

Tuesday, March 6, 2001

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, Peg Pinard, Michael P. Ryan and Chairperson K.H. 'Katcho' Achadjian

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG LED BY CHAIRPERSON ACHADJIAN.

SUM AGN

1 Added Request to add an item to the Consent Agenda, is presented.

Thereafter, on motion of Supervisor Bianchi, seconded by Supervisor Ovitt and unanimously carried, the Board determines that the need to add an item to the agenda arose subsequent to the 72-hour noticing requirement of the Brown Act and adds the following item to the Consent Agenda: "Item B-23 - Request to ratify a Proclamation of Local Emergency made by the County Administrator David Edge due to effects from the recent winter storms. (RECOMMEND APPROVAL.)"

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

AYES: Supervisors Ryan, Bianchi, Ovitt, Pinard, Chairperson Achadjian
NOES: None
ABSENT: None

RESOLUTION NO. 2001-97, proclaiming March 2001 as "Women's History Month" in the County of San Luis Obispo, adopted.

Supervisor Ovitt: reads the resolution and presents the same to Ms. Angie King.

Ms. King: thanks the Board for the recognition; introduces several women involved in this and presents information to the Board members regarding Women's History Month.

Supervisor Pinard: expands on the importance of all the contributions made by women over the years.

Ms. King: states that history is made by those who write it which historically has been white males and that is now changing.

3 A-1-B **Thereafter, on motion of Supervisor Ryan, seconded by Supervisor Bianchi, and on the following roll call vote:**

AYES: Supervisors Ryan, Bianchi, Ovitt, Pinard, Chairperson Achadjian
NOES: None
ABSENT: None

RESOLUTION NO. 2001-98, resolution recognizing Frank L. Freitas for his service as County Personnel Director, adopted.

Supervisor Bianchi: reads the resolution and presents the same to Mr. Freitas.

Mr. Freitas: thanks Donna Morris for running the Tax Collector-Treasurer's Office for the past year, Personnel staff for all he has learned from them, David Edge, San Luis Obispo County Employee's Association, the Deputy Sheriff's Association and his wife.

Supervisor Pinard: thanks Mr. Freitas for his "spunk" and wants to see this kind of spunk throughout the County organization.

Mr. David Edge: County Administrative Officer, thanks Mr. Freitas and introduces Mr. Dale Hanson, the new County Personnel Director; states Mr. Hanson came from Long Beach Community College; prior to that worked at Northrop and is a career military man.

Mr. Hanson: states he is glad to be here and looking forward to the challenges of being the Personnel Director.

Ms. Linda Hall: speaks to Mr. Freitas' efficient work.

4 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. George Layman: speaks to Item B-16 and states the intersection at El Campo is very dangerous and Stanton is another dangerous intersection.

Ms. Linda Hall: speaks to Item B-15 and questions who is hiring here, the management company or the County.

Chairperson Achadjian: responds that the County hired this management company (Wm. J. Casey, Inc.) and now the County is approving their selection of staff people to perform the duties at the hospital. **No action taken.**

5 Added This is the time set by Chairperson Achadjian to have staff give a storm damage report (based on Item B-23 that was added to the Consent Agenda).

Mr. Noel King: Public Works Director, presents a handout and outlines the same as to the various roads that are closed and those that have reopened; states one section of Noyes Road was completely lost and will have to be repaired; two small bridges on Los Berros Creek have had water go over the top of them; Arroyo Grande Creek has been breached and Flood Control staff is meeting with the Department of Water Resources, the Army Corp. of Engineering and other agencies to get a permit to repair this breach; thanks all crews from Public Works that have been out there working extra hours.

Supervisor Ryan: speaks to the importance of cleaning out creekbeds.

Mr. King: speaks further to Salinas Dam being full and going over the spillway; states Lopez Dam is rising very quickly and there is a concern that they will exceed their percentage requirements.

Chairperson Achadjian: thanks Public Works for closing the gate at Lopez as this helped the neighbors.

Mr. Pete Jenny: Parks Manager, states that Santa Margarita Lake was closed yesterday due to the toll taken on the lake by the Salinas Dam spilling over; the Lake is opened today but boat launching is not being allowed; at Lopez Lake there was some minor damage to the guests' office; they closed both Biddle Park and the Bob Jones Bikeway yesterday; Santa Margarita Community Park is flooded; the three ponds at Dairy Creek Golf Course have merged into one large pond; speaks to problems with Pine trees at the Morro Bay Golf course and cautions the public to watch for falling branches, etc.

