



# COLAB SAN LUIS OBISPO COUNTY



**WEEK OF OCT. 26-NOV. 1, 2014**



THE COALITION OF LABOR,  
AGRICULTURE, AND BUSINESS

# COLAB

San Luis Obispo County

# NORTH COUNTY MIXER 2014



## Guest Speakers

### DISRUPTING THE REGIME

SUPPORTING YOUR MISSION

Wednesday, October 29, 2014

5:30-7:30 p.m.

**Taft Barn**  
**9990 Santa Clara Rd.,**  
**Atascadero**

(El Camino Real to Santa Clara Rd. Located at the very end of Santa Clara Rd., over the bridge)

**Appetizers and Beverages will be served.**

**RSVPs appreciated by Friday, October 24th.**

**Email: [colabslo@gmail.com](mailto:colabslo@gmail.com) or call (805) 548-0340**



**Debbie  
Arnold**



**Andy  
Caldwell**

Join us to hear Fifth District Supervisor Debbie Arnold and COLAB Santa Barbara Executive Director Andy Caldwell slice and dice the current schemes to steal the farmers' water, drive the oil industry and jobs out of both SB and SLO Counties, and the latest on the proposed Paso Robles Basin water management district. This will be a fact filled and energizing tag team presentation.

# CRABBY GIBSON EJECTS CITIZENS FROM MEETING

## PROPOSED AG. WATER OFFSET SHOULD BE DOA

(County's Own Consultants Issue 2 Separate Legal Warnings)

**See Item 22, Page 5 Below**

## LOPEZ LAKE RATIONING PLAN

### BOARD SCHEDULING MANY LAND USE AND REGULATORY ITEMS PRIOR TO END OF 2014 - SEE PAGE 12

(LOS OSOANS, PASO BASIN FARMERS, AND HOME BUILDERS  
SHOULD PAY CLOSE ATTENTION)

#### Board of Supervisors Meeting of Tuesday, October 21, 2014 (Completed)

**Gibson "Rules" of Order:** During the Public Comment Period, Board Chair Gibson admonished one of the Los Osoan regulars that she was not addressing a subject within the purview of the Board. Some of her compadres in the back groaned. At this point Gibson told them they were out of order and had to leave the room. When they didn't leave he recessed the meeting and directed a deputy sheriff who provides meeting security to remove them. At this point the actual Sheriff himself, who was there for an agenda item, intervened and persuaded the Osoans to go out into the lobby. Gibson also got into a verbal tiff with another regular Osoan who was in a wheel chair. Supervisor Arnold objected to Gibson's stance. The rest of the embarrassed Board fidgeted uncomfortably. Gibson needs to attend a couple of Berkeley City Council meetings and experience Division I-A varsity public comment.

#### Board of Supervisors Meeting Tuesday of October 28, 2014 (Scheduled)

**Item 3 - Refuse Rate Increases.** Refuse rates will be going up in some areas as listed in the chart below:

<u>Exhibit</u>	<u>Increase</u>	<u>Adjustment Type</u>	<u>Areas Served</u>
A	2.0% - Interim Year Rate Adjustment	Rate increase by Cambria CSD	San Simeon
B	2.0% - Interim Year Rate Adjustment	Rate increase by Cayucos Sanitary District	Rural areas outside of Morro Bay and Cayucos
C	2.0% - Interim Year Rate Adjustment	Rate increase by Los Osos CSD	Los Osos / Baywood Park

**Item 7 - Appointment of Officials in Lieu of Elections.** The list is extensive and contains over 30 appointments to school boards, community service districts, and other entities for which there were an insufficient number of candidates.

*After the close of the nomination period, it was determined that the number of candidates filing for the respective district offices did not exceed the number to be elected. Per Elections Code Section 10515, if there are insufficient nominees for an office, the district is not required to hold an election unless a petition requesting that the general election be held is presented to the elections official. No such petition was filed for any of the districts. Your Board has the authority to make appointments for those candidates who filed nomination papers and for those persons whose names were submitted as nominees by their district boards, the list of appointments is attached.*

Could this be an opportunity the next time?



**Item 15 - Trouble With Los Osos Sewer System Contract.** The work on the installation of this portion of the collection system (the pipes under the streets) has been completed. The County is apparently accepting the work even though the contractor has filed claims. Apparently he is asserting that the specifications and plans were in error and that he had to spend a lot more money doing the work than those plans and specs indicated.

