



**COLAB SAN LUIS OBISPO COUNTY**



**WEEK OF NOVEMBER 2-8, 2014**

**PROPOSED AG. WATER OFFSET  
SENT TO THE WOODS**

**BOARD TO CONSIDER WEAKENING PLANNING  
COMMISSION ROLE ON CAPITAL  
IMPROVEMENT PLAN  
(MORE POWER CENTRALIZATION)**

**GIBSON WANTS CSAC<sup>1</sup> APPOINTMENT NOW TO  
RETAIN EXECUTIVE COMMITTEE POSITION  
PREEMPTS A JANUARY DECISION**

**AIRPORT FINANCIAL PROBLEMS**

**Board of Supervisors Meeting of Tuesday, October 28, 2014 (Completed)**

**Item 22 - Request to approve a resolution establishing an Approved Water Conservation Program for new irrigated agriculture in the Paso Robles Groundwater Basin, implementing a portion of Ordinance 3246, an urgency ordinance covering new development and new irrigated agriculture overlying the Paso Robles Groundwater Basin; California Environmental Quality Act (CEQA) Exemptions Sections 15301, 15307, 15308. Districts 1 and 5.** The Board voted 5/0 to continue the item without assigning a date certain. In most counties this is tantamount to sending it to the woods (don't bring it back). This is not necessarily true in San Luis Obispo County. Nothing ever really dies. Like the Terminator, they come back. Supervisors Mecham, Arnold, and Ray all expressed most of the concerns listed by COLAB in the background below. Supervisor Gibson supported the program and was clearly disappointed that he couldn't herd the mules, as he does in most cases. Supervisor Hill was mysteriously silent and never said a word.

<sup>1</sup> THE CALIFORNIA STATE ASSOCIATION OF COUNTIES- THE COUNTIES LOBBYING GROUP.

There were 25 speakers, of whom 2 supported the proposal, 21 were opposed, and 2 did not take a position.

COLAB, the SLO County Farm Bureau, and the SLO/Santa Barbara County Grower Shippers were opposed. Jerry Reaugh of PRAAG S was opposed but stated that he was speaking for himself. Curiously the Paso Robles Wine Alliance representative expressed some concerns about certain aspects of the program but did not state support or opposition.

**Background:** The County contracted with the Salinas-Las Tablas Conservation District for \$158,000 to develop a “program” to compel farmers and ranchers of the Paso Robles Water Basin to suppress their water use elsewhere on their property or acquire water credits from other property owners equal to their new proposed water use (the 1:1 offset). The District’s write-up characterizes the “program” as “voluntary.”

a. The term “program” is misleading. This is a powerful and intrusive regulation, which attacks and undermines basin overlier agriculturists’ historic Constitutional water rights to the beneficial use of water under their land.

b. This is a cap-and-trade program for water. For the *present*, your water use is capped at the current level. If you propose to use more, you must purchase a credit from someone who is reducing water use. In the future, staff, you may be required to reduce you water use below current levels.

c. The “program” is only “voluntary” in the sense that if a farmer does not wish to expand water use or to develop a new farm, he is not subject to the “program” (regulation). The word voluntary is deceptive, since any expansion of irrigated farming, new irrigated farming, increase in crop density, changes in crop type, etc., and is subject to the new regulations. Essentially, the regulation prohibits the expansion of irrigated farming without permission of the County government. Cutting through the rhetoric, this is a step toward the expropriation of private property. There is nothing voluntary about the program other than volunteering to surrender your economic future.

c. The “program” covers everyone:

**Other Problems:** The regulation is massive and complex and it will be expensive for farmers to obtain compliance. It contains 60 pages of requirements, standards, and calculations that will be required. The full text can be downloaded from the link:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/3921/UFJHV0IgQWcgT2Zmc2V0IFByb2dyYW0gRmluYWwucGRm/12/n/35063.doc>

**For now consider some of the following:**

**1. The regulation is illegal.** In fact its authors strongly caution the Board to conduct extensive expert legal analysis before attempting to implement it.

a. *As this program will establish land use regulations that may result in the denial of a landowner overlying the PRGWB to draw water for new agricultural production, a thorough legal review of the interactions between land use regulatory authority and water rights for overlying landowners is recommended should an extension of this program beyond the term of the Urgency Ordinance be considered. Overarching legal questions related to the enactment of land use regulations affecting water resources were not researched as part of the creation of this program.*

Note: This is also true of the Paso Basin Ground Water Urgency Ordinance Moratorium, which is being litigated and which is the basis for this proposed regulation.

