

Tuesday, March 1, 2005

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 Harry L. Ovitt, Jerry Lenthall, K.H. 'Katcho' Achadjian, James R. Patterson and Chairperson Shirley Bianchi

ABSENT: None

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

SUM AGN

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

AYES: Supervisors Achadjian, Lenthall, Ovitt, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2005-49, resolution commending Mike Ball for his outstanding dedication to the Homeless Mentally Ill population in San Luis Obispo County, adopted.

Chairperson Bianchi: reads the resolution and presents the same to Mr. Ball.

Mr. Ball: thanks the Board for the recognition; thanks Chairperson Bianchi for all her support; states the work with the mentally ill has just begun and comments on how this disease affects everyone; thanks the Judges and the Police Chief for the City of San Luis Obispo for their help and support.

Mr. Tom O'Malley: Behavioral Health, addresses the needs of the homeless and how many of these folks also have serious mental illnesses; thanks Mr. Ball for all his service to the homeless.

Ms. Kim Barrett: Chief Probation Officer, speaks to her involvement with Mr. Ball and feels the County is lucky to have him.

Chief Deborah Linden: City of San Luis Obispo Police Chief, speaks to the work of Mr. Ball and thanks him for the same.

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

Rev. C. Hite: speaks to the "slaughter" of human life in Taiwan and remembering this horror; speaks to public transportation issues. **No action taken.**

3 B-PC This is the time set for members of the public wishing to address the Board on items set on the Consent Agenda.

Mr. Eric Greening: addresses Item B-3 and urges the Board to pull this item until there is more information and if not recommends rejecting the item until the Planning Commission meeting minutes can be included.

Rev. C. Hite: comments on Item B-26 and asks that this item be denied based on "profiling" of people; asks that this issue be continued to budget hearings; speaks to the SLO Co. Task Force and information they have on the Internet. **No action taken.**

4 B-1 Consent Agenda Item B-2 is amended to reflect two ordinances and not one as listed
thru on the coversheet and staff report. Item B-4 is amended by replacing Page 2 of
the B-26 staff report due to a technical correction.

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

AYES: Supervisors Achadjian, Ovitt, Lenthall, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

Consent Agenda Items B-1 through B-26 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-26, 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 amending certain sections of Chapters 2.44 and 2.48 of the County Code concerning the civil service system, **Approved and the Clerk is instructed to give notice of hearing set for March 8, 2005 at 9:00 a.m..**
- B-2 Introduction of an ordinance (Clerk's File) amending certain chapters of Title 24-Airport Rules and Regulations and Title 1- General Provisions of the County Code, **Approved as amended and the Clerk is instructed to give notice of hearing date set for March 8, 2005 at 9:00 a.m..**
- B-3 **RESOLUTION NO. 2005-50**, of intention to vacate a portion of Willow Drive, a purported public road, in the community of Los Osos; 2nd District, **Adopted and the Clerk is instructed to give notice of hearing date set for March 22, 2005 at 9:00 a.m..**

Administrative Office Items:

- B-4 Agreement with the San Luis Obispo Community Foundation acting as fiscal agent for the Children's Health Initiative to provide funding for health insurance premiums for low-income children, **Approved as amended.**
- B-5 **RESOLUTION NO. 2005-51**, accepting the exchange of property tax revenue and annual tax increment for Annexation No. 22 to the Templeton Community Services District (McCoy Lane), **Adopted.**

Auditor-Controller Items:

- B-6 Submittal of a cash procedures review at Drug and Alcohol Services in Arroyo Grande, Atascadero and San Luis Obispo offices conducted on January 18, 2005, **Received and Filed.**
- B-7 Submittal of a cash procedures review of the Sheriff-Coroner's Office conducted on January 12, 2005, **Received and Filed.**

Board of Supervisors Items:

- B-8 Request by Supervisor Lenthall to re-appoint Robert J. Hodgins to the Fish and Game Fine Committee, **Approved.**
- B-9 Request by Supervisor Lenthall to re-appoint Janet T. Potter to the Commission on the Status of Women, **Approved.**
- B-10 Request by Supervisor Lenthall to re-appoint Jeannie Nix as a District Three representative to the Civil Service Commission, **Approved.**
- B-11 Request by Supervisor Lenthall to re-appoint Raymond Peterman to the Fish and Game Fine Committee, **Approved.**
- B-12 Request by Supervisor Lenthall to appoint Tom Ikeda to the Agricultural Liaison Advisory Committee, **Approved.**
- B-13 Request by Supervisor Lenthall to appoint Terry J. Eberhardt as a District Three representative to the Parks and Recreation Commission, **Approved.**

Behavioral Health Items:

- B-14 1) Grant award from State Department of Health and Human Services to Drug and Alcohol Services to provide dependency drug court services to families;

and 2) a corresponding budget adjustment in the amount of \$100,735 from unanticipated revenue, **Approved**.

