



COLAB SAN LUIS OBISPO COUNTY
WEEK OF NOVEMBER 23-29, 2014

HEAVY AGENDA THIS WEEK

**IS PROPOSED WATER ANTI-EXPORTATION
ORDINANCE TOO WATERED DOWN?
(SEE ITEM 2)**

**FEW 2015-16 FEE INCREASES
BUT IS THERE FEATHERBEDDING?
EXISTING LEVELS NEED INDEPENDENT
REVIEW**

**LAFCO COMMISSIONERS COULD QUESTION LACK
OF PETITION PROCESS FOR PASO WATER
DISTRICT**

Board of Supervisors Meeting of Tuesday, November 25, 2014 (Scheduled)

Item 2 - Introduction of an amendment to the Health and Sanitation Ordinance, Title 8 of the San Luis Obispo County Code relating to regulation of the exportation of groundwater. Hearing date set for December 2, 2014. The purpose of this item is to introduce the proposed anti-water exportation ordinance into the record and to set the actual public hearing for December 2, 2014. **(Mark your calendar.)**

Background: The current Board majority plus Supervisor Mecham (notationally, Board Majority+1) has endorsed the creation of a Paso Basin Water Management District, has secured the passage of custom legislation for the structure and operation of the district, and has directed County staff to prepare the application for creation of the district for submission to the Local Agency Formation Commission. A number of basin overlayers and other concerned individuals and groups are wary that a potential use of the proposed district would be for large landowners

and outside corporations to gain control of the basin water and/or a portion of the basin storage capacity. This in turn might enable the district and its larger members and/or behind the scenes backers to export water or water credits outside the county for a profit.

The backers of the proposed district, the Paso Robles Agricultural Alliance for Groundwater Sustainability (PRAAGS), vehemently deny this purpose, and each member of the PRAAGS Board of Directors has signed a public statement refuting this allegation.

Nonetheless, the entire Board, in an effort to forestall the objection, directed staff to prepare an anti-water exportation ordinance which would forbid exportation of groundwater outside the county. The situation was immediately rendered more complicated when County Counsel discovered that counties do not have the legal authority to adopt an outright ban. The best they can do is to adopt a very strict permit process, which someone wishing to export water would have to survive.

Goldilocks Dilemma: Clearly, and as demonstrated in the write-up, the details of the ordinance raise more questions than were ever originally contemplated by the Supervisors when they gave their direction to prepare the ordinance. The basic dilemma is: what is too strict, what is not strict enough, and how do they divine what is just right? There are 34 pages of public written comment already submitted in connection with the draft ordinance. One attachment to a comment is a comprehensive published legal analysis of related water law that adds an additional 102 pages. The submitter has specifically requested that the Board study it and that it become an official part of the record and their deliberations.

Some initial questions:

- a. Why does the proposed ordinance exempt the County itself from its anti-export provisions?
- b. Unless the ordinance is very narrowly drawn, as in the case of a Tehama County ordinance, is it preempted by state law?
- c. Since two of the water basins in the county extend under the neighboring counties of Monterey and Santa Barbara, is prohibiting inter-county transfers practicable (in these cases)?
- d. If inter-county transfer prohibitions are not practicable in such cases, what is to stop the transfer of water from the SLO County side of the Paso Basin into the Monterey side and then in turn its export to wherever (assuming the ability to convey it)?
- e. The city of Paso Robles is opposed to the ordinance. It has also filed opposition to the quiet title adjudication action of many basin overlies. As a water appropriator, it has inferior rights (vis-a-vis the overlies) under constitutional water law notwithstanding recent legislation such as SB 1168. Would the City be thinking about selling water to south coast entities and therefore be especially opposed to bans on inter-basin transfers?
- f. On January 4th a new County Supervisor will take office. Shouldn't this major piece of public policy be deferred until the new session?

