

COLAB SAN LUIS OBISPO COUNTY

WEEK OF FEBRUARY 9-15, 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,
San Luis Obispo, CA 93406

For more information call: (805) 548-0340
or email to colabslo@gmail.com

**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!)**

**NASTY NEW PASO BASIN WATER RETROFIT
MANDATES, COSTS, CREDITS, AND HOME
INTRUSIONS PROPOSED
(SEE PAGE 11)**



COUNTY TOILET INSPECTOR?

**BOARD MAY ENDORSE PASO WATER DISTRICT
LEGISLATION WITHOUT HAVING SEEN THE BILL
OR THE PROPOSED WORDING**

**COUNTY LEG. PLATFORM SEEKS TO ENABLE
SALES TAX INCREASES IN UNINCORPORATED
AREA**

Board of Supervisors Meeting of Tuesday, February 4, 2014 (Completed)

Item 16 - Adoption of Amendments to the Land Use and Circulation Elements (LUCE) of the Plan of Development and the Inland Land Use Ordinance. The Board voted 3/2 to approve the item, with Arnold and Mecham dissenting. The dissenting supervisors had a number of questions and indicated that the public was confused. More public information sessions will be planned. COLAB pointed out that

the structural changes, while not altering the basic standards (goals controlling permitted uses, densities, heights, etc.) the restructure makes it easier for the staff to generate and ultimately for the Board to program smart growth goals and standards into the LUCE. The Board did not want to deal with this concern. Gibson, Hill, and Ray pushed it through, rejecting any of the questions.

Background: This item consolidates and restructures the Land Use and Circulation elements of the County General Plan and the Inland Land Ordinance. Benefits claimed for the new version include:

- *Saving time and costs when plans are updated in the future.*
- *Enabling updates to area plans for an entire region at one time, making for more effective planning for land use and transportation and water resources.*
- *Consolidating the goals, policies, programs, and information into separate plans, making the LUCE easier to use.*

The key issue is whether the structural change has any impact on the actual rules that regulate landowners and those who may seek entitlements and permits.

In this regard the staff has explicitly stated:

This proposal does not involve changes or updates to general plan goals policies, programs, data, or statistics. In addition, there will be no change in the effect of planning area standards.

And

The only modifications proposed to any planning area standard are to improve clarity. Some redundant and extraneous planning area standards have been removed. The modifications proposed as part of this project do not change the net effect of the Planning Area Standards. As such, site-specific standards restricting density, requiring elevated permits, or imposing other requirements will remain intact

We aren't so sure:

The current eleven geographic planning areas have been reduced to four and made, to the extent possible, to be congruent with water basins. Does this presage a whole new set of water-based resource restrictions which will be slid into the new structure?

With four, instead of eleven, planning areas will it be easier to develop, process, and adopt new restrictive smart growth planning policies and regulations?

Are the more clearly designated towns and villages better targets for smart growth stack-and-pack development?

Are some being set up to become SB-1 tax increment funding districts?

Item 19 - Property Rights/Mobile Home Park Conversion. The Board unanimously rejected an appeal by a mobile home park owner of a County determination that he did not follow the required procedures to assess the degree of resident support for conversion of the park to resident ownership. This means that his application for permits is null and will not be processed until he conducts a new survey. A large group of park residents filled the boardroom. They were divided on the issue. The key point in dispute involved the timing of meetings (and lack of time) for residents to consider the issue before they had to vote.

The appellant's lawyer threatened litigation.

Background: State law requires that owners who propose to sell their park to the residents must obtain an opinion petition indicating to what extent the residents support such a conversion. The governing body of a city or county can take into account that petition in determining whether to grant the necessary permits and entitlements.

Next steps: If and when the County does process the permits, and depending on the Board's ultimate decision, there could be a fundamental property rights issue at stake. If a majority of the residents oppose the sale, will the Board majority deny the necessary permits? Caren Ray seemed outraged at the park owner's lawyer and vigorously criticized the process. She said, as a former teacher, that if the appeal had been a student paper, she would have "shredded it." Wonder what she thinks of the bigger underlying issue?