B-15 Budget adjustment in the amount of \$32,000 from unanticipated revenue to fund substance abuse prevention and treatment services in San Miguel, **Approved**.

Clerk-Recorder Items:

- B-16 **RESOLUTION NO. 2005-52**, amending the Position Allocation list for the Clerk Recorder by adding one (1) Assistant County Clerk-Recorder and two (2) Division Supervisor – County Clerk-Recorder; deleting one (1) Deputy Registrar of Voters; one (1) Chief Deputy Recorder and one (1) Chief Deputy Clerk of the Board, **Adopted**.
- B-17 Minutes of the Board of Supervisors meetings of January 3, 4, 11 and 25, 2005, **Approved**.

General Services Items:

- B-18 Settlement agreement and release with Buona Tavola Restaurant relative to all claims related to damages for business disruption during construction of the New County Government Center, **Approved**.

B-19 1) A project titled Coastal Access, Park & Trail Upgrades – WBS # 300207; 2) a corresponding budget adjustment in the amount of \$65,000 from unanticipated revenue; 3) authorize the General Services Director to negotiate and sign contracts to complete the project, **Approved**; and 4) **RESOLUTION NO. 2005-53**, authorizing the acceptance of grant funding for the project, **Adopted**.

B-20 1) Project titled Bureau of Land Management Trail Project – WBS #300234; 2) a corresponding budget adjustment in the amount of \$60,000 from unanticipated revenue; 3) authorizing the General Services Director to negotiate and sign contracts to complete the project, **Approved**; and 4) **RESOLUTION NO. 2005-54**, authorizing the acceptance of grant funding for the project, **Adopted**.

Public Works Items:

- B-21 Increase in authorized construction costs in the amount of \$25,000 for water system improvements at the California Men's Colony near San Luis Obispo; 2nd District, **Approved**.

B-22 1) A supplemental agreement (Clerk's File) to the construction contract with Madonna Construction Company for the Main Street Enhancement project; and 2) authorizing the Director of Public Works to develop construction contract for completion of retaining walls; 2nd District, **Approved**.

B-23 **RESOLUTION NO. 2005-55**, regarding a Safe Drinking Water State Revolving Fund Loan to the Lopez Water Treatment Plant Upgrade project; 3rd and 4th Districts, **Adopted**.

B-24 **RESOLUTION NOS. 2005-56, 2005-57, 2005-58, 2005-59**, for the acceptance of road improvements on Theodora Street, Chata Street and Bracken Lane, Nipomo, Lacey Lane on the Nipomo Mesa and Pamela Court and Laura Court in Templeton, and accepting the relinquishment of ingress and egress and a slope easement dedication along Primrose Lane, Nipomo; 1st and 4th Districts, **Adopted**.

B-25 The following parcel map has been received and has satisfied all the conditions of approval that were established in the public hearing on its tentative map:

- A. CO 03-0187, a proposed subdivision resulting in 2 lots, by Steve & Sheri Budrow, Orchard Road near Santa Rita Road, Templeton; 1st District, **Approved**.

Other Items:

- B-26 Request from the Sheriff-Coroner to approve a budget adjustment in the amount of \$20,233 from unanticipated revenue for the implementation of a Gang Task Force Grant for 2004-2005, **Approved**.

5

C-1 This is the time set for hearing to consider an environmental determination for the Crabtree Minor Use Permit and Grading Permit to allow the construction of two single-family homes: The proposed project is within Rural Lands land use category and is located on the west side of Highway 101, approximately 500 feet south of Tassajara Creek Road, approximately 1.5 miles west of the community of Santa Margarita in the Salinas River Planning Area; 5th District. (At the beginning of the meeting additional information was added to this item).

