

Tuesday, May 2, 2006

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

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY CHAIRPERSON K.H. 'KATCHO' ACHADJIAN.

SUM AGN

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

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

RESOLUTION NO. 2006-155, resolution proclaiming May 2006 as Bike Month and May 15-19, 2006 as "Bike to Work and School Week" in San Luis Obispo, adopted.

Supervisor Patterson: reads the resolution, into the record, with no one present to accept.

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

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

RESOLUTION NO. 2006-156, resolution proclaiming May 2006 as "Veterans Appreciation Month" in San Luis Obispo County, adopted.

Supervisor Lenthall: reads the resolution, into the record, with no one present to accept.

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

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

RESOLUTION NO. 2006-157, resolution to the Board of Supervisors proclaiming the month of May 2006 to be designated "Toddler Immunization Month," adopted.

Supervisor Bianchi: reads the resolution and presents the same to Dr. Gregory Thomas, Public Health Officer.

Ms. Debbie Jo Trinidad: Public Health, presents the Board with gift bags.

Dr. Thomas: thanks the Board for the recognition; states the purpose of this proclamation is to raise awareness to end vaccine preventable diseases.

4 A-2 **Thereafter, on motion of Supervisor Lenthall, seconded by Supervisor Ovitt and on the following roll call vote:**

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

the Board receives and files the 2005 Annual Report by Adult Services Policy Council and RESOLUTION NO. 2006-158, resolution proclaiming May 2006 as “San Luis Obispo County Older Americans Month,” adopted.

Supervisor Ovitt: reads the resolution and presents the same to Ms. Cindy Marie Absey.

Ms. Absey: Adult Services Policy Council Chairperson, highlights the 2005 Annual Report; states 14% of the County’s population are seniors, the highest in the State; speaks to health care needs, disaster preparedness and political advocacy that is being addressed for the senior population; thanks the County for their financial assistance and for today’s recognition.

Ms. Karen Stinson: Long-Term Care Ombudsman representative, invites the Board and public to attend the upcoming seminar regarding elder abuse.

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

Ms. Julie Rodewald: County Clerk-Recorder, encourages voters to register by May 8th in order to be an informed voter.

Mr. Eric Greening: speaks to the upcoming California Public Utility Commission meeting, to be held locally, regarding PG&E rates and urges Board members to attend.

Mr. Bill Martony: expresses his concern regarding the rezoning of 10 acres of Ag land coming in Cayucos; speaks to the impacts of trash being dumped on Old Creek Road.

Mr. Michael Winn: expresses his concern regarding community advisory committees and suggests: retraining advisory committee members; their bylaws being reviewed by Counsel or a designee to ensure they are complying with State and local legislation; and a task force being created to review these committees.

Mr. David Duggan: thanks the Air Pollution Control District Board for addressing their concern regarding bi-monthly pumping of septic tanks with the Regional Water Quality Control Board (RWQCB); wants the appropriate environmental documents prepared prior to a decision by the RWQCB regarding sewer issues in Los Osos; speaks to the flaws in Resolution No. 83-13 by RWQCB.

Mr. Jesse Hill: highlights the meeting Planning staff conducted explaining and educating the public on the purpose of advisory committees and their members; expresses his concern with meetings regarding Smart Growth in South County; addresses capacity charges by the Nipomo Community Services District.

Mr. Richard Margetson: speaks to comments made by Supervisor Bianchi at the previous Board meeting regarding the RWQCB meeting in Los Osos.

Supervisor Bianchi: expresses her support of the hard working members of the advisory committees; addresses her attendance at the RWQCB meeting.

Mr. David Edge: County Administrative Officer, states the Grand Jury is looking into advisory committees and the Board will address their report at a future date. **No action taken.**

6 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 to Item B-9, expresses his support of this item; addresses his concern that Recommendation No. 1 was not addressed. **No action taken.**

7 B-1 Consent Agenda Item B-6 is withdrawn.

thru

B-13

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

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

Consent Agenda Items B-1 through B-13 are approved as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda Items B-1 through B-13, 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 Plans and specifications (Clerk's File) for the construction of Lift Station No. 3 Upgrade in County Service Area No. 7 Oak Shores, (CA Contract No. 300199); 1st District, **Approved and the Clerk is instructed to give notice of the bid opening set for June 1, 2006 at 3:00 p.m..**
- B-2 Introduction of proposed changes to the ordinance establishing a Public Authority pursuant to California Welfare Institutions Code Section 12301.6, **Approved and the Clerk is instructed to give notice of hearing date set for May 16, 2006 at 9:00 a.m..**

