

Chairperson Achadjian

NOES: None

ABSENT: None

RESOLUTION NO. 2006-46, resolution commending Thomas W. (Tom) Maier, PhD. for his 27 years of dedicated service to San Luis Obispo County, adopted.

Supervisor Ovitt: reads the resolution and presents the same to Dr. Maier.

Dr. Maier: thanks the Board for the recognition and all the people he has worked with over the years.

Dr. Greg Thomas: Public Health Director, states he has worked with Dr. Maier for the past 18 years and comments on his service to the County; speaks to Dr. Maier's sense of humor and that it will be missed; indicates that Dr. Maier is recognized throughout the State as an expert and is traveling around the State on the Public Health Capacity Assessment program that is assessing public health departments.

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

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

NOES: None

ABSENT: None

RESOLUTION NO. 2006-47, resolution proclaiming February 2006 as "National Meat Month" in the County of San Luis Obispo, adopted.

Chairperson Achadjian: reads the resolution and presents the same to Ms. Sandy Dewar of the Cattlewomen's Association.

Ms. Dewar: thanks the Board for the recognition; addresses the various scholarships they give to students each year; the various programs they put on at the fairgrounds for students to learn about the cattle industry; speaks to the donation of beef they are making to the Food Bank on behalf of the Supervisors.

Mr. Carl Hansen: Food Bank, thanks the Cattlewomen and the Supervisors for this donation.

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

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

NOES: None

ABSENT: None

RESOLUTION NO. 2006-48, resolution recognizing California Polytechnic State University's accomplishments and leadership in fostering awareness about the use of sustainability practices, adopted.

Supervisor Patterson: reads the resolution and presents the same to Dean Tom Jones from Cal Poly.

Dean Jones: thanks the Board for this honor; speaks to the merging partnership, where the campus takes more responsibility for their "stellar" landscapes, student housing, facility housing and the way they teach the next generation.

Mr. Rob Pena: Cal Poly, addresses what will be occurring on campus.

Ms. Sandy Standard: Cal Poly, addresses the efforts that have gone into this program and the energy conservation.

Ms. Betsy Umhofer: from Assemblywoman Lois Capp's office, states she saw their work in Washington D.C. and presents them with a Certificate of Recognition.

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

Mr. William Dickey: speaks to an off-road vehicle course in Templeton and the problems it was causing; Code Enforcement's involvement and then they stopped their process; addresses his concerns to this course continuing to operate.

Mr. Michael Kovacs: responds to questions previously asked by a Supervisor as why he doesn't run for a Supervisorial seat; tells Chairperson Achadjian how he should run the meetings for the year.

Mr. Michael Winn: Water Resources Advisory Committee (WRAC) Chairperson, the Committee did form a study group to look at the excess water capacity at Polonio Pass which is somewhere between 15-17,000 acre feet a year; held their first meeting last month in North County; currently they have no solutions but they are collecting questions.

Mr. David Duggan: states he is a future candidate for the Los Osos Community Services District (LOCSD) Board; comments on the Regional Water Quality Control Board orders on individual septic tanks to empty their tank every six months; addresses his concerns to the hazards of emptying a tank so often and suggests this causes more problems than it fixes.

Mr. Richard Margetson: states that two of the Supervisors will be voting on the dissolution of the LOCSD when it comes before LAFCO; questions what the County will do if it comes back for them to handle the sewer system.

Mr. Eric Greening: states he is a WRAC member and they are in the early stages of the study referenced by Mr. Winn and are nowhere near ready to say it's a project; addresses the Central Coast Water Authority and the possibility of a future request for Board of Supervisors representation on this Board. **No action taken.**

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

Mr. Michael Winn: speaks to Item B-18 and his concerns regarding Pomeroy Road in the area of Nipomo and feels this matter needs to go back to the community for more discussion before it's approved.

Mr. Eric Greening: speaks to Item B-6 and agrees with most of the suggested legislation; has concerns regarding page 6, Item 1-c regarding drive-through businesses and feels this issues should be regulated by local government and not the State; addresses page 7, Item 1f regarding the Coastal Commission and page 14 regarding binding arbitration; there should be an additional item regarding local control for biosolid land application; suggests motor oil should be taxed for local use.

Mr. David Broadwater: addresses Item B-1 and presents a letter to the Board regarding the interim moratorium ordinance on sewage sludge land application; highlights the information regarding heavy metal and pathogen limits; urges the Board to extend this ordinance when it is heard on February 28, 2006.

Mr. David Duggan: comments on Item B-1 and questions "if sludge is a bad thing why is it being put in the middle of Los Osos"; comments on Item B-18 and his concerns regarding the speed on Pecho Road in Los Osos.