Mr. John Nall: Planning, introduces the item.

Mr. Keith Miller: Planning, presents the staff report; describes the property and presents an aerial photograph of the site; addresses the outstanding visual impacts on the property; addresses the additional information that staff needs.

Mr. John Belsher: representing the Appellant/Applicant, presents a letter from Ms. Juneln Whiteford the prior owner of this property; presents a poster board with a site map showing the roads; states this project has been in limbo for the past 2 years; speaks to the studies that have been done on this site by various consultants with respect to water, visual impacts, etc.; presents a copy of a Visibility Assessment that was done by Robert Carr; suggests there is no need for an outside consultant for this and that the information needed could be done through an Expanded Initial Study (EIS) as opposed to a full Environmental Impact Report (EIR); feels this needs to be resolved once and for all and that it should be able to be done within the next 30 days.

Mr. Eric Greening: supports an EIR over an EIS for this project; addresses his concern to prior illegal grading that occurred on this property by the Applicant; comments on the information on page C-1-5 regarding transportation/circulation; concerns regarding fire in this area.

Mr. Richard Burlow: owns the property shown as Parcel B and indicates he doesn't have any problems getting on or off the property; doesn't have any problem with the two home growth proposed by the Applicant.

Board Members: address various issues, comments and concerns regarding: the difference in this site versus other homes in this area; the number of consultants that the Applicant has already used for various issues and incorporating those into what staff is looking for; making sure that alternatives are not removed from the possibilities for this application; there is a need for further peer review, with staff responding.

Thereafter, a motion by Supervisor Patterson, seconded by Chairperson Bianchi to require an EIR as recommended by staff, fails on the following roll call vote:

AYES: Supervisors Patterson, Chairperson Bianchi
NOES: Supervisors Ovitt, Lenthall, Achadjian
ABSENT: None

Matter is further discussed and thereafter, on motion of Supervisor Patterson, seconded by Supervisor Ovitt and unanimously carried, the Board requires the Expanded Initial Study using an independent contractor to provide the necessary peer review of the information that the County currently has on file.

6

C-2 This is the times set for hearing to consider an appeal by the Posada Land Company of the Planning Commission's approval of a Conditional Use Permit (S020319U) and a Vesting Tentative Tract Map for Tract Map 2549 (Charnley). The project site is located east of Posada Lane, south of Las Tablas Road, within the community of Templeton in the Salinas River planning area; 1st District.

Ms. Susan Callado: Planning, presents the staff report; addresses the changes to the tract and use permit conditions; presents a site map of the project; comments on the additional information they presented today with additional use permit finding changes; addresses the comments from Templeton Community Services District and CDF.

Mr. John Nall: Environmental Specialist, speaks to the Addendum to the Negative Declaration.

Mr. John Belsher: representing the Appellants, states there has

been a lot of work done and presents additional conditions they want added, indicating with these they are pretty much in agreement; their number one issue is the emergency access being gated and only used by the fire department; shows photographs of the traffic in the area.

Mr. Tim Roberts: representing the Applicant (Charnley), states they have worked with the Appellants and are agreeable to the gate; their only concern is turning too much area into a parking lot; shows a site map of the project and references two parcels just off the project location that are owned by the Charnleys and will be used as needed; believes they have met the concerns of the residents; urges the Board to deny the appeal but incorporate the conditions that have been added.

Mr. Eric Greening: addresses comments by Mr. Belsher; feels the biggest issue is the definition of "site" and has concerns regarding borrowing land from another site for this project.

Dr. Harvey Billig: states he owns a parcel to the north of this project and addresses his concerns to limiting access for the fire department; feels when construction is completed there will be more parking on the street.

Mr. Steve Saldo: representing the medical groups in the area, comments on the parking study they did in this area and presents copies of the same to the Board; addresses the impacts to the patients now and not wanting to impact them any further; supports the appeal by Mr. Belsher.

Mr. Todd Newman: representing a sports therapy group, addresses their concerns regarding parking in this area.

Dr. William Sima: states he is an orthopedic surgeon and lives in Templeton, states his patients already have access problems and doesn't want to limit them any further.

Dr. Nelson Yamagata: speaks to the traffic impacts on Posada and that there is already a problem here as shown in the photographs by Mr. Belsher.

