

Tuesday, August 23, 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 Ovitt, seconded by Supervisor Achadjian and on the following roll call vote:**

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

NOES: None

ABSENT: None

RESOLUTION NO. 2005-244, resolution recognizing James "Jim" Irey for outstanding public service, adopted.

Chairperson Bianchi: reads the resolution.

Undersheriff Steve Bolts: indicates that Mr. Irey is not present and provides a brief background of Mr. Irey's service to the Sheriff's Department.

2 A-1 **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

RESOLUTION NO. 2005-245, resolution recognizing Charles "Chuck" Gasset for outstanding public service, adopted.

Supervisor Lenthall: reads the resolution and presents the same to Mr. Gasset.

Mr. Gasset: thanks everyone for a great 30 years.

Undersheriff Steve Bolts: speaks to Mr. Gasset's service to the Sheriff's Department and presents him with his service plaque.

3 A-1 **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

RESOLUTION NO. 2005-246, resolution recognizing Peter "Pete" Bayer for outstanding public service, adopted.

Supervisor Achadjian: reads the resolution and presents the same to Mr. Bayer who thanks the Board for the recognition.

Undersheriff Steve Bolts: speaks to the expertise by Mr. Bayer and his service to the County and presents him with his service plaque.

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

Ms. Catherine Manning: states she is representing the Agape Church and invites the Board members out to their dedication service (for their recently built church) on Sunday, August 28th.

Mr. Michael Winn: Chair for the Water Resources Advisory Committee (WRAC), comments on the special meeting they held last week to address the Draft EIS for the San Luis Drainage Feature reevaluation and their unanimous support of the Supervisors' strong opposition to the Ocean disposal alternative two years ago.

Mr. Eric Greening: WRAC member, addresses the Board's prior opposition to the disposal alternative into the ocean; thought this issue would be on the agenda today and is disappointed it's not.

Mr. David Duggan: suggests there are "cross" violations occurring in the County and the Board of Supervisors is not doing anything to stop them.

Chairperson Bianchi: responds to concerns regarding the Board's prior action on the ocean disposal action and not needing to do more as their position is already of record.

Mr. David Edge: County Administrative Officer, states the Board Chair sent out an additional letter on this issue last week to reaffirm the Board's position; responds to Mr. Duggan's comments and believes he is talking about the Los Osos election and indicates that the Board of Supervisors is not a superior body to the Los Osos Community Services District. **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.

Ms. Jan Marx: addresses Item B-26 and reads a letter from Ms. Sarah Christie regarding her request for a refund and her concern to the need for workforce housing.

Mr. Charlie Whitney: addresses Item B-26 and the need for workforce housing; addresses his concerns to Ms. Christie filing this appeal and misusing her position as a Planning Commissioner; urges the Board to uphold the staff recommendation and not waive the fees. **No action taken.**

6 B-1 Consent Agenda Item B-25 is amended by adding several pages that were
thru inadvertently left out of the staff report.
B-27

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

Consent Agenda Items B-1 through B-27 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-27, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Behavioral Health Items:

B-1 2005-2006 renewal contract (Clerk's File) with American Care Home to provide enhanced residential support services for County Mental Health placed individuals at this board and care facility in the amount of \$264,000, **Approved.**

- B-2 Fiscal Year 2005-2006 renewal contract (Clerk's File) with Intelistaf Healthcare, Inc. to provide skilled nursing and psychiatric technician services to Mental Health and skilled nursing services to the Public Health Agency, **Approved.**
- B-3 Fiscal Year 2005-2006 renewal contract (Clerk's File) with Transitions-Mental Health Association to provide mental health services in the amount of \$2,032,751, **Approved.**
- B-4 1) Two renewal agreements (Clerk's File) with the Life Steps Foundation, Inc. for alcohol and drug-free residential treatment services and for a transitional living center; and 2) a corresponding budget adjustment in the amount of \$139,000 from unanticipated revenue, **Approved.**

General Services Items:

- B-5 **RESOLUTION NO. 2005-247**, authorizing execution of a Notice of Completion and Acceptance for the new bullet containment trap at the County Operations Center, **Adopted.**
- B-6 **RESOLUTION NO. 2005-248**, authorizing an application, acceptance of funds and execution of a loan agreement with the State Department of Transportation Aeronautics Division for a low-interest revenue generating loan for the construction project (WBS No. 330002) of 65 T-Hangars at the San Luis Obispo County Regional Airport, **Adopted.**
- B-7 1) A waiver of the Request for Proposal policy; and 2) an amended agreement with The Gordian Group for job order contracting consulting services, **Approved.**

Public Health Items:

- B-8 Two renewal agreements (Clerk's File) for Fiscal Year 2005-2006 with San Luis Obispo County AIDS Support Network for housing activities for people with HIV, **Approved.**
- B-9 1) An employment agreement with Karen Baylor to carry out the duties of the Behavioral Health Administrator; and 2) authorizing the Health Agency Director to sign the employment agreement, **Approved.**
- B-10 1) An amendment to the fixed asset listing for Fund Center 160- Public Health adding equipment and software required to increase the efficiency of the Public Health Laboratory in the event there is a biological threat/attack; 2) a corresponding budget adjustment in the amount of \$134,889 from unanticipated revenue to fund the purchase, **Approved.**
- B-11 Appointment of James Mase, M.D. and Deborah Donnelly as alternates to the San Luis Obispo County Health Commission, **Approved.**

Public Works Items:

- B-12 Amended contract (Clerk's File) with the San Luis Obispo County Flood Control and Water Conservation District to provide funding for the Cambria Flood Control Project and other financing issues and direct staff to evaluate the feasibility of implementing a drainage related facility fee under Government Code 6600 or other applicable codes; 2nd District, **Approved.**
- B-13 **RESOLUTION NO. 2005-249**, amending the County Traffic Regulation Code for the establishment of Highways closed to commercial vehicles on Juniper Street in the community of Nipomo and Viejo Camino located south of the City of Atascadero; 4th and 5th Districts, **Adopted.**
- B-14 **RESOLUTION NO. 2005-250**, amending the Traffic Regulation Code for the establishment of speed limits on Old County Road in Templeton, Tenth Street and Monarch Lane in Los Osos; and Camino Perrillo, Stanton Street and Division Street in Nipomo; 1st, 2nd and 4th Districts, **Adopted.**

- B-15 Budget adjustment in the amount of \$130,000 for preliminary engineering and design services for the Mission Street Flood Control Project in San Miguel; 5th District, **Approved.**
- B-16 Surplusing Public Works replaced Internal Service Fund equipment, **Approved.**
- B-17 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 04-0337, a proposed subdivision resulting in 2 lots, by Vince Vanderlip, Inc., Wisteria Lane, east of Paso Robles, **Approved; RESOLUTION NO. 2005-251**, to approve an Avigation Easement; 1st District, **Adopted.**

Sheriff-Coroner Items:

- B-18 **RESOLUTION NO. 2005-252**, authorizing the Sheriff's Department to submit a grant application to the State Office of Emergency Services for the continuation of a marijuana suppression program, **Adopted.**
- B-19 Request to authorize the Sheriff's Department to submit a grant application to the State Office of Emergency Services for the continuation of the Gang Task Force, **Approved.**
- B-20 "Statement of Operations for the Inmate Welfare Fund" for Fiscal year ended June 30, 2005, **Approved.**

Social Services Items:

- B-21 **RESOLUTION NO. 2005-253**, approving the Fiscal year 2005-2008 Child Abuse Prevention, Intervention and Treatment /Community-Based Grants for the Prevention of Child Abuse and Neglect/Promoting Safe and Stable Families funding plan, **Adopted.**
- B-22 Contract (Clerk's File) with Atascadero Community LINK in support of Child Welfare Services and the CalWORKs programs in the amount of \$30,000, **Approved.**

Other Items:

- B-23 **RESOLUTION NO. 2005-254**, accepting the exchange of property tax revenue and annual tax increment for Annexation No. 71 to the City of San Luis Obispo (Gearhardt, formerly known as McBride), **Adopted.**
- B-24 Submittal from the Auditor-Controller of an investigation report for the February 2005 loss of \$300 from Drug and Alcohol Services' San Luis Obispo office., **Received and Filed.**
- B-25 Request from the Board of Supervisors to approve letters supporting the public protection of the Piedras Blancas Property; All Districts, **Approved as amended.**
- B-26 Request from the Planning & Building Department to consider waiving the \$604 appeal fee related to the appeal by Sarah Christie of the Planning Commission's approval of a request by Denis Sullivan/Cypress Ridge Ltd. Partners for a vesting tentative Tract Map (SUB2003-00208/TR2641) and conditional use permit (D000391D), the appellant has withdrawn the appeal; 5th District, **Request to waive the fee is denied.**
- B-27 Request from the Veterans Services Office to approve Medi-Cal cost avoidance & subvention certificates with the State Department of Veterans Affairs, **Approved.**

- C-1 This is the time set for hearing to consider an appeal by Thomas & Dorie Zwinger of the Planning Commission's decision of May 12, 2005 to not allow a reconsideration of the conditions of approval for Tract 1678 to adjust the originally approved construction control line and building envelope for Lot 1 of Tract 1678 to allow the

construction of a 1,200 square foot secondary dwelling over 250 feet from the existing primary dwelling on a 6.5 acre parcel, located north of the Lopez Lake/Corralitos Road intersection, approximately three miles east of the City of Arroyo Grande; 4th District.

Ms. Stephanie Fuhs: Planning, presents the staff report, site and aerial maps; presents a copy of a packet of information from the Zwinger family; addresses the recommendation of the Planning Commission to deny the reconsideration of the conditions of approval.

Supervisor Achadjian: questions the secondary dwelling and the CC&R's for this tract; comments on the flooding issues; presents a photograph of the road and addresses flooding in that area; questions the use of leech fields, with staff responding.

Mr. Thomas Zwinger: Applicant/Appellant, addresses their request to build a small second dwelling to help out their son; indicates building on the site is limited because of the steepness of the property; addresses the assistance they received from Greg Whitford and his comments regarding discussions with the Planning Department; indicates they worked hard to meet the requirements only to have the Planning Commission deny their request; states they have the support of surrounding neighbors; asks the Board to approve their request.

Mr. Curtis Zwinger: thanks the Board for their consideration of this by allowing their appeal to move forward.

Mr. George Cecchetti: states he is representing his mother and family, addresses the CC&R's for this tract and his concern to the Zwingers changing those to put this home in.

Mr. John Belsher: representing the Cecchetti family, states he believes the Planning Commission did a thorough job; presents an overhead of the building sites for Tract 1678 that was approved in 1990; shows a topographic map for the tract and a number of photographs of the area; urges the Board to uphold the decision of Planning Commission.

Mr. Fred Glick: attorney representing the Zwinger family, gives their closing comments and speaks in support of the Appeal.

Matter is 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 tentatively upholds the appeal and directs staff to prepare the resolution and findings to support this and come back this afternoon for final action on this matter.

Ms. Julie Rodewald: County Clerk-Recorder, presents her report, outlining the Help America Vote Act (HAVA) requirements that were passed by Congress in 2002; speaks to the Voting Modernization Bond Act (VMB) that was passed by the voters in 2002 and the County's share of funding from that is \$1.3 million and requires the County to pay 1/4 of the costs; this money can only be used for voting system hardware and software; the deadline for the funding approval is 12/31/2005; the County's share from HAVA is \$1.69 million and can be used to pay for the County's share that is required through VMB; outlines the three options - Option 1 - Supplement existing OS with 1 Accessible Voting Machine (DRE) at every polling place and highlights advantages/disadvantages of this option; Option 2 - replace the existing system with an optical scan system from Election Systems & Software

(ES&S) and 1 Automark device and highlights the advantages/disadvantages of this option; Option 3 - replace the current system with all DRE's at the polling places and highlights the pros and cons of this option; and, Option 4 would be to take no action and explains the pros and cons of doing that; she is recommending that they purchase the ES&S OS system with Automark and why she believes this is the best option; highlights the next steps to get this implemented.