Mr. Michael Kovacs: comments on items on the Consent Agenda and expending \$3 million and wants to know why these items weren't budgeted for; speaks to Item B-28 and questions why there are so many committees that the Board appoints to; questions whether some of these committees could be combined. **No action taken.**

8 B-1 Consent Agenda Item B-6 is withdrawn for separate action. Item B-8 is amended to thru change the lease with the American Legion - Arroyo Grande Post 136, at their

request,

B-30 located at 417 1/2 Orchard Ave., to allow Camp Fire to extend their agreement to remain at this location until May 31, 2006. Item B-16 is amended to correct the coversheet, transmittal and staff report to reflect the correct budget adjustment amount of \$473,981. Item B-18 is amended to add direction to staff to return to the community of Nipomo to further discuss speed limits on Pomeroy Road. Item B-23 is amended to correct page 2 of the staff report to correct the size of the parent parcel of land to 40.91 acres and the size of the open space easement to 3.58 acres.

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

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

Consent Agenda Items B-1 through B-30 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-30, as amended, are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items Set for Hearing/Bid Opening:

B-1 Introduction of a proposed ordinance extending an Interim Moratorium on the Land Application of treated sewage sludge/biosolids, **Approved and the Clerk is instructed to give notice of hearing set for February 28, 2006 at 9:00 a.m..**

B-2 Plans and specifications (Clerk's File) for supplemental contract construction plans for the enhancement of Main Street in Cambria; 2nd District, **Approved and the Clerk is instructed to give notice of bid opening date set for March 9, 2006 at 3:00 p.m..**

B-3 Plans and specifications (Clerk's File) for the 2006 AC Pavement Overlay (Contract No. 300275) in the County; All Districts, **Approved and the Clerk is instructed to give notice of bid opening date set for March 9, 2006 at 3:00 p.m..**

Administrative Office Items:

B-4 **RESOLUTION NO. 2006-49 and 2006-50**, authorizing the 2006-2009 Memorandums of Understanding between the County and the Deputy Sheriff's Association Law Enforcement and Supervisory Law Enforcement Units, **Adopted.**

B-5 **RESOLUTION NO. 2006-51**, adjusting compensation for management peace officers in the Sheriff's Department, **Adopted.**

B-6 Request to approve the proposed 2006 Legislative Platform for the County, **Withdrawn for separate action.**

General Services Items:

B-7 Amendment # 1 to an agreement with Duncan Road Venture for office space currently used for Health Agency outreach operations located at 3183 Duncan Road in the City of San Luis Obispo, **Approved.**

B-8 Amendment # 1 to an agreement with the American Legion – Arroyo Grande Post 136 to add the ancillary building at 417 1/2 Orchard Avenue in the City of Arroyo Grande to their current lease at 417 Orchard Avenue (also know as the Arroyo Grande Veterans Memorial Building, **Approved as amended.**

B-9 Agreement with the Cambria Community Services District for the development of a community park on the East Ranch, **Approved.**

B-10 Contract (Clerk's File) with Westberg + White Inc. for final engineering

design and construction documents for the proposed rental car facility at the San Luis Obispo County Regional Airport, **Approved.**

Health Agency Items:

B-11 Budget adjustment (Drug and Alcohol) in the amount of \$37,700 from unanticipated revenue for services to be provided by the South County Youth Coalition, **Approved.**

B-12 Budget adjustment (Drug and Alcohol) for Driving Under the Influence (Fund Center 375) in the amount of \$50,000 from contingencies to the salaries and maintenance accounts. The budget adjustment will allow for the funding of an existing part-time position and for minor maintenance work, **Approved.**

Pension Trust Items:

B-13 **RESOLUTION NO. 2006-52**, amending the San Luis Obispo County Employees' Retirement Plan to implement a "3% at 50" pension plan for sworn safety employees, **Adopted.**

B-14 **RESOLUTION NO. 2006-53**, amending the San Luis Obispo County Employees' Retirement Plan to implement a "3% at 50" pension plan for safety management employees, **Adopted.**

Planning and Building Items:

B-15 **RESOLUTION NO. 2006-54**, approving an avigation easement from Centex Homes for property located near the San Luis Obispo County Regional Airport; 3rd District, **Adopted.**

B-16 Budget adjustment in the amount of \$848,222 in grant funds from the 2004 Federal Supportive Housing Program; All Districts, **Approved as amended.**

Public Works Items:

B-17 **RESOLUTION NO. 2006-55**, amending the traffic regulation code establishing disabled person's parking and angled parking spaces on Cammatti Street in Shandon; Murphy Avenue in Santa Margarita; establish disabled parking on Seventeenth Street & Nineteenth Street in Oceano; 1st, 4th and 5th Districts, **Adopted.**