Mr. David Edge: County Administrative Officer, states the folks at Emergency Operations are working to assess the damage Countywide; once this is completed, they will ask the Governor to declare an emergency and from there they will look for a Presidential declaration.

Chief Dan Turner: County Fire/CDF, speaks to various fire/flood rescues yesterday and low water crossing rescues; cautions people to not try to go across moving, low water areas; addresses work they did yesterday in the Nipomo area where 20-30 homes were flooded.

Chairperson Achadjian: indicates he spoke with a woman yesterday who was flooded

out of her home and even though she was heartbroken she wanted him to be sure and thank County Fire for all they did.

Supervisor Ryan: questions an earthen dam in Creston that was lost and whether it was completely breached.

Chief Turner: indicates he doesn't know but does know that there is a problem there.

Chairperson Achadjian: thanks the Red Cross for all they did in assisting folks in the County.

Dr. Greg Thomas: Health Agency Director, addresses environmental health effects; states they are posting the beaches between Oceano and Avila to keep people out of the water and specifically the areas in Pismo Beach where there was actual sewage outflow; they will also be sending out an advisory to stay out of ponds, large puddles, etc.

Chairperson Achadjian: thanks Vince Morici for all his work yesterday and the California Highway Patrol (CHP) for the use of the helicopter to bring in medicine, etc.

Mr. Ron Alsop: Emergency Services, speaks to a levee break in the Oceano area and 100-150 people being stranded in this area; speaks to the assistance they have received from the CHP; the Emergency Operations Center was at full operation yesterday and highlights what they accomplished. **No action taken.**

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B-1 **On motion of Supervisor Ryan, seconded by Supervisor Ovitt, and on the**
thru **following roll call vote:**
B-23

AYES: Supervisors Ryan, Ovitt, Bianchi, Pinard, Chairperson Achadjian
NOES: None
ABSENT: None

Consent Agenda Items B-1 through B-23 are approved as recommended by the County Administrative Officer.

Said Consent Agenda Items B-1 through B-23 are on file in the Office of the County Clerk-Recorder and are available for public inspection.

Items set for bid opening:

B-1 Plans and specifications (Clerk's File) for a new County Fire/CDF Fire Station at Heritage Ranch; 1st District, **Approved and the Clerk is instructed to give notice of the bid opening set for April 5, 2001, at 3:00 p.m..**

Board of Supervisors Items:

B-2 Reappointment of John Bertoni as a District One Representative to the Paso Robles Public Cemetery District, **Approved.**

B-3 Reappointment of Louise Wood Jennings as a District One Representative to the Paso Robles Public Cemetery District, **Approved.**

B-4 Reappointment of Sue Minshull as a District One Representative to the Paso Robles Public Cemetery District, **Approved.**

B-5 Reappointment of David Coté as a District One Representative to the Fish and Games Fine Committee, **Approved.**

B-6 Reappointment of Norma Moye as a District One Representative to the Paso Robles Public Cemetery District, **Approved.**

B-7 Reappointment of Daryl Stinchfield as a District One Representative to the Paso Robles Public Cemetery District, **Approved.**

- B-8 Allocation of \$6,000 (\$2,000 each from Districts One, Three and Five) from Community Project Funds to the San Luis Obispo Mozart Festival to be used for Mozart Fringe Concerts, **Approved.**
- B-9 Allocation of \$1,000 (\$500 each from Districts Three and Four) from Community Project Funds to the Lucia Mar Unified School District to help with expenses associated with holding the Fifth Annual South County 24-hour Relay Challenge, **Approved.**

General Services Items:

- B-10 **RESOLUTION NO. 2001-99**, authorizing execution of a notice of completion for the installation of heating and air conditioning in the Government Center, **Adopted.**
- B-11 **RESOLUTION NO. 2001-100**, intention to lease County owned real property for a community building in the Avila Beach Community Park in the community of Avila Beach, **Adopted.**

Health Agency Items:

- B-12 Contract (Clerk's File) with David Fennell, M.D., to provide psychiatric services for Mental Health clients, **Approved.**
- B-13 Agreement (Clerk's File) with the State Department of Corrections to provide public health laboratory testing services to the California Men's Colony, **Approved.**