Health Agency Items:

- B-3 A renewal agreement (Clerk's File) with the State Department of Health Services for Bioterrorism Preparedness Activities through the Health Resources and Services Administration (HRSA); 2) the required certification form stating funds shall only be used for bioterrorism preparedness and planning; and 3) a corresponding budget adjustment in the amount of \$195,684, **Approved.**
- B-4 Renewal agreement (Clerk's File) with the State Department of Health Services for Public Health Preparedness and Response to Bioterrorism and other Public Health Emergencies; 2) the required certification form stating funds shall only be used for bioterrorism preparedness and planning; 3) create a new maintenance project entitled "Health – San Luis Obispo – Phase 2 Upgrade Public Health Laboratory in the amount of \$160,000; and 4) a corresponding budget adjustment in the amount of \$162,574 from unanticipated revenue, **Approved.**
- B-5 A budget adjustment in the amount of \$24,995 from the General Fund for a one-time expenditure to secure an independent contractor for Pandemic Influenza Preparedness and Response Planning, **Approved.**
- B-6 Authorize and direct Drug and Alcohol Services to request the State have a direct provider Drug Medi-Cal (DMC) contract with drug and alcohol treatment provider Mental Health Systems, Inc., **Withdrawn.**

Public Works Items:

- B-7 **RESOLUTION NO. 2006-159**, levy sewer availability charges for County Service Area No. 7-A (Oak Shores) and County Service Area No. 18 (San Luis Obispo Country Club Estates); 1st and 3rd District, **Adopted.**
- B-8 **RESOLUTION NO. 2006-160**, levy water availability charges for County Service Area No. 16 (Shandon) and County Service Area No. 23 (Santa Margarita); 1st and 5th Districts., **Adopted.**

Other Items:

- B-9 Recommended responses to findings and recommendations contained in the March 2006 Grand Jury report on Pesticides Use at the Agricultural/Urban Interface, and to forward the responses to the Presiding Judge of the Superior Court, **Approved.**
- B-10 Summary of hotel audits for compliance with the reporting requirements of the County Transient Occupancy Tax Ordinance for the period of January 1, 2005 through December 31, 2005, **Received and Filed.**

B-11 **RESOLUTION NO. 2006-161**, approving an open-space easement agreement; and **RESOLUTION NO. 2006-162**, agreement establishing restrictions and obligations for Real Property Adjusted by Lot Line Adjustment COAL 04-0118 with Stan Weaber Construction Inc., Larry A. Ulam, Nettie Ulam Fort , Trustee or Successor Trustee for the John Douglas Fort and Nettie Ulam Fort Trust u/t/a dated December 28, 1983; 5th District., **Adopted**.

B-12 Renewal contract (Clerk's File) with Family Care Network, Inc. to provide counseling services for juveniles and their families referred from the Probation Department who are participating in the Intensive Community Diversion Program, **Approved**.

B-13 **RESOLUTION NO. 2006-163**, permitting the destruction or disposal of certain Sheriff's Department records, documents and papers that are beyond the retention period required by law, **Adopted**.

8 C-1 This is the time set for a hearing (continued from November 1, 2005) to consider a proposed amendment to Land Use Ordinance Section 22.92.020 – Areawide Standards, Adelaida Planning Area – Title 22 of the County Code, to establish “critical viewsheds” for Highway 1 and the “Cayucos Fringe”, together with development standards to protect scenic views (County File No. G020004N); 1st and 2nd Districts.

Mr. Mike Wulkan: Planning, presents the staff report, addresses the key unresolved issues; presents the Cayucos Citizens Advisory Committee (CCAC) and staff recommendation to continue this matter to June 27, 2006.

Mr. Roger Lyon: expresses his support for the staff recommendation; highlights the draft matrix comparison he prepared of the proposed ordinances and urges the Board to direct staff to review his matrix, make any necessary changes, and return to the Board as soon as possible with recommendations; addresses his concern regarding the potential devaluing of properties the viewshed ordinance will cause; presents photos of homes within the viewshed; highlights his concerns with the Protect Our Property Rights (POPR) proposed ordinance language; urges the Board to continue this hearing to June 27, 2006.