**b. Both Your Privacy and Water Rights Violated.** One requirement of the proposed regulation is that the impact of new water use on neighbors must be analyzed. The neighbors must be notified and can participate in the consideration of the application. Again, this violates basic California water law. Moreover, it can reveal critical private business and financial information relative to cropping and competitive strategies. The County's own consultants express severe concerns and recommended legal review.

*The County should seek legal advice related to the inclusion of this program element prior to adoption.*

2. **Flow Meters:** The program will require quarterly monitoring using flow meters of both benefiting/receiving wells (the farm which is expanding irrigation - and purchasing credits) and the crediting site (the farm of property which is reducing its use to generate the water credit). The County will inspect and verify.

3. **Smart Meters:** Eventually the flow meters will have to become digitized real time transmitters of data to the County Planning and Building Department. Under the current proposal the County is providing some incentives (a credit scheme) to induce owners to install smart meters now. You can bet this will become a requirement in the future. One can imagine that with such technology, regulations can be expanded to include seasonal and time of day limits and will impact not only your farming, but also your domestic life. In effect Big Brother will be in both your orchard and your bathroom.

4. **Fines:** Violators will be subject to fines. The amounts are not specified in the write-up. There is simply a reference to the County Code. The Code provides for fines up to \$1,000 for each violation.

5. **Impacts on Existing Mortgages and the Ability of Obtain Future Loans:** A significant portion to the value of rural land and especially agricultural land is the availability of water. Under the "program," owners who reduce usage to generate credits will have to covenant with the County (place the restriction on their deed). By promising to restrict the use of water on their parcels, they will lower the value. This in turn will violate the conditions of current mortgages and reduce the value for future mortgagees. Banks, title companies, and appraisers have not been

involved in the development of this “program.” What are the legal and financial aspects? How will the County Clerk Recorder deal with these covenants?

**6. Property Taxes:** What does the County Assessor say about the impact of the program over time? Will property owners who covenant to use less water be entitled to reduced assessments? Similarly and since the “program” monetizes what has heretofore been a beneficial use, does possession of purchased credits raise the assessed value of land?

**7. Application Costs:** What will be the cost to prepare the complex applications and develop legal covenants necessary to run the “program”? Or is this similar to Obama Care? We will have to adopt the law to find out what’s in it?

Board of Supervisors Meeting Tuesday of November 4, 2014 (Scheduled)

**Item 1 - Introduction of Fee Increases for Fiscal Year 2015-16 and Setting of Hearing for November 25, 2014 (Early Warning).** The purpose of this item is to set a hearing for Tuesday, November 25, 2014 to raise fees (2 days before the Thanksgiving Holiday). The departments proposing fees which impact COLAB members include Planning & Building, Public Works, Fire, Public Health, and Agriculture Commissioner. We will report back in the Weekly Update as the meeting date approaches.

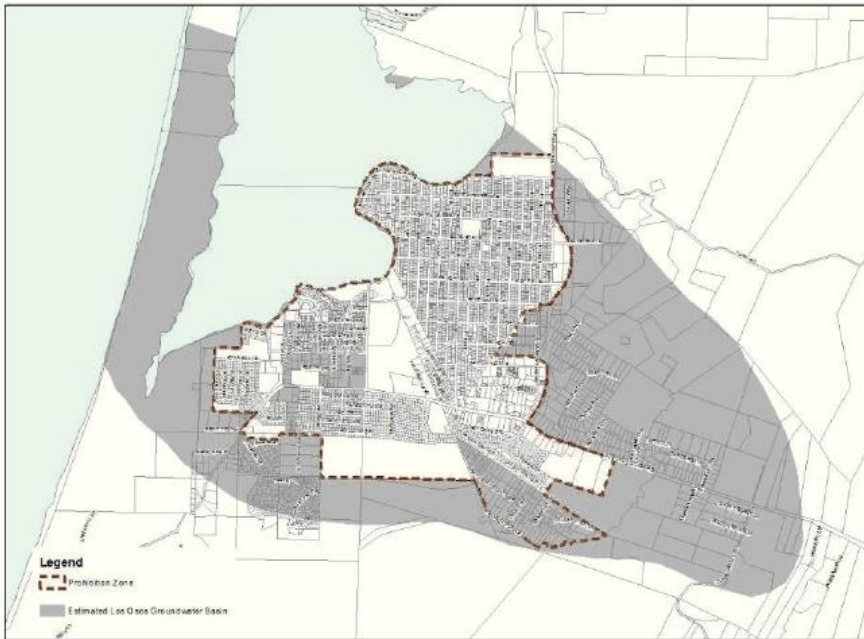
The 200-page fee table can be accessed at the link:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/3922/U2NoZWR1bGUgQjBGZWVzLnBkZg==/12/n/35773.doc>