Mr. Joseph DeLucia: adds his concern regarding the locked gate and agrees that there are currently heavy impacts on Posada.

Ms. Linda Martin: states she works on Posada and is very concerned about the traffic impacts on this street and the safety issues of folks walking in this area; suggests at the very least the road should be gated.

Ms. Kathy Smith: states she works on Posada and lives approximately one-half mile from her work; addresses the traffic impacts on this street currently and parking is a big concern for their patients.

Dr. James Carr: states his practice is located on Posada and there is already traffic/parking problems; does not want to see any additional impacts to this street.

Dr. Shan Thomas: states that in his practice many of his patients are pregnant and/or have small children they bring with them and he is concerned for their safety in walking to his office; encourages the road being gated; further, has concerns as to where cars will get parked on the gated roadway.

Ms. Dorothy Jennings: Templeton Area Advisory Group (TAAG), presents a letter for the record outlining their concerns regarding this project.

Mr. Rich Howell: addresses his concerns regarding parking; the lack of affordable housing with this project; feels there are unanswered questions and that the project should not move forward until those questions are answered.

Dr. Gordon Lemm: states he doesn't know one doctor who supports this project as written; indicates he doesn't use the parking lot so it frees up one space; speaks to the loss of a patient and daughter last year to a car accident on Posada and Las Tablas.

Mr. Roberts: gives his closing comments; believes the agreement they have reached with the Appellants alleviates all the concerns they have heard today; addresses their inability to appease TAAG.

Mr. Belsher: gives his closing comments indicating the big issue for them is the locked gate.

Supervisor Ovitt: addresses the issue; expresses his appreciation to the Appellant and Applicant for working to resolve the issues; comments on the parking/traffic problems on Posada.

Matter is fully discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Achadjian and unanimously carried, the Board tentatively upholds the appeal with the amended conditions by both staff and Mr. Belsher, excluding Condition #48 as recommended by Mr. Belsher, and that the Posada will be gated with approval by Templeton Fire and that Posada will have sign that states "emergency access only" and also a sign indicating there is "no overnight parking", and said matter is referred to staff to bring back this afternoon with all the conditions and resolution to show these changes.

7 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) *Deputy Sheriffs Association v. County of San Luis Obispo*, (2) *Berge v. County of San Luis Obispo* and (3) *Manufactured Home Communities, Inc. v. County of San Luis Obispo, et al.*

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, Ellen Aldridge*, Name of employee organization: *San Luis Obispo County Probation Peace Officers' Association*; (7) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*; Name of employee organization: *District Attorney Investigators Association*; (8) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *Sheriff's Management*; (9) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *Deputy Sheriffs Association*.

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

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: No report required because no final action was taken and the Board goes into Open Public Session.

8 C-2 Appeal by the Posada Land Company of the Planning Commission's approval of a Conditional Use Permit (S020319U) and a Vesting Tentative Tract Map for Tract Map 2549 (Charnley), is brought back on for hearing.

Ms. Susan Callado: Planning, presents the resolution with the changes as directed by the Board earlier today.

Mr. Jim Orton: Deputy County Counsel, speaks to the revisions he made in the language of the resolution.

Mr. John Belsher, representing the Appellant, and Mr. Tim Roberts, representing the Applicant, state they have seen the revised conditions and resolution and agree with changes.

Thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Lenthall and on the following roll call vote:

AYES: Supervisors Ovitt, Lenthall, Achadjian, Patterson, Chairperson

Bianchi

NOES: None

ABSENT: None

RESOLUTION NO. 2005-60, resolution modifying the decision of the Planning Commission and conditionally approving the application of Andrew Charnley for conditional use permit S020319U and a vesting tentative tract map for Tract 2549, adopted.

- 9 D-1 This is the time set for consideration of the submittal of the Second Quarter Financial Report. (Additional information was added at the beginning of today's meeting)

Ms. Leslie Brown: Administrative Office, presents the staff report; indicates most departments are on track for the year; several departments are reporting revenue shortfalls or unanticipated expenditures; highlights the staff recommendations.

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

AYES: Supervisors Achadjian, Lenthall, Ovitt, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

the Board receives, reviews, and files the Fiscal Year 2004-2005 Second Quarter Financial Report; accepts gift funds and donations on behalf of the Library and approves the associated appropriation transfer in the amount of \$16,472 and approves an associated appropriation transfer from the Department of Social Services Gift Trust Funds to Social Services operating budget in the amount of \$7,551; and, approves requests to discharge bad debts totaling \$22,784 on behalf of Behavioral Health.