Mr. Pat Molnar: representing POPR, presents their report; addresses comments made by Mr. Ed Carnegie, Chairman of the CCAC, on the Dave Congalton Show; speaks to the efforts made by the POPR group; states the goals of the POPR ordinance are to protect scenic resources, simplify the permit process, clear and objective design standards and eliminate discretionary review for reasonable projects; discusses how the ordinance addresses: applicable projects; the ridgetop area; zoning clearance; design standards; building height; and screening; highlights the advantages of the POPR ordinance.

Mr. Bob Blanchard: expresses his support for effective viewshed regulations without negative impacts; speaks to the agriculture financing process.

Mr. Dick Nock: representing the Cattleman's Association, Agriculture Preserve Review Board and the Agriculture Liaison Board, discusses the Ad Hoc Committee meetings; expresses his support for the POPR ordinance language.

Ms. Patricia Wilmore: San Luis Obispo Chamber of Commerce, expresses their support for continuing this matter to allow the matrix comparison, suggested by Mr. Lyon, to be prepared; addresses the significance of the viewshed on tourism.

Mr. Bruce Gibson: expresses his support for continuing this matter; addresses weaknesses in the POPR ordinance; speaks to the need for more review to protect the landscape; states he wants to maintain the rural character of the area.

Mr. Wayne Ryburn: representing the North Coast Alliance Group, expresses their support to continue this matter to allow for further review.

Mr. Clay Selkirk and Mr. Stuart Selkirk: express their support for continuing this matter.

Ms. Susan Fishman: supports continuing this matter and for reasonable standards to protect viewsheds.

Ms. Mary Bettencourt: urges the Board to continue this matter to allow staff more time to review.

Mr. Bowman Blanchard: expresses his concern regarding: future development; inadequate screening; and, the future of agriculture; states he supports a continuance.

Mr. Ethan Bettencourt: expresses his support for effective viewshed protection.

Chairperson Achadjian: enters Mr. Greg Bettencourt's comments, on his request to speak form, into the record.

Ms. Susan Lyon: expresses her support for the staff recommendations; speaks to her concern regarding changing the rural character of the area; reads a statement by Mr. Peter Russo, into the record, asking the Board to support Smart Growth.

Mr. Steve Soto: expresses his support for the POPR ordinance.

Ms. Susan Mullen: expresses her support of protecting the ridgelines from development and enters her letter of support to continue this matter into the record.

Mr. Mark Madonna: supports the staff recommendations to continue this matter and urges the Board to protect the rural character of the area.

Ms. Pamela Porter Gayaldo: agrees with the previous speaker.

Mr. Jim Hartzell: discusses people not communicating with neighbors about this ordinance amendment; expresses his support for the POPR ordinance.

Mr. Jan Davis: speaks to the Ad Hoc Committee being unwilling to work with property owners; urges the Board to support the POPR ordinance.

Ms. Barb Hartzell Lucich: speaks to her previous attendance at meetings regarding this matter; urges the Board to support the POPR ordinance and not continue this matter.

Mr. Tim Hartzell: discusses Planning Commission meetings regarding this matter; expresses his support for the POPR ordinance.

Mr. Rodger Anderson: speaks to meetings he attended with the Farm Bureau, property owners and POPR to develop the POPR ordinance language; urges the Board to adopt the POPR ordinance.

Mr. Kevin Kester: Cattlemen's Association President, urges the Board to support the POPR ordinance.

Ms. Lynn Miller: Templeton Area Advisory Group (TAAG) representative, reads the TAAG letter into the record supporting the POPR ordinance with their suggested modifications.

Mr. Gordon Held: expresses his support for the POPR ordinance.

Mr. James Molnar: agrees with previous speakers and presents letters of support for the POPR ordinance for the record.

Ms. Deanne Gonzales: expresses her support of the POPR ordinance and discusses agriculture financing.

Mr. Charlie Yates: addresses his concerns with the language of the County's ordinance; expresses his support for the POPR ordinance.

Mr. Duane Davis: addresses his concern regarding viewshed restrictions and the negative effects on property values; expresses his support for the POPR ordinance and urges the Board's support.

Mr. Cletis England: addresses his concerns with screening requirements; expresses his support for the POPR ordinance.

Mr. John Walker: speaks to misinformation given by various individuals, expresses his support of the POPR ordinance, outlines the history of the item; urges the Board to not continue this matter.

