

COLAB SAN LUIS OBISPO COUNTY

WEEK OF DECEMBER 8-14, 2013

MORE STAFF ADDED TO BUILD EXPANDED WATER REGULATORY SCHEME

FEE INCREASES APPROVED

PASO BASIN ORDINANCE LAWSUITS DEFENSE (YES OR NO?)

TRAILS AND PRIVATE PROPERTY (See Page 9)

Board of Supervisors Meeting of Tuesday, December 3, 2013 (Completed)

Item 13 - 2014 Fee Increases Approved. The Board by a 4 to 1 vote, Arnold dissenting, approved a number of fee increases as well as a number of fee reductions. Supervisor Arnold asked that the Board give consideration to not raising certain fees which pertain to agricultural operations, such as farm stand inspections and farmers markets, as well as Planning Department permit application reviews. She proposed that some of these be held at the current levels. At first it appeared that Supervisors Mecham and Ray might give this suggestion some support, but after Supervisors Gibson and Hill voiced opposition, Mecham and Ray fell into line, stating that individual fees should not be called out and dealt with separately. Ray and Hill further justified their opposition to examining certain fees individually by categorizing them as supporting general fund subsidies to “particular interests.”

Hill piled on and inferred that Arnold had not done her homework. He sternly lectured Arnold, telling her that she should have called in staff and questioned them in the office about their rationale for proposing various fee increases. He says he does this frequently on various matters. We don't know how this benefits the public. Such review and discussion should be undertaken in public in front of all Board members. Gibson and Mecham seemed to infer that staff experts had developed the fees through their analysis and that the Board didn't need to question them.

Obviously they can't examine each of 2,100 fees in detail each year, but you would think they would poke a little bit in some of the more sensitive areas. Moreover, you would think that they would ask a department head or two or three to explain the math underlying a few key fees under their respective jurisdictions, just to see how solid the

analysis is. Ray and Mecham have been designated as a sub-committee to look at some of the costs and related fees and the underlying processes that impact housing costs. It is not clear how they will proceed. Will they have one-on-one private meetings with selected industry groups which are not noticed to the public or what? What rigor will be applied to their analysis? A few years back there was a highly touted effort to examine planning/permitting/processing to reduce time and costs. There has been no report on the outcome of this effort. No data, no statement of time savings, no report on cost savings, no before and after flow charts, and no report of staff savings or any other before and after quantified information has ever been reported.

At this point, Board should simply freeze fees, refuse to shift general fund dollars into the related regulatory activities, and direct the “expert staff” to wring it out through efficiency and productivity improvements.

Considerable information was included in a power point related to this item, which was not posted in advance with the agenda. We have repeatedly requested that the Board, as a courtesy to the public, direct staff to post their power points as attachments to the respective agenda items. Some of the charts and graphs are particularly relevant and would assist in public analysis. The Board has ignored this request. The County Administrative Officer has stated that it is not possible to provide the power points at the same time as the companion agenda materials because of the work load.

Background: A category of fees of most concern to COLAB are the regulatory fees charged to individuals and businesses to cover the costs of permitting, inspections, licensing, and operating permits. The County must maintain expert staffs and supporting services in Planning and Development, Agriculture Commissioner, Public Health, and Public Works to undertake these activities. The Board’s policy to charge fees to cover the costs so that precious local general fund dollars from the property tax, sales tax, and hotel tax are not used but are reserved to cover the costs of basic local services, such as Sheriff, Jail, Probation, Fire, District Attorney, Public Defender, road maintenance, and basic internal support systems, such as Auditor Controller, County Counsel, and County Administrator.

The problem is that limited land zoned for residential and commercial development, an aggressive State and local regulatory environment, including “wonderful” new ideas like greenhouse gas thresholds, high taxes, and ever increases fees, undermine the growth of the basic sources of those general fund dollars which come from the property tax, sales tax, and transient property tax.

Item 14 - Update On Status of the Conservation and Open Space Element (COSE) of the General Plan as It Relates to Water Matters and the Adoption of Paso Robles Water Basin Urgency Ordinance. (Implementation of the Paso Water Basin Urgency Ordinance and Expanded Water and Land Use Regulations Countywide.)

