

Tuesday, June 14,
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 Adoption and presentation of a resolution recognizing California Highway Patrol Officer Greg De La Cruz Jr. for a life saving event is continued off calendar.

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

Ms. Debbie Arnold: representing Assemblyman Sam Blakeslee, presents the Board with a resolution in honor of Flag Day and reads the same into the record.

Rev. C. Hite: speaks to the Salem witch trials and the lies, etc. involved with them; speaks to lies she has shown the Board on things she has presented.

Mr. Mark Phillips: presents language for a resolution and asks the Board to consider adopting it relating to genetically engineered (GE) foods.

Mr. Rick Mathews: states he is the recently appointed 5th District member to the Parks and Recreation Committee; urges the Board's support of the Parks budget request during the upcoming Budget Hearings; urges the Board's consideration of funding to support maintenance at the parks.

Ms. Pandora Nash-Karner: Parks Commissioner, reads the Mission statement for the Commission and addresses the importance of parks in communities.

Mr. Eric Greening: speaks to the new building and the smells from chemicals that have been used; wants folks who are sensitive to these odors to be allowed to testify by phone; agrees with comments by Mr. Phillips relating to GE foods.

Mr. Michael Kovacs: states he represents citizens for honest government; addresses the wording on the County Seal; asks the Board to support growth.

Ms. Teresa Campbell: reads a letter from the North Coast Advisory Council regarding GE food/crops and the lack of testing; indicating the original went to Chairperson Bianchi and highlights where copies will be sent.

Mr. Michael Mara: urges the Board to support the resolution presented by Mr. Phillips; indicates he wants assurances as to the purity and safety of the food he eats.

Ms. Elizabeth Johnson: states that Alaska adopted a bill that requires labeling of GE products.

Mr. Jerry Rioux: Housing Trust Fund, presents a copy of their Annual Report for 2004 and highlights the same. **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.

Ms. Julie Rodewald: County Clerk-Recorder, comments on B-19 and indicates this request is for a voter registration system and not to replace any voting

systems that are currently being used; states the item will be back when they have all the signatures that are needed.

Ms. Vera Wallen: League of Women Voters, speaks to Item B-9 and their support of the same and their support of workforce housing.

Mr. Jerry Rioux: speaks in support of Item B-9.

Mr. Jerry Bunin: Government Affairs Director for Home Builders Association, speaks to Item B-9 and the need for more public workshops to help reduce public hearings in the future and outlines what they support.

Rev. C. Hite: speaks to Item B-2 and does not want the item approved as she has heard complaints about this law firm.

Mr. Michael Kovacs: addresses Items B-6, B-10 and B-11 and believes these are all things that could be done by County staff and not have to be contracted out; speaks to Items B-12, B-13 and B-14 and questions these “tax increases.”

Ms. Patricia Wilmore: San Luis Obispo Chamber of Commerce, speaks in support of Item B-9 and in support of adequate and safe workforce housing. **No action taken.**

4

B-1 Consent Agenda Item B-10 is amended by deleting the last sentence in the summary thru of request on the transmittal that reads: “Also authorizing the Director of Public Works B-22 or his designee to issue notice(s) to proceed with the survey and mapping work.” Item B-19 is withdrawn. Item B-21 is added to the Consent agenda. Item B-22 is added to the Consent Agenda and amended to correct the project number in the staff report to read 300271.

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

Consent Agenda Items B-1 through B-22 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-22, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Administrative Office Items:

B-1 Renewal agreement with TALX Corporation and County Personnel Administrators Association of California (CPAAC) for unemployment compensation services, **Approved.**

B-2 Agreement (Clerk’s File) with the firm of Adams and Lucero to provide state mandated legal representation services for mentally disordered offenders at Atascadero State Hospital, **Approved.**

B-3 Response to the 2004-2005 Grand Jury report on the tobacco tax and First 5 Commission early child development programs, **Approved.**