B-18 **RESOLUTION NO. 2006-56**, amending the traffic regulation code for the establishment of speed limits on Oak Park Road, north of the City of Arroyo Grande; Woodland Hills Road and Pomeroy Road, south of the City of Arroyo Grande, Pecho Valley Road and Los Osos Valley Road in Los Osos; 2nd and 4th Districts, **Adopted and additional staff direction is given.**

B-19 **RESOLUTION NO. 2006-57**, authorizing the Department of Health Services Proposition 50 Funding Program Grant in the amount of \$135,000 for installation of a granular activated carbon filter at the Cayucos Water Treatment Plant for County Service Area 10 (Cayucos); 2nd District, **Adopted.**

B-20 1) Amend the fixed asset list for Fund Center 405 – Public Works ISF to replace a failing microfilm reader/printer (N00-E063) at an estimated cost of \$12,000 with Public Works Department Equipment Replacement Funds; and 2) declare the microfilm reader/printer identified as (N00-E063) as surplus; All Districts, **Approved.**

B-21 Request to authorize the surplus and sale of various vehicles and equipment from the Public Works Fleet; All Districts, **Approved.**

B-22 Budget adjustment in the amount of \$17,000 for additional public education and outreach covering the 2005-2006 Countywide Storm Water Pollution Prevention Public Education and Outreach Program; All Districts, **Approved.**

B-23 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: Tract 2341 – Unit 2, a proposed subdivision resulting in 160 lots by Woodlands Ventures LLC,

Dawn Road at Via Concha, Nipomo Mesa; reject the offer of dedication for streets, pedestrian access and drainage, without prejudice to future acceptance, **Approved as amended; RESOLUTION NO. 2006-58**, to approve an open space easement agreement; 4th District, **Adopted**.

Social Services Items:

B-24 Amended contract with the In-Home Supportive Services Public Authority for Fiscal Year 2005-2006, **Approved**.

B-25 Contract for professional communication materials with Barnett Cox & Associates in the amount of \$51,762 related to the Child Welfare Redesign initiative, **Approved**.

Other Items:

B-26 **RESOLUTION NO. 2006-59**, amending the Position Allocation List and setting salary for the Agricultural Measurement Standard Technicians I and II positions, **Adopted**.

B-27 Submittal from the Auditor-Controller of a cash procedures review of the County Treasurer's Office conducted on December 19, 2005, **Received and Filed**.

B-28 Request from Chairperson Achadjian regarding appointments of Board members to various committees and commissions, **Approved**.

B-29 1) A budget adjustment (Farm Advisor) in the amount of \$9,732; and 2) amend the fixed asset list adding a new copier/printer/scanner, **Approved**.

B-30 1) A contract with IronPoint for purchasing a Content Management System in the amount of \$119,500; and 2) a corresponding budget adjustment in the amount of \$295,000 within accounts, **Approved**.

9 B-6 Request to approve the proposed 2006 Legislative Platform for the County, is presented.

During the Consent Agenda Supervisor Patterson raised concerns that this should be a discussion item and not just put on as a Consent Agenda Item; believes there are additional items that should be reviewed for possible legislation changes.

A motion by Supervisor Patterson to bring this matter back at the February 14, 2006 meeting for more discussion, dies for lack of a second.

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

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

the Board approves the proposed 2006 legislative platform for the County of San Luis Obispo as outlined in the staff report dated February 7, 2006.

10 C-1 This is the time set for continued hearing (continued from December 6, 2005) to consider an appeal by Servtec Investments, LLC of the Subdivision Review Board's disapproval of a request by Servtec Investments, LLC for lot line adjustment COAL 04-0503 (SUB2004-00166); the proposed project is located on the east side of Thompson Avenue, approximately one mile south of the Tefft Street/Thompson Road intersection, south of the community of Nipomo; 4th District.

Ms. Stephanie Fuhs: Planning, presents the staff report and highlights the direction of the Board at the last hearing on this issue.

Mr. Michael Winn: states for the record this project is west not east of Thompson.

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

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

RESOLUTION NO. 2006-60, resolution reversing the decision of the Subdivision Review Board and conditionally approving the application of Servtec Investments, LLC for lot line adjustment COAL 04-0503 (SUB2004-00166), adopted. Further, the Mitigated Negative Declaration in accordance with applicable sections of CEQA is adopted.

11 C-2 This is the time set for hearing to consider a resolution to vacate a portion of Sixth Street in the town of Cayucos; 2nd District.

Mr. Tim Smith: Right-of-Way Agent, presents the staff report and recommendation.

Mr. Phil Weber: urges the Board to support the staff recommendation.

Mr. Ed Carnegie: Cayucos Advisory Council member, states the Council did not approve a complete abandonment of this Road.

