

COLAB SAN LUIS OBISPO COUNTY

WEEK OF FEBRUARY 16-22, 2014



THE COALITION OF LABOR,
AGRICULTURE, AND BUSINESS

COLAB

San Luis Obispo County

5th Annual

DINNER & FUNDRAISER

2014

Thursday, March 27, 2014

Alex Madonna Expo Center, San Luis Obispo

5:15 pm - Social Hour, No Host Cocktails

6:15 pm - Filet Mignon Dinner including Wine

\$125 per person / \$1100 per table of ten
Reserved seating for Tables of Ten

For tickets, mail your check to:
COLAB, PO Box 13601,
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For more information call: (805) 548-0340
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**Remember to bring your ticket to enter in the
door prize drawing!**

Keynote Speaker

**Dr. Sam
Blakeslee**

The Honorable Dr. Sam Blakeslee founded the Institute for Advanced Technology and Public Policy at Cal Poly in 2012. With a portfolio of experience as a scientist, business owner and legislator, his goal is to bring these diverse worlds together with cross-disciplinary thinkers at Cal Poly to solve some of the most complex public policy challenges facing society today. Blakeslee was elected to the California State Assembly in 2005 and later to the State Senate. Elected by his fellow legislators, Blakeslee served as Assembly Minority Leader. In this role, he was a member of the "Big 5" with responsibility for negotiating the state budget and major policy initiatives. In 2009 and 2012, the Sacramento Bee Identified Blakeslee as one of "Sacramento's Most Bipartisan Legislators."



Come join us in the celebration!

**Cocktail Attire Optional
(We still love those jeans too!)**

**TUESDAY BOARD MEETING CONTAINS
HEAVY PUBLIC POLICY ALL DAY**

WATER DISTRICT MATTER IS CONFUSED MESS

**BOARD CONTINUES PASO WATER DISTRICT
LEGISLATION BECAUSE THE BILL LANGUAGE
WAS NOT ON AGENDA AND NOT PUBLIC**

(Will Be Heard on Tuesday Feb. 18 at 9:00 AM)

**BOARD ENDORSES POLICY TO MAKE SALES TAX
INCREASES EASIER AND TO WEAKEN PROP 13
PROTECTIONS**

**COUNTY STONEWALLING REQUEST FOR SALARY
AND PENSION DATA (SEE PAGE 9 FOR DETAILS)**



Board of Supervisors Meeting of Tuesday, February 11, 2014 (Completed But Not Completely)

Item 10 - 2014 Legislative Program. The Board adopted the Program (Leg. Platform) on a 4/1 vote, with Arnold dissenting. Bad provisions include endorsement of potential or proposed legislation (including potential Statewide ballot measures) which would:

- Authorize any county Board of Supervisors to submit a sales tax increase to the voters within only the unincorporated area for their approval. Should a Constitutional amendment be proposed to reduce the Proposition 13 supermajority for the threshold, also seek inclusion in that amendment for counties to raise a tax in the unincorporated area only.
- Reduce the approval threshold from 2/3rds to 55% for approval of various tax measures affecting roads, libraries, public facilities, etc.

Hill again criticized the super majority requirements of Proposition 13 as being inherently undemocratic. Ray thinks temporary majorities in the unincorporated area should have the option to tax themselves for things they want: “It would give us some financial tools.” Ray, as the Board’s resident “historian,” should go back and reread the *Federalist Papers* and DeToqueville’s *Democracy In America*. A little Edmund Burke (Reflections on the Revolution In France) and Edward Gibbon (*The Decline and Fall of The Roman Empire*) wouldn’t hurt either.

We especially commend Ferdinand Lot’s *The End of the Ancient World and Beginning of the Middle Ages*.

The essential lesson is that when those in a society who are receiving government emoluments become the voting majority or are able to control ruling elites through mob violence, co-dependence, or whatever, the society is through. Taxes are raised endlessly to fund the emoluments, the currency devalues, infrastructure decays, and, since many people choose not to work, the vitality and productivity declines and the society eventually collapses.

Item 16 - County Water Conservation Program for New Development in the Paso Robles Water Basin. The item was continued to an as yet undetermined date because time ran out and the Board was exhausted. We will repost when it is returned to a future agenda.

Background: As part of the Paso Groundwater moratorium, developers of new homes and other buildings are required to demonstrate 1:1 water offset. The program also mandates that home expansions and renovations be subject to the specific gallon offset impositions. New and expanded buildings will be required to offset 280 gallons per day (102,200 gallons per year/about 1/3rd of an acre-foot). Developers, builders, and home renovators will be required to pay to remove toilets, faucets, and shower heads installed prior to 1994 and to replace them with newer technology water-saving versions. The Planning Department will broker the program between owners of older homes and developers. A water credit market will be developed. The program also restricts outdoor irrigation.