Mr. Michael Garcia: express his support for the POPR ordinance; urges the Board to vote on the matter today.

Mr. Smith Held: CCAC member, discusses his efforts to get the viewshed issues on their agenda; urges Board to approve the POPR ordinance today with the CCAC input.

Mr. Frank Otis: addresses his concern that the County's proposal is stripping him of his property rights; expresses his support for POPR ordinance.

Ms. Susan Garretson: expresses her support for the POPR ordinance.

Mr. Brian Coder: expresses his support for the POPR ordinance; addresses POPR screening standards; outlines the efforts of POPR; discusses comments made on the radio to deter people from coming to today's meeting.

Ms. Kirstin Wright: speaks to her experience in trying to build her home.

Mr. Mike Molnar: expresses his support for the POPR ordinance; urges the Board to approve the POPR ordinance today.

Mr. Robb Eidemiller: urges the Board to approve something reasonable and to support the POPR ordinance.

Ms. Carol Broadhurst: expresses her support for the POPR ordinance.

Ms. Kay Otis: clarifies Mr. Blanchard's comments regarding agriculture financing; expresses her support for the POPR ordinance; urges the Board to not continue this matter.

Ms. Cindy Matson: discusses the purpose of the Coastal Commission; speaks to the impacts of development in the Malibu area.

Mr. Ole Viborg and Mr. Ron Rusconi: express their support for the POPR ordinance.

Mr. Walter Fitzhugh: expresses his support and urges the Board to adopt the POPR ordinance today; presents letters of support for the record.

Mr. Roger Nicodemus: addresses his concern that the ordinance is a violation of property owner rights.

Ms. Barbie Molnar: expresses her support of the POPR ordinance and urges the Board's support of the same.

Mr. Stanley Kirk: thanks the Board for honoring veterans and seniors today; expresses concern regarding the County's ordinance being a violation of property rights; states he supports the POPR ordinance.

Mr. Bruce Beriack: expresses his concern regarding the language of the County's ordinance and suggests it's violating property rights; supports the POPR ordinance.

Mr. Ted Van Den Heuvel: speaks to his support of the POPR ordinance; addresses his concern with the County's proposed language.

Mr. Paul Viborg: expresses his support for the POPR ordinance.

Mr. W. Scott Erwin: supports the POPR ordinance and urges the Board to adopt the ordinance today; addresses his concern to the loss of property rights with the County's proposed ordinance.

Mr. Jerry Switzer: addresses his concerns with Mr. Lyon's photo examples.

Mr. Kurt Bollinger: states his support for the POPR ordinance.

Mr. Wayne Adams: expresses his support for the POPR ordinance.

Mr. Brian Brown: addresses the need to protect property rights; urges the Board to adopt the POPR ordinance today.

Ms. Cynthia Fisher: expresses her support for property owner rights; speaks to the opinion from the National Association of Realtors regarding the proposed ordinance imposing on property rights.

Ms. Ruth Halsey: expresses her support for the POPR ordinance.

Mr. Greg Barbour: expresses his support for the POPR ordinance.

Chairperson Achadjian: presents a letter from Ms. Hallett for the record.

Mr. Steve Tuttle: expresses his support for the POPR ordinance and urges the Board to adopt today.

Mr. Stan House: states his support for the POPR ordinance.

Ms. Leslie Blythe Pitts: speaks to her support for the POPR ordinance and property owners rights.

Mr. John Jamrog: presents a list of POPR supporters from both sides of the ridge that are not present today.

Ms. Bobbie Kay Davis: expresses her support for the POPR ordinance and urges the Board to make a decision today.

Mr. Ed Carnegie: CCAC President, states there were numerous meetings regarding this matter with public notice; expresses his support of strong ordinance language to protect agriculture land; presents an ad for agriculture land that is for sale; urges the Board to continue this for further review.

Ms. Mary Ann Carnegie: agrees with Mr. Lyon's comments to review all proposals.

Mr. Steve MacElvaine: discusses his opposition to both proposals; addresses the need for flexibility; urges the Board to do nothing or support the POPR ordinance.

Mr. John Carsel: CCAC member, expresses his support of the staff recommendation; urges the Board to continue this matter and direct staff to return with a matrix of the proposals.

Mr. Ruel Czach: addresses the proposed ordinance and his concerns regarding public views.