Ms. Mary Ann Carnegie: Cayucos Advisory Council Land Use Committee member, addresses their concern regarding the abandonment and access to the park.

Ms. Jean Bettencourt: addresses her concern to the safety of this road and how narrow it is; concerns to emergency access in this area.

Supervisor Bianchi: questions whether this can be continued to address this matter.

Mr. Smith: responds and addresses the General Plan Conformity Report and the issue of access and the steepness of the road were addressed in this report.

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

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

RESOLUTION NO. 2006-61, resolution vacating a portion of Sixth Street, a purported public road in the town of Cayucos, Supervisorial District No. 6, adopted. Further, directs that the Cayucos Citizens Advisory Committee's recommendations go to the Planning Department to be attached to any building plans that may come in.

12 C-2 This is the time set for hearing to consider a resolution to vacate portions of Seventeenth, Eighteenth and Mission Streets in the community of San Miguel; 1st District.

Mr. Tim Smith: Right-of-Way Agent, presents the staff report and recommendation.

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

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

RESOLUTION NO. 2006-62, resolution vacating portions of Seventeenth and Eighteenth Streets, purported public roads, and a portion of Mission Street, County Road No. 6016 in the Town of San Miguel, Supervisorial District No. 1, adopted.

13 C-3

This is the time set for hearing to consider an appeal by Luis Chavez of the South County Road Improvement Fee for property located on Cherry Blossom Place in the South County Road Fee area; 4th District.

Mr. Richard Marshall: Public Works, presents the staff report and recommendation.

The Applicant/Appellant is not present.

No one appearing and thereafter, on motion of Supervisor Patterson, seconded by Supervisor Bianchi and unanimously carried, the Board denies the appeal.

14 C-4

This is the time set for hearing to consider an appeal by Dan Kirk of the Planning Commission's approval of a request by Unocal Corporation to amend Coastal Development Permit/Development Plan (D890558D) to transport Non-hazardous Hydrocarbon-Impacted Soil (NHIS) from the Guadalupe Oil Field to the Santa Maria Landfill; 4th District.

Mr. John Nall: Environmental Specialist, introduces the item and the consultants from the Morro Group and MRS, who will present the staff report.

Mr. Bill Henry: Morro Group, presents the staff report providing a brief overview of the project; presents a site and aerial map; addresses the locale of the project from the Santa Maria landfill; highlights the issues of the appeal and staff response to each; recommendation is to deny the appeal and uphold the Planning Director's decision.

Mr. Dan Kirk: Appellant, presents a packet of information for the record entitled "Guadalupe Project SEIR Appeal Hearing" dated February 7, 2006; addresses his concern to there not being any opposition to the comments on the transportation of soil to the landfill.

Mr. David White: Appellant, states the public has not been included in the

process; indicates a number of the affected properties are in Santa Barbara County and that makes this a multi-agency project/jurisdictional matter; gives a powerpoint presentation; indicates residents in Santa Barbara County did not receive a notice of the hearing; highlights their concern to violations of CEQA with respect to this project; requests decertification of the SEIR.

Supervisor Bianchi: questions whether this went to the Santa Barbara County Board of Supervisors with Mr. White responding it did not.

Mr. Gonzalo Garcia: representing Unocal, states the staff and consultants have done a very thorough job; states they have the approval of the City of Santa Maria for this proposal; feels this is a “win-win” for all.

Mayor Larry Lavngnino: City of Santa Maria, states the City did receive all noticing, etc. required for this project; the City approved the second EIR and they fully support the project.

Ms. Diane Kukol: Regional Water Quality Control Board (RWQCB) staff, comments on regulating the Santa Maria Landfill and monitoring the cleanup of the landfill; urges the Board to uphold the SEIR.

Mr. Thomas Gibbons: Appellant, gives their closing arguments and suggests the landfill should be part of the project and isn't; feels “due process” has not occurred and urges the Board uphold their appeal.

Board Members: address various issues, comments and concerns regarding: why this didn't go to the Santa Barbara County Board of Supervisors; and, the noticing requirements for a multi-agency project.

Mr. John Peirson: MRS, states that Santa Barbara did hold a meeting on the document; Air Pollution Control District and Public Works from Santa Barbara County also provided written comments in the document and reviewed the transportation issues.

Board Members: address various issues, comments and concerns regarding: noticing and that this County did what it was required to do and if Santa Barbara needed to do something and didn't then the issue is with that County; questions regarding the transportation issues and the requirement for multiple routes which would require input from the various agencies involved, with Mr. Peirson responding.

Mr. Kirk: speaks further indicating the interaction in Santa Barbara County was with agencies not the public.