B-4 **RESOLUTION NO. 2005-167**, to reappoint James B. Lindholm as County Counsel, **Adopted.**

General Services Items:

B-5 Amended agreement with Douglas K. & Julie Anne Wagnon, doing business as the “Spirit of San Luis” at the San Luis Obispo County Regional Airport to allow

continued operations through the lease expiration date of September 30, 2027 without capital improvement expenditure requirements and allows the County to provide additional services at the snack bar area in the airport passenger terminal, **Approved.**

B-6 Contract with Ravatt-Albrecht Associates in the amount of \$233,472 for architectural/engineering services for the expansion of the Juvenile Services Center at the County Operational Center, **Approved.**

Planning and Building Items:

B-7 **RESOLUTION NO. 2005-168**, approving an amended open space agreement granting an open space easement to the County for Tract 2365 located on the north and east side of Santa Rita Road, west of the community of Templeton, in the Salinas River planning area; 5th District, **Adopted.**

B-8 **RESOLUTION NO. 2005-169**, granting an avigation easement from James W. & Deborah A. Batchelor for property located near the San Luis Obispo County Regional Airport; 4th District, **Adopted.**

B-9 Submittal of a status report on the housing programs established in the current Housing Element of the San Luis Obispo County General Plan; All Districts, **Received and Filed.**

Public Works Items:

B-10 Agreement with Cannon Associates for surveying and mapping services associated with the Nacimiento Water Supply Project; All Districts, **Approved as amended.**

B-11 Construction management services contract with MWH Americas, Inc. for the Zone 3 Lopez Water Treatment Plant upgrade project of the San Luis Obispo County Flood Control and Water Conservation District; 3rd and 4th Districts, **Approved.**

B-12 **RESOLUTION NO. 2005-170**, establishing the 2005-2006 Special Tax Rate and confirming the per parcel special tax amount in County Service Area No. 21, Roscoe Place Road Improvement Zone; 2nd District, **Adopted.**

B-13 **RESOLUTION NO. 2005-171**, establishing the 2005-2006 Special Tax Rate and confirming the per parcel special tax amount in County Service Area No. 21, Marine Terrace and Alban Place Cooperative Road Projects, Cambria; 2nd District, **Adopted.**

B-14 **RESOLUTION NO. 2005-172**, establishing the 2005-2006 Special Tax Rate and confirming the per parcel Special Tax Amount in County Service Area No. 21, Emerson Road Improvement Zone; 2nd District, **Adopted.**

B-15 **RESOLUTION NO. 2005-173**, to levy assessments for Flood Control Zone 4 (Santa Maria River Levees); 4th District, **Adopted.**

B-16 **RESOLUTION NO. 2005-174**, to levy assessments for Flood Control Zone 16 (Nipomo, San Miguel, and Shandon areas); 1st and 4th Districts, **Adopted.**

B-17 **RESOLUTION NO. 2005-175**, for the acceptance of road improvements on Golden Leaf Lane, Sequoia Lane, Cascade Lane, Redwings Street, Humboldt Drive, and Lassen Lane, Nipomo, County Road No.'s 1361, 1465, 1466, 1467, 1468, 1469; 4th District, **Adopted.**

B-18 The following tract map has been received and has satisfied all the conditions of approval that were established in the public hearing on its tentative map:

A. Tract 2388, a proposed subdivision resulting in 17 lots, by Spanish Springs LLC, Price Canyon Road northeast of Pismo Beach; reject the offers of dedication without prejudice to future acceptance; order the abandonment of part of Old County Road No. 5 easement in accordance with Section 66434g of the Government Code; 3rd District, **Approved.**

Other Items:

B-19 Request to approve: 1) a contract (Clerk's File) with Diebold Election Systems, Inc. for purchase of voter registration system for County Clerk-Recorder; 2) a corresponding budget adjustment in the amount of \$199,000 from unanticipated revenues; and 3) amend the fixed asset list by adding two file servers, **Withdrawn**.