*The Collection System Areas A & D Contract is part of the multi-year Los Osos Wastewater Project (WBS 300448) which has a total project budget of \$183.4 million. The cost of this Collection System Areas A & D Contract is \$25,101,381.16 as of final completion. However, there are numerous claims and disputes on this contract that have not been resolved. The contractor, ARB, Inc. has file claims totaling more than \$20 million and initiated litigation against the County in February of 2014.*

This one would put a dent in the project budget if the contractor substantially prevails. Where's Pavo?

**Item 18 - State Lobbyist's Report.** The report essentially reiterates past information - the State Budget is temporarily "balanced" in a narrow sense. Of course no one talks about the huge unfunded pension liability and huge infrastructure deferred maintenance deficit. Nor do they talk about the very large bonded debt for past ballot measures. AB 2453, the customized Paso Basin water management district legislation, is the highlight of the year. Everyone is salivating over the various cuts of pork contained in Proposition 1- especially the green pork highlighted in yellow.

Regional Water Reliability - \$810M

Safe Drinking Water- \$520M

Water Recycling- \$725M

Groundwater Sustainability- \$900M

Watershed Protection, Watershed Ecosystem Restoration, State Settlements - \$1.495B

Storage- \$2.7B

Statewide Flood Management- \$395M

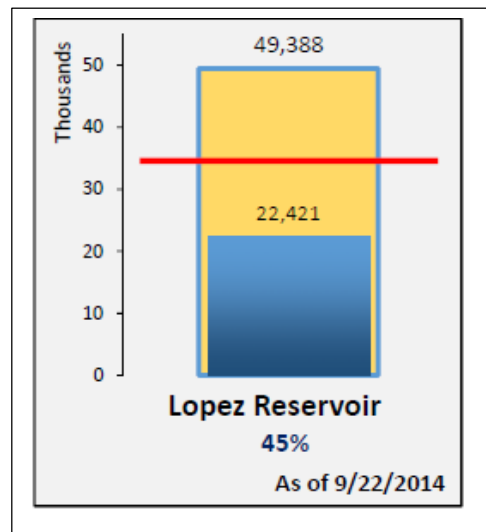
**Item 19 - Lopez Lake Low Water Release (Rationing) Plan.** The Plan details how rationing of water will take place based on the decline of the water remaining in the lake.

LOPEZ RESERVOIR WATER DELIVERY REDUCTION SCENARIO		
% Available Storage	Total Storage in Acre Feet	Percent Delivery Reduction
35	20,000	0% No deliveries above contract entitlements
24	15,000	10% Delivery reduction
13	10,000	20% Delivery reduction
2	5,000	35% Delivery reduction
0	4,000	100% <b>NO WATER DELIVERIES</b>

The chart to the right below shows that the reservoir is getting close to the 20,000 acre-foot trigger. The red line is the average level for this time of year in the past.

The impacted subscribers list includes:

- Avila Beach Community Services District
- Avila Valley Mutual Water Company
- U.S. Vacation Rentals
- Avila Hot Springs
- P.G. & E. Company
- City of Pismo Beach
- Port San Luis Harbor District
- San Luis Coastal Unified School District
- SLO Buddhist Temple
- Terrace Hills Congregation
- San Miguelito Partners
- Frank Anderson
- Norman Blackburn
- Graulich (Joan Winslow)
- Jana Hanson
- John Devincenzo



What happens when there are no deliveries? At today's rate of decline when does that occur? You would think there would be desalination feasibility research.

John King  
Jay and Anne Murrell  
James McKiernan  
Ben Chiu  
John Day  
Rob Rossi

**Time Certain Item At 1:30 PM - Ag. Water Conservation Regulations**

**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 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 their water use. In the future, and under various schemes currently under preparation by 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., are 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 towards 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:

***1.2 Applicability***

*This program applies to New Irrigated Agricultural Development (see definitions section 1.3)*

overlying the Paso Robles Groundwater Basin which includes the following:

- a. Irrigated agricultural crop conversions;
- b. New irrigated agricultural development on previously un-irrigated land;
- c. Replanting of existing irrigated crops (of the same crop type) where the replanting results in an increase of crop density or other modification that leads to increased water use (e.g. change in irrigation system or cropping patterns) (see section 4 for more information);
- d. Non-Commercial small-scale agriculture for rural residential users.