Board of Supervisors Meeting of Tuesday, February 11, 2014 (Scheduled)

Item 6 - Probation Officers' Labor Contract. During the recession, most of the County employee unions agreed to forego contracted salary increases in exchange for not having layoffs. The Probation Officers' Union gave up a contracted 9.32% pay raise, which resulted in \$3.4 million of cost avoidance. (Note: we are happy to see the County using the term "cost avoidance" instead of "savings," which was used in some past communications). Now, as a result of a new round of negotiations, the County and Probation officers have agreed to a new contract containing the following provisions:

The SLOCPPOA MOUs are effective July 1, 2013 and will fully terminate on June 30, 2015

Wage Provisions:

A 2% wage increase for classifications in BU 31 and BU 32

A 2% wage increase for classifications in BU 31 and BU 32, effective the pay period that includes July 1, 2014.

DPO I Equity Adjustment: Effective the pay period that includes July 1, 2014, only the DPO I classification shall be increased by 8.10%. After review of internal alignment and

business operation needs, this increase will bring the DPO I classification into structural alignment with the JSO series and DPO II classification.

It should be noted that these proposed wage increases are consistent with the recent compensation approach for maintaining parity with the expanded market.

Pension Provisions:

The pension contribution rate for employees in the SLOCPPOA bargaining units shall increase by 0.49% representing a 50/50 cost sharing. The County's appropriation rate shall also increase by 0.50%.

o Appendix C – Probation Members Contribution Rates reflect the new County appropriation rate and the new Tier 1 member contributions rates.

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.

An ongoing 50/50 employer/employee pension split for any pension rate increases for Tier 1 and Tier 3

o For FY2014-15 only, Tier 1 and Tier 3 unit members' 50% share of any pension increases shall not exceed 3%.

Health Coverage – Cafeteria:

County's Cafeteria Allowance shall increase by \$25 per month.

Commencing the pay period including July 1, 2014, the County's Cafeteria Allowance shall increase by an additional \$25 per month.

“Opt-Out” Provisions – Cafeteria

Employees not enrolled in a County medical insurance plan (opt out):

o Effective 1/1/15 (or when agreed to by all employee organizations), SLOCPPOA members will no longer receive the cafeteria cash out option when an employee elects to opt out of a County-sponsored medical plan.

There are a number of other provisions involving pay ranges, overtime, and giving the union agency shop status. In part State law defines agency shop as:

As used in this chapter, "agency shop" means an arrangement that requires an employee, as a condition of continued employment, either to join the recognized employee organization or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization.

The total new costs for the 2-year contract are reported as \$552,400. The total annual Probation Department Budget for 2013-14 is \$19 million.

Item 10 - 2014 Legislative Program. The program contains general principles and specific requests with respect to actions by the State Legislature. Examples of specific requests include:

- *Support for increased funding for improvements on highways 41 and 46.*
- *Lower speed limits on some rural and suburban roads where there is residential development.*
- *Protect Solar Access—Legislation should be created to ensure that sunlight exposure for residential solar installations is protected from future development that may otherwise impede access to sunlight and homeowner's or other types of neighborhood or owner/tenant associations cannot prohibit the installation of rooftop solar. And Regulatory agencies should insure low-cost, fast and efficient grid interconnection for all small-scale renewable energy projects.*

Some provisions are more policy laden and have larger implications.

More Power to Tax: *Sponsor and support legislation which authorizes a Board of Supervisors to submit a sales tax increase to the voters in the unincorporated area only of a county for their approval. Should a Constitutional amendment be proposed for the threshold, seek inclusion in that amendment for counties to raise a tax in the unincorporated area only.*

Paso Basin Water Facilities: *The Paso Robles groundwater basin is in crisis, creating tremendous uncertainty for residential and agriculture users. The Board of Supervisors is working as quickly and collaboratively as possible with stakeholders to arrive at a mutually agreeable solution to manage the groundwater basin resource in a manner that appropriately balances the rights and interests of all basin users... Seek funding or other resources from the State and Federal government to, if necessary, provide financial relief for users of the Paso Robles Groundwater Basin if alternative water resources or other projects are identified for further study or implementation.*

Some Are Open Ended And Allow the Staff and the County's CSAC Representative to Endorse Legislation without Board Approval in Public Session:

Support the principles adopted by the California State Association of Counties (CSAC) where they are consistent with the principles and priorities identified by the San Luis Obispo County Board of Supervisors.