Ms. Bernadette Pekarek: expresses her support for the POPR ordinance and her opposition for Mr. Lyon's proposal.

Mr. Richard Gonzales: Farm Bureau member, expresses his support for the POPR ordinance.

Mr. Paul Madonna: urges the Board to study all the proposals that have been sent to the Board.

Mr. Arby Kitzman: speaks to his opposition for any changes and wants it kept as it is now.

Ms. Sue Luft: Citizens Concerned for Templeton's Future, expresses their support of the staff recommendation to continue this matter.

Ms. Dorothy Jennings: speaks to community property rights; the Right-to-Farm Ordinance; the need for a viewshed ordinance.

Ms. Alison Denlinger: expresses her support to continue this matter.

Ms. Pati Hutchinson: discusses her support for the staff recommendation to continue this very complicated matter.

Ms. Joy Fitzhugh: Farm Bureau, presents two letters of support for the POPR ordinance and further explains.

Ms. Linda Merrill: urges the Board to continue this matter to allow time to work on these ordinances; questions if building on hilltops is allowed who will provide services to them.

Mr. Bill Martony: addresses his sadness over this “range war”.

Mr. Bob Staller: addresses his concerns regarding property rights; speaks to his property under the Williamson Act.

Ms. Susan Harvey: Pasowatch and Creston Citizens for Agriculture Land, discusses viewshed standards in other areas of the County; states all areas of the County should follow the same standards; suggest the Board adopt the original staff ordinance or continue the matter.

Ms. Grace Crittenden: urges the Board to continue this matter; speaks to the use of good planning to build out 1200 homes without damaging the rural character of the area; discusses the Hidden Valley development.

Mr. Eric Greening: urges the Board to continue this matter and direct staff to create the matrix to compare the difference with the other viewshed ordinance and the Countywide impacts; questions what type of environmental review has been done on the County and POPR ordinances.

Supervisor Bianchi: comments on the Hearst Ranch Conservation giving up rights to build; states they are not asking individuals to give up their property rights; asks Counsel to address speakers concerns regarding the violation of property right.

Mr. Tim McNulty: Deputy County Counsel, addresses the speakers concerns regarding property rights.

Supervisor Bianchi: states a building permit is a privilege not a right; discusses the differences in her own property rights with owning both ridgeline and canyon bottom property; speaks to the way her neighbor handled building her house by speaking with neighbors during the design phase to avoid conflict with neighbors.

Supervisor Ovitt: speaks to the Board’s prior hearing on this matter; highlights a “reasonable viewshed”; states if this requirement had been in place there wouldn’t have been a Hearst Castle; addresses his issues with the current ordinance language; his concerns with the ability to interpret the ordinance language in many ways and the need for clarity; highlights the Hidden Valley development preservation of agriculture land; states the Board asked the public for answers and they have given them; speaks to the need to move forward and he supports the POPR ordinance.

Supervisor Patterson: highlights the November Board hearing; speaks to the Agriculture Liaison’s request to continue; expresses his support to continue this matter to June to allow staff time to create the matrix discussed and advisory groups time to review the matrix; discusses the need to protect agriculture lands; highlights the speaker’s comments for the need for review; states he wants to come up with an ordinance that is good for all.

Supervisor Lenthall: highlights the November meeting; based on emails, letters, and phone calls from individuals he feels POPR is on the right track; expresses his appreciation of the efforts of all; agrees with moving forward today.

Supervisor Bianchi: speaks to the CCAC meeting where POPR was not willing to compromise; states she agrees with CCAC request for a continuance to review.

Thereafter, a motion by Supervisor Bianchi, seconded by Supervisor Patterson to continue this matter to June 27th at 9:00 a.m. and direct staff to use the draft matrix presented by Mr. Lyon to develop a matrix, which shall include other areas of the County that have a viewshed ordinance and their restrictions, to be presented to Advisory Councils and the Board for review with a definition of: the size of the area, discretionary review with recommendations, and silhouetting, fails with Supervisors Ovitt, Lenthall and Chairperson Achadjian casting dissenting votes.

Supervisor Bianchi: presents 42 emails with 39 recommending continuance, for the record.

Chairperson Achadjian: questions why the CCAC wouldn't put this matter on their agenda.

Mr. Ed Carnegie: CCAC Chair, states they received requests to put it on their agenda after the Board's November meeting; states public comment was taken by the Committees at the next scheduled meeting.