Medical Services Items:

- B-14 Contract with Mary Joseph Benson, R.N., to provide nursing services at General Hospital, **Approved.**
- B-15 The selection of Larry Hood, as Director of Medical Services, and Henry Skau, as Chief Financial Officer as replacement personnel employed by Wm. J. Casey, Inc., **Approved.**

Public Works Items:

- B-16 Budget adjustment in the amount of \$212,537 from Area 2 South County Road Impact Fees for construction of a left turn pocket on Los Berros Road at El Campo, near the City of Arroyo Grande; 4th District, **Approved.**
- B-17 The following map:

- A. Tract 1792, a proposed subdivision resulting in 8 lots by Chris and Rhonda Lundberg, Bracken Lane near Juniper Street, Nipomo, reject the offers of dedication without prejudice to future acceptance, **Approved** and **RESOLUTION NO. 2001-101**, accepting a grant deed for Lot 8 on behalf of the San Luis Obispo County Flood Control and Water Conservation District, **RESOLUTION NO. 2001-102**, an agreement for air quality mitigation fee; 4th District, **Adopted.**

Other Items:

- B-18 Minutes of the January 8, 9, 16 and 23, 2001 Board of Supervisors' meetings, **Approved.**
- B-19 Amendments to contract agreements (Clerk's File) with Douglas Wood and Associates, and The Morro Group, Inc., for planning and environmental consulting services; All Districts, **Approved.**
- B-20 **RESOLUTION NO. 2001-103**, authorizing the placement of youth offenders to the Turning Point Academy and a letter opposing the siting of any future state correctional facilities/programs in San Luis Obispo County, **Adopted.**
- B-21 Unannounced cash count of the Treasurer's Office conducted on December 20, 2000,

Received and Filed.

- B-22 **RESOLUTION NO. 2001-104**, authorizing the Issuance and Sale of Grant Anticipation Notes in the Name of the San Luis Obispo County Community College District for the purpose of financing various educational projects, **Adopted.**
- B-23 Request to ratify a Proclamation of Local Emergency made by the County Administrator David Edge due to effects from the recent winter storms, **Approved.**
- 7 C-1 This is the time set for hearing to consider an appeal by David Biddle for fee adjustment of road improvements associated with the construction of a single-family residence on Halcyon Road on the Nipomo Mesa; 4th District.

Mr. Richard Marshall: Public Works, presents the staff report; highlights the issues raised by Mr. Biddle in his appeal and staff's response to each one: (1) Tract 1899 (the location of the parcel where he's building) is a vested map - this map was vested after the original adoption of the fees and is subject to all the provisions of that fee system; (2) On 8/8/00, 10/5/00 and 12/1/00 the Applicant was given printouts which indicated the Road Improvement Fee amount was \$1,720 - staff is still working on ways to ensure this type of information is given out to customers and while staff is still working improving this process, being unaware of a fee increase is not one of the criteria listed in the ordinance which qualifies for a waiver or adjustment of the fees; (3) - difference between the current fee and the amount the applicant was quoted should be refunded due to poor communication on the part of Public Works staff - staff (Mr. Marshall) has written a letter of apology to Mr. Biddle which is included in the staff report.

Chairperson Achadjian: thanks Mr. Marshall for sending the letter of apology and questions the notification process to applicants of fee increases, with Mr. Marshall responding.

Mr. David Biddle: Appellant, presents a written copy of his presentation and highlights the same; addresses his discussions with Karen Nall, Planning Department regarding the fees he would incur if he purchased and built his home on this property; he purchased the property in December 1999, met with Ms. Nall again who confirmed their earlier conversation; in May 2000, George Layman (seller) approached him indicating the Ms. Nall had indicated that Mr. Layman was to receive the credit for the road fee and school tax; when he met with Ms. Nall on this issue she indicated the only way to resolve the issue was in civil court (between himself and Mr. Layman); states he didn't want to do this as Mr. Layman was going to be his neighbor; he met with Mr. Bryce Tingle in June 2000 and agreed to let Mr. Layman take the fees for his project; states his plans were approved on October 5, 2000 and again he was quoted the same road fees (\$1,720) (highlights printouts from the Planning Department that show this information); on December 1, 2000, he asked for another copy of his printout with the various fees and again it showed \$1,720; on January 12, 2001, he went in to pay his fees and was told the fees had gone up on December 4, 2000.

