

Tuesday, May 15, 2012

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 AM

PRESENT: Supervisors: Frank Mecham, Bruce S. Gibson, Adam Hill, Paul A. Teixeira and Chairperson James R. Patterson

ABSENT: None

THE PLEDGE OF ALLEGIANCE IS LED BY CHAIRPERSON JAMES R. PATTERSON.

1-11. This is the time set for consideration of the Consent Agenda:

Chairperson Patterson: opens the floor to public comment.

The action taken for Consent Agenda Items 1 through 11 on the following vote is indicated for each item.

Motion by: Bruce S. Gibson

Second by: Adam Hill

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Patterson, James R. (Chairperson)	x			
Teixeira, Paul (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

Bid Opening:

- Letter transmitting Plans and Specifications (Clerk’s File) for the Los Osos Wastewater Project, Collection System Pump Stations, Los Osos, CA, Contract No. 300448.08.01.PS for Board approval and advertisement for construction bids. Bid Opening set for June 21, 2012 at 3:00 P.M.

Dr. C. Hite, Ms. Linde Owen, Ms. Julie Tacker, and Mr. Al Barrow – Coalition for Low Income Housing: speak.

The Board approves as recommended by the County Administrative Officer.

Items Set for Hearing:

- Setting of a public hearing to consider a resolution to collect existing service charges on property tax bills for County Service Areas 1 (Old Galaxy and Tract 1690, Nipomo), 1-A (Galaxy Park and Tract 1898, Nipomo), 1-F (New Galaxy, Nipomo), 7-A (Oak Shores), 18 (San Luis Country Club Estates), and 21 (Cambria). Districts 1, 2, 3 & 4. Hearing date set for June 5, 2012.

The Board approves the item as recommended by the County Administrative Officer.

Consent Agenda - Board of Supervisors Items:

- Submittal of a resolution recognizing the Pacific California Council of Beta Sigma Phi's 72nd California State Convention, May 18-20, 2012. .

The Board approves the item as recommended by the County Administrative Officer. RESOLUTION NO. 2012-116, adopted

Consent Agenda - District Attorney Items:

- Submittal of a resolution authorizing the District Attorney to sign an agreement with the California Victim Compensation and Government Claims Board (VCGCB) to receive \$215,196 from the State to continue providing verification of crime victim compensation claims for FY 2012-2013.

The Board approves as recommended by the County Administrative Officer. RESOLUTION NO. 2012-117, adopted.

Consent Agenda - Health Agency Items:

5. Request to approve a two year renewal agreement (Clerk's File) with the California Department of Corrections and Rehabilitation in an amount not to exceed \$146,932 to provide addiction treatment services to parolees in the community from January 1, 2012 through December 31, 2013.

(This item was amended at the beginning of the meeting to correct the format of the Attachment in Agenda.net.)

The Board approves as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda - Public Works Items:

6. Submittal of a resolution to levy sewer availability charges for County Service Area No. 7-A (Oak Shores) and for County Service Area No. 18 (San Luis Obispo Country Club Estates). Districts 1 & 3.

(This item was amended at the beginning of the meeting by renaming "Exhibit A to Resolution" attachment to read "Exhibit A and B to resolution" to reflect inclusion of Exhibit B.)

The Board approves as recommended by the County Administrative Officer and as amended by this Board. RESOLUTION NO. 2012-118, adopted.

7. Submittal of a resolution to levy water availability charges for County Service Area No. 16 (Shandon), and County Service Area No. 23 (Santa Margarita). Districts 1 & 5.

(This item was amended at the beginning of the meeting by renaming "Exhibit A to Resolution" attachment to "Exhibit A and B to Resolution" to reflect inclusion of Exhibit B.)

The Board approves as recommended by the County Administrative Officer and as amended by this Board. RESOLUTION NO. 2012-119, adopted.

8. Request to approve Amendment No. 5 to a Cooperative Funding Agreement with San Luis Obispo Council of Governments; authorize a budget adjustment in the amount of \$2,480,409 to increase the appropriation and associated funding for five (5) existing projects; approve creation of a capital project "Parks – Morro Bay to Cayucos Connector – California Coastal Trail". All Districts.

The Board approves as recommended by the County Administrative Officer.

9. Submittal of right of way documents accepting conveyance to the County of San Luis Obispo from the Wei Tzuoh and Carrie Chen Revocable Trust; and from the Cambria Community Services District (CCSD), for the Main Street Bridge Replacement Project, Cambria, CA, (WBS 300180). District 2.