B-20 Budget adjustment (Social Services) in the amount of \$55,500, of which \$18,000 is coming from General Fund contingencies and the remainder from State and other revenue sources, for the General Assistance Budget to cover expenditures through the end of the Fiscal Year, **Approved**.

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

B-21 Request from the Clerk-Recorder to correct the meeting date on a public hearing notice introduced at the June 7, 2005 Board of Supervisors meeting, **Approved**.

B-22 1) Creation of a new maintenance project to upgrade data cabling at OES and EOC facilities; and 2) a corresponding budget adjustment in the amount of \$60,000 from State Aid-Nuclear Planning, **Approved**.

5 C-1 This is the time set for continued hearing (continued from May 24, 2005) on the submittal of a resolution vacating a portion of Upper Lopez Canyon Road, a purported public road; 4th District.

Mr. Tim Smith: Right-of-Way Agent, presents the staff report and the resolution that should address the concerns that were raised at the prior hearing.

Mr. Warren Sinsheimer: representing the Janssen Trust and members of the Maino Family, states they are glad this no longer involves abandoning within the National Forest; have a form of easement agreement which is circulating among the property owners upstream from the point of abandonment; addresses their ongoing concern to the language regarding utility easements and asks for a modification in the language.

Supervisor Achadjian: questions Mr. Sinsheimer, with response, as to whether he has any suggested language.

Mr. Tim Carmel: representing the Applicant, states the private access issues have been addressed through the signed agreement by the parties involved; the only outstanding issue is the public utilities; believes this is for the County to address; asks the Board to adopt the resolution.

Mr. Roy Ogden: representing the Righetti family, addresses the issue of the public utilities and the County reserving the rights for the same.

Mr. James Lindholm: County Counsel, suggests language to Exhibit A of the resolution to address the concerns raised by the public today, with the public members agreeing to the language.

Matter is fully discussed and 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

the Board amends Exhibit A, second paragraph to add the following: "Reserving, unto Pacific Gas and Electric Company, and any and all other public utilities of any description, any existing . . ." and RESOLUTION NO. 2005-176, resolution vacating a portion of Upper Canyon Road, a purported public road

Supervisory District No. 4, adopted as amended.

- 6 C-2 This is the time set for hearing to consider an appeal by John Wysong of the Administrative Hearing Officer's approval of a request by Chris Knauer and Byron Davis for a Minor Use Permit/Coastal Development Permit to allow grading for a recreational vehicle storage yard; 4th District.

No one appearing and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Lenthall and unanimously carried, the Board continues said hearing to June 28, 2005 at 9:00 a.m..

- 7 C-3 This is the time set for hearing (introduced on June 7, 2005) to consider an ordinance amending various sections of Title 19 to the Building and Construction Ordinance; All Districts. (This item was amended at the beginning of the meeting to replace page C-5-15 to correct text which was inadvertently shown as a strike out when it should have been shown as added text.)

Ms. Cheryl Journey: Chief Building Official, presents the staff reporting, outlining the proposed changes to Title 19.

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 reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3067, an ordinance amending Title 19 of the San Luis Obispo County Code, the Building and Construction Ordinance, by amending Sections 19.01, 19.04, 19.20, 19.40, 19.60, 19.65 & 19.80, adopted.

- 8 C-4 This is the time set for hearing (introduced on June 7, 2005) to consider a resolution amending ordinances to Title 22 - Land Use Ordinance and Title 23 - Coastal Zone Land Use Ordinance, Port San Luis Harbor District, Monterey Co. Water Resources and Sejera; All Districts. (This item was amended at the beginning of the meeting to include pages that were inadvertently left out starting after page C-4-34.)

Ms. Kami Griffin: Planning, speaks to the pages that were missing from the staff report and states if the Board wishes they can take public testimony on the items and continue this to June 28, 2005 for final action.