Board of Supervisors Meeting of Tuesday, February 18, 2014 (Scheduled)

Item 1 - General Public Comment for matters not on the agenda is at 9 AM.

Item 2 - Presentation on Fiscal Year 2014-15 State and County Budgets. Consistent with the County’s obfusatory, closed, and politicized organizational culture, the actual report is not included with the agenda materials. It will be a power point which will not be revealed until the item is discussed in the Board meeting. This forecloses the ability of individuals and organizations to analyze the data and any derivative policy recommendations in advance. In turn this means that the individuals and organizations will not be able to inform their Supervisors of any concerns prior to the Supervisors’ acceptance or rejection (fat chance) of the staff plans.

The accompanying materials are largely self-congratulatory boilerplate from prior years.

One issue is setting budget priorities. The current priorities are listed as:

1. Priority Driven- *One of the starting points of the budget process is to identify Board priorities so staff can craft budget proposals that align with these priorities.*

Currently, the Board's priorities are as follows (in order):

a. Meet legal mandates

b. Meet debt service requirements

c. Public Safety- defined as:

i. Sheriff-Coroner (fund center 136)

ii. District Attorney (fund center 13201)

iii. Probation (fund center 139)

iv. County Fire (fund center 140)

Supervisor Arnold has suggested that the county's decaying roads be an added policy priority. In the past her request has been rudely and sarcastically rejected by other Board members.

Item 3 - Presentation of the Capital Improvement Program (CIP). This item contains the submission of the capital improvement budgets for one- and five-years. It contains funding for roads, parks, firehouses, libraries, storm water facilities, and other physical improvements. It is a companion to the operating budget and will actually be adopted in June along with operating budget.

Significant Projects Included in the CIP

- Los Osos Wastewater Project (\$183 million)*
- Expansion of the Women's Jail (\$40.7 million)*
- Juvenile Hall Expansion (\$17 million)*
- Co-located Emergency Dispatch Center (\$8.2 million)*
- Price Canyon Road Widening Phase II (\$6.2 million)*
- Arroyo Grande Channel Waterway Improvements (\$3.7 million)*

The most important information in the report pertains to the County's unfunded road maintenance. The report states in part:

The County road system comprises over 1300 miles and 190 bridges. Overall condition of the road system is rated on a 0 to 100 scale referred to as the Pavement Condition Index (PCI). The desired goal is to maintain the overall system at a PCI rating no less than 65 as this is a level which indicates that the key roadways of the system are in good

repair and that preventative maintenance can be done with cost effective techniques on the remaining system. Once a PCI for the system falls into the mid-50's, repairs and maintenance require much more expensive techniques. Currently, the system has an overall rating of 61 and a deferred maintenance value of \$126 million to bring the full system to an overall good rating (PCI of 80). The 2012 Pavement Management Plan is available at www.slocounty.ca.gov/PW/Traffic/Road_Condition_Report.htm. In addition to the pavement conditions, other significant deferred maintenance involves major repairs of failed road segments, estimated to be \$4 million and sidewalk repairs, estimated to be \$3 million. The Department of Public Works continues to identify and determine strategies to address these conditions. The overall Road Fund, for both routine and preventative road maintenance, has been averaging about \$15 million annually. In order to prevent deferred maintenance values from increasing, an additional \$ 7.5 million would be required each year.

As noted above the road system has a maintenance deficit of \$126 million and growing. Thus when the County says it has a balanced budget, it is presenting a narrow technical view and ignoring the larger realities. To prevent further deterioration, the County would need to allocate an additional \$7 million per year every year for decades to the road budget. If it makes such an allocation each year, the budget could not be balanced.

- a. Why are roads not a major priority? Roads are one of the full services that all County residents use.
- b. There are unfunded maintenance and new facility needs involving buildings, parks, and other facilities. Why aren't these explicated in the CIP?
- c. In line with b above and except for roads, the CIP seems to list only those projects for which funding is available or is expected to be available. This is a deficiency. It should present the estimates of the unfunded capital needs well. Otherwise the County's budget needs and the growing gaps are hidden from the public, business, and others.
- d. The fact that the budget gaps are hidden means that there is no real discussion about what will be needed in the future and how to grow revenues without raising taxes.
- e. This will become another Paso Water-like crises. When things get so bad that people are really complaining, some future Board will impose an emergency growth-and-building moratorium on the entire unincorporated area because the facilities and roads are so deteriorated that public safety is at risk.

