

Tuesday, August 16, 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-A **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. 2005-239, resolution declaring Airport Day 2005, adopted.

Supervisor Lenthall: reads the resolution and presents the same to Ms. Klaasje Nairne, Airport Manager.

Ms. Klaasje Nairne: thanks the Board for the recognition and encourages the public to come out and participate in Airport Day.

2 A-1-B **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. 2005-240, resolution commending Klaasje Nairne for being awarded the prestigious honor of "Airport Executive of the Year" adopted.

Chairperson Bianchi: reads the resolution and presents the same to Ms. Nairne.

Mr. Duane Leib: General Services Director, discusses Ms. Nairne's employment history, work ethic and the changes she has helped implement at the Airport; states Ms. Nairne has "left her mark on the airport."

Ms. Nairne: thanks the Board, Southwest Chapter American Association of Airport Executives, and Mr. Leib for the recognition; states she equates running an airport to running a city; expresses her thanks to staff and other departments for their work in the successful running of the Airport; and her husband for his support.

3 A-2 **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

presentation of employee service recognition awards, approved.

Mr. Richard Greek: Personnel Director, introduces the 20 year employees, with Ms. Mary York, Personnel, presenting their service pins.

Mr. Shawn Retzer - Sheriff-Coroner; Mr. Darren Murphy - Sheriff-Coroner; Ms. Jan Dishen - Sheriff-Coroner; Mr. Doug Ballagh - Social Services; Mr. Jim Frazier - Social Services; Ms. Joyce Fields - Social Services; Ms. Pat Paullus - Social Services; Mr. Randy Genske III - Social Services, are present.

20 year employees that were not present - Mr. Donn Hugh - Sheriff-Coroner; Mr. John Giese - Sheriff-Coroner; Mr. Ken Conway - Sheriff-Coroner; Ms. Wendy Holloway - Sheriff-Coroner; Ms. Erma Stormoen - Social Services; Ms. Kim Dickey - Social Services; Ms. Lori Hunstad - Social Services; and Ms. Shirley Grogg, Social Services.

25-year Employee Recognition Awards, are presented.

Sheriff Pat Hedges: states today the Board is honoring, in total, 355 years of service with the Sheriff-Coroner's office; introduces Commander Martin Basti and discusses his employment history; presents him with his service award.

Commander Basti: thanks the Sheriff, Board and staff for the wonderful experience.

Sheriff Hedges: introduces Mr. Pete Bayer; indicating he retired last month; discusses his employment history and presents him with his service award.

Mr. Bayer: states it was a great career.

Sheriff Hedges: recognizes Mr. Scott Thompson, who is not present and outlines his employment history.

Mr. Lee Collins: Social Services Director, recognizes Ms. Pauline Barnett, who is not present, and provides her employment history and characteristics; and recognizes Ms. Rosa Lopez, who is not present, and provides a brief history of her employment; thanks both Ms. Barnett and Ms. Lopez for their service.

30-year Employee Recognition Awards, are presented.

Chairperson Bianchi: introduces Commander Ben Hall; Sheriff Department, and discusses his employment history.

Sheriff Hedges: thanks Commander Hall for his service; addresses his training of officers; appreciates all his hard work and presents him with his service award.

Commander Hall: discusses the challenges new officers face; thanks the public and the Board for their support for the protection of the community.

Chairperson Bianchi: introduces Deputy Chuck Gasset and outlines his employment history; speaks to his calm attitude in difficult situations particularly involving process serving and the "Cayucos Riot" during a 4th of July celebration; addresses his action regarding a robbery in Paso Robles and the awards he has received during his career.

Sheriff Hedges: thanks Deputy Gasset for his service; states he will be missed with his retirement next month and presents him with his service award.

Deputy Gasset: thanks the Board for the recognition and states "this is the best place in the State of California, maybe the world, to work."

Chairperson Bianchi: introduces Undersheriff Steve Bolts; discusses his employment history; and the impacts he has had the Department.

