



**COLAB SAN LUIS OBISPO COUNTY**



**WEEK OF AUGUST 17-23, 2014**

**LAST WEEK**

**BOARD SUPPORTS NEW PASO WATER DISTRICT REVISIONS BUT DID NOT VOTE IN PUBLIC (COUNTY COUNSEL DEMURS ON WHETHER PRIVATE COMMENTS CONSTITUTE ILLEGAL SERIAL MEETING)**

**BOARD INSISTS PENSION DEBT COMPLETELY TRANSPARENT AND EASY TO VIEW (NOTWITHSTANDING THE GRAND JURY'S FINDINGS AND RECOMMENDATIONS)**

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**THIS WEEK**

**OBAMA CARE REPORT REVEALS COUNTY ECONOMIC WEAKNESS**

**SOUTH COAST CITIES' WATER STRESS**

**WATER RESTRICTIONS FOR CAYUCOS, SANTA MARGARITA, SHANDON, AND AVILA**

**Board of Supervisors Meeting of Tuesday, August 12, 2014 (Completed)**

**The Missing Item: A Hearing On AB 2453.** Several speakers, in addition to COLAB, objected to the Board's decision not to agendize a hearing item to consider its position with respect to the

latest changes in on AB 2453, special legislation on the powers and structure of the proposed water management district. The Board members had previously determined that any position on new revisions would be made individually rather than through open consideration and public vote of the Board. This process is essentially a retaliatory strike by Gibson in response to Supervisor Arnold forcing consideration of changes back on July 8, 2014. On June 9, 2014, he unilaterally notified Assembly Member Katcho Achadjian that the Board supported the bill's revisions at that time. The problem was that some Board members didn't know about it. Gibson maintained that he was authorized under the provisions of the County's adopted 2013-14 State Legislative Program. When other members led by Supervisor Arnold insisted on a public hearing and vote, Gibson insisted the issue be taken out of the Legislative Program and that Board member comments on future changes would be as individuals. This in turn cut the general public out of the dialog.

Several speakers, during the general public comment period, suggested that the endorsement by separate and individual comments by each Board member to the Assemblyman actually constituted an illegal serial meeting under the California Open Meeting Law (Brown Act) since it concerned a matter that the Board had already formally considered in the past. Moreover, it is a prominent and pressing policy issue of great concern to wide segments of the public. Supervisor and Board Chair Gibson gave his own "legal" opinion that it was not illegal and then asked County Counsel Rita Neal to chime in with her support. Neal demurred and is said to have muttered, "It depends." If in fact the process is found to be a violation, it is likely that the Board will have to schedule the matter on an agenda and conduct a vote in order to correct the violation.

Assembly Member Achadjian indicated that, on the basis in whatever communications he received from the Board (he says 4 supported and 1 did not); he will move the bill forward. Thus the action of each Board member resulted in a concrete public policy action. Moreover, the Board members knew in advance what the result of their action would be, since the Assemblyman told them. In effect they were conducting a vote in secret in violation of the open meeting law. It was not as if they were voicing a private opinion for which the consequences were unknown.

**Background:** The threshold requirement for proponents to submit a petition to LAFCO has been reduced from 30% to 10% of the property owners by acreage. Assembly Member Katcho Achadjian, the bill's sponsor, had said that he would move it forward if he receives approval by the Board of Supervisors no later than August 13, 2014. Given this situation, we would have expected that a hearing item would have been added to this agenda to process the question.

**Item 6 - Grand Jury Report and Recommendation that the Board of Supervisors Be Clearer About Disclosing Its Pension Debt.** COLAB endorsed the Jury's recommendation and said the Board should go further and schedule an annual session where the Administrator of the Pension Trust, its Consulting Actuary, and the Auditor Controller make a full presentation, present alternative scenarios, and take public questions and comment.