**FISCAL YEAR 2015-16  
FEE SCHEDULE “B”  
EFFECTIVE DATE: JULY 1, 2015**

**Item 2 - Introduction of Los Osos Plumbing Retrofit Ordinance Setting Hearing for November 15, 2014 (Early Warning).** Again, the purpose of this item is to set a hearing on a proposed ordinance on Tuesday, November 25, 2014, which would require new development to retrofit plumbing fixtures in existing buildings outside the Prohibition Zone to obtain a water conservation certificate before a building permit can be issued. This will enable continued water conservation in the groundwater basin.

Property owners, homebuilders, developers, and realtors who do business in the Los Osos area outside the prohibition zone should pay attention. Commercial properties are also impacted.



### **Some Sample Provisions:**

*(1) The developer of any new structure that uses water from the Los Osos groundwater basin shall install plumbing fixtures that meet the following requirements:*

- (A) Toilets rated at no more than 1.28 gallons per flush (HET);*
- (B) Showerheads rated at no more than 2.5 gallons per minute;*
- (C) Bathroom sink aerators with a volume of no more than one gallon per minute;*
- (D) Hot water circulation systems for master bathrooms and kitchens if the furthest plumbing fixture unit in these rooms is greater than twenty pipe-feet from the hot water heater;*
- (E) Commercial structures shall use urinals rated at no more than 1.0 gallons per flush;*
- (F) New residences shall be plumbed for grey-water systems pursuant to Chapter 16 of the Uniform Plumbing Code.*

*(2) Prior to issuance of a construction permit for a new structure with plumbing fixtures that use water from the Los Osos groundwater basin, the developer of such new structure shall retrofit plumbing fixtures in existing structures within the Los Osos groundwater basin, but outside the Prohibition Zone as shown in Figure 7-2. The number and type of plumbing fixtures to be installed shall be as required in the equivalency table as adopted and codified in Appendix A. The equivalency table indicates the point values of existing fixtures which may be retrofitted and the corresponding point requirements for each newly constructed or remodeled structure. A package of proposed retrofits and water conservation requirements must add up to no less than the minimum requirements established*

in Appendix A.

*(3) Any addition of one hundred twenty square feet or more to an existing structure that uses water from the Los Osos groundwater basin shall require the replacement of plumbing fixtures in the entire structure with the following types of plumbing fixtures:*

- (A) Toilets rated at no more than 1.28 gallons per flush (HET);*
- (B) Showerheads rated at no more than 2.5 gallons per minute;*
- (C) Bathroom sink aerators with a volume of no more than one gallon per minute;*
- (D) All urinals in commercial structures shall be replaced with urinals rated at no more than 1.0 gallons per flush.*

There is much more. This is a good example of the burgeoning regulatory mentality in the County. Check out the burdensome and overbearing item highlighted in yellow above.

**Item 4 - Introduction of an amendment to the Administration and Personnel Ordinance, Title 2, of the San Luis Obispo County Code relating to the issuance of General Plan Conformity Reports (Set Hearing for November 25).** The Board is weakening the power, role, and independence of the County Planning Commission by taking over the Commission's role with respect to reviewing whether the Capital Improvement Plan (CIP) and new capital projects are in conformance with the County's Plan of development.