The Board voted 5/0 to add a staff person in Planning and Development to help implement (make permanent) the Paso Water Basin water/land use moratorium. It also voted to add a 2nd staff person to begin to update plans and ordinances to spread the concept to the entire County. They actually did not quite pull the trigger to start the

process of implementation, but directed staff to return in January with a “robust” list of potential Plan amendments, ordinance changes, regulation additions and so forth.

Thus begins the permanentizing and metastasizing of the “temporary/time out” urgency water ordinance. Some of the key ideas, which were discussed and to which more ideas are to be added and which are to be made more robust by January, are listed in the background below.

Background:

Larger Minimum parcel sizes

More pumping restrictions

Well meters

Require applications for land divisions, which would increase density or intensity in groundwater basins with recommended or certified Levels of Severity II or III for water supply or water systems and are not in adjudication, to include a water supply assessment (WSA) prepared by the applicable urban water supplier (as defined by California Water Code.

Implementation Strategy WR 2.2.2 Improve well permit data collection Improve data obtained from well permit applications regarding location, depth, yield, use, flow direction, and water levels.

Condition discretionary land use permits for new, non-agricultural uses in groundwater basins with a recommended or certified Level of Severity I, II, or III to monitor and report water use to the Department of Planning and Building on an annual basis for use in the Resource Management System.

Develop and adopt a countywide water conservation ordinance that includes:

- Water efficiency and conservation standards for new development*
- retrofit-upon-sale of existing residential and commercial property.*

To implement strategies. Above : Pass an ordinance which includes:

- amending the water efficient landscape standards in place in the ordinance to include all new development (including those on existing lots) and both front and back yard landscaping (this effort was recently postponed to allow work on other priority items)*
- increasing water efficiency beyond the requirements of Cal Green*
- creating a retrofit upon sale program for all properties in the County*
- metering and monitoring all of new wells in the County*

- *metering and monitoring of existing wells in the County*
- *requiring that all new development in the County (both ministerial and discretionary)*

Executive Session - Paso Basin Water Lawsuits (2)
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The Board went into closed session to discuss its response to the suits. COLAB requested that the Board announce its decision on whether it was going to defend against the suits after the closed session ended. After the session, the County Counsel reported that “no reportable action had been taken.” We don’t know if this means that they did not finish deciding how to respond or they just don’t want the public to know. The matter is noticed again on the December 10th agenda executive session.

During public comment COLAB requested that the Board inform the public on whether it made a decision to defend against the lawsuits. COLAB also requested that the public be informed of the vote. This request seems to have been brushed off – unless they have not finished the discussion and have not made a decision. Eventually we will know if they decide to defend, because they will have to file answers to both lawsuits. What we may never know is how each Supervisor voted.

Background: A group of landowners within the Paso Robles Water Basin, Paso Robles Water Integrity Network (PR-WIN), has filed a lawsuit in the San Luis Obispo County Superior Court seeking to overturn the Board of Supervisors precipitous and illegal adoption of an urgency ordinance imposing a water moratorium on farmers and homeowners. Essentially the owners request:

1. An immediate stay of Ordinances 3246 and 3247 (the urgency ordinances) pending resolution of the litigation.
2. A peremptory writ of mandate commanding the County to rescind the ordinances.
3. Reasonable attorneys’ fees and coats of the suit.

A second action (Complaint for Quiet Title) has been filed by a group called Protect Our Water Rights (POWR) against the County, Community Services Area 16-1, San Miguel Community Services District, Atascadero Mutual Water Company, Templeton Community Services District, and DOES 1-200. The DOES are included because, at this point, it is not known what individuals and corporations other than the County and the municipal water providers (which are named) are illegally trying to appropriate (steal) the farmers’ and homeowners’ water.

Essentially, the County moratorium allows these entities and private parties unfettered use of the farmers' water, while prohibiting the farmers from using it unless they can comply with expensive and often impossible requirements to extinguish the use of water elsewhere in the basin (so called offsets).

