

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Public Works		(2) MEETING DATE 1/10/2012		(3) CONTACT/PHONE Phil Acosta, Right of Way Agent (805) 781-5290	
(4) SUBJECT Hearing to consider a resolution of necessity for the acquisition of the real property interests required from BSR, A General Partnership for the Los Osos Wastewater Project (WBS# 300448)					
(5) RECOMMENDED ACTION It is our recommendation that your Honorable Board: 1. Open and conduct a hearing on the adoption of the Resolution of Necessity, receive comments from the staff, take testimony from the property owners or their authorized representative, and consider all the evidence; and 2. Adopt, by 4/5 th s vote, the Resolution of Necessity on the BSR, A General Partnership property.					
(6) FUNDING SOURCE(S) Los Osos Wastewater Project 300448		(7) CURRENT YEAR FINANCIAL IMPACT \$36,500.00		(8) ANNUAL FINANCIAL IMPACT N/A	
(9) BUDGETED? Yes					
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. 20 min.) <input type="checkbox"/> Board Business (Time Est. _____)					
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: N/A <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A		
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A			(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
(15) LOCATION MAP Attached		(16) BUSINESS IMPACT STATEMENT? No		(17) AGENDA ITEM HISTORY <input checked="" type="checkbox"/> N/A Date _____	
(18) ADMINISTRATIVE OFFICE REVIEW					
(19) SUPERVISOR DISTRICT(S) District 2 -					

Reference: 12JAN10-H-2

County of San Luis Obispo



TO: Board of Supervisors

FROM: Public Works
Phil Acosta, Right of Way Agent

VIA: John Waddell, Project Manager, Los Osos Wastewater Project
Dave Flynn, Deputy Director of Public Works

DATE: 1/10/2012

SUBJECT: Hearing to consider a resolution of necessity for the acquisition of the real property interests required from BSR, A General Partnership for the Los Osos Wastewater Project (WBS# 300448)

RECOMMENDATION

It is our recommendation that your Honorable Board:

1. Open and conduct a hearing on the adoption of the resolution of necessity, receive comments from the staff, take testimony from the property owners or their authorized representative, and consider all the evidence; and
2. Adopt, by 4/5ths vote, the resolution of necessity on the BSR, A General Partnership property.

DISCUSSION

The BSR, a General Partnership property, located at the corner of Solano Street and Skyline Drive, contains a total of 5.06 acres which is zoned Residential Single Family and is improved as a portion of a golf resort facility and related open space. For Construction of the Los Osos Wastewater project (LOWWP) the County is seeking the following:

- a permanent easement over an area of 0.09 acre for the construction and operation of a wastewater lift station;
- a permanent easement over an area of 0.22 acre for Re-vegetation and Open Space requirements;
- a Temporary Construction Easement over an area of 0.136 acre for construction access and staging during construction of the wastewater lift station.

A portion of the Re-vegetation and Open Space Easement area overlays an area encompassed by a prior open-space deed restriction that was created by conveyance to the County as a condition of development and recorded December 30, 1993. This prior conveyance however, did not provide the County with the rights necessary to conduct the re-vegetation and open space activities required under the LOWWP. The Resolution of Necessity (p. 2, VII.) affirms that the proposed acquisition will not unreasonably interfere with or impair this prior encumbrance.

It is also noted that a tentative agreement had been reached previously by the Los Osos Community Services District (LOCSD) for the acquisition of similar portions of this proposed appropriation from the same owner in July of 2005; however, this prior transaction was terminated as a result of the LOCSD bankruptcy.

The recommended actions are necessary to assure that the contractors, who will build this project, will be able to enter the subject property when the work is scheduled. Discussions with the owner of the subject parcel are continuing, but time constraints require consideration of an action in Eminent Domain for this property. Staff recommends that the Board adopt the Resolution of Necessity and initiate formal proceedings for this property. Negotiations with the owner will continue during this process. Project construction contracts are scheduled to be awarded in the spring of 2012.

Should your Board adopt this Resolution of Necessity today, the action will, in no way, preclude ongoing discussions and negotiations between the County and the property owner. While discussions are continuing between parties, the current process may require several more months before reaching a resolution. The individual property owners are entitled to obtain a second opinion of value for these transactions, at County expense up to \$5,000, in order to help ensure that fair compensation is established.

State guidelines provide the County with the right to implement Eminent Domain proceedings, and the subject Resolutions are submitted for your consideration. The Code of Civil Procedures requires a 4/5ths vote for the adoption of these Resolutions.

In order to adopt the Resolution of Necessity, the County must find and determine that:

- A. The public interest and necessity require the project;
- B. The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- C. The subject property is necessary for the proposed project; and
- D. Each offer required by Section 7267.2 of the Government Code has been made to the subject owner(s) of record.

These findings are incorporated into the attached Resolution.

The subject property owner and/or their authorized representative are allowed to present comments and evidence as it relates only to issues A, B, C, and D above as these issues may apply to the subject property. Any other issues, including value, are not proper subjects for this hearing.

OTHER AGENCY INVOLVEMENT/IMPACT

County Counsel has reviewed and approved the subject Resolution as to legal form and effect.

FINANCIAL CONSIDERATIONS

The cost of acquisition of the real property interests required from BSR, A General Partnership is currently appraised at \$36,500.00. This cost is included in the Project budget.

The Project is funded by a combination of Federal, State, and local sources budgeted in the Los Osos Wastewater Project (WBS# 300448).

RESULTS

Adopting the subject Resolution of Necessity will allow continued progress toward construction of a community wastewater project for Los Osos by supporting the acquisition of the described real property interests required for the project.

File: LOWWP 300448.05 (300337.05)

Reference: 12JAN10-H-2

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ATTACHMENTS

1. Vicinity Map
2. Exhibit 1 - Owner and Parcel List
3. "BSR" Resolution of Necessity with Legal Description and Map