The item doesn't say why. As custodian of the Plan of development, the Commission should review each year's one-year proposed capital budget and any new projects that are proposed. Similarly, the commission should review any long-range (5-year) plan that is proposed. It should determine if these plans and projects are in conformance with the County's adopted Plan of Development. What's the Board up to here?

**Item 6 - Monthly Drought Report.** There is nothing new here. The report states:

*Reservoir levels remain significantly lower than the average percentage capacity for this time of year including: Nacimiento 16% (62,185 acre feet); Lopez 44% (21,563 acre feet); Salinas 22% (5,271 acre feet); and Whale Rock 47% (18,425 acre feet) of capacity*

**And:**

*The County continues to receive calls from individuals who are experiencing problems with their domestic wells; however, determining how many wells have gone dry is proving to be challenging.*

They still do not have an accurate comprehensive picture of well problems.

**Item 14 - Request to re-appoint Second District Supervisor Bruce Gibson to serve as their representative on the CSAC Board of Directors for the 2015 Association year and Third District Supervisor Adam Hill to serve as his alternate.**

Normally Board committee and agency assignments are made in January as part of the Board's annual organizational meeting. Gibson wants this important assignment made now. The write up states in part:

*The California State Association of Counties (CSAC) is requesting designation of a Supervisor to represent local counties on their Board of Directors Membership for Association year 2015. Second District Supervisor Bruce Gibson has served for 6 years and is currently this Board's representative to the CSAC Board. In 6 years of service to CSAC, Supervisor Gibson has been actively engaged in CSAC activities and has been appointed Chair of the Government, Finance and Operations Policy Committee, the CSAC Executive Committee, and appointed to the Capitol and Revenue Working Group.*

*CSAC has advised that in order for Supervisor Gibson to continue as a member of the Executive Committee he needs to be re-appointed to CSAC Board of Directors before CSAC's annual meeting which will be held November 18th thru 21st, 2014.*

*While typically this appointment is made in January this action needs to be taken now due to Supervisor Gibson's participation in CSAC leadership roles.*

The CSAC Constitution ( bylaws) states:

- C. ELECTION. Prior to the annual meeting of the Board of Directors at the Annual Meeting of the Association, the directors in each Caucus shall meet and nominate one or more candidates for each of the Executive Committee positions (exclusive of officer positions) to be filled from that Caucus. Such nominations shall be transmitted to the President of the Association, who shall place them before the Board for election at the Annual Meeting.

How convenient.

### **Item 21 - Things Unraveling at the Airport.**

**1. Authorize the use of \$829,789 of the General Fund Designation - Internal Financing as a funding source to refinance the Airport's Site N Hangar loan and approve a corresponding budget adjustment in the General Fund loan; and**

**2. Authorize the use of an undisbursed loan intended for the Rental Car Quick Turn Around (QTA) Facility in the amount of \$1,583,751 to provide the balance of funding necessary to pay off the Airport's \$2,413,540 Site N Hangar loan.**

Back in 2007 the County determined to expand the number of T hangers for the storage of private aircraft. Many of these are recreational smaller single engine planes owned by private pilots. The expansion was funded by a loan from Cal Trans. It turns out that the financial projections based on the anticipated number of rentals were way off (up to 25% vacancies per year). Now the County has to bail the program out by making an internal loan. The annual airport operating revenues are already marginal (there have been deficits since 2008).

It also turns out that a project to enhance the rental car return system fell through. The write-up states in part:

*Airports is also requesting that the Board approve the use of an existing appropriation for an internal loan to pay off the Site N Hangar loan instead of the previously authorized use which was the construction of the Rental Car Quick Turn Around (QTA) facility. The QTA project did go to bid in 2012, however, bids came back showing a higher than anticipated construction cost. While the QTA is still needed and planned to be completed, the potential terminal project is a much higher priority. Airports plans to keep the QTA project on hold pending the decision on the future of the terminal project.*

- a. It would appear that the \$1.5 million, which was to be used for the QTA facility, is a loan of a loan.
- b. What amount of revenue does the county receive from the T hangers per year? What does it cost to operate them and service these private pilot customers?

