

COLAB SAN LUIS OBISPO COUNTY

WEEK OF October 10- 17, 2011

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Board of Supervisors

Board of Supervisors Meeting of October 4, 2011 (Completed)

Choking on the Events Ordinance. A nervous Board conducted its first hearing on the Events Ordinance. Nineteen people spoke, of which four supported the ordinance, fourteen were opposed, and one was fairly incomprehensible. Not-for-profit organizations, several agricultural organizations, and owners of properties where events take place were the main opposition speakers and were very critical of the ordinance. The staff led off with a technical presentation dwelling on the all the public input they had received, the detailed consideration by the Planning Commission, layered permitting requirements, and some selective discussion of particular provisions. This was followed by a very one-sided presentation by a Cal Fire Battalion Chief who is assigned as Fire Marshall for San Luis Obispo County. It contained a well know film clip showing fire spread in a room that was not sprinkler protected with a comparison of a room that was sprinkler protected. He also presented a film clip of the 2003 West Warwick, Rhode Island night club fire tragedy that was caused when the rock band Great White used unpermitted stage pyrotechnics. At the end, Supervisor Gibson opined that fire safety was the key issue. It is likely that the fire protection issues will be the most potent driver of additional requirements and a trigger for higher level permitting. (Conditional use permits vs. no permits or ministerial [over the counter] permits.)

Only one speaker had an actual complaint, reporting excessive noise from an adjacent ranchette that contracts out for weddings. Reportedly, the screeching that accompanies the repeated toasting is the most irritating. Again, this raises a question about whether or not a real problem exists. Should anecdotal, random data control public policy making? Perhaps it would be easier to ban screeching than to go through this whole process.

COLAB presented its two recommendations.

Recommendation 1: The Board should suspend consideration of the ordinance and direct staff to prepare an analysis of the historic and current costs for applicants to

process applications for permits for events. The staff should then prepare estimates of the costs once a permit is issued.

Recommendation 2: During its September 6, 2011, meeting, while extolling actions that it had taken to promote economic development and make permitting easier, the Board made quite a point about requiring staff to conduct “business impact statements” on selected private sector business applications. The point was to provide balance in the regulatory scheme and to show the economic benefits of particular projects. The Board should subject this ordinance to the same analysis in order to assess the economic (business) impact of its own prospective action.

In addition, COLAB pointed out that given the state of the economy, unemployment, foreclosures, and bankruptcies, this is not a good time to be ramping up this regulation. There was no visible reaction from the Board other than a blank stare.

In the end, it was clear that the staff and the Commission did not follow the Board’s original instructions to craft a workable ordinance and process. It was also clear that the issue is difficult for the Board, and they are not sure what to do. As usual in such cases, Supervisor Gibson politely but firmly stepped in with proposed motions and direction to the staff. Generally the Board appears to want to relax some of the restrictions being proposed (particularly attendance restrictions and permit triggers). They also would appear to want to cut the barn venues some slack with respect to sheet rock and sprinklers. Hearst Ranch would be exempt from everything because it is so large. What difference does it make if you have a barbeque in the middle of 88,000 acres or 100 acres?

The staff is to return on November 8, 2011 with revisions. The Board was very clear that they are not sending the issue back to the Planning Commission but instead will deal with it themselves.

Board of Supervisors Meeting of October 11, 2011(Scheduled)

Fiscal Year 2012-13 Budget Forecast. The County Administrator is presenting a budget forecast for FY 2012-13 in which he predicts further budget reductions. The property tax is projected to fall slightly as a result of decreasing values, lack of growth, and delinquencies. The general sales tax, hotel tax, and property transfer tax are all projected to be flat. The transfer tax is a predictive leading indicator and reflects the weak real estate market. A flat or declining transfer tax now means a flat or declining property tax in the future.

The much heralded three-year temporary sales tax spike from the two solar plants is not included in the projections as there are questions about plant financing and the future of government subsidized solar panel manufacturers in general. (Both projects were proposed by solar panel manufacturers.)

State and Federal categorical revenues (restricted for social services, mental health, and public health) will be flat in some cases and will decrease in others. The state/local public safety sales tax (the half cent provided by Prop 172) is expected to equal its actual performance in FY 11-12, which means it also will be flat.