The comment letters can be found at the link below:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/4033/QWxsIENvbW1lbnRzIFJlY2VpdmV kX051bWJlcmV kLnBkZg==/12/n/36346.doc>

The proposed ordinance can be accessed at:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/4033/RmluYWwgT3JkaW5hbmNIIGZvciB JbnRyb2R1Y3Rpb24ucGRm/12/n/36345.doc>

Item 3 - Introduction of proposed amendments to the Affordable Housing Fund Ordinance, Title 29 of the San Luis Obispo County Code relating to fee schedules. Hearing date set for December 2, 2014. The purpose of this item is to introduce an increase in the so-called Housing-in-Lieu fee rates and to set the hearing for the December 2, 2014 Board meeting. This program, where homebuilders and commercial property developers are required to build low-income housing or, in lieu of building the housing, pay into a low income housing fund. This is in reality a tax and a government transfer program. The staff is proposing a 4.9% increase for 2015. The program is a failure and should be discontinued.

We will provide more information with the December 2, 2014 Weekly Update.

Item 15 - Submittal of a resolution for Management and Confidential employees, Bargaining Units (BU) 07, 08, and 11; Appointed Department Heads, BU 09; Elected Officials, BU 10; General Management Law Enforcement, BU 16 approving an increase in compensation for FY 2014-15 and FY 2015-16. The County's 300 higher-level executives and managers have not had a raise since 2008 due to the recession and consequent need to reduce the rate of expenditure growth. They are not members of unions and are thus unable to pressure for wages. They do not have an organization that gives Board members and candidates campaign contributions and endorsements. This group includes department heads; assistant department heads; division heads; and higher level technical, legal, medical, and financial professionals. This group also made various concessions to help balance budgets in the recession, such as paying more toward their pensions. The raises would include a 2.3% increase retroactive to July 1, 2014, and a 2.5% increase on July 1, 2015. The staff report indicates the total cost as noted below:

Total County costs for FY 2014-15 for compensation increases are approximately \$1,195,596. Total County costs for FY 2015-16 for compensation increases will be approximately \$1,176,458. The County's annual ongoing costs shall increase by approximately \$2,372,054.

The table below shows the history of salary increases since 2008.

The staff report indicates that the County is having difficult negotiations with its largest union, the San Luis Obispo County Employees Association (SLOCEA), which represents about 60% of its workforce. Will SLOCEA accept a contract with 2.5% per year raise?