Sheriff Hedges: addresses Undersheriff Bolts sharing his experience with fellow officers; thanks him for his service and presents him with his service award.

Undersheriff Bolts: states he has worked for 7 Sheriffs; indicates this is a good County to work for; discusses the orientation of new deputies and remembers when he first started; highlights the Department changes he has experienced and thanks the Board and staff for this recognition.

30 year Employee Recognition not present, Mr. Jim Irej, Sheriff-Coroner.

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

Mr. Eric Greening: discusses the local meeting for the Department of Fish & Game this week to address extending hunting hours in Morro Bay; states the public and local agencies have requested a total ban on the hunting; addresses the approaching public comment period on the Bureau of Reclamation Plan regarding dumping of selenium tainted water on our coast and requests the Board agendaize this matter.

Ms. Betty Winholtz: states the City of Morro Bay is hosting a tour for local government officials of the Bay; thanks the Board for the use of the Board Chambers for the Fish and Game meeting; presents photos of trees that have been girdled and poisoned by State Parks and asks the Board to check into the matter.

Ms. Lisa Schicker: asks the Board for their help with the permit process for the Los Osos Wastewater Project; discusses concerns with items that are not addressed in the EIR; urges the Board to agendaize these matters; requests the Board limit the number of permits issued in the area until the matter is discussed between the Board and the Los Osos Community Services District.

Ms. Trudy Jarrett: President of the League of Women Voters, discusses the League’s plan to continue working with the County and County Officials to inform the public of how government works; thanks the Board for their past and future cooperation; and introduces League members that are present.

Mr. Jesse Arnold: discusses the differences in BT and GE corn; states there is still no response from his Tribune letter regarding the safeness of GE corn.

Mr. David Duggan: indicates he has witnessed intimidation of the residents and staff at the Los Osos Community Services District meetings; states he spoke at a meeting to Election Code violations; expresses his concern regarding personal attacks occurring at these meetings and the public’s fear to come to these meetings.

Chairperson Bianchi: states letters opposing selenium dumping in our area is set to come to the Board at the next meeting. **No action taken.**

5 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: speaks regarding Item B-5 and asks the Board to schedule regular updates on the monitoring of the Guadalupe oil field; on Item B-7 questions if money is being used for herbicide or herbicide spraying. **No action taken.**

6 B-1 **Thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Lenthall**
thru **and on the following roll call vote:**
B-10

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

Consent Agenda Items B-1 through B-10 are approved as recommended by the County Administrative Officer.

Consent Agenda Items B-1 through B-10 are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Board of Supervisors Items:

B-1 Reappoint James Miller as a District Four representative to the Fish and Game Fines Committee, **Approved.**

B-2 Reappoint Mary Squellati as a District Four representative to the Children’s Services Network Council, **Approved.**

Other Items:

- B-3 **RESOLUTION NO. 2005-241**, authorizing an application for grant funds in the amount of \$62,368 for a Statutory Rape Vertical Prosecution Program administered by the State Office of Emergency Services, **Adopted**.
- B-4 Two contract amendments with Comerford, Inc. to the Morro Bay Golf Course Pro Shop Concession and the Dairy Creek Golf Course Pro Shop extending the maximum age of the golf cart fleet and authorizing the General Services Director to sign future contract extensions, **Approved**.
- B-5 Agreement with MRS Environmental, Inc. for environmental monitoring services for remediation of the Guadalupe oil field; 4th District, **Approved**.
- B-6 Contract with the Atascadero Unified School District in the amount of \$90,653 to provide two Deputy Probation Officers to continue and further develop the Truancy Reduction Programs in this School District for Fiscal Year 2005-2006; 2) corresponding budget adjustment in the amount of \$75,544, **Approved**; and, **RESOLUTION. 2005-242**, amending the Position Allocation List for Fund Center 139 – Probation Department, by adding one limited term Deputy Probation Officer I/II position, **Adopted**.
- B-7 Authorization to accept funds made available by an agreement with the Drug Enforcement Administration of the United States Department of Justice (DEA) and a corresponding budget adjustment in the amount of \$24,200, **Approved**.
- B-8 Cash procedures review of the San Luis Obispo County Library cash handling procedures at the Atascadero, Morro Bay, South Bay, South County, and San Luis Obispo branches, conducted July 14, 15, & 19, 2005, **Received and Filed**.
- B-9 Policies and procedures for operation and conduct of hearings before the Assessment Appeals Board, **Approved**.
- B-10 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. COAL 04-0552, a proposed lot line adjustment of 2 lots which will not result in any new lots, by Richard & Jannett Beels, Gary & Genevieve Beaird, Tolbert Place, Nipomo Mesa; 4th District, **Approved**.
- 7 C-1 This is the time set for hearing to consider a request to authorize processing of General Plan/Land Use Ordinance amendments (LRP2004-00018-Dally/Viborg) to change the land use category from Agriculture to Residential Rural on a 44-acre parcel, and remove a planning area standard that limits the allowable density on a 15.6-acre parcel in the Residential Rural Land Use Category; two sites are located southeast of the intersection of Neal Spring and South River Roads, approximately 1.7 miles east of the Templeton Urban Reserve Line; 1st District.

Mr. Jim Lopes: Planning, presents the staff report and authorization options.

Mr. Robert Dally: Applicant, presents his report outlining the combined request; highlights the important elements of the request; presents various pictures of the subject area; urges the Board to authorize processing.

Mr. Ole Viborg: Applicant, discusses the previous use of the land; states now is the appropriate time to do something different with the property; urges the Board to authorize processing.

Mr. Peter Hunt: discusses the flexibility of the plan and urges the Board to authorize the processing.

Mr. Eric Greening: questions the size of the agriculture buffer and if agricultural use will be organic.

Mr. Dally: responds that the agricultural use will be organic.

Supervisor Ovitt: discusses the property uses in the area; addresses the high cost of Class II irrigation.

Supervisor Patterson: expresses his concern that the request is not consistent with the Agriculture and Open Space Element; discusses the property uses in the area; states the request to change the use is premature and opposes the land use category change.

Chairperson Bianchi: states she agrees with Supervisor Patterson; doesn't believe the request is consistent with Agriculture Policy 24.

Supervisor Ovitt: states Mr. Viborg owned the property before the TDC program existed and the property won't qualify for agricultural clustering.

Matter is fully discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Achadjian, with Supervisor Patterson and Chairperson Bianchi casting dissenting votes, motion carries and the Board authorizes LRP2004-00018 for processing.

8

C-2 This is the time set for continued hearing (continued from July 19, 2005) to consider upholding the appeal by William Hughes and reverse the decision of the Administrative Hearing Officer to approve a request by Karen Kenney for a Minor Use Permit (MUP)/Coastal Development Permit to use an existing home as a vacation rental within 200 feet of an existing vacation rental on the same street, within the same block; the site is located at 427 Cambridge Street in the community of Cambria; 2nd District.

Ms. Ryan Hostetter: presents staff report and recommendations based on the Board's direction at the last hearing.

Chairperson Bianchi: reads Ms. Kenney's (Applicant) letter into the record.

Mr. Martin Verhaegh: states he supports staff recommendation; discusses the peacefulness of the community of Cambria; discusses the impacts of vacation rentals on neighborhoods and suggests there is a need to review the Vacation Rental Ordinance.

Mr. William Hughes: Appellant, states he supports the staff recommendation; discusses the safety of neighborhoods with vacation rentals in them; urges the Board to uphold the appeal and look at changing the ordinance language from 200 linear feet on the same side of the street to "in all directions."

Mr. Steve Cole: agrees with previous speakers.

Mr. Tom Christian: states he supports the staff recommendation; recommends when ownership of property with a MUP for a vacation rental is transferred, that the new owner should be required to reapply for the MUP.