Ms. Linda Hall: states this is a serious and complicated issue; feels there is no excuse for this type of problem with all the computers and programs that are available to staff; speaks to other road fee appeals she recalls.

Mr. George Layman: states he started his map (Tract 1899) in 1989 and did have this map vested; states he was told by Mr. Jim Granflaten, Engineering staff at that time, that the fees that were in effect when the map vested were the fees he would have to pay.

Mr. Jesse Hill: Chairperson for the Nipomo Community Advisory Committee, addresses the issue and their concerns, based on the action taken on this item, on the Woodlands Project.

Mr. Biddle: responds to public comment and asks that this mistake be rectified.

Supervisor Ryan: addresses his concern to information received by Mr. Biddle three days before the fees changed not being the correct fee information and states he will support the appeal; questions the issue of the vesting status of this tract and why it only

affects Mr. Layman's portion and not the entire map.

Mr. Tim McNulty: Deputy County Counsel, responds as to what is involved with respect to a vested map and in this case it included agreeing to the road improvement fee resolution.

Supervisor Ovitt: questions the fees that were in place based on the ordinance that was adopted relating to road improvement fees.

Mr. Marshall: responds that it was an enabling ordinance that allows for updates to the fees by resolution.

Supervisor Bianchi: addresses the issue indicating she will not support the appeal.

Supervisor Pinard: addresses the issue and her concern to staff not reaching out far enough and making the public aware of changes; states she will support the appeal.

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

AYES: Supervisors Ryan, Pinard, Ovitt, Chairperson Achadjian
NOES: Supervisor Bianchi
ABSENT: None

the Board upholds the appeal and directs that staff refund Mr. Biddle \$1,332.

8 C-2 This is the time set for hearing to consider an appeal by Vons Companies, Inc. of the Planning Commission's decision to deny a request for a freeway identification sign on the northwest corner of Tefft Street and Highway 101 for the Vons gas station and future visitor serving tenant, located at 525 Tefft Street in the community of Nipomo; 4th District.

Chairperson Achadjian: indicates he understands that Vons is requesting a continuance.

Mr. Jay Johnson: Planning, states Vons has requested a continuance to allow them more time to work with the community.

Mr. Steve King: Courtney Architects and representing Vons, states they have paid the fee and provided the letter requesting the continuance.

Mr. Michael Winn: indicates there have been no discussions between Vons and the community; the community is against the pylon sign.

Mr. Jesse Hill: Chairperson for the Nipomo Community Advisory Council, presents a copy of a recent newspaper article that shows a truck trailer with a sign advertising the gas station being open; states he is getting "blasted" on all sides regarding this issue; feels the community is not going to agree to any additional signs in the area.

Supervisor Ryan: speaks to the commercial area located on this site and questions when a truck trailer is a trailer and when is it a sign.

Mr. Johnson: responds indicating this is a sign and not there for commercial use and they will be addressing this through Code Enforcement.

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

AYES: Supervisors Ryan, Bianchi, Ovitt, Pinard, Chairperson Achadjian
NOES: None
ABSENT: None

the Board continues said hearing to May 8, 2001 at 9:00 a.m..

C-3 This is the time set for hearing to consider an appeal by Albert Schoenfield/John Wallace and Associates of the Planning Director's decision to approve one certificate of compliance for property located at 2731 Pecho Valley Road in the community of Los Osos; 2nd District.

Ms. Kami Griffin: Planning, introduces the item; states staff received two letters (Mr. Belsher dated March 5, 2001 and John Wallace and Associates dated March 2, 2001) and asks that these be accepted into the record; recommends the Board hear this matter today and then continue it to allow staff and County Counsel time to review the letters.

Mr. Larry Kelly: presents the staff report, giving a brief history of the parcel; addresses the request and what the applicant is contending versus what the law requires with respect to Certificates of Compliance.

Board Members: question various aspects of the map, what exists and what the applicant is trying to accomplish, with staff responding.

Mr. Albert Schoenfield: Appellant, states that he previously had a lot line adjustment approved, turned the issue over to his engineer when he had a heart attack, and thought his engineer was handling everything for him; the engineer didn't follow through and the map expired; states he needs to take care of this so that all his affairs are in order for his family.