Mr. Phil Acosta: corrects the spelling of Mr. Chen's name in the staff report and documents to read "Wei Tzouh Chen".

The Board approves as recommended by the County Administrative Officer and as amended by this Board.

- 10. Consideration of items for compliance with the Coastal Development Permit on the Los Osos Wastewater Project including deed restriction documents for Project properties and a Memorandum of Agreement with the California Department of Fish and Game; District 2.

(This item was amended at the beginning of the meeting by adding Exhibit B and Exhibit C to the MOA with the California Department of Fish and Game.)

Mr. Eric Greening, Dr. C. Hite, Ms. Linde Owen, Ms. Julie Tacker, and Mr. Al Barrow – Coalition of Low Income Housing: speak.

The Board approves as recommended by the County Administrative Officer and as amended by this Board.

Consent Agenda - Sheriff - Coroner Items:

- 11. Request to approve an application for the 2011 Edward Byrne Memorial Justice Assistance Grant (JAG) Program totaling \$16,619, and, if awarded, accept the grant, authorize a corresponding budget adjustment in Fund Center 136 – Sheriff-Coroner, amend the fixed asset list, and authorize the Sheriff-Coroner to sign all 2012 JAG grant documents.

The Board approves as recommended by the County Administrative Officer.

Presentations:

- 12. Submittal of resolutions recognizing employees for 30 years of service.

RESOLUTION NO. 2012-120, resolution commending Carolyn Huseby in recognition of Thirty Years of Service with San Luis Obispo County; RESOLUTION NO. 2012-121, resolution commending William Preston Heath III in recognition of Thirty Years of Service with San Luis Obispo County; RESOLUTION NO. 2012-122, resolution commending Jolynn Butera in recognition of Thirty Years of Service with San Luis Obispo County; RESOLUTION NO. 2012-123, resolution commending Jeremy Shennum in recognition of Thirty Years of Service with San Luis Obispo County; RESOLUTION NO. 2012-124, resolution commending Rod Hallin in recognition of Thirty Years of Service with San Luis Obispo County, adopted.

Motion by: Frank R. Mecham

Second by: Paul Teixeira

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Patterson, James R. (Chairperson)	x			
Teixeira, Paul (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

- 13. Submittal of a resolution proclaiming May 2012 as "Military Appreciation Month".

Chairperson Patterson: opens the floor to public comment.

Dr. C. Hite: speaks.

RESOLUTION NO. 2012 125, resolution proclaiming May 2012 as “National Military Appreciation Month” in San Luis Obispo County, adopted.

Motion by: Frank R. Mecham

Second by: Paul Teixeira

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Patterson, James R. (Chairperson)	x			
Teixeira, Paul (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

14. Submittal of a resolution proclaiming May 15, 2012 as "Viral Hepatitis Awareness Day" in San Luis Obispo County.

RESOLUTION NO. 2012-126, resolution proclaiming May 15, 2012 as "Viral Hepatitis Awareness Day" in San Luis Obispo County, adopted.

Motion by: Frank R. Mecham

Second by: Paul Teixeira

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Patterson, James R. (Chairperson)	x			
Teixeira, Paul (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

15. Presentation of annual report by the Commission on the Status of Women.

Chairperson Patterson: opens the floor to public comment.

Dr. C. Hite: speaks.

The Board receives and files the report.

Motion by: Frank R. Mecham

Second by: Paul Teixeira

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Patterson, James R. (Chairperson)	x			
Teixeira, Paul (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

Public Comment Period:

16. 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: updates the Board on upcoming Election deadlines.

Dr. Steve Hansen: urges the Board to support Proposition 29 and discusses health related issues from smoking.

Mr. Bob Blair: comments on water issues with the Nipomo Community Services District.

Mr. John Snyder: presents and discusses his flyer regarding the groundwater basin und the Nipomo Mesa.

Dr. C. Hite, Mr. Ben DiFatta, Ms. Gwynn Taylor, Mr. Greg Freiberg (poster boards), Ms. Linde Owen, Ms. Julie Tacker, Mr. Chuck Cesena, Mr. Richard Margetson, and Mr. Al Barrow – Coalition for Low Income Housing (maps): comment on the Los Osos Wastewater Project.