Mr. Duane Chisholm: City of Santa Maria, states that the proper noticing was given in their County and that all the transportation routes (all five) are well defined in the document.

Matter is fully discussed and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Patterson and unanimously carried, the Board denies the appeal and upholds the July 28, 2005 Planning Commission decision to Certify the Final Supplemental Environmental Impact Report and approves the amendments to Coastal Development Permit/Development Plan D890558D based on the Findings in Exhibit A and the revised Conditions of Approval in Exhibit B as outlined in the staff report dated February 7, 2006.

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) County of San Luis Obispo v. Level 3 Communications, (2) In re Union Pacific Railroad San Miguel Crossing, (3) Building a Better Environment v. County of San Luis Obispo, (4) Save the Park v. County of San Luis Obispo, et al., (5) County of San Luis Obispo v. Andre, et al. (6) Kyle, et al.

v. County of San Luis Obispo, et al. and ADDED (All requirements of the Brown Act were met as this was posted prior to the 72-hour noticing requirement.) (17) In re FERC Relicensing of Lake Oroville.

B. Conference with Legal Counsel - Anticipated Litigation (Gov. Code, §54956.9.) (7) *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. (8) *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: (9) Negotiator's Name: *Santos Arrona, Gail Wilcox, Dori Duke*, Name of employee organization: *Sheriffs Management*; (10) Negotiator's Name: *Santos Arrona, Gail Wilcox, Dori Duke*, Name of employee organization: *Deputy Sheriffs Association*; (11) Negotiator's Name: *Santos Arrona, Gail Wilcox, Dori Duke*, Name of employee organization: *SLOGAU*; (12) Negotiator's Name: *Santos Arrona, Gail Wilcox, Dori Duke*, Name of employee organization: *SLOCEA*; (13) Negotiator's Name: *Santos Arrona, Gail Wilcox, Dori Duke*, Name of employee organization: *Deputy County Counsels Association*; (14) Negotiator's Name: *Santos Arrona, Gail Wilcox, Dori Duke*, Name of employee organization: *District Attorney Investigators Association*; (15) Negotiator's Name: *Santos Arrona, Gail Wilcox, Dori Duke*, Name of employee organization: *Management/Confidential*; (16) Negotiator's Name: *Santos Arrona, Gail Wilcox, Dori Duke*, Name of employee organization: *SLOCPPOA*.

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

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

CHAIRPERSON ACHADJIAN CALLS FOR A MOMENT OF SILENCE IN MEMORY OF LORETTA SCOTT KING.

16 C-5 This is the time set for hearing to consider an appeal by Deutsche Bank National Trust Company as successor trustee under declaration of trust of Eugene Rene Leroy, and Borel Private Bank & Trust, as trustee of the Jean Leroy Family Trust/Harrell Fletcher, Fletcher-Cross & Associates, of the Planning Director's determination concerning application for Certificates of Compliance C04-0165 (SUB2003-00142) and a portion of Certificates of Compliance C04-0164 (SUB2003-00139) for 9 lots ranging in size from approximately 80 acres to 127.65 acres in the Agriculture Land Use Category; the project is located at 2105 Guadalupe Road, 2351, 2426 and 1234 Division Street, south of the Community of Nipomo; 4th District.

Ms. Jo Manson: Planning, presents the staff report and outlines the issues of the appeal; indicates the Appellant is requesting recognition that 10 individual parcels exist and 10 unconditional Certificates of Compliance may be approved; two unconditional Certificates of Compliance has been recorded to date per agreement with staff and the Appellant; based on additional deeds submitted with the appeal application the legality of 3 of the 10 requested parcels was confirmed and unconditional Certificates of Compliance can be approved and is noted in the staff recommendation; this hearing is an appeal of the Planning Director's that there is insufficient deed verification regarding the remaining 7 of 10 requested parcels for unconditional Certificates of Compliance; staff recommendation is direct the Appellant to apply for 2 Conditional Certificates of Compliance instead of approving 7 unconditional Certificates of Compliance as requested by the Appellant.

Mr. Bob Schiebelhut: representing the Leroy Family Trust, presents a history of the property; states they are asking that the lots all be recognized as individual lots and not have them consolidated; presents a graph showing why these lots are not the same as the *Gardner v. County of Sonoma*.

Mr. James Lindholm: County Counsel, addresses the *Gardner* case and what

a Probate Court can and can't do; and they can't create parcels on any property.

Ms. Kim Murry: Planning, addresses creating Conditional Certificates and the possibility of no conditions being required.

Board Members: discuss what has occurred with these parcels; roads that have been recognized in this area since the 1800's; the 1913 Act that recognized these as lots but did not create them; each lot is more than 40 acres; questions the line between the lots, with Mr. Lindholm responding.