Mr. Richard Watkins: discusses the Coastal Commission meeting regarding the 200 linear feet on the same side of the street; believes the ordinances being properly applied by County staff; urges the Board to deny the appeal and uphold the decision of the Administrative Hearing Officer.

Ms. Elizabeth Bettenhausen: discusses the importance of vacation rental homes; states there should not be more vacation rentals than residences; believes the 200 linear feet should be changed to "radius"; states there's not a neighborhood feeling when there are so many rentals.

Ms. Jan Lewis: discusses The Tribune article regarding vacation rentals; supports the staff recommendation to uphold the appeal; agrees with previous speakers regarding the need to change to 200 linear feet in radius; suggests the language of the ordinance be modified to address vacation rentals being required to obtain a business license; there should be a special use fee changed; consider limiting the number of rentals in an area; commercial rates should apply regarding water and sewer; discusses having transients in the area which makes Megan's Law unenforceable.

Mr. Eric Greening: suggests when the Board reviews the Ordinance they review the geographical scope.

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

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

the Board upholds the appeal and RESOLUTION No. 2005-243, resolution reversing the decision of the Hearing Officer and disapproving the application of Karen Kenney for a Minor Use Permit/Coastal Development Permit DRC 2004-00158, adopted.

Ms. Hostetter: states the Board will review the Vacation Rental Ordinance in September.

9 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) *Bull v. County of San Luis Obispo*, (2) *Dresser v. County of San Luis Obispo*, (3) *M & R Investment Co. v. Hartzell, et al.*, and (4) *Maria Vista Estates v. County of San Luis Obispo, et al. (CV050242)*.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, § 54956.9.) (5) *Significant exposure to litigation (Gov. Code, § 54956.9(b).)* No. of cases 2. Facts and circumstances not known to potential plaintiff which indicate significant exposure to litigation. (6) *Initiation of litigation (Gov. Code § 54956.9(c).)* No. of cases 2.

II. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6.) It is the intention of the Board to meet in Closed Session to have a conference with its Labor Negotiator concerning the following: (7) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *District Attorney Investigators Association*; (8) Negotiator's Name: *Santos Arrona, Gail Wilcox, Avery & Associates*, Name of employee organization: *Deputy Sheriffs Association*; (9) Negotiator's Name: *Santos Arrona, Gail Wilcox*, Name of employee organization: *Management/Confidential*.

Chairperson Bianchi: opens the floor to public with no response.

Thereafter, pursuant to the requirement 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.

10 D-1 This is the time for presentation of the status of the County Workers Compensation and Safety Programs.

Mr. John Schwind: Safety Officer, presents the staff report; discusses the website and the information available; comments on monthly safety modules; states the Safety Program can help prevent injuries; discusses the lower number of lost workdays since the programs implementation.

Ms. Dorie Duke: Risk Management staff, presents the staff report; discusses the Worker's Compensation Program; thanks Department representatives on the Safety Commission for their work; addresses the County's policy to address problems as soon as possible in order to return employees to work; comments on the reduction in temporary disability loss; states due to the success of the County program they have been asked to make a presentation at the Public Agency Risk Management Association group; discusses what the next steps are.

Mr. David Edge: County Administrative Officer, thanks Mr. Schwind and Ms. Duke for their work; states this presentation is an example of the continuous process that improvements accomplish and discusses the savings to the taxpayer.

No one appearing and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Ovitt and unanimously carried, the Board receives and files the staff report dated August 16, 2005.

- 11 E-1 This is the time set to consider the request to authorize processing Land Use Ordinance Amendments (Title 22 of the County Code) to further implement the Agriculture and Open Space Element, Agriculture Policy 6: Visitor Serving and Retail Commercial Use and Facilities and Agriculture Policy 31: Recreational Use of Agriculture Land; All Districts.

Ms. Karen Nall: Planning, presents the staff report and recommendations.