The CIP document can be viewed at the link:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/3044/QVRUQUNITUVOVCAxIC0gRlkgMjAxNC0xNSBGaXZlIFllYXlIgQ0lQIFBsYW4gd2l0aCBBcHBlbmRpY2llcyAxIHRocm9lZ2ggOS5wZGY=/12/n/24814.doc>

4. Planning Department Work Program Priorities for 2014-15. The staff recommends that within the resources which have available for general planning, the following list be adopted:

Proposed Top 10 Priorities

Based on direction from your Board, the proposed Top 10 list and status is as follows:

- Prepare a 'Complete Communities' survey*

Status: In Progress. The Department received a grant to complete a community infrastructure needs assessment for the communities of San Miguel, Nipomo, Oceano, and Templeton. Public meetings occurred in the communities in late 2012. Reports on facilities needs and costs and funding and financing options have been completed. The entire study should be completed in February 2014, followed by a presentation to the Board.

- Complete the draft Los Osos Habitat Conservation Plan (begin Fish and Wildlife agency review) and begin the Los Osos Community Plan update.*

Status: In Progress. Consultation between agencies and County staff is occurring. Phase I includes the agency review draft plan and is scheduled for completion in early 2014. Phase II includes public review of the draft plan and is scheduled to be completed in 2014. The Community Plan update has been authorized for processing by the Board. Funding for preparation of an Environmental Impact Report is in the Department budget. Notification to property owners for requests for zone changes were advertised in two local newspapers in March 2013. A Los Osos Community Advisory Council

(LOCAC) subcommittee continues to meet to gather public input and meetings will continue into early 2014. The County applied for, but did not receive, a Coastal Commission LCP grant to fund studies that will help in preparation of the Community Plan and its EIR.

- Complete e-permitting for specific photovoltaic systems.*

Status: In Progress. The Department is currently in development of an e-permit for specific photovoltaic system permits. This would allow applicants to complete the permitting process entirely on-line without having to come into the office. This system should be available early in 2014.

- Update the San Miguel Community Plan.*

Status: In Progress. Following a successful community outreach process and preparation of an administrative draft plan by the City and Regional Planning Department at Cal Poly, the Board, on November 1, 2011, authorized the community plan update. Grant funding was received to complete technical background reports most of which are complete. A public review draft of the Community Plan update was released in June 2013. The preparation of an Environmental Impact Report is underway. This comprehensive community-based plan will help shape new growth and development, enhance the quality of life, and bring vitality to San Miguel.

- Prepare ordinance amendments to revise standards to encourage in-fill development*

Status: In Progress. The Department received a grant to complete amendments that would evaluate and revise existing provisions in the Real Property Division Ordinance (Title 21), Land Use Ordinance (Title 22) and Coastal Land Use Ordinance (Title 23) which make it difficult to develop on in-fill sites in urban areas in compliance with the County's strategic growth policies. A Request for Proposal process was completed and a consultant chosen. Public outreach has occurred. A package of draft Land Use Ordinance amendments, as well as a compendium of development types and a "toolkit" of planning and design recommendations accompanied by form-based code examples should be available in the Spring of 2014 or earlier.

Implement an "emPower" program in San Luis Obispo County

Status: In Progress. This program would be an expansion of Santa Barbara County's comprehensive financing program for energy efficiency project for homeowners. The program would cover San Luis Obispo, Santa Barbara and Ventura Counties and would offer homeowners the ability to get low interest unsecured loans to complete energy efficiency projects. Grant funding will cover the costs of staffing and marketing of the program. Agreements from Santa Barbara County for the grant funding should be coming to your Board for review in the next two to three months.

Complete the draft of a Renewable Energy Combining Designation and related ordinance amendments for implementation.

Status: In Progress. The California Energy Commission (CEC) has awarded the County a Renewable Energy and Conservation Planning Grant of \$638,152 to fund a Renewable Energy Streamlining Program. The program would include amendments to revise policies, combining designations and ordinances to streamline development of renewable energy projects in areas of the county that meet selected criteria. Also includes preparation of an Environmental Impact Report (EIR) that evaluates specific areas proposed for a new Renewable Energy (RE) combining designation based on mapping of resources, infrastructure and constraints. The grant agreement with the CEC was approved by your Board on July 9, 2013, and a contract for a consultant team to perform the work in conjunction with County staff was approved on August 13, 2013. The consultant team has conducted initial stakeholder interviews and has prepared an administrative draft opportunities and constraints analysis, together with extensive mapping, which is expected to be released in early 2014.

Paso Robles Groundwater Basin (PRGWB) Urgency Ordinance Implementation.

Status: In Progress. On August 27, 2013, your Board adopted an Urgency Ordinance covering a majority of the PRGWB that requires new uses to offset their water demand at a ratio of 1:1 and new wells to be metered and monitored by the property owner. On October 1, 2013, your Board took action to provide direction to staff relative to implementation of the ordinance. Implementation includes preparation of a County Approved Conservation Program for both new development (residential and commercial) and agricultural offsets. The new development offset program will come to your Board on February 11, 2014, the agricultural offset program will be ready for

review by your Board in the Fall of 2014. Implementation of the ordinance, including vested rights determinations, is ongoing.