The Board, Auditor Controller, and County Administrator, in a mutual love fest, circled the wagons and rejected the request out of hand. They insist that the information is readily available and that the County is financially the best run County in the State. This missed the point. The idea is to explicate the state of the system in public at a board meeting, illustrate successes and risks, and hear what the Board members have to say. The Board members might even want to hear what the public has to say – but apparently not. Wonder why they don't want to celebrate "success" publicly? They do for just about everything else.

**Background:** The San Luis Obispo Civil Grand Jury issued a report with 2 findings: See below. COLAB endorsed the Jury's recommendation, but added that the Board should go further and schedule an annual session where the administrator of the Pension Trust, its Consulting Actuary, and the Auditor Controller make a full presentation, present alternative scenarios, and take public questions and comment.

Grand Jury Finding 1:

*Although it is consistent with general accepted accounting practices, the unfunded liability is recorded in the notes of the financial statements which make it difficult to understand the totality of unfunded obligations for San Luis Obispo County.*

Grand Jury Finding 2:

*The County has a 30-year plan to fully fund the pension liability. It is unclear where the county currently stands in this planned recovery.*

On the basis of these findings the Jury has the following recommendation for the Pension Trust and County Auditor-Controller:

*The Pension Trust administrator and the Auditor-Controller-Treasurer should make available to the Board of Supervisors and the residents of San Luis Obispo County an additional simplified transparent reporting of the totality of the county's pension obligation.*

The Auditor-Controller and the Board of Supervisors are required to respond, indicating whether they agree or disagree with the findings and recommendations and then whether they are going to implement them. In this instance the Board is proposing that the Auditor-Controller's response be their response. You would think that the Board, as an elected governing body, would at least take the trouble to seriously consider the findings and recommendations and provide its own response. (There is much more detail in last week's Update).

### **Board of Supervisors Meeting of Tuesday, August 19, 2014 (Scheduled)**

**Item 8 - Status of the Implementation of the Affordable Care Act (ACA-Obama Care) in San Luis Obispo County.** This is an important report because it reveals and confirms some of the operational problems of the ACA and also reveals a large degree of economic and social

distress endemic to San Luis Obispo County, which has generally been swept under the carpet. The Board of Supervisors majority and its enviro-socialist backers don't want to discuss the economic distress because it points to the failure of the overall lack of strategic foresight as well as the failure of the current so-called "smart growth" policies. It's too bad that it's on the consent calendar. Of course this is understandable because the last thing the Board majority would want is a protracted discussion and public comment, which would open this can of worms.

#### **A. What the Report Tells Us About the ACA:**

1. The ACA expanded government at the national and state levels and it also made both health care and government more expensive. It also expanded government and made it more expensive at the county level:

*For anyone applying directly through the Department of Social Services (DSS), whether as a "walk-in" or by telephone, the County was given the responsibility to determine eligibility not only for Medi-Cal but also for the private insurance policies, although those completed case files are transferred to Covered California following enrollment.*

*In August 2013, the Board of Supervisors accepted \$2,205,774 in new Medi-Cal administrative funds and authorized the addition of 24.0 Full Time Equivalent positions to the Department of Social Services' Position Allocation List. On October 1, 2013, the County began accepting applications via "walk-in," web access and through its Call Center.*

2. Not only were the national systems designed to implement the Act a failure, but there were and are significant problems in California's operational design:

*Computer programming inefficiencies at the State level resulted in a significant backlog in case processing, resulting in frustration for both applicants and County staff. Poor performance at the State's Call Centers added to the problem, with busy signals, dropped calls and inadequate training of State staff. In order to minimize frustration and disruption, the County encouraged local residents to apply directly through DSS's offices.*

*At one point, because of delays in the State's ability to process case data, the County had a backlog of over 9,000 unprocessed cases. This backlog has been significantly reduced to less than 2,000 unprocessed cases through staff overtime and workarounds that enable DSS staff to process cases despite the State's performance.*

Imagine this mess statewide when all 58 counties and especially the large ones such as LA, San Diego, Santa Clara, San Bernardino, and Alameda are considered.