Mr. Bill Walter: attorney representing the Appellant, states they believed they had two parcels as there were two Assessor Parcel Numbers (APN); states the title report showed two legal parcels; presents several overheads that show the site and the patent line (Figures 1 through 6); addresses Appendix No. 2 (overhead) regarding conveyances creating lots exempt from or legalized by the Subdivision Map Act or predecessor statutes; an overhead regarding Exhibit A - Findings for COAL 91-069; and an overhead of a March 7, 1994 letter to the Subdivision Review Board regarding COAL 93-054 - Franks; states he has submitted the letters, referenced by staff, for the record.

Supervisor Pinard: questions why the applicant doesn't just resurrect the lot line adjustment that was approved in 1994 versus going through this process.

Mr. Walters: responds as to the cost to start the application process over again and based on the evidence he has presented does not believe that process is necessary.

Supervisor Ryan: questions the lack of maps in the staff report and wants them included for future hearings; questions whether there is a residence on this parcel, with Mr. Walter responding there is a home on the property.

Supervisor Bianchi: questions the receipt of last minute documents for these types of hearings.

Ms. Kerry Margason: John Wallace & Associates, apologizes for submitting their documents late, but they only received the staff report last Wednesday.

Mr. Walter: states if the Board is going to continue this hearing they would like to receive the staff report at least 10 days prior to that next hearing date.

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

AYES: Supervisors Bianchi, Ovitt, Pinard, Ryan, Chairperson Achadjian
NOES: None
ABSENT: None

the Board continues said hearing to April 10, 2001 at 9:00 a.m..

(SUPERVISORS PEG PINARD AND MICHAEL P. RYAN ARE NOW ABSENT.)

PC This is the time set for members of the public wishing to address the Board on items not

set on the Agenda.

Mr. James Caruso: Planning, states the Nuclear Regulatory Commission along with PG&E will be holding a public meeting regarding spent fuel and addressing the licensing procedure, on March 20, 2001 at 7:00 p.m. at the City/County Library.

(SUPERVISOR MICHAEL P. RYAN IS NOW PRESENT.)

Mr. Eric Greening: states he does not like the term “spent fuel” and explains why; **(SUPERVISOR PEG PINARD IS NOW PRESENT.)** addresses the deadline to submit comments to the Coastal Commission regarding the Coastal Plan and questions whether there will be a review of this Plan by the Planning Commission.

Supervisor Pinard: states this is also the time to submit comments on the National Forest Management Plan.

Ms. Linda Hall: speaks to property recently purchased by the U.S. Forestry in the Cambria area and the proposed staging area for this property and her concerns regarding the same.

Mr. J.D. Main: comments on the homeless housing issues in North County; addresses the letter he sent the County in response to the County’s decision to not fund the homeless program in North County; speaks to all the shelters in the County and all are filled to capacity; asks the Board to reconsider funding for the homeless shelter; speaks further to the motel voucher program and the requirements for the same.

Ms. Pearl Munak: speaks to the homeless housing project and the concern that there will be no funding from the County either through CDBG grants or any other method; states without this funding they will be short \$9,000; speaks to the number of requests they received yesterday for the motel program; addresses the costs involved in housing these folks; the program has no paid staff as it is run completely by volunteers; feels they are running a very efficient program and asks the Board to reconsider funding this program.

Supervisor Ryan: speaks to the grant that EOC has applied for to build a shelter in the North County.

Mr. Michael Kovacs: wants the Board to start standing on the side of the taxpayer; wants an agenda item that will refund money from fees that have been charged; questions why there are more computers than employees in County government.

Mr. Michael Winn: speaks to the recent rains and the impacts from the same in the Nipomo area and thanks County staff for their prompt response to emergencies in this area.

Mr. Steve Matheiu: AGP Video, operator of Channel 61 in conjunction with Charter; addresses the memo he submitted to the Board regarding proposed web-streaming of Supervisors meetings; states that AGP Video, Charter Communications and the County of San Luis Obispo reserve the rights to all images and distribution of County Board of Supervisors meetings videotaped by AGP Video and to contact AGP Video for use permission. **No action taken.**

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D-1 This is the time set for an oral report pursuant to Government Code Section 54957 regarding "Complaints Or Charges" against Chief Probation Officer John Lum.

Chairperson Achadjian: opens the floor to public comment on this item and the Closed Session.