Again, the pleading is for the Court to enjoin the County from enforcing its ordinance while the litigation is pending and to confirm the property owner's superior status per California water law versus the municipal appropriators.

We will report in detail in the December 2013 COLAB Newsletter.

Special Board of Supervisors Meeting of Friday, December 6, 2013 8:45 AM (Completed).
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Executive Session: Appointment of a Planning and Development Director. Earlier in the year the Board considered candidates for the vacant position of Planning and Building Department Director but did not find any of the applicants suitable. As a result the County conducted a 2nd recruitment has interviewed the finalists. As of this writing the results are not known .

Board of Supervisors Meeting of Tuesday, December 10, 2013 (Scheduled)

Item 4 - Extension and Revision of Labor Contract with Two Units of the San Luis Obispo County Employees Association (SLOCEA). The County has reached agreement with the SLOCEA Public Services unit (830 employees) and the SLOCEA Supervisory Unit (200 employees).

Key Provisions include:

Term:

The SLOCEA Public Services Unit (BU01) MOU, Supervisory Unit (BU05) MOU, and Clerical Unit (BU13) MOU have been extended for one (1) year and will fully terminate on June 30, 2014.

Wage Provisions:

A 0.4% Prevailing Wage Adjustment (PWA) retroactive to the pay period including July 1, 2013. This 0.4% amount was previously deferred from the FY2009-10 PWA.

A further 0.78% wage increase effective the pay period following Board of Supervisors' approval of the attached Amendments.

Pension Provisions:

□ Effective the pay period that includes January 1, 2014, the pension contribution rate for “miscellaneous” employees in Bargaining Units 01, 05, and 13 shall increase by 0.48%. The County’s appropriation rate shall also increase by 0.49%.

□ New language added describing compliance with the California Public Employees’ Pension Reform Act of 2013 (PEPRA), known as Tier 3 for all County bargaining units.

Health Coverage – Cafeteria:

□ Commencing the pay period following Board of Supervisors approval of the attached MOU amendments, the County’s Cafeteria Allowance shall increase by \$25 per month for a total of \$750.58 per month.

The full cost of the contract extension is \$ 2.19 million.

Item 6 - Request to Approve Affordable Housing Debt Forgiveness Policy for Individual Owner Occupied Homes. This item illustrates the kinds of problems that occur when governments get into social engineering and tampering with basic economics. The County’s (and some of the cities’) schemes of land use regulation have caused the supply of land available for housing to be restricted. Moreover the cost of the land use entitlement process incentivizes builders to produce expensive homes rather than affordable homes. This in turn has caused the County and other governments to develop affordable housing programs to try to counteract the negative forces which their misguided policies have created in first place. Some of these programs include using Federal and State dollars to “write down” a portion of home loans for “affordable houses” through the issuance of 2nd mortgages. The County’s portfolio is reported in the chart below:

Category of loan	Number of loans	Aggregate amount owed
CDBG	41	\$651,762
HOME	78	\$2,492,051
CalHome	23	\$870,320
Long Term Affordable Housing Loans	20	\$1,918,256
Total	162	\$5,932,389

Apparently, during the recession a number of these units (the report does not specify) got underwater mortgage-wise, and some of the purchasers lost jobs or otherwise began to default (the report provides no data on this either).

The staff, in true governmental fashion, now recommends that when the owners sell or are allowed to sell, the County should waive its interest in the property, the proceeds should go to the holders of the first mortgages, and the owners should be allowed to default on the 2nd mortgage. County staff indicates that this will be acceptable to the US Department of Housing and Urban Development (HUD), which provided most of the money.

As the ad could say, “Who’s in your wallet?”

