

COLAB SAN LUIS OBISPO COUNTY

WEEK OF September 11-17, 2011

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SAVE WEDNESDAY OCTOBER 5, 2011: MEET ME HALFWAY DINNER

Board of Supervisors

Board Meeting of September 6, 2011 (Completed)

Supervisory District Redistricting. In an unexpected retreat, the Board Majority abandoned its preferred district map and accepted a compromise which it had rejected back in June. If adopted, it would have resulted in Templeton being represented by three different Supervisors. Templeton residents amped up their opposition to being segmented into three supervisory districts and promised even more friction and organizing if they were ignored. Twenty plus residents spoke at the hearing and many more emailed Board members. Templeton PTA representatives, a Chamber of Commerce representative, and a representative of the Wine Alliance were among those opposing the version which Board majority had directed to be converted into an ordinance on August 23, 2011. No speakers supported the Board majority's preferred version.

Significantly, the new map eliminates the proposed 2nd district salient, which extended a bulge eastward from the top of the ridge up to the edge of Templeton, removing 350 or so voters from the 1st district and placing them in the 2nd district. This had been viewed as an incumbent protection plan and as it turned out, was too blatant. The "compromise" version known as B-2 retains this area (termed the fox head by the staff) in the 1st District, which results in the Templeton area being represented by 2 instead of 3 Supervisors. Some residents feel that the process by which B-2 was reintroduced is flawed in terms of public notice requirements. They also are asserting that it violates various requirements of the redistricting law and therefore plan to continue community organizing and opposition. There has also been talk of legal action.

The B-2 version is set for a hearing on September 13th and a second reading/final adoption on September 29, 2011. Failure to adopt (and missing the time deadline) would result in automatically casting the process into the hands of a State Mandated Commission consisting of the District Attorney, County Superintendent of Schools, and County Assessor who would set the districts. The absolute deadline is November 1, 2011. Since redistricting is accomplished by ordinance and an ordinance requires 30 days to take effect, the practical deadline is September 30, 2011.

County Keynesianism: Planning and Building Department Actions to Counter Bad Economy.¹ The Board received a staff report extolling all the wonderful things the County is undertaking to make it easier to process applications. It was also provided examples of how grant dollars are being spent on subsidies to help counter the dismal economy. Similarly, the report touted fee waivers as another method to assist businesses and individuals during the tough economic times. Among the items listed were the obtaining of grants to do energy audits, the use of Federal Community Development Block Grant and Home funds to assist affordable housing deals, the securing of a State grant to plan to plan Oceano (reported earlier by COLAB), Public facility and transportation impact fee deferrals (reported earlier by COLAB), and energy retrofit fee waivers.

Mello-Roos Debt. Also reported was the adoption of a policy which could allow future developers to use Mello-Roos public facility financing (the County issues debt to put in roads, drainage, parks, street lights, fire houses, etc., which are external to but necessary to support the new development.² The debt is paid off by higher property tax assessments [called fees] imposed on the new houses and/or commercial property within the new development). Many municipal finance experts view Mello-Roos as a somewhat dangerous tool because a number of cities issued far more debt than the development could support. In some cases the development never even occurred. This resulted in debt to the jurisdictions' general funds. The City of Moreno Valley in Riverside County became a poster child when several large developments defaulted.

Other actions reported to help the economy included the Permitting Process Improvement effort (previously reported by COLAB) and a pilot project of “business impact statements” which would be required to assess the economic benefits of proposed projects.

In a turnabout, the staff reported that it had changed its policy recommendation that the *Economic Element* of the County’s General Plan not be updated. As readers of prior updates know, last spring the staff recommended that the Economic Vitality Corporation (EVC) work with the County to prepare an economic strategy. Now the staff has had second thoughts and has proposed a yearlong process in which to prepare a new document. The EVC will appoint representatives to work as an ad hoc project advisory board. The

¹ Named for Economist John Maynard Keynes, for his theory that the policy of government during recessions and depressions should be to expand expenditures to counter lagging investment and consumption. Most Californians who took Economics in college used Nobel Laureate Paul Samuelson’s (a Keynesian) economics textbook, *Economics: An Introductory Analysis*. Many California government practitioners may have forgotten that Keynes' theory also required that governments save in good times in order to generate a surplus from which expenditures in bad times could be made.

² Mello–Roos is named for the two State legislators who authored the enabling legislation.

Planning Department will “invite a few others” to serve as well. The Board adopted the staff recommendation.

Driving With One Foot On The Gas And One On The Breaks. Again and as we have suggested before, the County is driving with one foot on the breaks and one on the accelerator. At the same time as these purported improvements are being celebrated, the torrent of regulation in the form of the Strategic Growth Plan, the Conservation and Open Space Element, Paso Robles Water Basin restrictions, Revised Land Use and Circulation Elements, Planned Development Ordinance, Transfer of Development Credits Ordinance, the so called “Energy Wise Plan” (Climate Action Plan), and Green Building Ordinance are in place or grinding through the adoption process. Separately and in aggregate, these laws and collateral regulations provide bureaucrats, interveners, and luddites with a formidable arsenal of tools to slow and/or deny specific applications, even those which comport with the underlying zoning. In the bigger picture, these regulations send a signal to businesses that they are probably better off going somewhere else.