Mr. Michael Kovacs: states he thought they would have the benefit of the staff report before making comments and is at a loss without hearing the report.

Ms. Heidi Rank: states she is here as a parent and citizen; discusses the events surrounding her 16 year old daughter involvement with drugs; the importance of her

daughter not being associated with or around her supplier and when the supplier was released from jail, he was released to her daughter; she called Mr. Lum and was told “these kids just need understanding”; states this was not appropriate nor was the handling of this situation by Mr. Lum.

Ms. Kristi Kelty: speaks to her work with Mr. Lum and the program for incarcerated teens; Mr. Lum is a proven leader for the community and the youth in the County; feels that if only seventeen people filed the grievance that is not the majority of the staff; he should be heralded for his honesty and integrity; wants to see this resolved in favor of Mr. Lum.

Mr. Jim Weir: states he met Mr. Lum in 1998; Mr. Lum does not like to send kids to CYA (California Youth Authority) because of the abuses that can occur there; states Mr. Lum had one of these teens living in his home and it didn’t work out, but it will in the future.

Ms. Rose Spagnola: Past President for the Foster Parent Society, believes Mr. Lum is a fresh change from the past norm; wants to see this work out for Mr. Lum.

Ms. Linda Hall: addresses the issue and feels this is occurring because Mr. Lum was trying new and different things in his department; addresses her concern to the anonymous complaint.

Ms. Laura Mohajer: Center for Employment Training, states she is here in support of Mr. Lum; speaks to his support for the youth and community and is sensitive to the community’s needs; presents three examples of teens that have been successful through this program and in part due to Mr. Lum.

Mr. Andrew Sylvan Levin: Senior Case Manager for Big Brothers/Big Sisters, feels the objections to Mr. Lum are because of his innovative solutions to problems; urges the Board to reinstate Mr. Lum.

Mr. Raymond Segura: states Mr. Lum has done a good job and has “cultural competence”; speaks to the diversity in his staff and the good job he has done with respect to ethnic issues; Mr. Lum has done a lot to raise awareness to ethnic issues in the County.

Mr. Gary Fowler: member of the Probation Advisory Board (approximately 5 years), states he has never known Mr. Lum to fail to respond to any of the Advisory Board’s needs; feels Mr. Lum has done the best he could with what was given to him; hopes the Board will vote to retain Mr. Lum; states the Probation Department needs more financial support from the County.

Ms. Rosa Saucedo-Rodriguez: works for EOC in the division that deals with domestic violence; Mr. Lum has been a big supporter and has assisted in getting them funding.

Ms. Kimberly Rosa: Conflict Resolution Program for the Central Coast, states one of their programs is through the Probation Department; questions whether there is a better way to resolve this conflict with Mr. Lum; states they have been impressed with all the Probation staff; speaks to the needs of the youth in the community.

Mr. Howard Vollmer: addresses his past community involvement; states he worked closely with Mr. Lum for two years on victims programs; believes that Mr. Lum believes in rehabilitation versus incarceration; also believes that Mr. Lum has been trying to do good things in his department.

Ms. Gail Gresham: Big Brothers/Big Sisters, states they are up and operational due in part to Mr. Lum’s assistance; agrees with all the comments in support of Mr. Lum and that he has been a “hero” to the youth in our community.

Mr. George Layman: questions the hearing process today and feels that Mr. Lum should be here to tell his side of the story.

Mr. Leonard Manzella: states he has known Mr. Lum for several years; states he invited Mr. Lum to attend one of his group sessions and participate, which he did; he also worked on a program with Mr. Lum where he wanted the Probation staff to know what it was like to be incarcerated; they created a program that was filmed and has since been adopted by Sonora and San Diego counties.

Mrs. Kristie Lum: John Lum's wife, states she has known Mr. Lum for 33 years and today is their 30th wedding anniversary; addresses Mr. Lum being criticized for his community involvement; speaks to their involvement in foster care over the years both in Virginia and here; states she is very proud of Mr. Lum and he is an honest man.

Chairperson Achadjian: states that neither Mr. Lum nor the Administrative Office will be allowed to call and examine witnesses; if the Board decides to impose certain kinds of discipline based on the "complaints or charges" against Mr. Lum, he will have the right to a number of "due process" measures including those described in *Skelly v. State Personnel Board* and the County's Civil Service Rules 4 and 14, procedure which includes the possibility of a full evidentiary hearing; asks Mr. Jim Grant, Administrative Office, to proceed with the presentation of the personnel investigation report regarding complaints against Mr. Lum.