The applicability section quoted above is further explicated in Section 4 quoted below. The quoted section is important because it is indicative of the broad and penetrating scope of this regulatory scheme into private affairs by the County Board of Supervisors.

#### ***ON-SITE MODIFICATIONS THAT INCREASE WATER USE***

*This section lists standards for Offset Clearance for on-site modifications that lead to increased water use which include, but are not limited to, the following:*

- a. *Increased density of existing crop type that may lead- to an increase in water use per acre*
- b. *Modifications to irrigation type that may result- in potential increased water use (e.g. Drip to microsprayer or sprinkler)*
- c. *Operational changes that may result in increase applied water use*

*Applications for the above modifications shall be processed similarly to Category 1 Offset requests with the exception of the Maximum Net Acreage calculation. Maximum Applied Water Allotments shall be used as a qualifying factor instead, as described in section 6. The following criteria shall be applied:*

##### ***4.1 Offset Approval Criteria***

- a. *Determination of Maximum Applied Water Allotment.*
- b. *Deed Covenants*
- c. *Installation of Flow Meter(s)*

##### ***4.2 Verification of Proposed Applied Water Rate***

*In addition to the basic program standards listed in this section, applications for on-site modifications where no expansions to existing crop acreage is proposed shall include verification that the proposed crop, irrigation, and/or management modifications can maintain the calculated maximum applied water amount using the medium value in Table 2. Verification shall be prepared by a qualified professional and shall include:*

- a. *Calculated maximum applied water use value*
- b. *Analysis of irrigation system and verification that the proposed watering schedule and method will comply with the annual water use restrictions.*
- c. *Analysis of property management strategies and/or combined consumptive agricultural uses that may affect overall water use.*

**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.

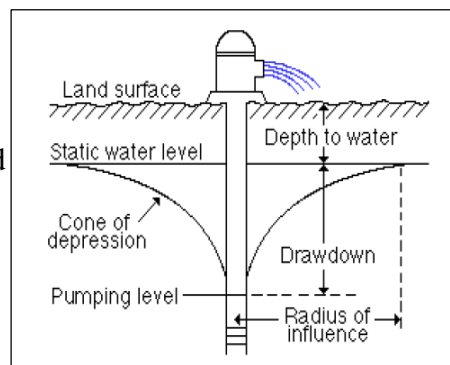
**b. Both Your Privacy and Water Rights Violated.** One requirement of the proposed regulation is that the impact of new water use on neighbors must be analyzed. The neighbors must be notified and can participate in the consideration of the application. Again, this violates basic California water law.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

### 3.5.2 Protection for Neighboring Properties

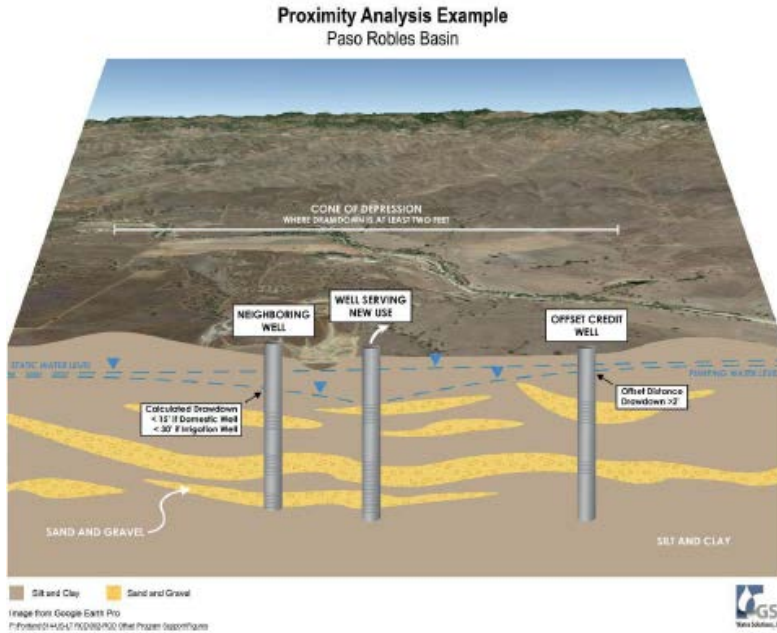
*The proposed program includes a requirement for all applicants to assess the potential impact to neighboring wells due to the proposed new well use for irrigation purposes. This provision was included in recognition that existing uses may be negatively impacted by new agricultural development within close proximity. The program aims to ensure that the establishment of new irrigated agriculture will not result in drastic declines to water levels at neighboring well sites. However, physical characteristics of the basin are not extensively known and assumptions are made to allow application to be processed using the best available data. Because basin specifics are not known, and because basin health and vigor is largely related to changing climactic conditions, the neighboring well impact analysis provision of the program is not intended to guarantee continued neighboring well levels and operation. The County should seek legal advice related to the inclusion of this program element prior to adoption.*