Ms. Martha Neder: Planning, presents the first item **LRP2004-00003 - Port San Luis Harbor District** and outlines the request to incorporate relevant provisions of the recently updated Port Master Plan; presents overheads and photographs of the area; outlines the proposed changes to the District-wide Goals and Policies; addresses the proposed changes to the map for the area and the changes to the Urban Reserve and Urban Service Lines.

Supervisor Ovitt: states that all the information for this request was presented when this was introduced and doesn't see any reason to not approve it today.

Ms. Griffin: states that the information that was missing from the Board's packet today was the Planning Commission actions and reports.

Ms. Neder: addresses a correction to Page C-4-57 (page 20 of the attachment to the resolution) #7 Parking Standards that needs to be amended to strike the first sentence that reads "Maintain a minimum of 300 parking spaces in the Avila parking lot for public beach and pier parking."

Mr. Jay Elder: Port San Luis Harbor Manager, speaks in support of the staff recommendation; asks the Board to not delay this but approve it today; introduces the

Harbor Commissioners that are present today and the designer for the project; thanks Ms. Neder for all her help.

Ms. Karla Bittner: representing the Avila Valley Advisory Committee, speaks in support of this proposal.

Ms. Griffin: suggests the Board should take tentative action on each of the items.

Supervisor Patterson: indicates he is prepared to act on the items that are before the Board today.

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

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

the Board tentatively approves LRP2004-00003, Port San Luis Harbor District as recommended by the Planning Commission with the amendment to #7 Parking Standards is amended to strike the first sentence that reads “Maintain a minimum of 300 parking spaces in the Avila parking lot for public beach and pier parking.”

Ms. Neder: presents the staff report for **LRP2004-00011, Monterey County Water Resources Agency (MCWRA)** to change an approximate 40 acre portion of an approximately 430 acre site from Open Space to Rural Lands; states the purpose of this is to facilitate a land transfer between the MCWRA and a private land owner.

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 tentatively approves LRP2004-000111, Monterey County Water Resources Agency as recommended by the Planning Commission.

Mr. Brian Pedrotti: Planning, presents the staff report for **G030009M, Caroline Sejera**, for an amendment to the South County (Inland) Area Plan to change the land use category from Agriculture to Residential Rural on 1.5 acre portion of a 30 acre parcel and to amend the Ag & Open Space Element land use map by changing the land use designation from Ag to Small Lot Rural.

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 tentatively approves G030009M, Sejera as recommended by the Planning Commission.

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. 2005-177, resolution to amend the San Luis Obispo County General Plan, Land Use Element /Local Coastal Plan, the Land Use Ordinance, Title 22 of the County Code, Coastal Zone Land Use Ordinance and Title 23 of the County Code and to adopt ordinances entitled “an ordinance amending Title 22 of the San Luis Obispo County Code, the Land Use Ordinance Section 22.112.040F relating to the Sejera Property,” and “an ordinance amending specific sections of the San Luis Obispo County Land Use Ordinance, Title 22 of the County Code and the San Luis Obispo County Coastal Zone Land Use Ordinance, Title 23 of the County Code” and to approve environmental documents, adopted as amended by prior Board action.

9 C-4 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

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3068, an ordinance amending Title 22 of the San Luis Obispo County Code, the Land Use Ordinance Section 22.112.040F relating to the Sejera Property, adopted.

10 C-4 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

the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3069, an ordinance amending specific sections of the San Luis Obispo County Land Use Ordinance, Title 22 of the County Code and the San Luis Obispo County Coastal Zone Land Use Ordinance, Title 23 of the County Code, adopted.

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) *In re PUC Application of the County of San Luis Obispo v. U.P.R.R. and (2) Maria Vista Estates (CV050242) v. County of San Luis Obispo.*

B. Conference with Legal Counsel – Anticipated Litigation (Gov. Code, § 54956.9.) (3) *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. (4) 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: (5) Negotiator’s Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *District Attorney Investigators Association*; (6) Negotiator’s Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *Deputy Sheriffs Association*.

Chairperson Bianchi: opens the floor to public comment.