Board Members: address various issues, comments and concerns regarding: the current practices for assisting the disabled voter; what other types of disabilities are addressed through this Act; what will happen to the old equipment; life expectancy of the equipment; questions regarding security of the proposed system and the paper back up.

Ms. Rodewald: introduces Mr. Tommy Gong, Assistant County Clerk-Recorder.

Mr. Mark Phillips: presents his comments for the record and highlights the same; thanks Ms. Rodewald for her availability in addressing all the concerns he and a group he helped create to address voting concerns had; states he fully supports what Ms. Rodewald is recommending.

Mr. Eric Greening: speaks in agreement with the staff recommendation for Option #2; addresses the needs for the voters to trust the process; concerns that folks who are not literate are not picked up in the accessibility requirements of HAVA; the most important thing is the accuracy of the election.

Ms. Rodewald: responds that there are provisions to assist illiterate voters also.

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, Patterson, Chairperson Bianchi
NOES: None
ABSENT: None

the Board gives the County Clerk-Recorder a vote of confidence to move forward with Option 2 and receives and files the staff report dated August 23, 2005.

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 B 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.*, (4) *Maria Vista Estates v. County of San Luis Obispo, et al. (CV050242)* **ADDED (All requirements of the Brown Act were met as these were posted prior to the 72-hour noticing requirement.)** (11) *Capuano v. California Coastal Commission, et al.*, (12) *County of San Luis Obispo v. Rowan*, (13) *Santa Margarita Area Residents Together v. County of San Luis Obispo* and (14) *Santa Maria Water Conservation District v. City of Santa Maria* .

B. Conference with Legal Counsel B 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*; and, (9) Negotiator's Name: *Santos Arrona, Gail Wilcox*, Name of employee organization: *Management/Confidential*.

III. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code, §54956.8.) It is the intention of the Board to meet in Closed Session to have a conference with its Real Property Negotiator concerning the following: (10) Property Description: *APN 053,412,010 and 053,412,011*, Parties with whom negotiating: *OMKAR Investments*, Instructions to Negotiator will concern: Price, Terms and Conditions.

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: the Board took action on one item in the litigation *Santa Maria Water Conservation District v. City of Santa Maria* and unanimously approved an amended stipulated settlement; also discussed was the Quiet Title action in *Bull v. County of San Luis Obispo* which concerns property in Oceano the complaint was dismissed by the Plaintiff and that litigation has ended and the Board goes into Open Public Session.

10 C-1 Appeal by Thomas & Dorie Zwinger of the Planning Commission's decision of May 12, 2005 to not allow a reconsideration of the conditions of approval for Tract 1678 to adjust the originally approved construction control line and building envelope for Lot 1 of Tract 1678 to allow the construction of a 1,200 square foot secondary dwelling over 250 feet from the existing primary dwelling on a 6.5 acre parcel, located north of the Lopez Lake/Corralitos Road intersection, approximately three miles east of the City of Arroyo Grande; 4th District, is brought back on for hearing.

Ms. Stephanie Fuhs: Planning, presents the resolution based on the Board's tentative action to uphold the appeal this morning.

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

RESOLUTION NO. 2005-255, resolution reversing the decision of the planning Commission and conditionally approving the application of Thomas and Dorie Zwinger for reconsideration of the Conditions of Approval of the tentative tract map for Tract 1678, adopted.

11 D-1 This is the time set for presentation of the revisions to the County Agricultural Buffer Policy.

Mr. Bob Lilley: Agricultural Commissioner, presents the staff report; addresses the definition of a buffer; states the buffer distance is determined by the distance between a building and agricultural operations; comments on other buffering methods and why they are necessary; indicates that buffers reduce land use conflicts; outlines the proposed changes which includes: (1) buffer distance ranges by the type of adjacent agricultural crop; (2) a new section regarding proposed homes for agricultural cluster land division projects needing to be buffered from the remaining agricultural uses; and, another new section regarding (3) adopted buffers will be recorded on the property's deed and shall be disclosed to potential buyers.