#### **B. What the Report Tells Us About the Real Condition of the County Economy:**

1. There were and are many more applicants within San Luis Obispo County than forecast. This reveals a high degree of economic and social distress within the County. The existence of this condition points to the inadequacy of the current economic and land use strategies implicit in "smart growth," which is actually double speak for not much growth, if any.

*The State Department of Health Care Services, in consultation with the Universities of California Berkeley and Los Angeles, had projected each county's application activity utilizing a combination of census and demographic data. San Luis Obispo County's applications for Medi-Cal were expected to increase by 9,179; in addition, it was projected that 5,756 County residents would apply for coverage under Covered California.*

*In fact, however, Medi-Cal applications exceeded the estimate by nearly 44%: 13,176 applications—representing 18,424 County residents—were received by DSS. Similarly, applications for Covered California exceeded the estimate by 213%, with 12,256 residents applying for coverage. Ultimately, 30,680 individuals--one of every nine residents of San Luis Obispo County--applied for coverage under the ACA.*

Remember, these numbers are in addition to the thousands who were already on Medi-Cal within the County. The County Budget does not contain performance data on exactly how many Med-Cal eligibles there were in the County prior to the ACA. It does indicate that there are 115 employees involved in determining Med-Cal eligibility. It shows that those actually carrying a caseload manage an average of 225 cases. Since some of the 115 are probably bosses, who do not carry a caseload, and some are clerks and support staffers, who do not carry a caseload, it is difficult to ascertain a precise number. Suppose 90 actually have a caseload. Then  $225 \times 90$  would suggest that there were already 20,250 Medi-Cal cases prior to the ACA expansion of eligibility. Data is not included about how many discrete individuals are contained in the pre-ACA Medi-Cal caseload. Suffice it to say that it is large.

### **C. What is the Status of the Shift of County Medical Services Program patients to Medi-Cal?**

The report states that they worked on the shift:

*DSS worked closely with the County's Health Agency to transition former beneficiaries of the County Medical Services Program (CMSP) to the newly expanded Medi-Cal program. Additionally, DSS prioritized outreach to homeless individuals and, through a Memorandum of Understanding with the County Sheriff, assigned staff to process Medi-Cal applications for inmates awaiting release from custody.*

- a. How many have been shifted out of a total universe of what?
- b. Are there any dollar savings and staff savings?
- c. Of the total eligible, how many homeless people were actually enrolled?
- d. Of the total eligible, how many inmates were actually enrolled?

**Item 9 - Arroyo Grande, Pismo Beach, Grover Beach, and Avila Valley Feeling Water Stress.** The 3 cities and water district have requested the County to allocate 2, 327 “extra” acre feet of Lake Lopez water to them for fiscal year 2014-15. There is actually no “extra” or

“surplus” water. The terms used here are legal artifacts of the Zone 3 contracts. In fact the reservoir is declining. The theory is that they are entitled to some portion of water that they didn’t use in the prior year. Because of the drought emergency, the entities have requested (and the staff concurs) a portion of the equivalent of unused water based on an average of 5 prior years.

A problem is that the portion of the Santa Maria basin from which they receive well water is in decline, and state water that they receive is very limited and could cease if the drought continues into 2015. There is the potential for increased seawater intrusion. The staff report states:

*On April 28, 2014, the Cities of Arroyo Grande, Grover Beach, and Pismo Beach, along with the Oceano Community Services District, released the Northern Cities Management Area 2013 Annual Monitoring Report. This report documents declining groundwater levels in the northern portion of the Santa Maria Groundwater Basin, out of which the three cities and the Community Services District draw approximately 15% of their water supplies. Groundwater also supplies numerous rural residences and the majority of the agricultural development in the lower Arroyo Grande Valley. Given the severity of the groundwater decline documented in the Monitoring Report, and the attendant risk of seawater intrusion, the recommendation includes delivery of additional stored water resulting from reduced downstream deliveries over the last five Water Years.*

The allocation would be justified on the basis of the drought emergency previously declared by the County.