Item 7 - Authorization to Apply for a Coastal Commission Grant (\$222,000) to Assist in Covering Costs for an Update of the Los Osos Community Plan (A Subpart of the Estero Area Plan). The Board letter states:

In 2010, the Coastal Commission approved the Coastal Development Permit for the Los Osos wastewater project. The conditions of approval require that before wastewater treatment service can be provided to undeveloped parcels, the Estero Area Plan needs to be amended to:

- 1. Incorporate a **sustainable build out target** that indicates that there is water available to support such development without impacts to wetlands and habitats, and*
- 2. Integrate a **Habitat Conservation Plan** (currently underway) with Local Coastal Program standards for development in Los Osos.*

On December 4, 2012, your Board authorized the Department to begin working on the Los Osos. In 2010, the Coastal Commission approved the Coastal Development Permit for the Los Osos wastewater project.

Item 9 - “Submittal of a resolution authorizing and directing the actions necessary to satisfy the conditions to effectiveness of the amended bankruptcy in In re the Los Osos Community Services District. District 2.” This strangely worded title is actually a request for the Board to authorize certain settlement payments to creditors in connection with the Los Osos Community Service District (LOCSA) bankruptcy. A total authorization of \$3,572,000 is requested, of which \$772,000 is to be funded by the current Los Osos sewer project budget and \$2,800,000 from the County Tax Reduction Reserve Fund.

As of our publication deadline, calls to staff for clarification were not returned.

- a. Why is this cost being charged to the Tax Reduction Reserve Fund? It is a legal settlement and should be charged to the appropriate account.
- b. Does this close out the entire bankruptcy case or are there other costs and claims pending?

Item 17 - Dana Adobe Development Plan Approval. This is a “re-hearing” on the recommendation of the Planning Commission to allow the nonprofit which runs this historic site to add various components, including a visitor center, amphitheater, Chumash interpretive area, and support facilities.

It is an interesting story in the County’s own words:

On July 17, 2012, the Board of Supervisors held a public hearing for the item. Following extensive public comment, mostly regarding issues related to cultural resources and Native American concerns, the Board continued the item to August 7, 2012, with direction for staff and interested parties to meet and discuss necessary changes. When County staff, the applicant, and Native American representatives were unable to resolve issues regarding the nature of impacts of the project to cultural resources, the applicant opted to indefinitely continue the project at the August 7, 2012 Board of Supervisors hearing and withdraw the Mitigated Negative Declaration.

Accordingly the County prepared an EIR.

The Board of Supervisors directed staff to initiate an EIR that included an evaluation of all environmental impacts of the project. An EIR consultant, SWCA Inc., was chosen by the County to prepare the EIR. Since impacts to cultural resources were a major focus area, SWCA included Albion Environmental, Inc., a cultural resources management firm that specializes in Native American consultation, as well as cultural resource evaluations. The evaluation included a compilation of all available background information, survey reports (Phase I surface and limited Extended Phase I subsurface surveys), records search documents, collected artifact records, and verbal information from the applicant and Native American representatives. All information was peer reviewed by Albion Environmental, who established a work plan that included formal Native American consultation, confirming the presence/absence of archaeological deposits where the nature was unclear, and conducting Phase II (subsurface) evaluations.

The report does not indicate how much the EIR cost or whether its subcontractor, Albion Environmental, paid any of the local tribal advocates for their input, advice, and consultation.

San Luis Obispo County Council of Governments (SLOCOG) Meeting of Wednesday, December 4, 2013, 8:30 AM (Completed)

Item B-3: Draft 2014 Regional Transportation Plan (RTP) Financial Expectations and Projections. The item was continued to the January meeting because the SLOCOG Board was coming up on its self-imposed adjournment deadline of 12 noon.

Background: This document is extremely important and has many long-term implications for local and countywide road funding. It also once again raises the specter of requesting the voters to impose a one-half cent sales tax over 20 to 30 years to provide local match for State funding of major highway projects such as the widening of Highway 101. The draft document contains considerable data about gasoline taxes, miles traveled, and transit alternatives.

Readers may remember that a separate plan, called the Sustainable Community Strategies (SCS), must ultimately be included in the RTP. The SCS must comport with SB 375, which requires that counties and cities demonstrate how they will reduce the

number of trips by cars and light trucks – particularly through less commuting by car. The SCS must be approved by the California Air Resources Board staff CARB). A jurisdiction without an approved SCS cannot have a valid RTP. This would result in ineligibility for State and Federal transportation funds. In turn this has profound implications for land use policies of the cities and the County because it supports “smart growth” compact, stack-and-pack housing. It also will attempt to force people out of their cars and onto mass transit.