A motion by Supervisor Bianchi, seconded by Supervisor Patterson to adopt the resolution upholding the appeal in part and modifying the decision of the Planning Director to recognize and approve unconditional Certificates of Compliance for three legal parcels for a portion of SUB2003-00139/CO4-0164, and direct the Appellant to apply for two Conditional Certificates of Compliance for illegally created parcels for SUB2003-00142/C04-0165 and portion of SUB2003-00139/C04-0164 based on the findings listed in Exhibit A, fails on the following roll call vote:

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

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

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

the Board tentatively upholds the appeal and allows for seven (7) Unconditional Certificates of Compliance and continues said hearing is continued to April 4, 2006 at 9:00 a.m. for final action.

- 17 C-6 This is the time set for continued hearing (continued from July 26, 2005) to consider the environmental determination for Tentative Tract 2251/Development Plan D990109D/Coastal Development Permit; Anastasi Construction Co.; the project is located on the east side of Pecho Valley Road, approximately 350 feet south of Montana Way in the community of Los Osos; 2nd District.

Mr. Mike Wulkan: Planning, indicates that the Applicant has agreed to do the EIR on the project and the hearing does not need to go forward.

Ms. Terry Farris: neighbor, expresses her concern to this project and is glad the Applicant has agreed to go forward with the EIR. **No action taken.**

- 18 D-1 This is the time set for continued consideration (continued from April 19, 2005) of a Land Use Element amendment application (LRP2004-00005 – Cypress Ridge, L.P) to: 1) amend the South County (Inland) Area Plan by changing the land use category on an approximately 147 acre site from Residential Rural to Residential Suburban, and changing the Palo Mesa Village Reserve Line (VRL) to include the subject property; and 2) change the Agriculture and Open Space Element land use designation from Small Lot Rural to Urban Lands; 4th District.

Mr. Brian Pedrotti: Planning, presents the staff report and outlines the request; addresses the six major issues associated with the proposed land use change; highlights the two options for the Boards consideration.

Chairperson Achadjian: questions whether there is a requirement for supplemental water before this can be developed, with Mr. Pedrotti responding.

Ms. Patti Whelan: Cannon and Associates, states they have been working with the Applicant, Dennis Sullivan, since 2003; Mr. Sullivan has a proven history with good projects in the County; states they will have to prove supplemental water

before they can do the project and they cannot draw from the aquifer.

Mr. Dean Coker: representing the Applicant, presents an aerial photograph of the area and copies of a vicinity map; a map of the Village development level; map of the Village and Nipomo Urban area; agriculture setback and buffer area map; believes they should be allowed to submit their application and allow it to go through the rigors of the process and an EIR.

Mr. Dennis Sullivan: Applicant, states he has been work on Cypress Ridge for 13 years; outlines the various uses/events that have occurred at this location over the years.

Mr. Michael Winn: Vice President for the Nipomo Community Services District (NCSD), addresses the request and questions where the water will come from.

Ms. Marianne Buckmeyer: addresses her concerns regarding the increase in traffic and the impacts from this.

Mr. Chris McSweeney: addresses his concerns to this request and the impacts it will have on the quality of life in this area; concerns regarding the increase in traffic; states people bring pollution of all kinds; states that once the building is finished it can't be undone.

Mr. Ed Eby: NCSD Director, supports comments by Mr. Winn; indicates that supplemental water is not yet under contract with the NCSD with Santa Maria; addresses his concerns to this process as a private citizen and two maps - one showing the various village areas in South County and the other showing Urban and Higher density GPA's that either are underway or have already been approved in the same areas in the South County.

Mr. Abbey Silverstone: addresses the proposal and speaks in support of the same; comments on his view of the support by the public for this proposal at the Nipomo Community Advisory Committee (NCAC) meeting.

Mr. Jim Pelkey: urges the Board to deny this request; states the Mesa is already at a Level III Severity for water; this should, at the very least, be postponed until supplemental water is in place.

Mr. Eric Greening: feels this is not a timely request; suggests this request does not comply with Ag Policy #11; doesn't want to see this project go forward until there is water in the pipeline.

Ms. Susie Hermreck: Chair for the NCAC, addresses the project and the meeting they held where they recommended denial.

Ms. Mary Woodson: reads a statement from the Traffic Chair for the NCAC outlining their concern to the traffic impacts from this project and urges the Board to not support authorization.

Mr. Jesse Hill: states he was previously the Chair of NCAC GPA Committee and discusses their review of this project; suggests this is a tough one and doesn't want to see the Applicant go through the whole process and just be denied.

Ms. Kami Griffin: Planning, responds to issues raised by the public.

Chairperson Achadjian: addresses all the information, emails, letters and notes from the NCAC meetings he received and presents them for the record; states from this correspondence he received 49 in support of the project and 16 against; addresses the issue.