Rev. C. Hite: speaks to significant exposure to litigation and her concerns to the way staff responded to comments by Mr. Kovacs earlier today.

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 as 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: 1) an appeal by Byron Grant of a decision of the Subdivision Review Board (SRB) disapproving Lot Line Adjustment COAL 03-0286, located at 433 Carpenter Canyon Road across Highway 227 from the City of Arroyo Grande in the San Luis Bay (Inland) Planning Area; and 2) submittal of a resolution upholding the decision of the Subdivision Review Board and disapproving the lot line adjustment; 4th District.

Mr. Brian Pedrotti: Planning, presents the staff report outlining the appeal based on the Applicant's contention that there are three legal adjoining parcels; the Appellant contends that lots 21 and 25 are separate lots; addresses staff's view on this and cites from several court cases in support of staff's opinion that there are only two lots; recommends the Board uphold the decision of the SRB.

Supervisor Achadjian: states that it is his understanding, that with respect to the legality of whether they exist or not has nothing to do with acreage, with Mr. Pedrotti responding that it does not.

Supervisor Achadjian: states he has concerns from neighbors wanted this to stay with acreage but that the only thing the Board can look at is whether or not these lots legally exist.

Mr. John Belsher: representing the Applicant/Appellant, states the issue is whether there was a conveyance for Lots 21 and 25; presents copies from 1913 County Official Map that shows three lots exist; addresses the significance of official maps and cites from the Subdivision Map Act; addresses a deed from the 1889 showing these were three separate parcels.

Board Members: question how title was searched; the issue of how lots are created; questions regarding official maps, with Mr. Belsher and Mr. James Lindholm, County Counsel responding.

Mr. Lindholm: further explains from a chart what does and does not create separate parcels.

Supervisor Ovitt: believes the information presented by the Applicant/Appellant supports their request.

Supervisor Lenthall: states based on the information on page C-5-23 he believes more than one lot exists.

Chairperson Bianchi: addresses her concern to this request.

Supervisor Patterson: addresses his concern to the possibility of this being precedent setting.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt, with Supervisor Patterson and Chairperson Bianchi casting dissenting votes, motion carries and the Board tentatively upholds the appeal and refers this back to staff to prepare an environmental determination and to return to the Board, for final action, on July 26, 2005 at 9:00 a.m..

17 C-6 This is the time set for hearing (introduced June 7, 2005) to consider a resolution amending an ordinance to Title 22 of the County Code – The Land Use Ordinance

(G020002L-Secondary dwellings in South Atascadero); All Districts.

(SUPERVISOR JAMES R. PATTERSON INDICATES THAT HE LIVES IN THE AREA THAT WOULD BE AFFECTED BY THIS CHANGE AND THE FAIR POLITICAL PRACTICES COMMISSION HAS ADVISED HIM THAT HE DOES HAVE A CONFLICT OF INTEREST ON THIS MATTER AND HE DISQUALIFIES HIMSELF AND LEAVES THE BOARD OF SUPERVISORS CHAMBERS.)

Ms. Kami Griffin: Planning, presents the staff report and outlines the Planning Commission recommendation for denial and their reasons for this recommendation.

Supervisor Achadjian: questions where secondary dwellings are allowed in this area.

Mr. John Nall: Environmental Specialist, states that Atascadero Mutual Water originally indicated they could support secondary dwellings then later changed their opinion on this.

Ms. Griffin: states that the number of dwelling units would increase from 786 to 1394 if this is approved.

Ms. Christine Dabbs: asks that the Board support secondary units in this area; feels there should be some type of compromise on this issue.

Ms. Kathryn Sweet: states she is a 29 year resident of the area; that folks have a minimum of 2.5 acres for most of this area and she doesn't support this change; has concerns to the impacts it would create on water, traffic and other services.

Mr. Eric Greening: states there is no Negative Declaration to approve secondary dwellings today, only for denial; addresses his concern to the impacts to the streets in the area and off of Santa Barbara Road; urges support for denial of secondary dwellings.