Other regulatory initiatives: Don’t forget the proposed more restrictive Vacation Rental Ordinance, the proposed more restrictive Events Ordinance, the proposed paper and plastic bag ban, and the effort to ban all terrain vehicle (ATV) riding in the dunes.

County Actions to “Boost” Economy. Along with the discussion summarized above, there was praise for the work of the EVC and promises of more good news in the future. However, one speaker pointed out the continuing issue of critical mass with respect to attracting employees in the technological and innovation sector of the economy. These workers feel more secure in communities with a large concentration of high tech jobs.

During the discussion it was mentioned that Level Studios, a high tech/creative firm which provides a variety of strategic global marketing and technical communications solutions to other companies (Apple, Cisco, eBay, etc.), had been tempted to leave San Luis Obispo. Instead, it is working with the County to receive permits to build a new headquarters next to the Airport. The effort will be supported by the County’s Business Assistance Team. The County has promised expedited permit processing. Level has offices in San Francisco, San Jose, El Segundo, and Irvine. It was acquired by Rosetta (not Rosetta Stone) last year. Rosetta is a similar but larger company headquartered in Princeton, NJ, with branch offices in NYC, Cleveland, Boston, Chicago, Denver, and Toronto. Rosetta reported revenues of \$215 million for 2010. Level’s CEO surfs and believes in work/life balance. As they used to say, “Once they’ve seen Kansas City, it’s hard to keep them down on the farm.”

Board Meeting of September 13, 2011 (Scheduled)

Redistricting Again. As noted above, the Board will conduct a hearing on its revised version. The Templetonians are not happy and are expected to rally.

Sale of California Valley Land. This item, which would authorize bulk sale of 414 surplus parcels, has been on the agenda on two previous occasions. Each time the Board has asked for reassurance that the land will only be used as open space. The current item provides more detail on this account and indicates that the proceeds will be used to reimburse County

reserves. The staff expects that the property will fetch \$1.7 million. It is expected that one or more of the solar generating companies will purchase the land to satisfy land set aside mitigation requirements which are conditions of their permits from the County. Prior to offering the land for sale to the public, State law requires that it be offered first to public agencies.

It will all end up in your “green” electric bill.

More County Additions to Your Electric Bill. As part of the effort to eventually kill nuclear energy in general and the Diablo Nuclear Power Plant in particular (and building on the hysteria attendant to the Japanese Tsunami engendered leaks) the County is requesting representation on a State review panel. The California Public Utilities Commission (PUC) has formed an Independent Peer Review Panel to oversee seismic studies which Pacific Gas and Electric (PG&E) has been required to conduct prior to applying to the Nuclear Regulatory Commission for relicensing of the Diablo Plant. As reported in the County’s Agenda item, PG&E originally estimated that the seismic studies would cost \$16.7 million and applied to the PUC to have the cost built into its rate base. Now PG&E finds that the \$16.7 million may not be enough and is applying to remove the \$16.7 million cap. The County is taking this opportunity to request that it be allowed to appoint a County representative to the Panel. Reportedly PG&E is agreeable.

The problem is that the County has no one on staff who is qualified to perform such a role. For this reason the County proposes to hire an expert consultant for an estimated \$250,000 and have PG&E reimburse it from funds added into its rate base. Of course the study will morph and cost will grow, etc.

This too will end up in your “green” electric bill.

OTHER GOVERNMENT ENTITIES

Planning Commission

Planning Commission Meeting of September 8, 2011 (Completed)

Shandon Community Plan. The Commission approved the Plan and Environmental Impact Report and sent them forward for consideration by the Board of Supervisors. This was the ninth and final hearing on the request by Fallingstar Homes, Inc., and the Peck Ranch Entities for the County to update the Shandon Community Plan.

Sheridan Properties Industrial Site. This request by Sheridan Properties for a permit to develop 149,000 sq. ft. of industrial buildings in phases near Willow Road and Hwy 1 in Nipomo was continued to September 29, 2011. The Commission ran out of time because of the scheduled study session on the Climate Action Plan. A late letter from the Sierra Club arrived and the Chair wanted an opportunity to review it. Apparently this project has been in the works since 2005 and has required considerable review and reworking as the site

contains the endangered Nipomo Mesa Lupine. The staff recommends approval. The project will require a coastal permit approved by the Coastal Commission, so who knows.

Study Session for the San Luis Obispo County Energy Wise Plan. The Commission received a presentation from staff on The “Energy Wise Plan” which is the new name for the Climate Action Plan. COLAB attended the study session. The staff and majority Commissioners are claiming that the “Plan” is voluntary, non-regulatory, and not like the other plan elements (Land Use, Transportation, etc.) Planner Caruso, who was giving the presentation, did state, “While we are characterizing this as a non-regulatory plan, there are consequences.” “There are no sanctions, *at least for now* (our emphasis)”.