All Bargaining Unit Wage, Cafeteria, and Pension Changes FY 08-09 - FY 14-15

	UNREPRESENTED <i>Ops & Staff Mgmt, General Mgmt, Appointed Dept Heads, Elected Officials (excluding BOS), Confidential</i>	DCCA <i>Deputy County Counsel Association</i>	SLOGAU <i>San Luis Obispo County Government Attorneys' Union</i>	SLOCEA* <i>San Luis Obispo County Employee's Assoc</i>	SLOCEA* <i>San Luis Obispo County Employee's Assoc</i>	DAIA <i>District Attorney Investigators' Assoc</i>	SLOCPMPOA <i>San Luis Obispo County Probation Managers' Peace Officers' Assoc Formed 8/24/07 now part of BU08</i>	SLOCSMA <i>San Luis Obispo County Sheriff's Managers Assoc</i>	SLOCPPDA <i>San Luis Obispo County Probation Peace Officers' Assoc</i>	DSA <i>Deputy Sheriff's Assoc</i>	ASLOCDS <i>Assoc of SLO County Deputy Sheriffs</i>
	BU07, 08, 09, 10, 11	BU12	BU04	BU01, 05, 13	BU02	BU06	BU29	BU15	BU31, 32	BU03, 14, 21, 22	BU27, 28
Total PWA to Salary 14-15							MCC		2.00%		
Total PWA to Salary 13-14				1.18%			MCC		2.00%		
Total PWA to Salary 12-13							MCC				
Total PWA to Salary 11-12				1.88%	2.65%		MCC	2.98%		2.98%	2.98%
Total PWA to Salary 09-10		0.23%	0.23%	-3.00%	-3.00%	4.15%	4.50%			4.12%	DSA
Total PWA to Salary 08-09		1.32%	1.32%	3.00%	3.00%	4.00%	6.98%	6.78%	6.00%	6.78%	DSA
TOTAL PWA TO SALARY (%)	0.00%	1.55%	1.55%	3.06%	2.65%	8.15%	11.48%	9.76%	10.00%	13.88%	13.88%
Total PWA to Cafeteria 14-15						0.37%			0.27%		
Total PWA to Cafeteria 13-14	1.00%			0.40%			1.00%		0.30%		
Total PWA to Cafeteria 12-13											
Total PWA to Cafeteria 11-12											
Total PWA to Cafeteria 10-11					0.14%		MCC				DSA
Total PWA to Cafeteria 09-10	1.55%	2.88%	2.88%	3.00%	3.00%	5.35%	2.54%	7.56%	5.32%	3.44%	DSA
Total PWA to Cafeteria 08-09									0.54%	1.82%	0.54%
TOTAL CAFETERIA (%)	2.55%	2.88%	2.88%	3.40%	3.14%	6.05%	3.54%	8.10%	7.71%	3.98%	3.98%
CURRENT CAFETERIA AMT (\$K M)	\$975	\$1,096	\$1,096	\$750.58	\$695.95	\$816.07	\$975	\$1,300	\$991	\$700	\$700
EE Pension Contribution 14-15											
EE Pension Contribution 13-14	0.48%			0.45%		0.60%	0.48%	0.60%	0.49%	0.60%	0.60%
EE Pension Contribution 12-13											
EE Pension Contribution 11-12											
EE Pension Contribution 10-11	0.56%	0.56%	0.56%	0.57%	1.65%		MCC	2.98%		3.04%	2.98%
EE Pension Contribution 09-10	1.55%	0.23%	0.23%	-3.00%	-3.00%	3.38%	0.39%	2.06%			DSA
EE Pension Contribution 08-09		1.32%	1.32%	2.80%	1.66%		0.74%	1.75%	0.63%		DSA
TOTAL EE PENSION CONTRIBUTION (%)	2.59%	2.11%	2.11%	0.85%	0.31%	3.98%	1.61%	7.39%	1.12%	3.64%	3.58%
				**FY2009-10: SLOCEA's 3% increase in salary was offset by a 3% DR pension pickup of CA's share							
NET INCREASE (PWA+CAFET LESS PENSION)	-0.04%	2.32%	2.32%	5.61%	5.48%	10.22%	13.41%	10.47%	16.59%	14.22%	14.28%

Item 26 - Submittal of a resolution to continue emergency contracting for Nacimiento Water Pipeline repairs and authorize of the Director of Public Works to execute contracts for emergency contract work through a sole source process. The County continues to work on repairs to the pipeline. There is no description of the extent of the problem that has been discovered to date. The write-up indicates that they believe that they have sufficient budget to cover the repairs.

The work is being funded from the Nacimiento Operating Fund. The cost of emergency contracting to date is approximately \$675,000. Sufficient budget exists, at this time, to cover the anticipated cost of the work.

Item 33 - Review of the FY 2015-16 Budget Goals and Policies, Budget Balancing Strategies and Approaches, and Board Priorities. The purpose of this item is for the Board to review general budget policies for the preparation of the 2015-16 annual operating and capital budgets.

The Budget is the most important policy document produced by a government on an annual basis. The staff is proposing no changes for the new fiscal year. The Board will have to deal with higher than expected contract costs levied by CAL Fire, which serves as the County's contract fire department. These State fire employees received salary and benefit increases, and some were apparently impacted by the State raising the minimum wage. The Dairy Creek Golf Course is losing money. As noted above, the County's largest labor contract remains unsettled.

Item 36 - Annual Fee Increases. The fees are organized by department. The ones that impact COLAB members and affiliates are generally related to the Agricultural Commissioner, Fire Department, the Environmental Protection Division of the Public Health Department, the Planning and Building Department, and the Public Works Department. County budget policy requires that fees be sufficient to cover the costs of the services for which they are levied. The principle is that there are services and regulatory activities which are provided only to specific entities and people, and therefore they should not be supported by general revenues such as the property tax and sales tax. State statute further provides that fees charged by localities, such as cities and counties, may not exceed the cost of providing the services or administering the regulations which they fund. Accordingly, the County “reviewed” 2008 fees this year to insure adherence to the policy.

Good News: There are not many fee increases this year except in Environmental Health. In fact Planning and Building is requesting only one fee increase. Fire is actually reducing or eliminating several. The driving factor which forces fee increases is County labor costs for salaries, pensions, and other benefits. As noted in item 15 above, the County is still in negotiation with its largest union. The cost of the ultimate settlement could impact fees in future years.