The chart at the right illustrates the concept of well proximity to be regulated. (Radius of influence)

The Chart below depicts the issue on a larger scale. Imagine the complexity and costs as the Planning and



Building Department conducts the assessment and charges fees to the poor applicants. Imagine the Neighborhood fights and animosity being generated. “All I wanted to do was plant some walnut trees. Now I’m thousands of dollars into expert consultants and County fees and in a feud.”



**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?

**8. Is this the Only Option?** Interestingly and consistent with their legal reservations noted above, the authors are not so sure that this should be adopted.

*The County has a number of options related to the inclusion of density and/or other modifications to existing irrigated Ag land.*

*a. Adopt the program as proposed requiring deed covenants, installation of flow meters, and annual verification for changes to land/crop management practices; or*

*b. Reduce the program standards for these scenarios and allow for changes to land/crop management practices on existing irrigated land with only County notification required; or*

*c. Eliminate a portion of the requirements (deed covenants or flow meter installation with annual tracking) leaving only one of these requirements in place, or*

*d. Adopt the program as proposed with exemptions from the requirements if the property is an approved data collection site for research agents of the County (i.e. UCCE, Cal Poly ITRC, etc.), or*

*e. Exempt these activities from the program entirely.*

Item d above is kind of an interesting bribe.

**Complexity/Opportunity For Endless Bureaucratic Manipulation:** Illustrated below is an example of how complex and convoluted the program is in essence.

**The Formula:** At rock bottom, the decision by which the Planning Department will determine to approve or reject an application for an offset is based on the following formula:

*Annual Crop-specific Applied Water*

*The annual crop-specific applied water expressed in acre-feet per acre per year (AF/Ac/Yr.) is calculated in the SLO Waster Water Report using the following equation:*

$$\text{Annual Crop-Specific Applied Water(AF/Ac/Yr)} = \frac{\text{ETc} - \text{ER}}{(1 - \text{LR}) \times \text{IE}} + \text{FP}$$

where:

$ET_c$  = crop evapotranspiration =  $ET_o \times K_c$

$ET_o$  = reference evapotranspiration

$K_c$  = crop coefficient

$ER$  = effective rainfall

$FP$  = frost protection

$LR$  = leaching requirement

$IE$  = irrigation efficiency

Each component of the equation and its values will be discussed in the following sections.

### Steps to Determine Crop Specific Applied Water

- 1) Determine your Crop Group (Table A1)
- 2) Determine the contribution from the Effective Rainfall (Tables A2 and A3)
- 3) Select the contribution from frost protection: Vineyards=0.25 AF/Ac/Yr; Berries = 0.4 AF/Ac/Yr (Table A4)
- 4) Determine the contribution from leaching requirement (Table A5)
- 5) Select the irrigation efficiency of your system: sprinkler = 0.75; micro irrigation = 0.85
- 6) Select your climate group (Table A8)
- 7) Select the  $ET_o$  (Table A9) and  $K_c$  values (Table A10)
- 8) Calculate the monthly  $ET_c$  ( $ET_o \times K_c$ ) and calculate annual  $ET_c$  (i.e. sum all the monthly values)
- 9) Convert the  $ET_c$  inches/yr to AF/Ac/Yr by dividing by 12 (Table A11)
- 10) Calculate the Crop-Specific Applied Water (AF/Ac/Yr) for your site

**For example, the instructions for items 7 and 8 require the farmer to calculate the monthly evapotranspiration:**

#### 2.1.1 Evapotranspiration and Crop Groups

*Evapotranspiration is the combination of the water lost from a cropped area by evaporation from wet soil and plant surfaces, and loss of water from plant transpiration. The Food and Agriculture Organization of the United Nations (FAO) presents a procedure for estimating crop evapotranspiration in Irrigation and Drainage Paper No. 56 (Allen et al. 1998). The California Department of Water Resources, University of California Cooperative Extension, and the Cal Poly Irrigation Training and Research Center use this procedure, and it is the same procedure used in the preparation of the San Luis Obispo (SLO) Master Water Report (2012). Crop evapotranspiration ( $ET_c$ ) is calculated as the product of reference evapotranspiration ( $ET_o$ ) and a crop specific coefficient ( $K_c$ ). Crops are assigned to Crop Groups on the basis of water demand for evapotranspiration.*