Supervisor Achadjian: questions how these changes will affect the trails plan that the Parks and Recreation Commission is working on; addresses his concern regarding conflicts between trails and the buffer policy, with Mr. Lilley indicating he will look into this.

Mr. Eric Greening: addresses his concern to reducing any of the current buffer requirements.

Mr. Michael Winn: addresses the buffer requirement being established to protect the farmer; urges the Board to not reduce the buffers that are in place.

Ms. Karen Mansfield: representing the Ag Task Force, states her board has taken no position on this but they have raised a number of concerns.

Supervisor Ovitt: addresses various changes he would like to see in the policy; addresses his concern to the wording “potential significant” on page D-1-4.

Mr. John Nall: Environmental Specialist, responds regarding the word “significant” and how it is applied by staff.

Board Members: address the request to remove the word “significant” and their concerns that it will lessen the potential and the Board members do not agree to removing that language.

Supervisor Ovitt: speaks to a correction on page D-1-5, 1-C, and replacing the stricken language with the word “a”; page D-1-6, under Referral Process, wants the word “may” in #2 and #3 changed to “shall”; also on #3 addresses his concern to the wording “potential significant”; addresses the wording “margin of safety” in #5; page D-1-7, under #2B - Zoning and suggests the wording “Rural Residential” be added to the language in parentheses; page D-1-8 under Scope, addresses his concern to the second sentence regarding the total buffer distance and suggests deleting the same; page D-1-9, C and his concerns to the language “will not provide alternatives”; believes there is conflicting language on page D-1-10 and D-1-9.

Board Members: discuss alternative language for #3 regarding Buffers and Development Potential with Mr. Nall and Mr. James Lindholm, County Counsel, responding.

Supervisor Lenthall: refers back to page D-1-7 and indicates for the sake of consistency, #6 should be changed from “may” to “shall.”

Supervisor Ovitt: speaks to page D-1-11, B and his concerns to the language of the last sentence that says “zoned parcel(s)” and suggests removing the entire sentence.

Supervisor Patterson: speaks to page D-1-12, #7 and his concern to the language “according to” and would like it changed to “in compliance with”; questions the buffer distance range changes, with Mr. Lilley responding.

Board Members: discuss all the proposed changes and determine which they want to change/amend.

Matter is fully discussed and thereafter, on motion of Supervisor Achadjian, seconded by Supervisor Lenthall and unanimously carried, the Board tentatively makes the following changes to the Agricultural Buffer Policies and Procedures: page D-1-5, 1. Pesticide Use - C, is amended to add the word “a” to replace the deleted language; page D-1-6, under the Referral Process, #2 and #3 the word “may” is replaced with the word “shall”; page D-1-7, #6 at the top of the page, replace the word “may” to “shall” and the language in #2, Zoning-B, the paragraph is amended to delete the language that reads “(anything other than agriculture, or open space or rural lands or zoning)”; page D-1-8 under Scope the new sentence that reads “However, the total buffer distance calculation and recommendation is measured from proposed building sites to the edge of the agricultural operation.” is deleted; page D-1-10, under #3, Buffers and Development Potential, the language in the second sentence is amended to read: “However, with certain types of production agricultural crop uses on agricultural zoned land, the analysis may lead to a recommendation to alter the project.”; Page D-1-11, B, in the last line the words “zoned parcel(s)” are deleted and replaced with “uses”; page D-1-12, #7 the wording “according to” is deleted and replaced with “in compliance with”; and, refers the policy with the changes to the

Agricultural Liaison Advisory Board, Ag Task Force and Farm Bureau for their review and directs staff to return this the Board for final action after these other boards have reviewed the changes.

CHAIRPERSON BIANCHI ADJOURNS THE MEETING IN MEMORY OF TIM MAZZACANO, RETIRED ENVIRONMENTAL HEALTH OFFICER, WHO PASSED AWAY EARLIER THIS WEEK.

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 23, 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: September 2, 2005
vms