Mr. Grant: states this investigation was based on a grievance filed by 17 employees and an anonymous complaint; states this hearing was set at the request of Mr. Lum who had the right to be here today and it appears that Mr. Lum has chosen not to be present; states Mr. Lum was hired in 1994 and there have been three personnel investigations since that time: (1) 1996 - (a) questionable activities with wards of the juvenile court and (b) failure to meet performance standards; results of the investigation: a counseling memo from the County Administrative Officer (CAO) ordering certain actions be taken by Mr. Lum and the Performance Evaluation indicated improvement needed in policy development, relationships with people and supervision & leadership; (2) 1999 - (a) investigation to review activities and evaluate youth living at his residence; results of the investigation: exercised very poor judgement, lack of professionalism and supervision & leadership issues; the CAO counseled Mr. Lum as first level discipline with Mr. Lum acknowledging the CAO in a memo; (3) 2000 - (a) investigation was launched based on a grievance filed by 17 Probation employees and an anonymous report - the grievance alleged that Mr. Lum's personal and professional conduct have adverse effects on the administration of the Probation Department and its employees; Mr. Lum received a copy of the grievance on December 8, 2000; Findings were: (a) dishonesty, including travel & timecard violations; (b) lack of managerial control and leadership issues; (c) absence from work/neglect of duty; (d) inability to control anger; (e) inability to establish and maintain effective working relationship; (f) and, improper conduct regarding criminal offenders; states these findings were based on interviews with 40 people, not all the interviews were employees of the Probation Department and a three-day interview with Mr. Lum; highlights specifics of each of the findings giving several examples: **travel & work time violations** with this totaling approximately \$1400 in travel/work violations; **absence from work** - shows he was rarely at work during normal work hours and that he had no real office since January 2000, as he was moving from Probation to Juvenile Hall; reads an email from Mr. Lum to the staff as to how to locate him; set up a **Special Operations Team (SOT)** which would serve warrants, conduct surveillance, gather intelligence & provide high level security - it was found to be an inappropriate program as it involves law enforcement roles that are not appropriate to Probation and would remove four Probation Officers from supervising caseloads when there were more than 1,000 cases going unsupervised; lights & sirens for first response capabilities were placed on Probation vehicles without legal authority; the State denied training; Risk Manager saw huge liability issues; the SOT concept was never evaluated or coordinated with other departments or agencies; **Group Home in Juvenile Hall**, Mr. Lum directed staff to convert 15 of the 40 beds at Juvenile Hall (JSC) to a group home; Mr. Lum made this decision without adequate input from staff, other departments and organizations; the decision was illogical as the loss of 15 beds is critical to the operation of JSC (current average at JSC is 28-30 beds being utilized); some of the staff at JSC were opposed to this, creating an atmosphere of distrust and hostility; further, this unilateral implementation was directly contrary to the participatory management policies of the Department; also a convicted/registered sex offender was allowed to work as a volunteer at JSC and this individual has recently

been rearrested; **Audit Reports** - a 1999 audit revealed that the Department improperly administered at least two contracts with outside agencies; one company was paid in excess of the approved contract; **Management by Consensus** - work is not getting done and there are endless loops of policy referrals; **Inability to Control Anger** - loss of control, anger, belligerence to the Americorps Director, Probation staff and other agencies (i.e., Arroyo Grande Police); on April 3, 2000, ten supervising Probation Officers wrote a memo to Mr. Lum regarding inappropriate behavior toward the Deputy Chief; **Inability to Establish & Maintain Effective Working Relationships** - most of the Police Chiefs have indicated a lack of confidence in Mr. Lum; the CAO received a letter today from the Superior Court Judges indicating they have no confidence in Mr. Lum; **Abuse of Position** - intimidation of Americorps Director, unauthorized pledge of funds and intimidation of subordinate employees; **Personal Bias Interfering with Judgment** - Mr. Lum exhibited an inappropriate attitude and conduct in regard to criminal offenders and created a potential risk to public safety; **Investigative Conclusions** - significant problems exist within the Probation Department; problems directly associated with Mr. Lum are: interpersonal & professional conduct; lack of management and leadership; inability to work with other agencies; poor judgment; and failure to recognize how others perceive his conduct.