- 10 E-1 This is the time set for to consider the request to authorize a Land Use Element amendment to the Nacimiento Area Plan by changing an approximate 40 acre portion of an approximately 430 acre site from Open Space to Rural Lands and by changing approximate 40 acre site from Rural Lands to Open Space, located off of Cow Camp Loop, approximately 7 miles west of Lake Nacimiento Drive, south of Lake Nacimiento; 1st District.

Ms. Kami Griffin: Planning, presents the staff report outlining the purpose of the request.

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

AYES: Supervisors Ovitt, Achadjian, Lenthall, Patterson, Chairperson Bianchi

NOES: None

ABSENT: None

the Board authorizes processing of the General Plan Amendment request for LRP2004-0011 - Monterey County Water Resources Agency.

- 11 E-2 This is the time set to consider the request to approve: 1) agreements with Fallingstar Homes, Inc., MZIRP Inc., and the Peck Ranch Entities regarding the Shandon Community Plan Update; and 2) a corresponding budget adjustment in the amount of \$186,000; 1st District.

Mr. Dana Lilley: Planning, presents the staff report outlining the Board's previous direction to come back with a cost sharing agreement with the three major applicants for the Update/Amendment process for the Shandon area; indicates these three applicants are willing to pay up to a 1/2 million dollars for the Update over the next three years; shows the proposed area to be included in

the Update; outlines what direction came from the advisory committee.

Mr. Tony Navarro: Planning, tells the listening audience, in Spanish, about the upcoming workshops.

Mr. Eric Greening: speaks in opposition to this request; presents copies of a chart, from SLOCOG Planning area, on growth - Table 2-1; speaks to the Shandon wastewater analysis; wants the Board to reject this proposal and return it to the community for their input on the boundaries for this Update.

Ms. Maria Lorca: presents a letter for the record and reads from the same and in support of the Shandon Advisory Committee's recommendations.

Mr. Steve Sinton: states he generally supports this but would like to see: 1) that the client is very clearly identified and that it is the Board of Supervisors and the community and is not the Applicants; 2) when looking at the planning boundary there is a lot of agricultural land and wants to see it remain in agriculture; 3) wants this to go to the community to see what they envision for their future and providing information on infrastructure and services.

Mr. James McMillan: speaks to the services that will be needed if there is growth in this area.

Mr. Greg McMillan: Vice Chair for the Shandon Advisory Committee, presents a letter from the Committee outlining their concerns to this proposal and their five recommendations to the Board.

Ms. Susan Harvey: Paso Watch, opposes the expansion of the boundary lines for the Shandon area.

Ms. Amy Russell: Advisory Committee members, states they were not receiving any of the changes or information on this.

Mr. Irv McMillan: states it is the responsibility of the County to represent Shandon; addresses concerns to Williamson Act violations by one of the Applicants; concerns to addressing infrastructure needs with any growth in this area.

Mr. John Knight: RRM Design Group, states they are representing three of the major property owners involved and they will continue to do everything they can to address the concerns of the residents of the area.

Mr. Steve Sylvester: North Coast Engineering, states he is representing Fallingstar Homes Inc., outlines what they are proposing to do.

Mr. Lilley: responds to comments by the public.

Board Members: address various issues, comments and concerns regarding: the boundary line being a study area and not a change in the actual boundary line for Shandon; questions regarding the time frames for this proposal; concerns about funding coming from private individuals for this, with staff responding.

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

AYES: Supervisors Ovitt, Achadjian, Lenthall,
Chairperson Bianchi

NOES: Supervisor Patterson

ABSENT: None

the Board approves the agreement between the County of San Luis Obispo and the major Shandon applicants of Fallingstar Homes, Inc., MZIRP, Inc. and The Peck Ranch Entities regarding the Shandon Community Plan Update and approves the amendment to the budget for the Planning and Building Department by increasing budgeted expenditures by \$186,000.

On motion duly made and unanimously carried, the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, does now adjourn.

I, **JULIE L. RODEWALD**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, March 1, 2005, 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: March 11, 2005
vms