Supervisor Bianchi: addresses the issue; highlights the other agencies that have been contacted on this and the number that are opposed to this moving forward; states she doesn't support this authorization.

Supervisor Patterson: addresses his concerns and concurs with comments by Supervisor Bianchi.

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

Matter is fully discussed and thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Patterson, with Supervisor Ovitt casting a dissenting vote, motion carries and the Board does not authorize LRP2004-00005 - Cypress Ridge, L.P. for processing.

19 C-7 This is the time set for hearing to consider an appeal by Mission Gardens Estates of the Planning Commission's approval of a request by Mission Gardens Estates for a vesting tentative tract map and conditional use permit for Tract 2527; 1st District.

Mr. Steve McMasters: Environmental Specialist/Planning, presents the staff report; background on the project including the grading done by the Applicant that included neighboring properties (owned by the Diocese of Monterey); the on and off-site areas that were graded included archaeological and historical resources associated with Mission San Miguel; addresses the EIR that was prepared/circulated for review and comment; the Mission Gardens Cultural Resources and the Diocese parcels are the site of Neophyte quarters and the Mission Orchard; the Neophyte quarters are an extremely rare resource and explains; outlines the mitigations to address the disturbance of this site by the grading; addresses the Data Recovery (Phase III) and comments on the sample size being proportional (% of area/volume impacted); comments on Condition #46(c) that addresses the Mission Gardens Cultural Resource Mitigations that will create a fund equivalent to the cost of the Data Recovery for the area disturbed by the illegal grading; addresses the issues raised in the appeal and the staff response to the same; comments on the additional information staff provided today that includes a letter from the State office of Historic Preservation (dated 2/7/06) and Revised CEQA Findings.

Mr. John Foster: Greenwood and Associates & consultant for the County, presents slides of the last areas left of the Neophyte quarters; photographs of the graded areas and those that show the mud brick that is still intact.

Mr. John Belsher: representing Mr. Wimer, Applicant/Appellant, provides a powerpoint presentation that includes photographs of the site in 1939 and April 3, 1949; comments on structures left from World War II by Camp Roberts; presents photographs of the site from 1950 and June 22, 1963; photographs of the site disturbance; suggests the sampling should not be more than 25% of the total area impacted.

Mr. Bud Wimer: Applicant/Appellant, states he has owned the property since 1977 and didn't know there was any neophyte housing on the property until a neighbor told him when he took out the pipes, etc.; presents photographs of the fencing he put up in 1978.

Mr. James T. Larson: Salinian Indian Tribe, states the Mission has a lot of meaning to the Tribe; many of their ancestors are buried there; states the Mr. Wimer should pay full cost for the damage.

Mr. Eric Greening: speaks in support of the staff recommendations with the revised Condition 46(c) they presented and explains.

Ms. Donna Haro: Tribal Council Chairwoman of the Jolon-Salinian Tribe, states they don't like the word Neophyte and find it offensive; they believe that 100% of this area should be surveyed; states she walked this site and it "hurt her spirit" to see the damage; there were multiple units with fire pits in the middle where her people cooked and took care of their babies.

Mr. Robert Vessely: addresses the need to understand the importance of this area and the need to protect them.

Mr. Ralph McCarthy: addresses his concern that the cost of this mitigation will be passed on to future homeowners.

Dr. John Parker: Registered Archeologist, states this illegal grading destroyed a national historical landmark; urges the Board to uphold the Planning Commission recommendation and believes the Applicant needs to pay the full fee.

Mr. Robert Hoover: Archeologist, addresses his involvement with this issue and his work with Mission San Antonio.

Ms. Janice Meyers: addresses her involvement with this and wants to see the fine monies going back into the Mission and the community of San Miguel.

Mr. Belsher: gives his closing comments indicating there has already been a court decision on this matter.

Mr. McMasters: presents revised language for Condition 46(c).

Supervisor Bianchi: addresses the destruction of this property and supports 100% payment of wherever is left.

Supervisor Lenthall: addresses the issue and the impact of what occurred.

Supervisor Ovitt: addresses the issue; believes only one Condition is being argued and that is 46(c); presents his suggestion for language for this and feels that any money received from this should stay in the community.