Chairperson Achadjian: submits emails he has received regarding this matter for the record.

Matter is fully discussed and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Lenthall, with Supervisors Bianchi and Patterson casting dissenting votes, motion carries and the Board directs staff to move forward with the ordinance in the staff report, dated May 2, 2006, marked Exhibit A and its exhibits by POPR and that the ordinance be brought back for introduction on June 13, 2006 with the final hearing date being set for June 27, 2006 at 9:00 a.m..

(SUPERVISOR HARRY L. OVITT IS NOW ABSENT.)

9 C-2 This is the time set for a hearing to consider an appeal by Magda Fichter of a Planning Commission determination (pursuant to Section 23.04.118c) of the Coastal Zone Land Use Ordinance) that hot tubs are not allowed within a bluff setback; property is located at 930 Pacific Street in the community of Cayucos; 2nd District.

(SUPERVISOR HARRY L. OVITT IS NOW PRESENT.)

Mr. Matt Janssen: Planning, presents the staff report; outlines the history of the item; the issues of the appeal; speaks to the definition of what constitutes a "structure"; discusses the potential of a future violation issue with the plexiglass fence; recommends the Board deny the appeal.

Mr. Terry Schubert: attorney representing Ms. Fichter, addresses differences in opinion regarding the definition of "structure"; states Ms. Fichter was told a portable hot tub was acceptable; outlines the lengthy process to obtain a permit; discusses the Planning Commission's denial of the permit based on Section 23.04.118(c) of the County Code; speaks to hearings where the Planning Commission has allowed structures within the setbacks; urges the Board to uphold the appeal.

Board Members: address various issues, comments and concerns regarding the definition of "structure" and "portable."

Ms. Robin Stiles: states her mother's property is south of the Fichter property and discusses erosion issues due to the placement of the hot tub.

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

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

the Board denies the appeal and RESOLUTION NO. 2006-164, resolution upholding the decision of the Planning Commission and disapproving the request by Magda Fichter for an appeal of a Planning Director determination, adopted.

10 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. Andre, et al.*, (2) *County of San Luis Obispo v. Aron*, (3) *Los Osos CSD v. Golden State Water Company*, (4) *Almond Heights, LLC v. County of San Luis Obispo*; **ADDED (All requirements of the Brown Act were satisfied as this notice was posted prior to the 72-hour noticing requirement)** (11) *In re Union Pacific Railroad San Miguel Crossing*.

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*, Name of employee organization: *SLOGAU*; (8) Negotiator's Name: *Santos Arrona, Gail Wilcox*, Name of employee organization: *SLOCEA Trades and Crafts*; (9) Negotiator's Name: *Santos Arrona, Gail Wilcox*, Name of employee organization: *SLOPPOA*; (10) Negotiator's Name: *Santos Arrona, Gail Wilcox*, Name of employee organization: *DCCA*.

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

Thereafter, pursuant to the requirements of the Brown Act, Chairperson Achadjian 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.

11 D-1 This is the time set for discussion of a resolution adopted February 28, 2006 regarding a proposed amendment to the 1959 Agreement governing the maintenance of the Arroyo Grande and Los Berros Creek Levees and other actions within Flood Control Zones 1 & 1A; 3rd & 4th Districts.

Mr. Paavo Ogren, Public Works, presents the staff report; outlines Resolution No. 2006-80; addresses the contract amendments.

Board Members: address various issues, comments and concerns regarding the language "solely from" for funding the obligated maintenance work.

Mr. Norm Getty: Flood Control Zone 1 & 1A Advisory Committee & Task Force Member, states he is pleased with the progress made; highlights the positive public response and outreach efforts in support of Proposition 218; addresses their concern regarding the restrictive language for funding sources; expresses their support for the Memorandum of Understanding and other efforts to maintain the flood control channel.

Ms. Linda Chipping: Coastal San Luis Resource Conservation District Director, speaks to the local solution processes.

Matter is fully discussed, and thereafter, on motion of Supervisor Ovitt, seconded by Supervisor Bianchi and unanimously carried, the Board directs staff to amend the language to reflect the County's intention to be flexible and encourage finding outside funding that qualifies for this project.

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, May 2, 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/C. M. Christensen,
Deputy Clerk-Recorder

DATED: May 11, 2006

cmc