Environmental Health Fees as an Example and Opportunity: There are 15 pages of Environmental Health Fee increase detailed in the report. A sample page is replicated below:

Department Name: Public Health - Environmental Health
Fund Center: 16002

				FY 2014-15 FEE SCHEDULE		FY 2015-16 FEE SCHEDULE			
				Current Fee		Proposed Fee		\$ Difference from Prior Year	
Fee Indicator #	Fee Category	Fee Description	Authority	Fee Amount	Unit Desc.	Fee Amount	Unit Desc.	Fee Amount	Comments
		ENVIRONMENTAL HEALTH DIVISION							See footnotes 4, 12 & 13
		Annual Retail Food Facility Fees	CA Health and Safety Code Section 114381						
		Restaurants/Bars							See footnote 8 See footnote 3
1000	Increased	Bars (no food preparation)		\$400.00	facility/yr	\$406.00	facility/yr	\$6.00	
1001	Increased	Seating capacity - 10 and under		\$477.00	facility/yr	\$485.00	facility/yr	\$8.00	See footnote 3
1002	Increased	Seating capacity - 11 - 50		\$555.00	facility/yr	\$563.00	facility/yr	\$8.00	See footnote 3
1003	Increased	Seating capacity - Over 50		\$635.00	facility/yr	\$644.00	facility/yr	\$9.00	See footnote 3
		Retail Food Production/ Retail Markets							
1004	Increased	Less than 150 sq ft		\$292.00	facility/yr	\$297.00	facility/yr	\$5.00	See footnote 3
1005	Increased	150 - 5,000 sq ft		\$400.00	facility/yr	\$406.00	facility/yr	\$6.00	See footnote 3
1006	Increased	5,001 - 10,000 sq ft		\$555.00	facility/yr	\$564.00	facility/yr	\$9.00	See footnote 3
1007	Increased	Greater than 10,000 sq ft		\$676.00	facility/yr	\$687.00	facility/yr	\$11.00	See footnote 3
		Miscellaneous Annual Food Facility Fees							
1009	Increased	Vending Machine Commissary		\$254.00	facility/yr	\$258.00	facility/yr	\$4.00	See footnote 3
1010	Increased	Mobile Food Facility/Caterer Commissary		\$392.00	facility/yr	\$398.00	facility/yr	\$6.00	See footnote 3

This section pertains to the fees charged for annual restaurant inspections. For example, a bar (line 1000) with no food service is charged \$400 for an inspection required to renew its annual operating permit. It is proposed to raise the fee to \$406 dollars, which doesn't seem like so much. But... why is the fee \$400 in the first place?

- a. What exactly does the inspector do?
- b. How long does it take?
- c. What is the fully loaded hourly cost of the inspector?
- d. What is the productivity of inspectors? How many inspections do they do per day? Presumably the larger establishments take longer.
- d. What is the cost benefit? For example, if a successful bar/restaurant has been running for 20 years, and no one has ever contracted food poisoning, what does the inspector do to earn, say a \$563 fee?

The County's own performance data contained in the budget document with respect to food-borne disease suggests that its occurrence is 1.49 per 100,000 of county population. (See page C-155 of the 2015-15 Budget.) The Environmental Health Division contains 25 employees and will expend \$3,484,711.

Why doesn't the Board spend 20 minutes drilling down into this one?

Health Land Use Plan Reviews:

Why does it cost \$613 for a Health Department representative to walk over to Planning and sit in on a pre-application "preview" meeting on a land use permit? Someone might suggest that it includes the time it took someone to review the plans in terms of the health aspects of water and sewer.

6015	Increased	Building Department Pre-application Meeting		\$604.00	per project	\$613.00	per project	\$9.00	Fee collected by Planning Dept.
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But the Health Department Charges a separate fee of \$1,509 for that "service."

6015	Increased	Parcel Maps (Private water & on site sewage disposal)		\$1,488.00	project plus \$107/hr	\$1,509.00	project plus \$111/hr	\$24.00	Fee collected by Planning Dept. See footnote 2
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How about this one? It will cost you \$445 to get approval to remodel your food cart.