A motion by Supervisor Ovitt to tentatively partially uphold the appeal and amend Condition 46(c)1 that was presented by staff to read: “Develop a comprehensive mitigation package to compensate for the impacts that occurred due to grading of the Diocese properties. The mitigation package shall include the use of geophysical testing (with permission of the Diocese of Monterey) to map and study the remaining portions of the Native American quarters and create a fund to pay for future studies or projects related to the Native American resources associated with the Mission San Miguel. This fund shall be held in trust by the California Mission Studies Association, California Missions Foundation or compatible non-profit organization as approved by the County and the Salinian Tribe. The total of the mitigation project shall not exceed 25% of the cost of the mitigation package equivalent to that includes geophysical testing and excavation. The cost of the 25% is calculated at \$225,000 for which a credit of \$70,000 be awarded to the Applicant for prior and future archaeological work. Preference use of these funds shall be given to the studies or resources related to Native American culture at the Mission San Miguel.”, is discussed.

Mr. James Lindholm: County Counsel, speaks to the need to make this a tentative motion to allow staff time to “wordsmith” the Board’s direction into a detailed condition.

Supervisor Bianchi: states that the Diocese of Monterey has not agreed to the geophysical testing and it’s another reason this should be a tentative motion.

Supervisor Ovitt agrees to add to his motion that this item be continued to April 4, 2006.

Supervisor Patterson: questions how 25% was arrived at and believes it should be 100% with Supervisor Ovitt and Mr. McMasters responding.

Mr. John Fowler: representing the Diocese of Monterey, states that there has not been a decision made one way or another; they have been given some information by the Applicant but aren’t sure that information is accurate; this information has only recently surfaced as an option.

Ms. Hero: states in her experience there has never had a problem working with the Diocese in the past; they will be 100% supportive of the testing.

Mr. Belsher: they do support the geophysical notion; believes Condition 46(c) is to figure out what it would cost to do the analysis and then make that the mitigation fund; it isn’t to actually do the physical work; they don’t believe a tentative motion is

in order here.

Supervisor Ovitt restates his motion to tentatively partially uphold the appeal and amend Condition 46(c)1 that was presented by staff to read: “Develop a comprehensive mitigation package to compensate for the impacts that occurred due to grading of the Diocese properties. The mitigation package shall include the use of geophysical testing (with permission of the Diocese of Monterey) to map and study the remaining portions of the Native American quarters and create a fund to pay for future studies or projects related to the Native American resources associated with the Mission San Miguel. This fund shall be held in trust by the California Mission Studies Association, California Missions Foundation or compatible non-profit organization as approved by the County and the Salinian Tribe. The total of the mitigation project shall not exceed 25% of the cost of the mitigation package equivalent to that includes geophysical testing and excavation. The cost of the 25% is calculated at \$225,000 for which a credit of \$70,000 be awarded to the Applicant for prior and future archaeological work. Preference use of these funds shall be given to the studies or resources related to Native American culture at the Mission San Miguel.” and continuing this hearing to April 4, 2006 at 9:00 a.m., is further discussed.

Mr. Belsher: would agree to the continuance and asks for clarification of Condition 46(c) indicating they had requested that the monies in this mitigation package be applied to archeological work required of the Applicant through the conditions of approval; asks that this issue be clarified.

Supervisor Bianchi: questions whether there is any way to also include a “rewrite” of the Statement of Overriding Considerations.

Mr. McMasters: will look at those if the Board can clarify what additional benefits they want added.

Supervisor Bianchi seconds the motion with the understanding that a rewrite of the Statement of Overriding Considerations will be reviewed.

Motion is further discussed by the Board and the understanding that while the motion speaks to 25%, 100% can see be considered and recommended when this matter comes back.

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

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

the Board tentatively partially uphold the appeal and amend Condition 46(c)1 that was presented by staff to read: “Develop a comprehensive mitigation package to compensate for the impacts that occurred due to grading of the Diocese properties. The mitigation package shall include the use of geophysical testing (with permission of the Diocese of Monterey) to map and study the remaining portions of the Native American quarters and create a fund to pay for future studies or projects related to the Native American resources associated with the Mission San Miguel. This fund shall be held in trust by the California Mission Studies Association, California Missions Foundation or compatible non-profit organization as approved by the County and the Salinian Tribe. The total of the mitigation project shall not exceed 25% of the cost of the mitigation package equivalent to that includes geophysical testing and excavation. The cost of the 25% is calculated at \$225,000 for which a credit of \$70,000 be awarded to the Applicant for prior and future archaeological work. Preference use of these funds shall be given to the studies or resources related to Native American culture at the Mission San Miguel.”, directs that a rewrite of the Statement of Overriding Considerations be reviewed and continues this hearing to April 4, 2006 at 9:00 a.m.

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 to the Board of Supervisors retreat on February 14, 2006 at 10:00 a.m. at the County Government Center Training Room 162.

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, February 7, 2006, by the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts.

JULIE L. RODEWALD, County Clerk-Recorder
and Ex-Officio Clerk of the Board of Supervisors

By: /s/Vicki M. Shelby,
Deputy Clerk-Recorder

DATED: March 16, 2006

vms