Complete the public review drafts of various general plan and ordinance amendments relating to water demand and supply.

Status: In Progress. On December 3, 2013, your Board provided direction to staff to return with a formal request to consider the authorization of amendments that could include implementing certain policies in the Conservation and Open Space Element, restricting the sale of groundwater outside of the PRGWB, modifying general plan policies that relate to agricultural and residential water use, modifying the Transfer of Development Credit program, and creating a new land use category that would limit irrigation. On March 4, 2014, staff will be returning to your Board with this request.

The project highlighted above is designed to make the provisions of the Paso Water Basin Urgency Moratorium Ordinance permanent.

Complete the public review draft of the Housing Element update consistent with state mandates.

Status: In Progress. The Board authorized the processing of amendments to the Housing Element of the County General Plan on January 29, 2013. Generally, the County must update its Housing Element to be in compliance with State law every five years. The next Housing Element Update is due on June 30, 2014 to the State Office of Housing and Community Development (HCD). It will cover a 5½ year period from January 1, 2014 to June 30, 2019.

The report indicates that to carry out the overall work of the Department (mostly conducting inspections, reviewing plans, administering Federal and State grants) plus managing the long-range planning programs above, it needs 92.5 full-time employees (FTEs). It just happens to have that many.

Currently the Department estimates that in order to complete the revenue generating items on Table 1, 42.25 FTE (full time equivalent) positions are needed. The mandated and budgeted programs on Tables 2 and 3 require an approximate additional 50.75 FTE positions. The Department currently has 92.5 FTE positions on the Position Allocation List (PAL) and at this time, 6.00 of these positions are vacant and three are actively under recruitment.

The message here is that if the Board wishes to add projects or tasks to the Department's workload, it will have to add FTEs and budget.

Item 5 - Strategic Planning: The State of the County's Human Resources (Employees). This item is yet another example of a report to be presented at the Board meeting where the actual report (a power point) is not attached to the agenda material. This means that affected organizations and the public have no opportunity to review and analyze the information and potential policy recommendations in advance of the Board's actual consideration (unless of course some insiders get a private peek). Wonder if the Board members themselves have the power point to study over the weekend?

In this case, the report may have significant future implications for County costs and Budget. Of course we won't know until late sometime late Tuesday morning. During the recession the County balanced its budget on the backs of its employees by forcing them to accept salary reductions and freezes in lieu of layoffs. In large part, this is because the County has insufficient economic growth to keep up with the natural increase in labor costs and other expenses. Pressure is building from labor groups to do something about the situation. Most have renewed contracts for 2 years which contain fairly modest salary and benefit increases (1.5% per year). It is likely that in exchange for those contracts, the County agreed to study the entire situation and then lay the groundwork to provide higher compensation during the next round of bargaining.

The Human Resources write-up states in part:

The strategic planning presentation on the state of HR will focus on the following topics:

- Workforce realities, including workforce demographics and trends*
- Workforce trends and their impacts on recruitment and retention*
- The current state of our human resource programs with a special focus on:*

o Recruitment

o Selection

o Employee Development and Succession Planning

o Technology

Gap analysis between the current county investment in the HR program and industry benchmarks and best practices

Goals, strategies and recommended investments to modernize HR and achieve a business-integrated HR program

The sections highlighted in yellow are “gov-speak” euphemisms for: “We are looking to increase salaries and benefits and also put more dollars into running the Human Resources Department.”

San Luis Obispo County Stonewalling: For the past several years a non-profit group called Transparent California has been collecting and posting city and county salary, benefit, and pension information on its website as public service for citizens and officials. Almost all the cities and counties in the State have provided the information for both 2011 and 2012. San Luis Obispo County is one of the notable exceptions.

Transparent California lists SLO County as “Agency Stalling Request.” It has posted the plea for assistance displayed below:

Contact San Luis Obispo County

Please help us procure these records for Transparent California by **respectfully** requesting that government officials fully comply with California's Public Records Law and provide Transparent California with the requested records in an Excel-compatible format.

Every citizen has a right to know how government is spending his or her money, and you have a right to respectfully request that this government agency abide by the law and allow you to see how your money is being spent.

Feel free to use the following contact information for San Luis Obispo County. You can also click [here](#) to generate and send a request email directly.

Name: Susan Hoffman

Email: shoffman@co.slo.ca.us

Title: Deputy County Counsel

Phone: (805) 781-5400

Address: County Government Center, Rm. D320 San Luis Obispo, CA 93408

We attempted to contact Susan Hoffman, who turns out to be an attorney in the County Counsel's office, to get the County's side of the story, but her voice mail indicated she will not be available until later in the month.