**Item 35 - Report from the Economic Vitality Corporation (EVC) regarding its progress in implementing its Economic Strategic Plan with financial support from the County and other sources.** The County issued a \$148,775 contract for FY 2014-15 with the EVC.

Essentially, the not-for-profit EVC serves as the County's economic development department. It also conducts other services and programs not necessarily related to the County government. The EVC has been very successful in raising contributions (sponsorships) from many large and small businesses currently and over the years. This evinces that those businesses find the EVC program to be valuable to them. The issue here is, how is the County's economic development program doing performance-wise in terms of its specific goals and objectives?

This purpose of this Board item is to ostensibly detail what the EVC has accomplished in fulfillment of prior contracts. As we have reported in the past, the contracts are vague and it is difficult to gauge how they exactly stimulate tangible economic development on the ground. The current contract scope of work includes the following tasks:

- A. Acting as lead agency, assist the County by facilitating implementation and preparing updates as needed for a countywide economic strategy*
- B. Obtain matching funds in an amount at least equal to the amount of funding provided by the County (any non-county funding secured by the EVC for the countywide economic strategic plan shall be counted toward this matching funds performance objective);*
- C. Convene at least one seminar on a topic related to the economic strategy that will assist and improve county businesses and the county economy.*
- D. Act as a referral agency to the County, engaging cluster industry stakeholders and facilitating input on proposed policy adoption and modification actions. Topics for which such referral services will be needed by the County include but are not limited to workforce housing amendments and procedures for economic impact analyses of discretionary permit applications.*



*E. Monitor opportunities for statewide action pertaining to economic initiatives such as the California Forward, California Economic Summit and the California Stewardship Network. Engage cluster industry and other community stakeholders as feasible and appropriate.*

*F. Establish and maintain collaborative relationships with economic development and workforce development partners locally and in adjacent regions (Monterey, Santa Barbara, Ventura).*

The EVC report contained in this Board item consists of 16 PowerPoint slides. The slide that purports to report on accomplishments is displayed to the left below. Obviously the reported accomplishments are not matched to the contracted services/activities above. It is therefore difficult to assess how well the program is working. The accomplishments don't seem to be keyed to the Economic Strategy either. Perhaps the actual presentation will demonstrate the linkages.

Attachment 1: EVC Presentation

### Economic Strategy

**Key Accomplishments**

- 805connect (K&I/All)
- Broadband Consortium Pacific Coast (K&I/All)
- Workforce Housing Survey (BD&C/All)
- Specialized Manufacturing Database (SM)
- Infrastructure Committee (BD&C)
- Solarize SLO (GE)
- Energy Efficiency/Renewables Financing/Partnerships (GE)
- Renewable Energy Streamlining Program (GE)
- California Stewardship Network
- CALED Awards of Merit

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The County adopted the Economic Strategy was prepared by the EVC ( through an extensive stakeholder and committee process) in 2011. It contains various goals and objectives. Shouldn't this report be keyed to that document so that the Board and the public can understand progress against those goals and objectives?

A successful and refreshing application of the 805 concept.



For example, bullet 1 lists 805connect as a key accomplishment of EVC related to the Economic Strategy. It appears that 805connect is some sort of business information sharing website based in Santa Barbara which is available to businesses within the 805 area code region. What did it do in SLO County to tangibly promote economic development? Are there any numbers?

Other slides list goals which are also vague. For example, the slide below contains some goals related to agriculture.

More on next page.

## Economic Policy Priorities

### Uniquely SLO

- Support regular economic analysis of agricultural activities in the county;
- Advocate for sound policies that enhance and protect the county's agricultural products;
- Support efforts of local agricultural industry to maintain the viability of agricultural operations;
- Support efforts of local agricultural industry to preserve agricultural lands;
- Support regular economic analysis of tourism activities in the county;
- Advocate for sound policies that enhance and protect the county's tourism industry; and
- Advocate for strategic and unified public/private partnerships for tourism promotion.

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Bullet 3 to the left suggests that the EVC will "support efforts to maintain viability of agricultural operations". Just where is the EVC in this - regard - especially in view of the Paso Basin moratorium, the proposed permanency of that moratorium, the proposed ag. water offset program, the proposed retrofit on sale program, the proposed Paso Basin water management agency, the quiet title action, and other major policy issues?