Chairperson Achadjian: states that Mr. Lum or his attorney may make an oral presentation and present documentary evidence as to their version of the facts underlying the “complaints or charges” against him.

Mr. William Rapoport: attorney for Mr. Lum, states they have not had the benefit of seeing any of the information from the 40 people who were interviewed; states he has third hand information that Supervisor Pinard does not want Mr. Lum to continue in his job and if this is true asks that Supervisor Pinard excuse herself from the decision making process of the Board; states that Mr. Lum was unaware of the registered sex offender volunteer at JSC; with respect to the Arroyo Grande Police officer, Mr. Lum received a voice mail from the officer apologizing for his behavior to Mr. Lum; Mr. Lum received information that the Statewide information system was being used illegally by some staff and began an internal investigation and out of this came the grievance; when this was filed Mr. Lum was told to “go home” versus holding any type of discussion with Mr. Lum regarding the allegations in the grievance; when the investigation was completed a Process Server served a letter on Mr. Lum at midnight at his home; states this has been the “tone” all the way through the process; states they have asked for information and have been told that everything is in the grievance and anonymous complaint; states Mr. Lum has asked to have his fees and costs for his attorney covered by the County and the response to that request was “we’ll get back to you”; states his management style, hiring and promotional practices are the reason we are here today; he put a woman in as his Chief Deputy and some of the “good ole boys” in the Department didn’t like this and some of them signed the grievance; speaks to the memo from Mr. Lum to his staff regarding his open door policy and some didn’t like this; some of the staff didn’t like the fact they were passed over for promotion in favor of women and minorities; some of the staff didn’t like his consensus management style; speaks to a number of the staff voluntarily demoting; indicates Mr. Lum is not present today as he doesn’t feel his presence will have any bearing on the Board’s decision; speaks to allegations of Mr. Lum’s temper and not being a good example and feels all these allegations have been made without proof; addresses the email he sent out to staff regarding the Chief Deputy when she was ill and another email with a poem he sent and some of the staff were offended by these but others thanked him for both; speaks to the letter from the Judges today and feels the views of the Court and police are due to the fact that Mr. Lum won’t “rubberstamp” anything; addresses the extra measures Mr. Lum took in creating an accessible work place for an employee with cerebral palsy; addresses Mr. Lum’s work and going out to talk to the kids at JSC; suggests the biggest problem with the SOT Program was “why wasn’t I chosen”; addresses the allegation of financial mismanagement and Mr. Lum being “dishonest” and suggests anyone who knows him would disagree with this statement; addresses the two trips he took back east and his visits with the family of an employee who past away and his three trips to the Chino Youth Authority; addresses the allegations/concerns by some regarding Mr. Lum’s anger and fear they might be physically struck and indicates that Mr. Lum is not a physical person and has “never” been in a fight; addresses the accusations that Mr. Lum is depressed and suggests he may be frustrated with not being able to get things

accomplished but isn't depressed; addresses the memos sent to staff that Mr. Grant read today; discusses the meetings he has with all his staff to listen to ideas; suggests one of the things staff is concerned about is Mr. Lum trying to save money by privatizing, which could mean the loss of jobs; addresses Mr. Lum's 24-25 hours of "interrogation" by the County; suggests he has been taken away from a job that he has done superbly; suggests if Mr. Lum is not returned to his job immediately then those that filed the grievance have won; feels Mr. Lum deserves fair treatment; apologizes for not being more focused in his comments as they didn't have all the information beforehand.

Chairperson Achadjian: indicates the Board will now retire to Closed Session to consider what decision should be made regarding Mr. Lum. **No action taken.**

12 CS The Board announces it will be going into Closed Session regarding:

I. PERSONNEL (Gov. Code, § 54957). It is the intention of the Board to meet in Closed Session to: *1) Consider Public Employee complaints or Charges.*

(SUPERVISORS PEG PINARD AND MICHAEL P. RYAN ARE NOW ABSENT.)

Thereafter, pursuant to the requirements of the Brown Act, County Counsel reports out on the items discussed during Closed Session as follows: the Board unanimously agreed to continue the meeting past 5:00 p.m. and in the matter of the "complaints or charges" against John Lum, the Board has made a decision which is a confidential personnel matter and the Board goes into Open Public Session.

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, March 6, 2001, 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: 03/12/2001

vms