Readers can access the Transparent California website at the link:

<http://transparentcalifornia.com/>



Item 6 (Last Week's Item 15) - Special Legislative Program Consideration - Board Support for Customized Enabling Legislation for Creation of a Paso Robles Basin California Water District. (Continued to February 18th 2014 at 1:30 PM).

The Board must decide if it will endorse legislation to modify Division 13 of the State Water Code to provide for a 9-member governing Board elected by classes (amount of acreage of property held) for a proposed Paso Basin California Water District. The governance formula was adopted by district proponents Paso Robles Agricultural Alliance for Groundwater Solutions (PRAAGS) as a compromise engineered by Supervisor Mecham to eliminate the opposition by (Pro Water Equity), a group formed to demand action on water basin declines and dry wells (and key proponents and facilitators of the Paso Basin Moratorium).

After achieving the compromise, Pro Water Equity endorsed the formation of a district. Since that endorsement, some members of Pro Water Equity have resigned and revolted over the issue of the proposed structure of the Board. They believe that the election by classes based on amount of acreage owned is inherently undemocratic and that the future board should be elected on a one person-one vote pure democratic formula. The problem with this position is that the tax assessments for funding the district are levied on a per acre basis. The redistributive impact of one person-one vote formula is manifest, and it is unlikely that any land holder with more than a few acres would vote to subject him- or herself to such a system.

Prudently, Assemblyman Achadjian will not submit legislation unless the Board of Supervisors endorses it. The deadline for submitting new bills is February 21, 2014. Thus the Board is in the hurry-up mode. Unfortunately, there was no proposed language on the agenda, and the Board was going to approve the legislation “in concept.” Gibson tried to deflect the blunder with, “We never endorse or oppose specific wording.” The problem in this case is that in endorsing the future water district Board structure amending language, the Board of Supervisors is in effect endorsing the entire body of Division 13 language of which it is a part. The Board clearly had no idea about what is contained in Division 13 and tried to evade its failure to conduct due diligence by stating that the substantive issues of structure, function, powers, finances, assessments, enforcement, etc. of the proposed district are matters for future Local Agency Formation Commission (LAFCO) consideration, if in fact enabling legislation is enacted.

After five hours of staff presentation, public comment, and Board deliberation, the item was continued. Approximately 48 people representing organizations and themselves testified. Only 18 supported the Board endorsing the proposal. Most were concerned that the proposed language was not even on the agenda. Just about everyone had questions about how the proposed district would work and its impact. Organizations which expressed these concerns included the Farm Bureau, North County Watch, former Pro Water Equity members, COLAB, and others.

NEW INFORMATION NOT PROVIDED LAST WEEK: PRAAGS apparently posted the proposed legislation on its web site during the actual discussion of this item during the Board meeting. In addition to the provisions of Division 13 of the Water Code discussed below, it brings in by reference a whole new Division (6), Part 2.75, beginning at section 10700, which pertains to Groundwater Management Plans. Expert staff should explain the purpose of this part and its relation to Division 13. Confusion is rampant and is growing each day.

AND:

District Attorney Prosecutorial Powers can be delegated to Water District Attorney:

1009.5. (a) A water district and the district attorney of any county in which the water district is located may enter into an agreement authorizing the attorney for the water district to act as a **special prosecutor** appointed by and under the supervision and direction of the district attorney for the purpose of prosecuting a violation of an ordinance of the district or a violation of a statute that is a misdemeanor or an infraction, or a violation of a resolution or ordinance adopted pursuant to Section 375, subject to all of the following limitations:

(1) **The ordinance, resolution, or statute relates to water pollution, including waste water and stormwater, or to water conservation.**

(2) The district attorney shall prescribe the scope of, and any limitations on, the subpoena power of the attorney for the water district.

(3) The district attorney may designate any ordinance, resolution, or statute that the attorney for the water district is authorized to prosecute.

(b) A water district, for purposes of this section, means a water district as defined in Section 20200. **(ALL Water Districts)**

The Board needs to set a full and complete presentation of what all this means and not slough the matter off as some future discussion at LAFCO. After all they are the highest level of general local government authority in the County. They are the ones who imposed the emergency moratorium. They are the Board of the County Flood Control District. They are the ones who have asserted control of this issue. To fluff it off now and say it's solely a LAFCO issue is outrageous and irresponsible. Suddenly, they have nothing to do with all of this?