*There is no provision in the Zone 3 water contracts to deliver any such Project water (i.e. water other than Entitlement water, Surplus Water or downstream water). The contracts specify that Surplus Water that is not used in the year it is available “shall revert to the District and shall not thereafter be available” (Water contracts Article 4(D)). The contracts do not describe how the District may or may not use this water. Therefore, the recommendation to make this water now stored in Lopez Reservoir available to Zone 3 agencies as “emergency drought relief water” is based on the need to respond to the current drought emergency.*

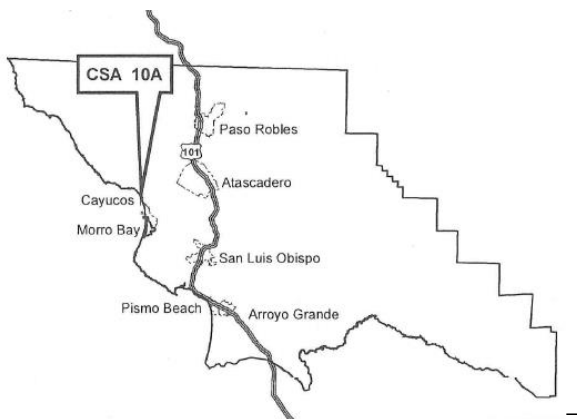
- a. What is the plan if the drought is permanent (several or more years)?
- b. As oceanfront communities, why haven’t the Zone 3 contractors explored the feasibility of desalination?
- c. If things get worse, one might expect that priority would be given to residential water use (under a declaration of an imminent threat to public health safety and welfare) to the detriment of commercial businesses. This could impact the hotels, restaurants, and other businesses which are the fundamental economic supports of these communities. Note that the Board of Supervisors has used this urgency ordinance provision once against the farmers of the Paso Robles Basin. Why wouldn’t they do it again? Hill, who represents a good deal of this area, was full bull moose on declaring an emergency for the Paso Basin.
- d. Farmers in the South County might want to consider filing for quiet title.

e. If no rain comes, when does Lopez Lake run out?

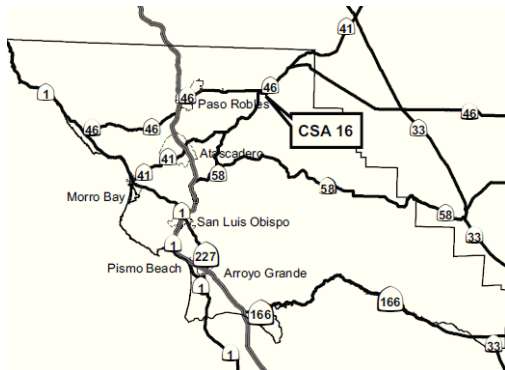
**Item 10 - Outdoor Water Restrictions in County-run Water Services Areas.** The Board will conduct a hearing prior to adopting outdoor water use restrictions for Cayucos, Shandon, Santa Margarita, and Avila Valley.

*The following water restrictions shall remain in effect for as long as the Drought Emergency Water Conservation Regulations adopted by the State Water Resources Control Board on July 15, 2014 per Resolution No. 2014-0038 and set forth in California Code of Regulations, Title 23, Sections 863, 864 and 865 are in effect, including any extension thereof:*