Three years ago Supervisor Gibson put SLO County on the record as supporting the Proposition 30, \$4.9 billion per year personal income tax increase and \$1.3 billion per year sales tax increase (through 2018). There was no Board consideration or vote.

Will , Gibson, the County's CSAC representative, endorse SB 1 (stack-and-pack smart growth tax increment financing districts) this year? **CSAC has.**

Matters Scheduled at 1:30 PM or Thereafter

Item 15 - Special Legislative Program Consideration - Board Support for Customized Enabling Legislation for Creation of a Paso Robles Basin California Water District.

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 o 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 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 have obviously 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 which 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

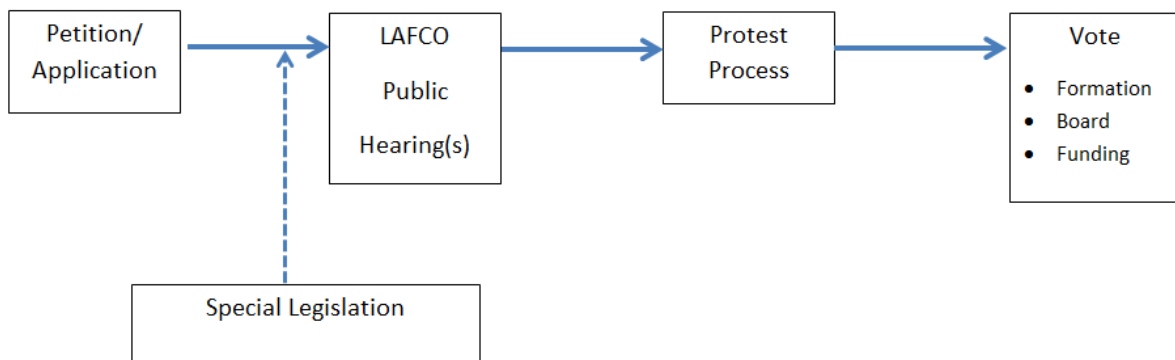
proportionate percentage reduction in the water they would normally use thereon and may require the owners of land which is planted to permanent crops to take a reasonable proportionate percentage reduction in the water they would normally use in an amount not exceeding the percentage reduction required 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



Item 16 - County Water Conservation Program For New Development in the Paso Robles Water Basin. 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 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.

The proposed Resolution adopting the program details the process:

For purposes of implementing Ordinance 3246, the Approved County Water Conservation Program for new development shall operate as follows:

1. The County will facilitate the retrofitting of houses in the area of the Paso Robles Groundwater Basin (Basin) subject to the Urgency Ordinance. Retrofitting will target houses and buildings constructed prior to January 1994 with 3.5 gallons per flush (gpf) toilets. Houses and buildings constructed prior to 1980 used 6.0 gpf toilets; however, due to the newer age of the housing stock and natural replacement rates, 6.0 gpf toilets are not expected to be found in substantial quantities.

2. An Offset Clearance request will ordinarily be part of a building permit application for new or expanded development in the area of the Basin subject to the Urgency Ordinance.

The building permit application will be reviewed by the Department of Planning and Building, which will set the volume of water needed for offset purposes for both interior and exterior use and establish a “prior to final inspection” compliance condition with the Ordinance.

3. The County will contract with a private firm (contractor) to operate the retrofit program. The contractor will focus on the areas included in the marketing effort in the Basin and will perform retrofits using a licensed plumber, establish a virtual retrofit credit bank, and track retrofit credit deposits and withdrawals.

4. A licensed plumber will perform the retrofits with approved plumbing fixtures (see below). The reduction in water use due to the retrofits will take the form of “retrofit credits” that will be placed in a “bank” for use as offset credits for new or expanded development.

5. Existing plumbing fixtures shall be replaced with the following:

a. All toilets greater than 1.6 gpf shall be replaced with toilets that use no more than 1.28 gpf.

b. Existing showerheads shall be replaced with showerheads that use no more than 1.5 gallons per minute (gpm).

c. Existing aerators shall be replaced with aerators that use no more than 1.0 gpm.

d. Fixtures with lower flow rates will result in additional prorated water savings.

6. Replaced toilets shall be rated a minimum of 600 by the California Urban Water Conservation Council (CUWCC) Maximum Performance Testing (Map) program.