The full text of the PRAAGS proposed legislation is displayed in the **Addendum on page 16 below.**

BACKGROUND REPEATED FROM LAST WEEK

General Discussion: The issue here is a subset of the broader and complex policy questions inherent in the short-term effects of drought and the long-range future of the basin, irrigated agriculture, the economy, and eventually the impact of specific policies

and actions on property rights, which ultimately have a strong bearing on human rights. There has been some discussion in the community that the formation of a water district is incompatible with the Quiet Title lawsuit designed to protect and confirm the primary constitutional water rights of basin overlayers. We believe that these are separate issues and that there may ultimately be benefits to basin landowners of both. At this point the proposed district is a work in progress. Analysis below describes a portion of the normal due diligence which should be undertaken by the Board of Supervisors in this context. This analysis, therefore, should not be construed as a recommendation to foreclose any options which preserve and enhance agriculture and rural living in the Paso Robles Water Basin. It is the public policy failure of the Board of Supervisors imposition of the precipitous and illegal moratorium which has negatively clouded the entire discussion.

This Issue Specifically: The Public Works Director recommends that the Board consider supporting passage of legislation that would enable Paso Basin landowners to create a self-governing special district to manage the aquifer. The key section of the recommendation states:

The San Luis Obispo County Board of Supervisors and Board of the County Flood Control and Water Conservation District supports special legislation to facilitate creation of a new independent Water District with unique governance features that reflect the diverse interests of landowners overlying the Paso Robles Groundwater Basin in the unincorporated area of San Luis Obispo County, provided that said legislation does not change existing Water District formation procedures without LAFCO support, nor affect or limit the County or the Flood Control and Water Conservation District's exercise of authority to manage groundwater in the Paso Robles Groundwater Basin.

There is no analysis accompanying the recommendation describing the functions and powers of the district. There is no copy of the proposed legislation (a bill) nor is there any draft language (in the absence of a draft bill) of what a proposed bill would potentially contain.

Perhaps, and as Congresswoman Pelosi once so famously said of Obama Care, “we will have to pass the bill to see what’s in it.”

COLAB has been advised that a bill, once drafted, will primarily deal with the structure of the Board of Directors of a proposed district and will rely on the standard “off the shelf” enabling statute, which contains the specific powers, structure, setting of land owner assessments, elections, governing financial rules, restrictions, and so forth. It appears that the relevant enabling law is contained in Division 13, (Sections 34000-38500) of the California Water Code. This is a 109-page section. Much of it deals with details of the creation and specific customized rules for water districts in other parts of the state and need not be read (except for perhaps comparative interest). Board members, interested groups and citizens can therefore easily read the provisions at the link:

<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=wat&codebody=&hits=20>

Once the Water Code table of contents opens, scroll to section 34000, which is fairly far down. Readers can then open each topic of interest.

Note: We believe it would be a good idea for the Board of Supervisors to read it before asking the Legislature to customize it and before they take a vote, which would be tantamount to endorsing the formation of a district under this Code Chapter.

Similarly, there has been considerable discussion in the community about the formation of the district. Some of it has been based on third-hand information, and there is much confusion. Again, it would be beneficial for everyone to read the statute, which (in the absence of specific bill language) is likely to be incorporated by reference into any San Luis Obispo County specific bill.

Separately but related to understanding what they are endorsing, and in the future, two members of the Board of Supervisors who are assigned to the Local Agency Formation Commission Board (LAFCO), as the County's representatives (Gibson and Mecham) will be voting on whether to allow the district to be formed. The LAFCO staff will present a recommendation, presumably based on analysis of operational and financial feasibility, the district's potential impact on suburban sprawl, and its compatibility with existing government jurisdictions, such as cities, the County, and other special districts. These Board members obviously have seen no such analysis with this Board item, and need to be careful.

Sample language from the Statute:

Some examples of a California water district's powers per Division 13 are listed below:

35400. Each district has the power generally to perform all acts Necessary or proper to carry out fully the provisions of this Division.

35401. A district may acquire, plan, construct, maintain, improve, operate, and keep in repair the necessary works for the production, storage, transmission, and distribution of water for irrigation, domestic, industrial, and municipal purposes, and any drainage or reclamation works connected therewith or incidental thereto.

35403. A district may contract to perform and perform any agreement for the transfer or delivery pursuant to Chapter 5 of this part of any irrigation system, canals, rights of way, or other property owned or acquired by the district in exchange for the right to receive and use water or a water supply to be furnished to the district by the other party.

35404. A district may enter for the purposes of the district upon any land.

35420. All water distributed for irrigation purposes, except as otherwise provided in this article, shall be apportioned ratably to each holder of title to land upon the basis of the ratio which the last assessment against his land for district purposes bears to the whole sum assessed in the district for district purposes.

Enforcement Powers:

35424. After equitable rules and regulations for the distribution of water have been published once a week for two weeks in a newspaper of general circulation published in each affected county, any violation thereof is a misdemeanor and the violator shall, upon conviction thereof, be subject to a fine of not less than fifty dollars (\$50) and not more than two hundred dollars (\$200). When equitable rules and regulations for the distribution of water are amended, the district may publish a summary of the amendments to the rules and regulations with an Internet address and a physical location where the complete text of the amended rules and regulations may be viewed.