Ms. Susan Harvey: Paso Watch, asks that the Board deny this proposal; states there is no reason for secondary dwellings when there is new development occurring at Dove Creek and other nearby areas; feels before any changes like this occur there should be a community discussion on the issues.

Ms. Dolores Simons: states she has lived in South Atascadero since 1975; indicates the Air Pollution Control District is opposed to this change; speaks to the number of new homes that have already been built in this area; urges the Board to deny this change.

Mr. Rob Foster: states he has lived in the South Atascadero area for the past 10 years and is opposed to secondary dwelling units in this area.

Ms. Christina Aguirre: reads a letter from Ms. Della Barrett against allowing secondary dwelling units in this area; states she is concerned about Atascadero Mutual Water not being able to supply water.

Board Members: question the size allowed for dwellings and whether a kitchen is allowed, with staff responding.

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

AYES: Supervisors Ovitt, Lenthall, Achadjian,
Chairperson Bianchi
NOES: None
ABSENT: Supervisor Patterson (Disqualified)

RESOLUTION NO. 2005-178, resolution to deny Land use Ordinance

Amendment G020002L to amend the San Luis Obispo County Land Use Ordinance Sections 22.30.470C and 22.104.040D to allow Secondary Dwellings in the South Atascadero Area where they are not currently allowed, adopted.

(SUPERVISOR JAMES R. PATTERSON IS NOW PRESENT.)

18 D-1 This is the time set for hearing to consider the status of transfer of maintenance responsibility to the State Department of Water Resources Flood Control Zones 1 and 1A, Oceano Area; 3rd and 4th Districts.

Mr. Noel King: Public Works Director, introduces Mr. Keith Swanson from State Water (DWR); states that the DWR is ready to start maintenance next month; addresses the history of flooding over the years; the Watershed Protection Agreement; addresses the responsibility of the Flood Control District; addresses two major events that occurred in the 1990's - the Red-legged Frog and Steelhead Trout were both put on the Endangered Species list and Proposition 218 passed; presents photographs of flooding that occurred in March of 2001; presents a video clip of flooding that occurred before and after the levy was breeched; addresses the advantages of relinquishment to DWR; the Board ordered the relinquishment in April 2003 to DWR; if there is a delay the maintenance by DWR wouldn't start until July 2006 and any continuance beyond this date would cause DWR to reconsider taking this over; addresses the estimates that DWR has proposed boundaries and the assessments are high for the maintenance; responds to various "myths" he has heard regarding the channel, maintenance, etc.; states the two options before the Board to let DWR start the maintenance now or delay this one year and outlines what would occur under each option.

Mr. Harold Byrd: states he lives in Rancho del Arroyo and this is a low income park and having DWR take over the channel will create a severe financial hardship to the folks in the park; also, believes if this occurs there are other areas, that are not included in this assessment, that should be included.

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

Mr. Glen Priddy: Deputy Public Works Director, addresses the silt removal projects that occurred in the last 1980's; in 1995 there was another major storm and more silt occurred in the channel.

Ms. Debbie Arnold: representing Assemblyman Sam Blakeslee, reads a letter indicating that if the Board wants to delay this one year he will honor and support their recommendation.

Ms. Susan Litteral: Natural Resources Conservation Service, states they are the holders of the maintenance agreement that binds the County to maintain the flood protection purpose of the facilities that they funded and constructed; the work plan is the first step toward updating outdated existing agreements.

Ms. Stephnie Wald: Salmon Enhancement, asks for a delay in the transfer as they don't believe it will accomplish what they first thought it would do; they are asking for more time to look into this before it happens.

Mr. Gary Kobara: Chair for the Zone 1/1A Advisory Committee, states his family has been farming in this area since the 1920's and the Committee is requesting a one year delay in this transfer occurring.

Mr. Tony Ferrara: Mayor for the City of Arroyo Grande, presents an overview of the jurisdictional support for a one year delay in this transfer; indicates the mayors from Grover Beach and Pismo Beach also support this.