Over all, a \$5.5 million to \$9.5 million gap on an estimated \$384.1 million budget is projected. This will be eliminated by the use of a combination of budget reductions and application of reserves.

COLAB believes that program and spending reductions will be necessary in spring of 2012 because the State Budget was balanced with fake revenue projections. The State Budget adoption bill included automatic reductions if projections are not met which is already happening. Some of these reductions will impact counties. The underlying State structural budget gap will carry over into FY 2012-13.

Budget Death Wish? The fundamental question is: what is the Board of Supervisors doing to grow the local economy, long and short term? Certainly event restrictions, Dunes ATV restrictions, vacation rental restrictions, a shopping bag tax, and transfer of development credit (TDC) costs and restrictions cannot help this situation. Similarly, removing large areas of private land from possible development can't help the situation. The proposed so called "Energy Wise Plan" (Climate Action Plan) contains many new ideas to prevent development and growth as well as make permitting more complex and costly. Similarly, this plan contains proposed requirements for homeowners to make many expensive appliance upgrades, HVAC (heating, ventilation, and air conditioning) upgrades, and water saving improvements before they can sell their house and flee.

In local government, land use is destiny. And for all the folks out there educated in Mr. Roger's neighborhood (including most of the political class), you need to embrace anxiety and connect the dots.

No Treat/Big Trick: Shifting of State Prisoners and Parolees to the County (AB 109 Safety Realignment Plan). Because the State is broke, it is transferring responsibility for some categories of felons (non-violent offenders, non-sexual offenders, non-serious offenders) from the State prison system to the counties. It is also transferring the responsibility for some categories of parolees to the counties. This devolution of State responsibility is camouflaged in the Orwellian "double speak" word "realignment." This means you pay more State taxes, get less service, and in this case keep more felons in San Luis Obispo County. Existing prisoners will not be transferred to the County. This is a phase-in program so that as new convicts are sentenced, they will be housed in the San Luis Obispo County Jail instead of being sent to a State facility. When they are released, they will be assigned to County probation officers instead of State parole officers. The State estimates that when the shift is complete, there will be 140 offenders serving felony sentences in the County Jail, 136 offenders on post-release community supervision, and 22 revoked offenders in jail for violating parole or probation.

The shift begins in mid-October with the State providing partial funding of \$2.3 million. The County staff estimates that when fully phased in, the full year cost will be \$4.0 million per year and growing. There is no State guarantee of funding in future years, and since the State will be even more insolvent next year, it is likely that the County will be forced to absorb all or much of the so called prison "realignment cost" in its FY 2012-13 budget (and in subsequent budgets). The counties are evaluating running a ballot measure that would force the State to provide come up with the funding. This measure will not stand much of a chance because it will be viewed as taking money away from education, State employee

pensions, and environmental initiatives. Heaven forbid that you would cut the budget for State Steelhead fish ladder grants to help the fifty-eight county court house gangs balance their budgets.

General Plan Annual Progress Report. Counties and cities are required to adopt and maintain a general plan by State law. Various “elements” (sections on land use, conservation and open space, circulation, and so forth) are required. Each year every jurisdiction is required to prepare a status report on the condition of the plan, the age of the elements, and what it has been accomplished by way of amendments, additions, and deletions. The report also serves as an opportunity to justify the planning effort by pointing out that it is “mandated by state law”.

It would be helpful at some point to have an independent expert land-use attorney from outside San Luis Obispo County conduct an analysis and review of what is really mandated. This would be analogous to getting a second opinion prior to surgery.

Department of Planning and Building Priorities. Each quarter the Planning and Building Department provides the Board of Supervisors with a report on progress on the Boards top ten projects and other projects. It also provides a detailed matrix of projects and tasks that the Board, Planning Commission, other bodies, or the staff itself believe need to be accomplished but for which there are no budget or staffing. The top ten today are:

- Implement permit streamlining measures.
- Adopt and begin implementation of the so called Energy Wise /Climate Action Plan.
- Adopt and begin implementation of the Economic Strategic Plan in collaboration with the Economic Vitality Commission.
- Prepare ordinance amendments to implement a Planned Development Ordinance.
- Prepare general plan and ordinance amendments to modify agricultural cluster subdivision policies and standards.
- Prepare the Public Review Draft of the Land Use and Circulation Element update and prepare the EIR.
- Complete the draft Los Osos Habitat Conservation Plan-Begin Fish and Wildlife agency Review.
- Complete the Paso Robles Groundwater Basin Resource Study.
- Adopt the Special Events Ordinance.
- Update the Shandon Community Plan.