Surplus Water:

35425. If its board deems it to be for the best interests of the district, a district may enter into a contract for the lease, sale, or use of any surplus water not then necessary for use within the district, for use either within or **without the district.**

Water Shortage:

These sections below would appear to deal with new supplemental water that the district might acquire. It is not clear how it intersects with the existing ground water and the overlies' superior rights if the new water is recharged and becomes mixed underground.

35453. In the event of water shortage the district may, with respect to the shortage area, give preference to or serve only the land for which application was filed prior to the application date fixed and the land for which no application was required.

What does the section above mean?

35454. If the available water is inadequate to serve all of the land as to which applications for water are filed pursuant to Section 35450, the district may require the owners of land which is proposed to be planted to annual crops or to new plantings to take a proportionate percentage reduction in the water they would normally use thereon and may require the owners of land which is planted to permanent crops to take a reasonable proportionate percentage reduction in the water they would normally use in an amount not exceeding the percentage reduction required of plantings to annual crops and new plantings.

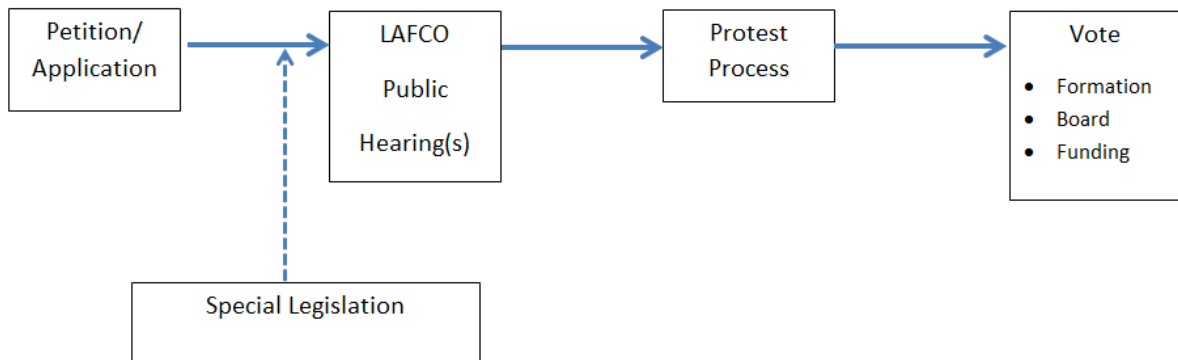
The provisions of this section shall be effective only if more than one-half of the district's revenue for that year will be derived from charges made for the sale of water.

35454.5. In any year in which the board of a district not having meters or other volumetric measuring instruments or facilities to measure substantially all agricultural water to be delivered concludes the available water supply will be inadequate to serve all land entitled to service that will probably desire such service, the district may establish reasonable annual water requirements for growing each type of crop grown or likely to be grown in the district

in that year; determine the maximum acreage of each crop that each holder of title to land, or his duly authorized agent or tenant, may irrigate with district water by dividing the quantity of water apportioned or apportionable to him by such reasonable annual water requirements so established by the district; limit the acreage of each crop that each such holder of title to land, or his duly authorized agent or tenant, may irrigate with district water to the maximum acreage or acreages so determined; and refuse to deliver water to, or assess penalties on, a holder of title to land, or his duly authorized agent or tenant, who uses district water on a greater acreage of such crops.

Nothing in this section shall prohibit or limit the application of the provisions of Section 35453 or 35454. This section provides a means of measuring the allocation of water to lands based on the type of crop grown and does not authorize a district to designate the crops to be grown on such land.

Formation Paso Robles Water District
& Special Legislation



ADDENDENDUM
The Proposed Legislation

1/6/14 DRAFT; revised 2/7/14, reformatted 2/8/14

Proposed Bill—Governance of Proposed Paso Robles Basin Water District

Chapter ___ of Part 4 of Division 13 of the California Water Code

*Section ___0. **Application of chapter; district defined; intent.** This chapter shall apply only to the proposed Paso Robles Basin Water District. For purposes of this chapter “District” means the “Paso Robles Basin Water District”, the boundaries of which shall be established, and may be modified from time to time, by the San Luis Obispo County Local Agency Formation Commission. The Legislature finds and declares that the provisions of this Chapter are enacted in order to provide a governmental framework for the District to balance the supply to and consumption of groundwater within the basin underlying the District, and thereby pursue stabilizing that basin and sustaining its resources for the beneficial use of all who use water within the District.*

*Section ___1. **District elections.** Notwithstanding any other provision of law, or the bylaws of the District, all elections for directors within the District shall be conducted in accordance with this chapter and the composition of the board of directors shall be as follows:*