Mr. Eric Greening: addresses his concerns regarding the recent lawsuit filed against LAFCO regarding an annexation. **No action taken.**

Board Business:

17. Introduction of the Fiscal Year 2012-13 Proposed County Budget (Clerk's Filed).

Chairperson Patterson: opens the floor to public comment.

Mr. Mike Brown – COLAB and Mr. Eric Greening: speak.

RESOLUTION NO. 2012-127, resolution approving the Proposed Budget for Fiscal Year 2012-13, adopted. Further, the Board schedules the public hearings on the FY 2012-13 Proposed County Budget to begin Monday, June 11, 2012 in the Board of Supervisors Chambers at 9:00 a.m. and orders publication of the required legal notices scheduling the public hearings.

Motion by: Frank R. Mecham

Second by: Paul Teixeira

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Patterson, James R. (Chairperson)	x			
Teixeira, Paul (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

Hearings:

18. Hearing to consider a resolution to approve a request by the Templeton Community Services District to waive permit processing fees for Conditional Use Permit DRC2011-00085 for a new fire training facility. District 1.

Ms. Stephanie Fuhs – Planning: presents the staff report and amends the resolution, second paragraph, by replacing “Footnote 7.e” with “Footnote 4.e” to reflect this year’s Fee Schedule.

Chairperson Patterson: opens the floor to public comment.

Mr. Jeff Hodge – Templeton Community Services District and CDF Fire Chief Robert Lewin: speak.

The Board amends the resolution by replacing Footnote 7.e with Footnote 4.e in the second paragraph of the resolution and RESOLUTION NO. 2012-128, resolution approving the request by the Templeton Community Services District to waive permit processing fees for conditional use Permit DRC 2011-00085, adopted as amended.

Motion by: Frank R. Mecham

Second by: Paul Teixeira

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Patterson, James R. (Chairperson)	x			
Teixeira, Paul (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

Closed Session Items:

19. I. PENDING LITIGATION (Government Code, section 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 (Government Code, section 54956.9(a).) (Formally initiated) 1. County of San Luis Obispo v. Kajima Construction, et al.; 2. Sunny Acres, Inc.,

et al. v. County of San Luis Obispo, et al. (CV090360).

B. Conference with Legal Counsel-Anticipated Litigation (Government Code, section 54956.9.) 3. Significant exposure to litigation (Government Code, section 54956.9(b).) No. of cases 2. Facts and circumstances not known to potential plaintiff which indicate significant exposure to litigation. 4. Initiation of litigation (Government Code, section 54956.9(c).) No. of cases 2.

II. CONFERENCE WITH LABOR NEGOTIATOR (Government Code, section 54957.6.)

A. It is the intention of the Board to meet in closed session to have a conference with its Management Representative Tami Douglas-Schatz concerning the following: Name of employee organizations are: 5. Association of San Luis Obispo County Deputy Sheriffs.

ADDED - ALL REQUIREMENTS OF THE BROWN ACT HAVE BEEN SATISFIED AS THIS NOTICE WAS POSTED PRIOR TO THE 72-HOUR NOTICING REQUIREMENT.

I. PENDING LITIGATION (Government Code, section 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 (Government Code, section 54956.9(a).) (Formally initiated) 6. Dubbink v. County of San Luis Obispo, et al., 7. San Luis Obispo County Deputy County Counsel Association, et al. v. San Luis Obispo County Pension Trust Board, et al. 8. County of San Luis Obispo v. San Luis Obispo Government Attorneys' Union; 9. County of San Luis Obispo v. San Luis Obispo Deputy County Counsel Association.

Chairperson Patterson: 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 as no final action was taken and the Board goes into Open Public Session.

Hearings Continued:

20. Hearing to consider an appeal by Excelaron, LLC of the decision of the Planning Commission to deny its application for Conditional Use Permit DRC2009-00002. District 4.

Board members: each outline their Ex-Parte Communications regarding this matter.

Ms. Carol Florence – Oasis Associates, Dr. Arthur Halleran, and Mr. Grant Jagelman – Excelaron President (Applicant/Appellant): presents and discusses additional documents for the Board's consideration and outline their reasons for the appeal.

Chairperson Patterson: opens the floor to public comment.