1028	Increased	Mobile Food Facility (Push Cart)		\$438.00	per remodel	\$445.00	per remodel	\$7.00	
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Again, how many hours of analysis does this one take at what rate per hour?



So, what takes \$445 of analysis to check out the cart on the left? You can get your annual teeth cleaning for less or stay 2 nights in an executive floor San Francisco Hyatt Regency Embarcadero bay view room for this amount.

How Much Is Featherbedding? There are hundreds of fees for which the same kind of questions should be asked and which should be examined in this regard, independently of the imposing departments (AND their so called “nexus” studies) and the CEO who rightfully tries to protect the general revenue sources from erosion. The Board should appoint a temporary independent citizen review committee consisting of individuals who are knowledgeable about cost accounting, lost time control, budgeting, and work velocity measurement to review the fee structure, workloads, productivity, costs, and outcomes. The committee would examine the fees, the relevant department staffers, workloads, work velocities, and work content, and then should report back. The Board should fund an independent study director for a few months to assist the citizens committee to structure and conduct the study.

Item 40 - Request for authorization to process a Specific Plan, General Plan and Land Use Ordinance Amendment . The developers of the Monarch Dunes planned community in Nipomo wish the Board to approve modifications of their prior plan approvals. The write-up title summarizes the proposal to change some of the phasing, reduce the size of the proposed hotel, modify the town center commercial area plan, and change the configuration of some of the housing. It would also replace a portion of the open space with active agriculture.

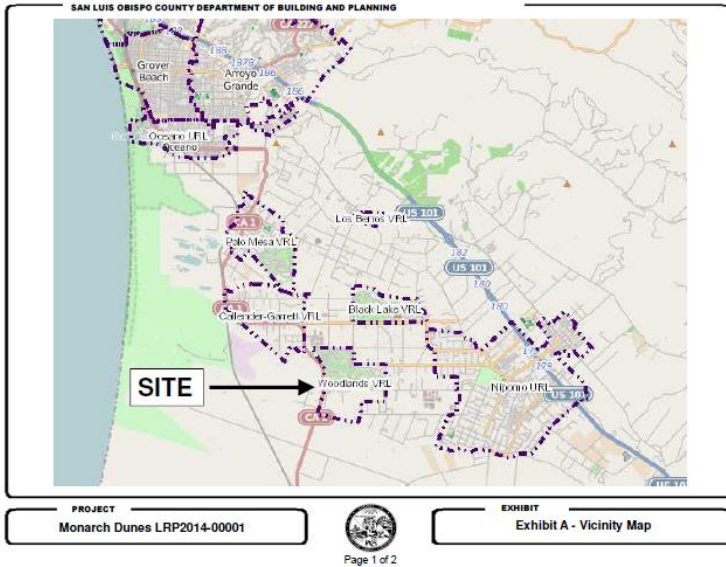
(LRP2014-00001 – Monarch Dunes Joint Venture LLC) to amend provisions of the Woodlands Specific Plan that would replace the Phase IIA/IIB golf course with crop production and other amenities, reduce the maximum size of the resort development, expand the list of allowable uses in the business park, relocate a portion of the retail development, redistribute residential units, rename the village to Monarch Dunes, and consider a potential increase in the number of allowable dwelling units. The site is in the Woodlands Village in the South County Inland subarea of the South County Planning Area. District 4.

Collateral Considerations: The proposal has been engendered because changing market conditions may render the original plan less feasible. The write-up doesn’t mention the blowing sand (PM₁₀) issue. Some Monarch Dunes residents are active participants in the anti-dunes off-road vehicle riding opposition movement. They are also opposed to the Philips 66 rail spur development, which could be essential to the future financial viability of the refinery. The Board, in an effort to protect the broader public interest, should condition any plan amendments on the

requirement that there be covenants warning future residents, tenants, etc., about these other activities and conditions which are essential to the County's well-being.

Because the proposed action involves the amendment of the Woodlands Specific Plan, the Board is required to determine if it wishes to allow the process and analysis to begin. The Board could say, go ahead, no – leave it as is, or it could okay the process with Board-directed modifications.