The problem is (and even if you accept this) that the Conservation and Open Space Element (COSE) is a legal policy authority which in part provides the muscle to implement the Energy Wise Plan. In fact it states: “Upon adoption by the Board of Supervisors, the goals, policies, and implementation strategies become effective. They guide *all* County decisions and actions.” The COSE then incorporates by reference the Energy Wise Plan greenhouse gas baseline and reduction targets: “...establish a communitywide greenhouse gas emissions target of at least 15% by 2020 (percentage reduction from baseline year).” Moreover, the Energy Wise Plan contains a number of proposed actions and standards which, by their plain reading, are prescriptive.

For example, in the section on “Community-Wide Green House Gas Reduction Measures” it states:

“*Require* all residential properties built before 2000 to provide a certified energy audit or EPA Home Energy Score to interested buyers at the time of sale.”

And,

“*Implement* a residential and commercial energy conservation ordinance requiring all property sellers to reduce electricity and natural gas use by implementing recommended energy efficiency measures provided by the energy audit, Home energy Score or Energy Star Portfolio Manager.”

And,

“*Require* new residential multi-family projects subject to discretionary review to create transportation demand management plans...” (etc., etc...)

And,

“Turf *will not* exceed 20% of the total site area on projects of 1 acre or less.”

And,

“Irrigation will only be scheduled to occur between 3AM and two hours after sunrise.”

Since the four inch thick document contains so many prescriptive statements and directives for the staff to generate even more rules, restrictions and ordinances, COLAB suggested that staff prepare a matrix of the non-voluntary items for the convenience of the Commission and Public. Commissioner Irving (1st district) agreed and endeavored to encourage the Commission to support this idea. At this point Commission Chair Carlyn Christianson (3rd district) forcefully objected, pronouncing that these “plan” directives are not requirements but simply recommendations for future consideration and in no way would such a matrix be provided. “It would not be useful. It would not be practical.”

In the end, after years of staff work and costs, consultant costs, and endless meetings we have a “plan that’s not a plan” and requirements that are suggestions for more expensive staff work by planners, consultants, and lawyers. The first formal hearing is scheduled for September 29, 2011.

Planning Commission of September 22, 2011(Scheduled)

Vacation Rental Ordinance. Please remember that this stricter ordinance will be back for what is likely to be final review and approval by the Commission before it is sent forward to the Board of Supervisors. Owners, realtors, property managers, and members of the hospitality industry should review the ordinance, attend, and voice their opposition.

Next Air Pollution Control District (APCD) Meeting, September 28, 2011.

Dunes Dust Regulation. The APCD will conduct a hearing on a proposed dunes dust “Rule” which could ultimately result in severe negative financial impacts for the hospitality industry, realtors, vacation property owners, restaurants, and retailers in the five cities and San Luis Obispo.

COLAB attended a prefatory workshop conducted by the APCD on Wednesday evening September 7, 2011, in Grover Beach. Supervisor Teixeira and Supervisor Hill attended as observers. Some residents of the Nipomo Mesa and some immediate neighbors of the Dunes believe that all-terrain vehicles (ATV’s) which are driven recreationally on the dunes add to the natural dust generation and should be banned or restricted.

It turns out that the APCD’s expert consultant, Desert Research Institute (DRI) from Reno, conducted monitoring and determined that most of the dust occurs naturally and that while the ATV’s do stir it up on some days, the dust would continue to blow even in the absence of ATV’s. Nevertheless, the APCD plans to adopt a “fugitive dust rule” in November or December, which would result in cumulative fines on the State Parks Department, which could ultimately close the Dunes Park. DRI pointed out that measures such as planting some areas and/or covering some areas with hay bales or other friction producing features can significantly reduce the blowing dust. DRI also pointed out that dust is a natural feature of sand dunes.

A concern is that the APCD could also, at some point in the future, apply “fugitive dust rules” to agricultural fields and roads.

Integrated Waste Management Authority.

Bag Ban. The next hearing is on Wednesday, September 14, 2011, at 1:30 PM at the Board of Supervisors Hearing Room in the County Administration Building. There will be a news conference at 11 AM on Monday, September 12, 2011, protesting this wasteful and punitive ordinance. It will take place in front of the Food 4 Less Store on South Higuera Street in San Luis Obispo. Please see the related information on the COLAB website. (www.colabslo.org)

SAVE

WEDNESDAY, OCTOBER 5, 2011

MEET ME HALF-WAY ANNUAL MEETING

Join us Wednesday, October 5th, 2011

Santa Maria Fair Park, 937 S. Thornburg St., Santa Maria CA

Enjoy a great dinner by Testa Catering and our Guest Speakers

Victor Davis Hanson and Timothy Sandefur

No host cocktails will be served at 5:30 PM; Dinner – Auction 6:15 PM
\$50 per person/\$500 for a table of ten

PURCHASE TICKETS BY MAIL:

COLAB, PO Box 7523, Santa Maria, CA 93456

OR ON LINE: <http://www.colabsbc.org>

Thank you,

Andy Caldwell, Executive Director, COLAB of San Luis Obispo
County and COLAB of Santa Barbara County