Mr. Jim Hill: President for the Oceano Community Services District (OCSD) Board, support the one year delay and his Board also voted unanimously to endorse this delay.

Ms. Julie Thomas: Watershed Coordinator for the Coastal San Luis Resource Conservation District (CSLRCD), discusses the first year plan that includes a vegetation management plan, permitting requirements for future work, and flood fight training; urges the Board to delay this change for one year.

Ms. Linda Chipping: CSLRCD Board President, presents an overhead and highlights the same regarding working together to support local control and highlights the various groups, agencies and individuals who support the delay; speaks to the longterm expense to the County for the DWR maintenance of the Arroyo Creek Flood Control Channel.

Mr. Ferrara: states he is also a member of the Sanitation District Board and that they will be a big stakeholder in this; comments on the flooding photographs taken by staff and what caused that flooding; feel the stakeholders know what will happen if a Proposition 218 vote fails as they will be left with the cost cited by DWR.

Mr. Norm Getty: resident of Zone 1/1A, addresses the liability issues associated with this proposal; comments on the actual costs for the levee repairs and feels that local control is the best way to address these repairs.

Mr. Tom Ikeda: Farm Bureau President and a farmer in Zone 1/1A, addresses his concern to the costs associated with staying in the farming business and the increased costs being cited by DWR will affect them greatly; asks for the one year delay.

Mr. Jay Jamison: business owner, urges the Board to stop the State from doing any maintenance on the creek.

Rev. Randal Ouimette: addresses his concern to the impacts of large assessments in the South County area, including the various groups, residents and his church.

Ms. Marjorie Gilliam: states she is representing friends and a number of elderly people; addresses the unfair cost to seniors through the DWR and suggests there should be another method of funding from them.

Mr. Swede Johnson: states he is representing those that will have to pay this large bill and is concerned because so many people in this area are on fixed incomes.

Ms. Peggy Wilson: Chair for the Oceano/Halcyon Advisory Committee, states the Committee met on May 16, 2005 and unanimously agreed to support and request the following: prevent the project from transferring to the State in July and delay this for one year; support redefining the benefit area of the project to include the wide area of contributing influences and benefits; and support placing the question of a tax assessment before the voters in the proposed benefit area.

Ms. Jane Peterson: asks that the Board delay this transfer for one year.

Ms. Sylvia Martinez: speaks to the mobilehome park she lives in and the folks being on a fixed income; addresses her concern to the number of times they will be "hit" with increases.

Ms. Kay Dewolf: states she lives across the street from the zone and wants to help in anyway she can; is concerned about the financial impacts to the elderly and poor.

Mr. Hari Nam Elliott: states he doesn't live in the affected area but is interested in helping; there is a need to start looking at the watersheds; he wants the levee to stay open to the public.

Mr. Michael Winn: Water Resources Advisory Committee Chairperson, states at their June 8th meeting they voted 8-5 to urge the Board to ask the State to postpone its assumption of responsibility for Flood Control Zones 1 and 1A for one year.

Mr. Joe Schacherer: Oceano resident, states people didn't know anything about this meeting; comments on the booklet about the 40th anniversary of the Arroyo Grande Creek; speaks regarding the report titled "Arroyo Grande Farmland A National Treasurer"; asks that the transfer be delayed.

Mr. Bill Hadji: agrees with previous speakers and feels the costs should be borne by the entire community; asks for a delay in the transfer to allow more time to find a more fair solution.

Ms. Joy Fitzhugh: reads a letter into the record from the Farm Bureau dated June 14, 2005 and highlights the issues they believe need to be addressed before a transfer occurs.

Mr. Gale Gascho: speaks as a member of Saint Johns Church and the cost of the transfer to DWR to them would be more than \$100,000; a great number of the members of the church would also be paying as residents; states as a resident of Zone 1/1A he is requesting a one year delay.