Mr. Ron Skinner – Huasna Foundation President, Mr. Charles Headington, Mr. Norris Palmer, Mr. James Yacono, Dr. Barry Keller, Mr. Richard Waller, Mr. Reid Hawkins, Mr. Bill Thoma, Mr. Steve Yarbrough, Ms. Terrie Leivers, Mr. Douglas Timewell, Mr. Raymond Fuhrmann, Ms. Barbara Yarbrough, Ms. Risa Kaiser, Ms. Michelle Dorman, Mr. Arza Porter, Mr. Tim Heaton, Mr. Steve Loomis, Mr. Ben Rhoades, Mr. Eric Greening, Mr. John Porter, Mr. Steven Weiner, Mr. Joe Doud, Mr. Walt Mankins, Mr. Robert Stow, Mr. Robert Garner, Mr. Brad Parker, Mr. Tom Murray, Mr. Charles Porter, Mr. Herbert Jenkins, Ms. Tracy Del Rio, Mr. C.Z. Whitney, Mr. Matt Hagen, Ms. Diane Moody, Mr. Fred Collins – Northern Chumash Tribal Council, Ms. Istar Holliday, Mr. Dennis Allan, Ms. Margaret Allan, Mr. Tim Cleath, Mr. Joseph Gerber, Mr. George Hansen, Ms. Heather Hellman, Ms. Susan Heaton, Mr. Peter Keith, Mr. Babak Naficy – representing Huasna Foundation, Ms. Margaret Porter Ontiveros, Mr. Tim Palmer, Mr. Steve Palmer, Mr. Richard Shiffar, Ms. Lyn Schultz, Mr. Steven Sletten, Ms. Betty Tolson, Ms. Elaine Hagen, Mr. Thomas Gibbons, Ms. Diane Brocato, Mr. Mike Brown – COLAB, Mr. Andrew Christie – Sierra Club, Ms. Robyn Letters, Mr. Marlin Brown, Ms. Nicole Cohrs – Attorney for In-n-Out Burgers, Inc., Mr. Les Dorman, Mr. David Dubbink, Mr. John Evans, Ms. Anna Gabriel, Ms. Chelcia Grant, Ms. Lindsey Gibson, Ms. Cindy Hansen, Mr. Ian Jackson, Mr. William Palmer, Mr. Richard Porter, Mr. Kent Zammit, Ms. Marna Sharpe, Mr. Michael Law, Mr. Paul Scheibe, Ms. Lyn Taylor (video): speak.

Ms. Florence: makes her closing comments and responds to public comment.

Supervisor Gibson: outlines the following questions or additional information for staff to response at the next

hearing: the County’s authority over mineral rights regarding drilling, operations, or abandonment of the oil field; does the State or Federal Government supersede the County’s authority; staff analysis of the revised project presented today and whether it should be considered an alternative under CEQA on the question of where they drill and position wells; the Applicant/Appellant analysis regarding significant impacts regarding odors and spills, particularly the statistics regarding vehicle miles traveled for potential spill events needs to be analyzed; analysis of the information from Huasna Foundation regarding how many wells are needed to have a reasonable chance reaching the 1,000 barrel a day limit; the cumulative effect of neighboring properties developing their mineral rights; the benefits of this project to San Luis Obispo County; how mineral rights are valued and any change in the assessed value of the property once minerals are being extracted; the impacts of the greenhouse gas emissions from this project; the status of the water source from Santa Maria; the fire suppression abilities of the available water; and more specific details regarding the restoration plan for this project.

Supervisor Teixeira: echoes the comments of Supervisor Gibson, directs County staff to provide the information presented by the Applicant/Appellant to the Huasna Foundation, with Chairperson Patterson directing staff to also post the information on their website.

Supervisor Patterson: questions the required standards of the private road through Porter Ranch and how it will be maintained during the life of the project when it is on private property; echoes the questions regarding mineral rights.

Supervisor Hill: asks that the Fire Marshall review the modifications presented by the Applicant/Appellant.

Supervisor Mecham: states he wants a legal opinion regarding the County’s authority over mineral rights.

Mr. Timothy McNulty – Deputy County Counsel: addresses the need for correspondence from the Applicant/Appellant outlining the proposed changes to the project; this correspondence could then be made available to the public and assist staff in determining if these changes are going to trigger the need for the Environmental Impact Report to be re-circulated.

The Board directs staff to prepare a response to the questions or requests for additional information and continues the hearing to August 21, 2012.

Motion by: Frank R. Mecham

Second by: Paul Teixeira

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Patterson, James R. (Chairperson)	x			
Teixeira, Paul (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Hill, Adam (Board Member)	x			

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 15, 2012, 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/ Catrina M. Christensen, Deputy Clerk-Recorder