Except for number one, and perhaps number ten, the Board should suspend all the others.

OTHER GOVERNMENT ENTITIES

Planning Commission

Planning Commission of October 13, 2011 (Scheduled)

Climate Action Plan. The Climate Action Plan is back on the agenda for its second hearing. The first hearing was held on October 6, 2011. The report on that hearing is repeated below as background. There is no new information on the agenda related to this item. The Board

members are admonished to bring their materials from the prior hearing. It appears that the Board majority will plow ahead and adopt the newly renamed "Energy Wise Plan." As readers may recall, the staffer in charge of the Plan expressed his disdain for conducting any sort of economic impact analysis and was supported in this view by Commission Chair Christianson. They claim to support some sort of piecemeal economic impact approach as specific items are selected for implementation. What about the accumulative economic impacts?

Background. The Commission conducted its first hearing on The Climate Action Plan. The name has been changed from the Climate Action Plan to the "Energy Wise Plan." It is now being billed as a voluntary collection of energy saving ideas from which the Board of Supervisors may pick and choose in the future. Ten people spoke at the hearing. Speakers were about evenly divided between those who had concerns about the impact of the Plan (Farm Bureau and Realtors) and those who support it (Sierra Club and representatives of non-profits that have green energy counseling, training, and installation businesses).

COLAB was the only entity recommending that the Commission stop, step back, and perform an economic impact analysis of the recommended actions per the Supervisors' recent praise and direction to conduct such analyses on a selective basis. Commissioners Irving and Murphy lent some support to this idea. Planning Department Project Manager, James Caruso, who is in charge of preparing the Climate Action Plan, was vociferous in his denunciation of such a step. He stated, "That's not going to happen!!" and added that since the Plan is not "really regulatory," "this does not need to be done." He later stated that if and when the Board selects specific actions for possible adoption in the future, an in-house analysis might be conducted. Commission Chair Christianson expressed her support for Caruso's "direction" to the Commission: "It is important to note we are not implementing."

Sucker Punched. The danger is that the "Plan," which is now being presented as a long range cafeteria of greenhouse gas reducing choices, will be adopted because those being sold this supposedly benign "plan" will assume that they can respond to future piecemeal regulations as they are proposed. This, of course, is a nice divide-and-conquer tactic, since different groups will be impacted differently by various regulations. Moreover, it avoids the analysis of the "accumulative impacts."

The staff terms it a "Plan" that does not have requirements but that "has consequences." The Board letter summary states in part, "While the measures in Chapter 5 of the Plan are not laws or policies, they offer guidance to the public, decision makers and staff in discussions of energy efficiency, strategic growth, renewable energy and waste reduction policies."

However, in relation to the California Environmental Quality Act (CEQA), it states: "The Plan is prepared in order to be considered as a 'qualified GHG (greenhouse gas) reduction Plan.' Such status will allow the Plan to be used to evaluate and mitigate cumulative GHG impacts of development projects."

A few sentences later it states: "It is important to note that new proposed development projects do not have to be found consistent with the Plan since it is not part of the General Plan."

These statements bring to question the “Plan’s” authority when it is incorporated by reference into existing Plan Elements, such as the Conservation and Open Space Element, which are part of the General Plan.

Resource Management System (RMS). The RMS is an annual process in which the Planning Department collects data from a variety of sources to determine if there are adequate resources to allow development in various areas of the County. Water availability and quality, traffic congestion, school overcrowding, and air pollution are key metrics. An elaborate report is prepared and can be used to generate further analysis to determine if further restrictions on development should be promulgated for specific areas of the County, Back in April, COLAB commented and pointed out that undertaking the process every year seemed wasteful because the metrics do not change that rapidly. COLAB suggested that the county abandon the program or at least conduct it every three to five years instead of annually. The Board directed that staff prepare an amendment to the ordinance to require that it be done every two years. The proposed amendment is before the Planning Commission. The discussion should be interesting and revealing of the Commissioners' orientation.