Finally and since there are only four Board meetings left until the switchover in the 4th District Supervisor, this item should be continued until January.



Item 41 - Hearing to consider a request by the County of San Luis Obispo to amend the Administration and Personnel Ordinance, Title 2 of the San Luis Obispo County Code relating to the issuance of General Plan Conformity Reports consistent with Government Code Sections 65401 and 65403; the amendment is exempt from CEQA. 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 Plan of Development.

The elimination of the Planning Commission review of the Capital Plan and projects is justified by an appeal to efficiency:

The purpose of this amendment is to clarify that only the Board of Supervisors needs to find the County's Capital Improvement Program consistent with the County's General Plan. The existing language of the code is unclear. This will allow for a streamlined approach to the review of the Capital Improvement Program (CIP). Without these amendments, the decision to find the CIP in conformance with the general plan would need to be made by the Department, the Planning Commission and the Board of Supervisors. (sequentially)

Why wouldn't the Board want the recommendation of its planners and its own appointed Commissioners? The Board still has the final authority. If efficiency is the goal, why not get

rid of the Planning Commission altogether and have the Board of Supervisors meet an extra 2 days per month and simply function as the Planning Commission?

San Luis Obispo County Local Agency Formation Commission Meeting of Thursday, November 20, 2014 (Completed)

C-1 : Study Session: Draft Paso Robles Basin Water District Formation Guide (Recommend Receive and Discuss)

The Commission met and considered the draft Paso Robles Basin Formation Guide. The purpose of the hearing on Thursday was to solicit the LAFCO Commissioners' input with respect to the guide. Reportedly, the Commissioners took no formal action, and it is not clear if the actual document, and more importantly the processes contained therein, will be brought back before the Commission **and public** for further consideration.

The guide provides an excellent summary (although not exhaustive) of the powers that can be exercised by the proposed district pursuant to AB 2453 and also notes that there are other provisions of the State Water Code, in addition to AB 2453, that pertain to the powers and functions which are incorporated by reference.

Supervisor Gibson was absent and presumably at the California State Association of Counties annual meeting in Anaheim. Alternate member Hill, who may have been in Anaheim, was not present either. Supervisor Mecham was present. It turns out that there were a number of questions from members of the public which were not answered.

One of the most prescient involved the process by which the County can be the applicant, foregoing the normal petition process. This work around process was written by some unknown person into the AB 2453. It has never been disclosed who requested it in the first place. In any case, residents suggested that LAFCO opt for the standard petition process and requested that the County not be the applicant. The petition process requires that 10% of the landowners by area sign a petition requesting that LAFCO initiate its review. Obtaining of the signatures would demonstrate public support. Speakers pointed out that if the required number of signatures were not obtained, the public, LAFCO and the Board of Supervisors would save the expense (estimated at \$35,000), time, and aggravation. It was suggested that in lieu of the petition process, there would be a \$75,000 "outreach" effort at public expense to explain the district proposal and the LAFCO process. This had some of the Commissioners, other than Mecham, blinking. Mecham justified the short-circuit County-as-applicant version on the basis of his utilitarian mantra that "we have to do something."

Another important question involved those communities and individuals that wish to opt out. No one had any real answers.



HAPPY THANKSGIVING

They thought they were in Virginia.

Text of Mayflower Compact:

In the name of God, Amen. We whose names are under-written, the loyal subjects of our dread sovereign Lord, King James, by the grace of God, of Great Britain, France, and Ireland King, Defender of the Faith, etc.

Having undertaken, for the glory of God, and advancement of the Christian faith, and honor of our King and Country, a voyage to plant the first colony in the northern parts of Virginia, do by these presents solemnly and mutually, in the presence of God, and one of another, covenant and combine our selves together into a civil body politic, for our better ordering and preservation and furtherance of the ends aforesaid; and by virtue hereof to enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions and offices, from time to time, as shall be thought most meet and convenient for the general good of the Colony, unto which we promise all due submission and obedience. In witness whereof we have hereunder subscribed our names at Cape Cod, the eleventh of November [New Style, November 21], in the year of the reign of our sovereign lord, King James, of England, France, and Ireland, the eighteenth, and of Scotland



But they didn't have to go to LAFCO.