

# **COLAB SAN LUIS OBISPO COUNTY**

**WEEK OF APRIL 14-20, 2013**

**SKY LANTERNS ARE OK IF THEY ARE ESSENTIAL TO  
YOUR CULTURE: WHAT ABOUT PLASTIC GROCERY  
BAGS?**

**WHY IS THE ATASCADERO LIBRARY PROJECT  
BEING REBID?**

**PLANNED DEVELOPMENT ORDINANCE APPROVED BY PC  
AND FORWARDED TO BOARD OF SUPERVISORS  
-MORE “SMART GROWTH”-**

**RESIDENTIAL LOTS GOING OFF TAX ROLLS  
MORE “SMART GROWTH” AND “VIEW PROTECTION”**

## **Board of Supervisors Meeting of Tuesday, April 9, 2013 (Cancelled)**

The meeting was cancelled.

## **Board of Supervisors Meeting of Tuesday, April 16, 2013 (Scheduled)**

**Item 2 - What Went Wrong With the Atascadero Library Bid?** The staff recommends that the Board reject all bids for this \$8.4 million dollar project to renovate a building into a new library and community service center. The write-up indicates that one of the bidders filed a protest challenging the selection. As a result the General Services Department convened an appeal panel to hear the matter. The panel consisted of unnamed representatives from the County Administrator’s Office, County Counsel’s Office, and Public Works Department. After the hearing, the panel recommended that all bids be rejected and that the process be started over.

Why? The item provides no substantive information on why the protest was filed in the first place, the validity of the protest, or the cause of the problem. Was it:

1. Faulty bid specifications?
2. Mistakes during the bidders conferences and other steps leading up to the bids being submitted?

3. All the bid costs were over the engineers estimate?
4. Were there errors in reviewing the bids which compromised the process?
5. The new bid is supposed to contain trade names for some of the products and systems to be used in the project. Did this have something to do with recommendation to rebid? Why?

Another question is: What are the new costs to the County of conducting the rebid?

The Board letter is full of information about the history of the project, its budget, and other information that is interesting but not specific to the requested action.

We hope the Board asks for a full and complete public explanation. On several occasions we have seen the Board gloss over issues in public by saying that “they had been briefed in private by staff many times in their offices” on a particular issue.

Perhaps a true progressive open government step for SLO County would be for the weekly agenda setting meeting of the Chair, CAO, and County Counsel to be noticed and open to the observation of the public. How about the private staff agenda briefings of individual board members? After all, if the public is getting only the sanitized version during the public Board meeting, how can it know and assess the real position of its elected representatives on the public’s business?

**Item 3 - Ordinance to Prohibit the Use of Sky Lanterns.** Apparently there is a growing problem in the County and in the State as a whole caused by the use of sky lanterns. The Board letter explains the problem:

*In 2011 the County Fire Department first became aware of sky lanterns, a new product being sold in local stores, on the internet, and non-commercial variations. Sky lanterns are airborne paper lanterns that are a tradition found in some cultures, and are typically constructed from oiled rice paper on bamboo frames. Each lantern contains a small candle or fuel cell composed of a waxy flammable material. When lit, the flame heats the air inside the lantern, thus lowering its density causing the lantern to rise in to the air. They are known to travel significant distances from the point of release. There is a serious fire and safety hazard associated with sky lanterns, which includes the potential to start an unintended fire on or off the property from which they are released.*

The ordinance would prohibit their use generally but would provide an exception by permit. The lanterns would have to be tethered. The exception section is interesting:

*Exceptions:*

*(1) Upon approval of the fire code official, sky lanterns may be used under the following conditions:*

*(a) When necessary for religious or cultural ceremonies and adequate safeguards have been taken in the discretion of the fire code official. Sky Lanterns must be tethered in a safe manner to prevent them from leaving the area and must be constantly attended until extinguished.*

This portion could be difficult for the Fire Marshall (and the County) over time. Who is to say what constitutes a valid “religious or cultural ceremony”? Does such a requirement violate First Amendment protections and discriminate against individuals or groups who wish to use sky lanterns for non-religious and non-cultural reasons, such as aesthetics?

In a disastrously fire prone environment such as most of San Luis Obispo County, does allowing an airborne open flame device enclosed in an inflammable wax bag ever make any sense. Maybe at the beach?