Ms. Elita Wheeler: Vice Chairperson for the Oceano/Halcyon Advisory Committee, states the entire area should pay and not just the folks in the zone.

Supervisor Patterson: speaks to the matter and being an advocate of local control; suggests seeking financial support from Congresswoman Capps; asks that staff come back with updates on what is occurring to make sure this is all staying on schedule.

Supervisor Ovitt: speaks to the short time frame to get the matter of a Proposition 218 ballot measure on before next June.

Supervisor Lenthall: believes that with teamwork this can be accomplished in the next twelve months.

Chairperson Bianchi: questions the letter from DWR, with Mr. Keith Swanson of DWR responding, regarding delaying financial assistance if the transfer is delayed; and what would occur if a Proposition 218 ballot measure passes.

Mr. David Edge: County Administrative Officer, addresses the State process and the changes after the decision was made to transfer this; questions the impacts of the delay.

Mr. Swanson: responds that the State will take the project on if it comes to them at the end of the year; addresses the costs to date for working on this; indicates this may also be more cost effective if done locally.

Mr. James Lindholm: County Counsel, indicates they have been working on a resolution with Public Works that would formalize the action the Board is about to take and would be brought back on June 28th; this resolution would contain the understanding of the County as to the situation or understanding of what DWR has said to us; and if that is the case then this issue should be mentioned in the motion.

A motion by Supervisor Achadjian, seconded by Supervisor Lenthall to bring back, no later than February 7, 2006, an item to get authorization by the Board to put the matter of an Assessment District on the June 2006 ballot; direction to delay this matter for one year and the Board will send a letter to DWR requesting a delay in the relinquishment process with an extension to begin July 1, 2005 through July 1, 2006; direct Public Works to renew the expiring Coastal Development Permit, that is for an extension of Permit #3-02-072, with the California Coastal Commission, prior to the current permit expiration date of July 10, 2005; direct that \$150,000 from the Emergency Flood Fund (not the General Fund) be used for Zone 1/1A and is for maintenance only; direct staff to assist Zone 1/1A any way they can, along with his office and to work with the stakeholders; and, asks for permission from the Board to allow him (Supervisor Achadjian) and his staff to work with our Assembly person and/or Senate person

to see if there is the ability to accomplish the addition of a dollar figure to every car that enters Oceano Dunes that will pay for the maintenance of the channel, is discussed.

Supervisor Ovitt: questions continuing this matter to June 28th for the resolution.

The motion maker and second amend their motion to continue this matter to June 28, 2005 to bring back the resolution that will accomplish the request to extend the relinquishment process.

Supervisor Ovitt: asks that the issue of the \$150,000 be referred to the budget process for approval at that time instead of today.

The motion maker and second agree to amend their motion to refer the \$150,000 to the budget hearings but to show the intent to provide that funding here today.

Matter is fully discussed 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 directs that staff bring back, no later than February 7, 2006, an item to get authorization from the Board to put the matter of an Assessment District on the June 2006 ballot; staff is directed to delay this matter for one year and the Board will send a letter to DWR requesting a delay in the relinquishment process with an extension to begin July 1, 2005 to July 1, 2006 and staff is to bring back a resolution, on the June 28, 2005 meeting, that will accomplish this request to extend the relinquishment process; direct Public Works to renew the expiring Coastal Development Permit, that is for an extension of Permit #3-02-072, with the California Coastal Commission, prior to the current permit expiration date of July 10, 2005; directs that \$150,000 be referred to budget hearings and be taken from the Emergency Flood Fund (not the General Fund) to be used for Zone 1/1A and is for maintenance only; directs staff to work with Zone 1/1A any way they can, along with Supervisor Achadjian's office and to work with the stakeholders; and, Supervisor Achadjian is given permission from the Board to allow he and his staff to work with the County's Assembly person and/or Senate person to see if there is the a way to accomplish the addition of a dollar for every car that enters the Oceano Dunes that will pay for the maintenance of the channel.

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, June 14, 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: July 18, 2005
vms