The full document can be read at the link:

https://library.slocog.org/PDFs/AGENCY_MTGS_AGENDAS/SLOCOGBOARD/2013/December%202013/B-3%20ATTACHMENT%20Draft%202014%20RTP.pdf

SLOCOG Board Needs to Extend its Meetings. SLOCOG is a State-mandated local government agency composed of a representative of each of the 7 cities in the County and all 5 County Supervisors. It is charged with coordinating overall land use planning between the County and the cities primarily through long-range transportation planning and administration of Federal and State transportation funding streams. Since the advent of the whole global warming scare and related carbon reduction laws and regulations, its role has become even more potent and dangerous.

All of the SLOCOG board members are elected officials who voluntarily ran for office. They need to spend the time required to carry out their duties, particularly the time required to conduct their official public deliberations at noticed meetings. There is an increasing sense that the SLOCOG meetings are being rushed and that there is insufficient time being allocated for the careful presentation and consideration of extremely important policy matters including the allocation of tens of millions of dollars in transportation funds, as well as the planning for billions of dollars in major highway and transit projects over a 30-year horizon.

If there are members who feel that they cannot spend one day per month on these important matters, they should resign their office and support the election of replacements who are willing to spend the necessary time.

Trail Expansion. One of the sacred cows of the sustainability “smart growth” doctrine is that suburban sprawl should be prohibited and future generations should be forced to live in dense walkable urban centers. A key implementing tool of this idea is that every community needs an extensive internal network of hiking and biking trails. Additionally, it requires that separate communities, attractions such as beaches, and regional parks be interconnected by a network of longer range regional trails. As a result, more and more local, State and Federal transportation money is being programmed for trail acquisition and construction. The idea is that one day you will ride your bike to work, shopping, school, and so forth. If you have an inter-city commute, you will place your bike on a rack on the bus or in the light rail car and then ride it from the nearest railroad station to your ultimate destination. This will reduce CO₂ and improve your cardiac and pulmonary health. (What about the older, infirm, and disabled people who can’t just bike to the nearest transit station?)

Of course SLOCOG, with the prodding of SB 375 and other mandates, has embraced the regression to 19th century transportation modes. The New England mill town provides the classic example. You lived in dense company housing, walked to work at the factory or mine, shopped at the company store, and might, if you were lucky, take a train to a camp for your one week per year vacation. (No quick hop to Big Fork or Tahoe). The kids obviously didn't have school choice, soccer practice, and ballet.

Extensive trails are being planned, and in some cases funded, to create the coming paradise. The problem is trails go through or in between peoples' properties. The recommended standard for a trail is 12 feet wide with 2 ft. shoulders so that maintenance vehicles, fire, police, and EMS can get through. Once a busy trail is established, there are demands for lighting, irrigation, paving, and other improvements. In effect the trails become linear public parks. Some users may intrude onto private property, cut fences, disturb livestock, or use the remote and secluded sections to participate in anti-social behavior such as excessive drinking, drug use, and crime. Check out the action near Prado Road in SLO.

An even larger problem is the ultimate use of the trail networks to erode private property rights. Zoning standards will be amended to prohibit structures and some land uses next to or within so many yards of trails (just as now is done with water courses). As the use matures there will be new public interests developed such as view sheds – “we don't want to see any houses or structures from the trail.” Wildlife will use the trails, which will then become wildlife corridors, which in turn will involve all sorts of rules and restrictions from the US Fish and Wildlife Service and State wildlife agencies. As trail users become familiar with various bends and shortcuts, ad hoc trails will develop across peoples' property and to remote attractions such as a special cove or pond. Environmentalists will then assert that the use over time has resulted in a prescriptive right to the public to these new unofficial trails. This in effect is the condemnation of private property. Just ask the farmers on the Gaviota Coast in Santa Barbara County.

Beware of this wolf in sheep's clothing!