Sky Lantern Launch

Some of the dangers reported include:

*A sky lantern may land when the flame is weak but still burning. So there is a real danger that it will cause a fire if it lands on flammable vegetation or buildings. [6]*

*In typical designs, as long as the lantern stays upright the paper will not get hot enough to ignite. However, if the balloon is tilted (say, by rough winds or by hitting some object), it may catch fire while it is still in the air. The paper will usually burn out in a few seconds, but the flame source may remain lit until it hits the ground.*

*After the balloon lands, the leftover thin wire frame will rust away very slowly and create a hazard to animal who may swallow it, by accident or mistake. [7]*

*Sky lanterns also pose a danger to aircraft. [8]*

*In 2009, a British company, Sky Orbs Chinese Lanterns, developed nonmetal lanterns using a bio-degradable fireproof rope in place of wire. [9] Many other European manufacturers now use a similar design. In 2012 the same company released a patented design with fireproof base to combat the reports of fires caused by lanterns. [10] <sup>1</sup>*

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<sup>1</sup> This quote is from Wikipedia: This page was last modified on 19 March 2013 at 20:50. Wikipedia® is a registered trademark of the Wikimedia Foundation, Inc., a non-profit organization.

Well, if it creates a hazard for animals, how can the enviros who banned plastic bags allow the exceptions? Since use of plastic grocery bags is a “deep cultural practice” for many folks, how come we can’t get an exception to the ban?

**Item 13 - Sale of County-owned Parcels In Cayucos to Land Trust Non-Profits.** The county owns 48 lots scattered on hillsides above Cayucos. This item would authorize staff to sell them by a bid restricted to a not-for-profit land trust. The buyer would covenant to preserve them as permanent open space. Thus, view lots above Cayucos, which could provide homes and property taxes, are being socialized as open space forever. The action is justified on the basis that the Estero Plan requires protection of view sheds from the beaches and Highway 1. There are already houses on the hillsides, so it is not clear how this action actually achieves the stated purpose. The write-up avoids directly dealing with the market value of these lots by saying they are being sold in bulk and that the County would not allow them to be developed. This self-fulfilling “logic” prevents a real discussion of the issue. If the lots were allowed to be developed, what would they be worth? If they were developed, what would the likely new property tax to be generated over 5 years, 10 years and 50 years?

**Item 24 - Appeal by a Property Owner of the Denial of a Certificate of Compliance in Los Osos.** Most new subdivision lots are created through an application pursuant to the County’s subdivision ordinance and the State Map Act, which requires that cities and counties regulate the subdivision of land. But what about lots which were created prior to county regulation and the Map Act? You have a lot and come into Planning to get a permit to build a house and they say you have to prove that it’s a legal lot. You say, “What do you mean? Our family has been paying taxes on it since 1968, and the people who sold it to my grandfather had paid taxes on it since 1903. The County obviously has been treating it as a legal lot because they have been taxing it every year for over a century.” Planning says, “We don’t care; you have to prove it’s a legal lot, which means you have to file an application for a Certificate of Compliance or actually take it through the subdivision process. Older lots may not be replicable under new subdivision standards.

In this case, which involves multiple lots, the Planning Department found, after the applicant went through the certificate of compliance process, that some of the lots did not comply. The applicant is appealing to the Board of Supervisors. The staff recommends that the Board deny the appeal.

*Staff is recommending that your Board deny the appeal and uphold the decision of the Director of Planning and Building by determining that neither the 1957 deed (Book 896, Pages 507-508) nor the 1998 conveyance (Doc. No. 1998-034265) legally subdivided the property. Proof of deeds prior to 1960 for Lot 1 portion of APN: 074-229-005 and proof of deeds prior to 1966 for APN: 074-229-004 separating each requested certificate of compliance parcel to effectuate their creation is required and has not been provided. In order to be legally recognized, each requested certificate of compliance parcel would have to be conveyed and separated from surrounding lands. Consequently, the Director of Planning and Building properly denied the issuance of two (2) unconditional certificates of compliance as requested for the properties.*

Staff then recommends forcing the applicant through a whole new application (including Coastal Commission review). Of course this is a new roll of the dice, which might also be unsuccessful.

#### **RESULTS**

*Denying the appeal and upholding the decision of the Director of Planning and Building will **encourage** (or force) the appellant to revise the application to request consideration of the issuance of two (2) unconditional certificates of compliance, one (1) for Lot 38 and one (1) for Lot 39, and request consideration of the issuance of two (2) conditional certificates of compliance/coastal development permits, one (1) for Lot 1 portion of Block 8 of the Map of The Town of Sunshine Beach and one (1) for portion of Lot B of a plat of part of Lot 79 of the Rancho Canada de Los Osos, in the County of San Luis Obispo, State of California, according to map subdivided by H.C. Ward in June 1880 and filed for record June 9, 1880 in Book B, Page 72 of Maps. Thereafter, the appellant could then apply for a Lot Line Adjustment/Coastal Development Permit in order to reconfigure the existing two (2) small legal parcels into two (2) resulting larger parcels in order to encompass the total property ownership. **Yellow highlight and bold are COLAB'S emphasis and comment.***