- (a) There shall be a total of nine (9) directors, each of whom shall be qualified for office by being a person who holds title to land within the District or a person authorized to vote in elections by landowners as provided in Section ___2 (d). A person may only be a candidate for director for one office.*
- (b) Six (6) of the directors shall be elected by landowners within the District as otherwise provided by Article 1, Chapter 1 of this Part 4 provided, however, each voter shall be entitled to cast one vote for each acre owned by the voter within the district, provided that if the voter owns less than one acre then the voter shall be entitled to one vote and any fraction shall be rounded to the nearest full acre. For purposes of election of said six (6) directors only, landowners within the District shall be divided into three classes, that being: (i) holders of title owning a total of four hundred (400) acres or more (herein called “large landowners”), (ii) holders of title owning a total of forty (40) acres or more but less than four hundred (400) acres (herein called “medium landowners”), and (iii) holders of title owning a total of less than forty (40) acres (herein called “small landowners”). The large landowners shall elect two (2) of the six directors at large, the medium landowners shall elect two (2) directors at large and the small landowners shall elect two (2) directors at large. Candidates for such six (6) directors may be within any of such three classes.*
- (c) Three (3) of the directors shall be elected by registered voters within the District at large.*
- (d) All directors, whether qualified under paragraphs (b) or (c) of this Section ___1, shall reside within the District, within two (2) miles of the District boundary, or shall live within the boundaries of the City of Paso Robles, the Atascadero Mutual Water Company, the Templeton Community Services District, the San Miguel Community Services District, or the San Luis Obispo County Service Area 16.*

*Section ___2. **Conduct of District elections.** District elections shall be conducted in conformance with the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) and the laws generally applicable to districts created and operated pursuant to this division, provided the following shall apply:*

- (a) Separate ballots shall be prepared and separate elections shall be conducted for those director positions which will be elected by resident voters and for those which will be elected by landowner voters. Notwithstanding Section 10555 of the Elections Code, these landowner voter elections and resident voter elections shall be conducted simultaneously.*
- (b) District elections may be conducted by all-mailed ballots pursuant to Section 4108 of the Elections Code. Separate voter lists of resident voters and landowner voters eligible to vote within the District shall be prepared and maintained according to applicable provisions of law. Separate all-mailed ballot elections shall be held for the directors to be elected by resident voters and for those to be elected by landowner voters.*
- (c) The directors elected upon formation of the District shall hold office pursuant to Section 10505 of the Elections Code, and as therein further provided the director positions elected by large landowners shall be divided into two director term classes, the landowners elected by medium landowners shall be divided into two director term classes, the landowners elected by small landowners shall be divided into two director term classes, and the director positions elected by registered voters shall be divided into two director term classes, such “director term classes” being only for purposes of implementing this Section __ (c).*
- (d) Notwithstanding other provisions of this division or the Uniform District Election Law, elections by landowners as provided at section __ (b) shall be carried out as follows:*
 - (i) If more than one person or entity are shown as the holders of title, any such co-tenant may vote on behalf of the co-tenancy, or if multiple co-tenants vote, the voting rights shall be divided based upon the respective recorded interests of the co-tenants;*
 - (ii) If the holder of title is a trust, any trustee of the trust may vote on behalf of the trust;*

- (iii) *If the holder of title is a corporation, the president, a vice president, secretary, or other duly designated officer may vote on behalf of the corporation; and*
- (iv) *If the holder of title is a limited liability company, any managing member may vote on behalf to the limited liability company.*
- (v) *An officer or partner with managerial responsibilities of a legal entity not listed in Section ____2 (d) (i) through (iv) above may vote on behalf of such entity.*
- (e) *Biennial elections of directors shall be held on the first Tuesday after the first Monday in October of each odd-numbered year. [Add any additional language needed for timing of the formation election/election of initial board. County Counsel/Clerk reviewing]*
- (f) *The voters list used for purpose of such elections shall be based upon the last equalized assessment roll prepared by the county assessor, corrected to reflect, in the case of transfers of land, those persons who as of the 45th [need to check on 45th] day prior to the election appear as owners of record in the office of the county assessor, and which shall be conclusive evidence of ownership and acreage for purpose of carrying out such elections. The county assessor shall be compensated for all cost incurred in determining such ownership and acreage information and providing same to the county clerk.*

Section ____3. Groundwater Management. *The District shall have the authority afforded to local agencies as provided in Part 2.75 (commencing at section10750) of Division 6 of this Code, and any and all successor provisions to said provisions, consistent with the requirements and limitations of applicable law. The creation of District is not intended to and shall not modify the powers of San Luis Obispo County and the San Luis Obispo County Flood Control and Water Conservation District, carried out consistent with applicable law, to manage and protect groundwater resources within San Luis Obispo County, including the Paso Robles Groundwater Basin.*