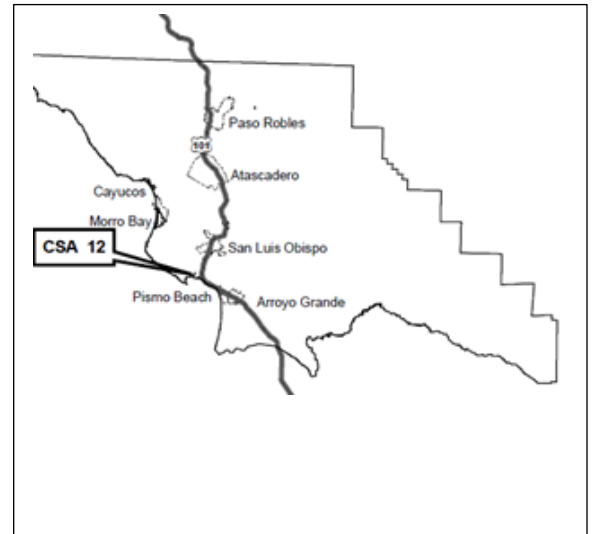
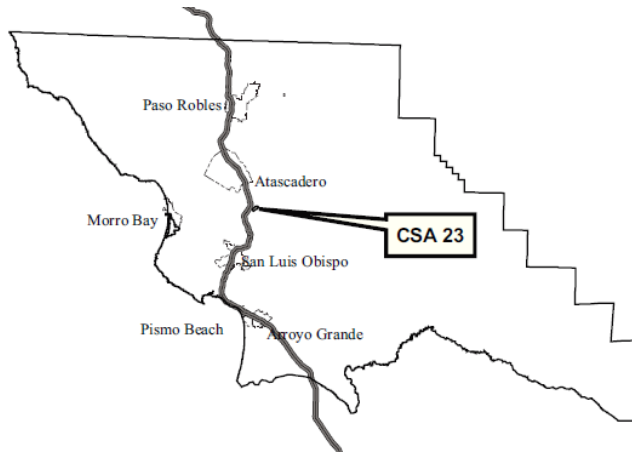
*Irrigation of ornamental landscapes or turf with potable water by customers within County Service Area 10A, County Service Area 16-1, County Service Area 23 and County Service Area 12 is permitted only on Mondays and Thursdays. No irrigation of ornamental landscapes or turf with potable water by customers within County Service Area 10A, County Service Area 16-1, County Service Area 23 or County Service Area 12 is permitted on Tuesdays, Wednesdays, Fridays, Saturdays or Sundays.*



What happens to a golf course in this situation? Is the County going to limit watering on its courses, the courthouse lawn, and other features to 2-day limit?



The privately owned Avila course is displayed at the right. Does it go brown?  
If it's on its own wells, they may want to file for quiet title.