At a minimum, the Board ought to ask staff for information as follows:

1. What is the annual property tax on the subject properties?
2. What would the County receive in property taxes if new homes similar to other new homes in the area were developed?
3. What is the analytical policy benefit to the public of putting the applicant through another process? In other words, will it really make any difference?
4. What has it cost the applicant in County fees thus far for the entire process? (The item discusses only the appeal fee.)
5. What does the staff estimate the new process will cost?
6. If the Certificate of Compliance process fails again, are the lots approvable under a de novo subdivision process at today's standards?
7. What are the chances of the Coastal Commission approving certificates of compliance required in the new process?

Or

8. Is it that the staff just wants to prevent the development, period, and knows that saying so would lead to legal problems, so they will instead fight a delaying action through costly process until the applicant goes away or dies?

**Item 1 - Planned Development Ordinance (PDO).** The Commission unanimously recommended that the Board of Supervisors adopt the PDO. The problem is that while the ordinance may help homebuilders in a narrow sense, it furthers the cause of “smart growth” by helping to implement the growing restrictions on freestanding homes with yards and privacy in suburban and rural areas.

**Background – “Smart Growth” Implementation:** The theory is that the new, more compact development concentrated in urban and village areas will require less long-range automobile commuting; will encourage walking and biking to schools, recreation and shopping; will encourage the use of mass transit; will provide housing “choices;” and will promote economic and social equity. The major benefit claimed is that the new pattern of living will cause people to use less fossil fuels for commuting, lighting, heating, and cooling, thereby reducing CO2 emissions and slowing global warming. It is asserted that such development will also use less water than traditional freestanding houses on larger lots with yards and private gardens. The County staff write-up is explicit that the ordinance is designed to promote “smart growth.”

*The proposed ordinance amendments will encourage more creative and innovative site design and higher quality architecture for proposed planned developments. The proposed ordinance will help to implement the Strategic (smart) Growth principles in development consistent with the Policy in the Housing Element including providing a wider range of housing choices and mix of uses. The ordinance includes measures to ensure compatibility with existing adjacent residential land uses.*

It is also specific that it is a social engineering document as outlined in the paragraph below.

*The proposed ordinance amendments will help to implement a balance between environmental, economic and social equity concerns. The ordinance will maintain the flexibility that makes a Planned Development more compatible with the neighborhood, more financially feasible for the builder, and responsive to more desirable characteristics such as walkability, energy efficient, and water-conserving while providing more predictability for both developers and the community.*

At the first hearing in March on the PDO, when COLAB questioned the social engineering provisions on the record, the staff spokesmen evaded the question and said that its purpose is to provide workforce housing. The Commissioners accepted the non-answer and did not press the issue. At the April 11<sup>th</sup> hearing COLAB again complained about the “smart growth” and social engineering concepts underlying the PDO. Deputy Planning Director Kami Griffin retorted that “smart growth policies are adopted into the General Plan, thus the Board of Supervisor sets priorities...No Board direction has been given to amend the strategy... .”

Therefore the matter will have to be taken up with the Board directly as outlined below.

**Next Steps:** When this PDO appears on the Board of Supervisors Agenda, groups concerned with the overall policy and the continued propagation of the “smart growth

“doctrine should be prepared to turn out and question the Supervisors. Those groups that should be concerned include:

1. Realtors.
2. Suburban and rural landowners.
3. Developers and builders of single-family freestanding homes with yards.
4. Agriculturalists with estate planning issues.
5. Contractors and construction firms.
6. County employee labor organizations, which are dependent on economic growth to help pay their salaries and benefits.
7. Everyone concerned with growing limitations on property rights.
8. Everyone concerned with the enviro-socialist ideologues using the prospect of a global warming apocalypse to reorder the County’s scheme of land use and to overtly and incrementally add constraints to how citizens can use their land.
9. Everyone concerned with the integrity of their existing village plan (Templeton, Nipomo, etc.) with respect to density, height, area, set-backs, side yards, and design standards as the County adds densification tools to its arsenal.

We will provide an ALERT when the time approaches.

**Planning Department Crows about New Logo:** They are too “over-worked, understaffed and under financed” to get your permit through, but they spent lots of time developing their new Logo. Plus, they betrayed “smart growth” or lied. It shows a single-family house with a chimney. Houses with yards and fireplaces? How anti-green and anti-“smart growth”.

