuant to Title 7 of Part 3 of the Code of Civil Procedure to acquire (by

**condemnation) an interest in the land which will permit the road improvements to be made, which are required as conditions of approval for Tract 2559.**

28

E-1

This is the time set to consider the request to authorize the processing of general plan amendment G030011M (Nipomo Hills, LP) to amend the South County Area Plan of the Land Use Element, by changing the land use category from Agriculture to Residential Single Family on approximately 22 acres and from Agriculture to Rural Lands on approximately 22 acres, the site is located on the east side of Thompson Road, within and adjacent to the community of Nipomo; 4th District.

**Mr. Jim Lopes:** Planning, presents the staff report; presents a vicinity map showing the site and addresses the request to change the land use category from Agriculture to Residential Single Family on approximately 22 acres and delete a limitation on the number of allowed residential units on an adjacent 44 acre site within the Residential Single Family category; the site is used for dry farming and is surrounded by agriculture on three sides; the property is outside the Nipomo Community Services District (NCSD) boundary and the Applicant has applied to LAFCO to be annexed into the District; the Residential Single Family portion of the site is within the Sphere of Influence for the NCSD; corrects a statement on page 5 of the staff report indicating that the rural portion of the site, outside the Urban Reserve Line (URL), is not in the Sphere of Influence; highlights the major issues associated with this request; addresses the major issues for the Board regarding this request.

**Supervisor Achadjian:** questions whether this area will be accepted for annexation by the NCSD, with Mr. Lopes responding.

**Ms. Allison Donatello:** RRM Design and representing the Applicant, addresses the need to change the existing South County Area Plan language; states the property is not under the Williamson Act; presents maps showing alternatives to the six lot subdivision; asks that Multi-Family also be considered as an option; their proposal includes working with the Trails group and they have three parks proposed.

**Mr. Peter Candy:** attorney representing the Applicant, states the project is not contingent on the annexation; addresses the water study that was done for the property and they believe there is a viable water source on the property; asks that they be allowed to go forward with this process.

**Mr. Mike Neill:** suggests nobody wants change; feels you can plan for growth and urges approval to allow this applicant to process their application; states the NCSD and the Nipomo Community Advisory Committee (NCAC) do not speak for the community.

**Ms. Dana Justesen:** addresses the need for affordable housing to keep professionals, like nurses, in the County; urges the Board to authorize processing of this request.

**Ms. Linda Michels:** agrees with comments by Ms. Justesen that there is a need for affordable housing to keep professional folks from leaving the County.

**Ms. Vallerie Steenson:** representing the League of Women Voters, speaks to the need for more affordable housing in the County to support the work force; supports authorizing this for processing.

**Mr. Jesse Hill:** states the NCAC has taken a negative position on this; addresses page E-1-20 of the staff report which shows this area with 46 parcels.

**Mr. Ed Eby:** presents copies of the NCAC minutes for September 27, 2004 and October 25, 2004; states they believe this is wrong for Nipomo and explains they don't believe that the NCSD is a source of water and sewer service for this project; this should not be allowed unless it is annexed to the NCSD; urges the Board to not authorize this for processing.

**Ms. Donna Mehlschau:** does not feel this project is offering low to moderate income housing.

**Ms. Susie Hermreck:** NCAC Chairperson, states they voted unanimously to reject this proposal; comments on another project that worked with them to find a "win-win" and that is not what has occurred with this proposal.

**Mr. Jim Kinninger:** last years' Chairperson for the NCAC, does not believe this area needs more low to moderate income housing in it.

**Ms. Marianne Buckmeyer:** states she is speaking as a private citizen and urges the Board to support the current General Plan for this area; addresses her concern to circulation in this area and the current problems on Tefft St.; urges the Board to not authorize processing of this request.

**Mr. Burt Fugate:** states he lives adjacent to this site; addresses his concern to groundwater resources and agricultural interface; suggests that agricultural operations are not friendly to urban areas; suggests this is a piecemeal approach to urban planning; and doesn't believe there is any community support for this.

**Mr. Mike Job:** believes it is too dense of a project and will increase urban pressures.

**Ms. Marilyn Licoscas:** states she owns the Mayor's Place Restaurant and can support something less than what is being requested; wants to see businesses come to the Old Towne area.

**Mr. George Moyan:** San Luis Obispo Housing Authority, asks that this proposal be accepted for processing and look at the issues as revised by the Applicant.

**Mr. Michael Winn:** states he is a member of the NCSD, lives across the street from this site and does have a conflict as far as voting on this matter at the NCSD; states this project does not have water or sewer.

**Mr. Bob Blair:** speaks to housing in the Nipomo area and suggests the cost of housing is driving young people out of the County.

**Mr. Paul Hood:** LAFCO Executive Officer, states the Sphere of Influence follows the URL and does not include this property.

**Supervisor Pinard:** questions Mr. Hood, with response, as to the flowing water requirements on this property in the May 2004 report.

**Supervisor Bianchi:** speaks to the role of advisory councils and states she does not support this request.

**Supervisor Achadjian:** addresses the request and discusses the history of this parcel with a prior owner; thanks the staff for all the options but believes that Nipomo has its share of affordable housing already.

**Matter is discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Bianchi and unanimously carried, the Board does not authorize processing of G030011M (Nipomo Hill, LP).**

**Matter is further discussed and thereafter, a motion by Supervisor Ryan, seconded by Chairperson Ovitt to authorize processing of a General Plan Amendment on the 44 acre parcel to allow this Residential Single Family parcel to go forward with a plan to eliminate the 46 parcel Standard, fails with Supervisors Bianchi, Pinard and Achadjian casting dissenting votes.**

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, November 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/Vicki M. Shelby,  
Deputy Clerk-Recorder

DATED: November 30, 2004  
vms