**And**

#### 2.1.2 Reference Evapotranspiration ( $ET_o$ )

Reference evapotranspiration represents the approximate theoretical water use of a well-watered, cool-seasoned grass, 4 – 6 inches tall, under full cover. The principal weather parameters affecting evapotranspiration are radiation, air temperature, humidity, and wind speed. The California Irrigation Management Information System (CIMIS) is a program of the Office of Water Use Efficiency, California Department of Water Resources (DWR) that manages a network of over 120 automated weather stations in the state of California. Hourly average weather data is used to calculate hourly ETo. The 24 hourly ETo values for the day (midnight-to-midnight) are then summed to produce estimates of daily ETo. Water Planning Areas were grouped into climate groups (Table A8) and ETo values from appropriate CIMIS were selected for the climate groups (Table A9). Reference evapotranspiration can be quite variable (Figure 1). It is higher during the summer months and varies between years depending on whether the was wet or dry.



Figure 1. Monthly variation in the Reference Evapotranspiration (ETo) at CIMIS St. Atascadero (2001-2010)



FILE YOUR QUIET TITLE

## **Board of Supervisors Stacks Schedule for the Balance of 2014.**

After the October 21<sup>st</sup> meeting there are only 6 meetings remaining in calendar year 2014. With the potential of a change in the 4<sup>th</sup> District, the current majority appears to be expediting many “smart growth” and regulatory policy matters. To enhance your Holiday season, the following have been teed up so far:

### **October 28<sup>th</sup>:**

#### **Paso Basin Mandatory Agricultural Offset Program**

As noted above, rumor suggests that the Paso Basin AG Offset program is scheduled for October 28<sup>th</sup>.

### **November 25<sup>th</sup>:**

#### **Los Osos Mandatory Retrofit On Sale Program**

*Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Section 8.91 (Retrofit of Plumbing Fixtures Upon Sale in the Los Osos Groundwater Basin) of the Health and Sanitation Code (Title 8 of County Code) to revise the existing program that requires homes and businesses in the Los Osos Groundwater Basin to retrofit plumbing fixtures at time of sale.*

*Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Section 19.07042 (Water Conservation Provisions) of the Building and Ordinance (Title 19 of County Code) to revise the existing program that requires new homes and businesses in the Los Osos Groundwater Basin to retrofit fixtures in existing homes and businesses to offset new water use.*

### **December 2<sup>nd</sup> and December 16<sup>th</sup>:**

#### **Adoption of a higher Housing In lieu “Fee” (Tax)**

*Hearing regarding a request by the COUNTY OF SAN LUIS OBISPO that the Board of Supervisors consider amending Title 29 – Affordable Housing Fund, by adopting an annual adjustment of the residential in-lieu fee and commercial housing impact fee schedules. Also, a request by the COUNTY OF SAN LUIS OBISPO that the Board consider the Affordable Housing Fund Annual Report and Annual Action Plan, which have been submitted by the Director of Planning and Building in conformance with Title 29 – Affordable Housing Fund. These reports and ordinance amendments affect all planning areas of the county that are outside of the jurisdictions of the incorporated cities.*

#### **Adoption of the Resource Management System**

*Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Chapter 3, Resource Management System, in the Inland and Coastal Framework for Planning documents, Part I of the Land Use and Circulation Elements of the San Luis Obispo County General Plan. The Coastal Zone Framework for Planning document is also part of the Local Coastal Program. The amendment includes: 1) recalculating lead times for responding to Levels of Severity for certain resources, 2) adding highway interchanges as a monitored resource, 3) revising or establishing criteria and recommended actions for Levels of Severity for water supply and systems, wastewater treatment, schools, roads, air quality, and parks, 4) reorganizing text and tables, and 5) updating and clarifying processes, references and other language. This amendment also includes minor clean-up revisions to Chapters 1 and 8 of the Inland and Coastal Framework for Planning to remove outdated references to the Master Water and Sewer Plan and to change reporting of information by agencies to the County from “annually” to “biennially.”*



Don't forget to vote and/or bring in  
your vote by mail ballot