7. Unless specific information is submitted as part of the building permit application process, the offset amount is standardized for all new or expanded residential uses. All new and expanded residential uses will be required to offset new water demand through purchase of credits from the bank in the amount equivalent to 280 gallons/day, unless specific and adequate evidence, as determined by the Director, is submitted during the building permit application process indicating that some other offset amount is more appropriate (e.g. use of fixtures with lower flow rates). Water demand and resultant offset requirements for new commercial uses shall be set by the Director on a case-by case basis using actual water use data to the extent practicable. If no metered water demand data is available, the Director shall establish water demand using conservative assumptions so as to not underestimate the amount of water to be used by the proposed use.

8. A landscape plan for the entire property is required as part of the building permit application process for each new residential and commercial use. The landscape plan shall show the extent and type of landscaping on the site. The total offset amount in paragraph 7 above is based on a total landscape area of 1,000 square feet, with no more than 10% of that area to be planted with turf grass, and represents a maximum of 180 gallons per day of outdoor water use. If additional landscaping or outdoor water use is proposed, additional offsets will be required. Alternatively, a landscape and irrigation plan prepared by a licensed landscape architect may be used to calculate outdoor water use in lieu of the standard amount.

9. Offset credits must be purchased from the bank prior to final inspection or issuance of a certificate of occupancy. The cost of offset credits shall be set so as to equal the cost of the retrofit credits.

10. Adoption of this resolution is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Class 1 (15301) because the project addresses interior alterations to plumbing fixtures only, and pursuant to Class 7 and Class 8 (15307, 15308) because the project is an action by the County as a regulatory agency for the protection of the natural resources of the Basin and the project is also an action by a regulatory agency for the protection of the environment by protecting the area's water resources.

Some unanswered questions:

- What is the likely size or volume of this program per year once it gets rolling?

- What will this add to the cost of a new home, home addition, tasting room, restaurant, or bed and breakfast, etc.?
- What if an insufficient number of citizens with older homes volunteer to subject themselves to the program?
- What is the ratio of old houses that need to be retrofitted to offset the typical new residence? (10, 20, or what?)
- On the other hand, what happens when they run out of houses to retrofit? Will this beckon an in lieu tax program? Or a new assessment on all water users in the basin?
- How will the County's official plumber be selected? Will this be a monopoly?
- How will the County prevent price gouging, improper appliance and toilet price markups, and collusion by the County's official contracted plumber, its subcontractors, and its suppliers?
- The County will maintain permanent records of the kinds of toilets, appliances, showerheads, etc., that are in peoples' homes, as it does in the Los Osos program. Are these records subject to public disclosure?
- In the Los Osos retrofit program, the County has maintained the power to periodically review the water bills of people who retrofitted to verify savings. Is this something that residents of the Paso Basin want?
- The write-up states that the County is allocating \$25,000 to administer the program. What is the analysis that supports this number?
- In the larger picture, should the Board of Supervisors be allowed to continue expanding its intrusive and costly social engineering programs?

<p>Planning Commission Meeting of Thursday, February 6, 2014 (Completed)</p>

Item 3 - McDonald's Restaurant in Los Osos. The Commission approved the application 4/1. Second District Commissioner Topping tried to persuade the Commission to require a 2:1 water offset but did not attract support. The Commission eliminated the drive through (which reduced the hours of operation), and required a smaller monument sign in the front. The McDonald's representative stated before the vote, that there would be no restaurant without a drive through. The Commission voted : take it or leave it. Expect an appeal to the Board of Supervisors.

It appears that four of the Commissions figured that ,if Los Ossian's wish to get burgers from a drive up window, they should drive the 6 miles to Morro Bay.

Background: *Request by MWF Properties LLC / McDonalds for a Minor Use Permit to allow a change of use from an office (former Bank of America) to a restaurant; in an existing building of 3,978 square feet (3,078 square foot restaurant and 900 square foot remaining office space). The proposed restaurant will utilize the existing drive through .*

The project will result in a disturbance of 500 square feet of the 21,408 square foot parcel (to make minor modifications to the drive-through configuration). The project is

located on the north side of Los Osos Valley Road, approximately 280 feet east of 10th Street at 1076 Los Osos Valley Road, in the community of Los Osos, in the Estero planning area.



WILL THE SUPERVISORS BE LUV'N IT?