Mr. Eric Greening: expresses his concern regarding an imbalance in how the Ag & Open Space Element is being applied; urges Board to give a more overall direction before making a decision today.

No one appearing and thereafter, on motion of Supervisor Patterson, seconded by Supervisor Achadjian and unanimously carried, the Board authorizes processing of County-initiated amendments to the Land Use Ordinance (Title 22 of the County Code), relating to the implementation of Agriculture and Open Space Element Policies 6 and 31.

Mr. Warren Hoag: Planning, states the implementation of the Agricultural Policies are ahead of Open Space because of additional help from another department; Open Space policy implementation delay is not intentional.

- 12 E-2 This is the time set to consider the request by the Los Osos Community Services District for the County to become a co-applicant (i.e. co-permittee) on the Los Osos Habitat Conservation Plan (HCP) and apply to the U.S. Fish and Wildlife Service for an endangered species incidental take permit; 2nd District.

Ms. Julie Eliason: Planning, presents the staff report and recommendations; discusses the responsibilities, benefits and concerns of being a co-permittee.

Ms. Lisa Wise: Crawford, Multari & Clark Associates, presents her report and discusses funding.

Ms. Lisa Schicker: Los Osos Community Services District Director, urges the County to participate; doesn't believe the wastewater boundary should be used; states the HCP doesn't address wetland and riparian areas as the staff report suggests.

Mr. Eric Greening: states the County should be a co-partner; there are areas that need some clarification; the Estero Area Plan is being held up until the HCP issues are resolved.

Ms. Carole Maurer: Los Osos Community Advisory Council Chairperson, urges the Board to be a co-applicant and presents a letter from the Council.

Mr. Chuck Stoll: urges Board to be a co-applicant.

Mr. Chad Bye: states the Federal Government is preventing building and weed abatement; there is no risk to participate; County participation will benefit Los Osos property owners; and urges the Board to be a co-applicant.

Ms. Julie Tacker: states the County's participation would allow owners to use their property; states there is a need to stop wasting resources; urges Board to adopt staff recommendation #1.

Mr. Tim McNulty: Deputy County Counsel, discusses the difficulties to amend the Estero Plan and an adopt the HCP; believes the HCP and the Estero Plan would have to be worked on to make them consistent; states participating in an HCP is a big step; indicates the implementation agreement would spell out the liability for the County and the Los Osos Community Services District.

Supervisor Achadjian: states he supports staff recommendation #2; questions if staff is available or if a request for funding will be coming back to the Board and where the funding to support this would come from.

Ms. Ellen Carroll: Environmental Coordinator, states they would have to come back to the Board with a funding plan to address Planning and County Counsel staff time.

Mr. Chris Clark: Crawford, Multari & Clark Associates and representing the Los Osos Community Services District, states funds will come from building fees on individual permits on a per square foot fee in the habitat area.

Supervisor Lenthall: questions what County projects would be held up if the County took the wait and see approach.

Ms. Eliason: states that currently the Los Osos Library project is on hold to see if the County will become a co-applicant to speed up the permit process.

Mr. McNulty: states the Sewer Permit requires an HCP; indicates the HCP has to cover the entire community.

Chairperson Bianchi: states her preference for Option #1.

Supervisor Patterson: questions if the HCP can be expanded after the Fish & Wildlife review.

Mr. Clark: states the HCP can be amended; believes the response from Fish & Wildlife will be positive; there are still many steps to go through and the County can withdraw as a co-applicant if an implementation agreement can't be reached.

Board Members: discuss Option 1 as a commitment to staff time only at this time and the commitment occurs at the time the implementation agreement is signed.

Matters is fully discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Patterson and unanimously carried, the Board becomes a co-applicant on the HCP for Los Osos and directs staff to prepare an application packet and funding plan and bring this back to the Board for review and approval.

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

I, **JULIE L. RODEWALD**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Tuesday, August 16, 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/C.M. Christensen,
Deputy Clerk-Recorder

DATED: August 29, 2005

cmc