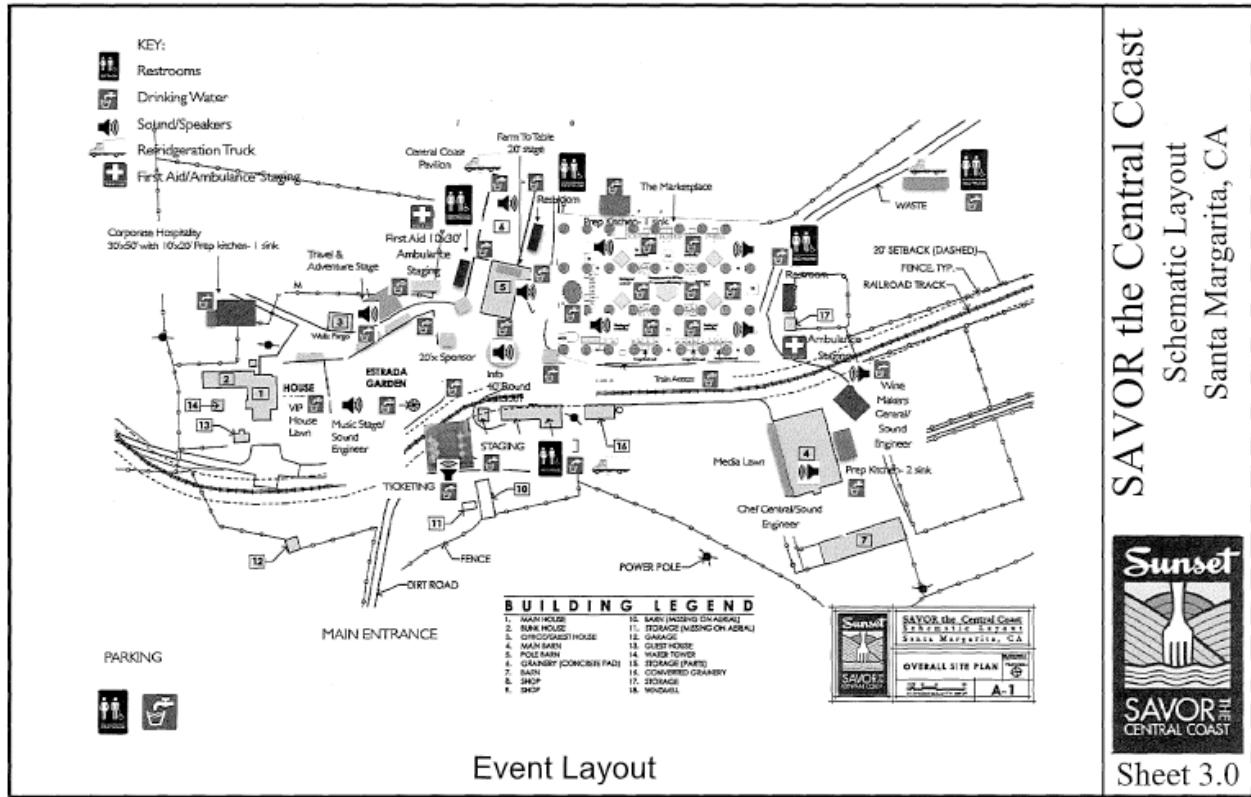
**Item 14 - Sunset SAVOR the Central Coast Event Application Hearing.** The applicants are required to have a Board of Supervisors-approved permit to run the event. It will take place on the Santa Margarita Ranch on Saturday, September 27 and Sunday, September 28, 2014. It is planned for 4000 attendees each day. The applicant states:

*The fifth annual Sunset SAVOR the Central Coast is an event presented by Visit San Luis Obispo County in partnership with Sunset Magazine<sup>1</sup>. Hosted midway between Los Angeles and San Francisco, Sunset SAVOR the Central Coast celebrates the beauty and bounty of this unspoiled region of California over a four-day period. The event showcases the talents of the areas winemakers, chefs, growers, and artisanal food producers. Sunset's expert editors and renowned celebrity chefs guide attendees through culinary tours, winemaker dinners, wine seminars, historic excursions, and culinary showcases.*

The application contains 166 pages and provides detailed plans for every aspect of the event, including security, parking, sanitation, traffic, fire protection, etc. The County Sheriff, Cal Fire, Public Works, Planning and Building, and Public Health all recommend approval, albeit with many conditions, which the applicant has included in its application.

The event layout is displayed on the next page:





**SAVOR the Central Coast**  
 Schematic Layout  
 Santa Margarita, CA  
  
 Sheet 3.0

**San Luis Obispo County Local Agency Formation Commission (LAFCO).** As of this writing no meeting has been posted, but given the building momentum related to the proposed Paso Basin Water Management District, citizens should remain alert lest a meeting pop up to start preliminary work on processing. The agendas are posted at the link:

[http://www.slolafco.com/Agendas\\_2.htm](http://www.slolafco.com/Agendas_2.htm)

Keep checking.

**Weekly Update Will Shut Down for 2 Weeks:** There will be no Weekly Update for the week of August 24-30 or for the week of August 30-September 6, 2014. There will be no Board of Supervisors meeting on Tuesday September 2, 2014 because it is a Tuesday following a national holiday, Labor Day. Watch out for what might show up on the August 26<sup>th</sup> agenda.