## Opportunities and Risks - How Can The EVC Help the County?

It appears that there is a resumption of economic growth in the County. There are a number of new hotels under construction in the Paso Robles area. There is also new oil and gas development underway and proposed. Notwithstanding the Paso Robles basin moratorium, thousands of acres of new grapes have been planted and a number of winery expansions have been processed by County Planning. The Phillips 66 Refinery has requested the County to approve parking for more tank cars. A number of new commercial buildings have been constructed next to the SLO Airport. Property taxes and transient occupancy taxes have strengthened. New big box stores have opened on the Los Osos Road corridor in San Luis Obispo. The State Parks Department has stood up to the anti-dunes recreation group.

What about workforce housing (see Planning Department Item 3 below for some insights), the Diablo Nuclear Power Plant relicensing, and real actions (as opposed to rationing and regulations) to counter drought, both short- and long-term? How can the 805 brand (not just the beer) be expanded? Where will the County allow and promote the location of some 5-star destination resorts? The Board did OK Chevron to begin an application for a luxury hotel on the hill (the former tank farm) above Avila.

**Item 39 - Avila Zoning Appeal.** This is an appeal by the Avila Valley Advisory Council of the Subdivision Review Board's approval of a 2-lot subdivision. Each lot would contain one vacation rental house. The staff essentially defends the approval. It will be interesting to see how Board members react to this one.

Planning Commission Meeting of Thursday, November 6, 2014 (Scheduled)

**In General** - The agenda for this meeting contains the establishment or renewal of a number of agricultural preserves pursuant to the Williamson Act. The Act allows farmers and ranchers to receive a lower property tax assessment in exchange for signing a contract with the County under which they promise to maintain their land in agriculture for a minimum of 10 years. There are also some regular development permit applications on the agenda.

**Item 3 - The General Plan Annual Progress Report provides information about the County’s efforts to update and implement the General Plan and achieve its goals. The report describes the activities and accomplishments of the Department of Planning and Building in relation to the General Plan during fiscal year 2013-14.** This report contains considerable verbiage about all the projects which the Department is working to generate more regulations, plans, costs, and ultimately make it harder to get anything done.

There are some interesting tables near the end. For example, residential development is still lagging. Multi-family housing, which is desperately needed for workforce housing, is nowhere – a failed Board initiative.

**Table 4: Trend in Residential Development – Fiscal Years 2008-2014**

Final Building Permits	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Single-Family	519	362	364	200	266	359
Multi-Family	82	114	30	22	0	0
Total	601	476	394	222	266	359
% Multi-Family	13.6%	23.9%	7.6%	9.9%	0%	0%

Housing Element goals for low- and moderate-income housing are a disaster. On the other hand, market rate housing (mostly single-family freestanding homes with yards, garages, and privacy are performing above goals – so much for “smart growth.”

**Table 5: Housing Units Permitted Compared to Housing Element Objective for Calendar Years 2009-2013**

	Very Low and Low Income	Moderate Income	Above Moderate Income	Total
Housing Element Objective*	858	418	924	2,200
Housing units completed in 2009	18	6	402	426
Housing units completed in 2010	100	4	290	394
Housing units completed in 2011	32	2	133	167
Housing units completed in 2012	13	2	195	210
Housing units completed in 2013	8	2	316	326
Number of housing units (below) or above the Housing Element Objective	(687)	(402)	412	(677)

\* Total number units desired by the Housing Element during the 2009-2014 period.

How much of the value in commercial permits is attributable to the 2 solar farms? What is the real number for everything else? The chart on the next page does not split it out.

**Table 6: Trend in Commercial\* Development – Fiscal Years 2008-2014**

	<b>Valuation of Issued Permits</b>	<b>Change</b>	<b>Final Building Permits</b>	<b>Change</b>
FY 2008-09	\$30,529,292		107	
FY 2009-10	\$20,264,410	-34%	99	-7%
FY 2010-11	\$24,241,457	20%	96	-3%
FY 2011-12	\$27,258,960	12%	57	-40%
FY 2012-13	\$40,111,609	47%	80	40%
FY 2013-14	\$30,079,221	-25%	129	61%

\*Includes other non-residential and public projects