COLAB SAN LUIS OBISPO COUNTY

WEEK OF NOVEMBER 20-26, 2011

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ENERGY WISE PLAN (CLIMATE ACTION PLAN)
INTRODUCTION, HEARING, AND POSSIBLE ADOPTION
TUESDAY NOVEMBER 22, 1:30 PM, 1055 MONTEREY ST.

MAJOR COUNTY FEE INCREASES FOR LAND USE AND OTHER
REGULATORY FUNCTIONS, TUESDAY MORNING
NOVEMBER 22, 9:AM, 1055 MONTEREY ST.

REGULATION WITHOUT REPRESENTATION:
APCD ADOPTS DUNES DUST REGULATION

Board of Supervisors

Board of Supervisors Meeting of November 15, 2011 (Completed)

Obama Care Coming to the County. The County Health Department presented an informational report to the Board on impending dilemmas which result as The Patients Protection and Affordable Care Act (Obama Care) is rolled out in California. The basic problem is that many more people will be eligible for health coverage than are now eligible under MediCal. Neither the State of California nor the County has the funding to cover required local matches, and portions of the “comprehensive benefits” are not funded by the Feds or the State. The staff report describes the dilemma in two key sentences: *Upon further analysis it became clear that the cost of comprehensive health care services for an expanded population would far exceed even doubling of revenue to support such a program. Estimates of the cost of covering an anticipated enrollment of roughly 7000 eligible persons are closer to 4-6 times the current expenditure, or $30-$45 million, an amount that obviously the County cannot afford.*

There is a transition period from now until 2014, when the Act is scheduled to begin. Included are some Federal and State incentives for counties to broaden income eligibility bands (include people who are not totally indigent). As noted above, the staff does not believe the County can afford to expand eligibility. A subtle and unanswered question is, if the County did include more eligibles now, will they be covered under Obama care or would the County, in effect, have established a new higher ceiling for eligibility and therefore have responsibility for a portion or all of their medical costs. A second question relates to whether or not Obama Care will ultimately be implemented given the multi-state lawsuit against the Federal Government seeking to overturn the mandatory insurance provision and the pending November, 2012 Federal elections. If the County agrees to increase the number of eligible patients now and the Act is invalidated or revoked, would the County be committed to serving those new patients with higher incomes that it accepted during the transition? The transition period is marketed under the phrase, “Bridge to Health Care Reform.” The County staff is concerned lest the bridge break.

Interestingly, Supervisor Bruce Gibson said that the County was managing its budget well and had strong reserves. He opined that accordingly, the County could afford to step up its match and take advantage of some of the incentive money. Also and conversely, his two allies Supervisors Patterson and Hill (who are both up for election in 2012) expressed the need for caution and a conservative financial approach.

At rock bottom, medical care comes down to a patient and a doctor in a room. The doctor has 4 years of college, 3 years of medical school, several years of internship, and several more years of residency depending on the specialty. The doctor, especially when serving patients in the hospital, is supported by a vast array of complex and expensive diagnostic and treatment equipment operated by highly trained professional nurses and technicians. In many cases the doctor treats the patient with individual medications that typically take ten years and cost $300 million dollars per product to invent, test and license. No amount of rhetoric about health cost control, health care reform, mandatory insurance schemes, or social engineering will alter the basic underlying power of the economic marketplace.

FY 2012-13 Annual Budget Forecast and Balancing. The Board reaffirmed its budget priorities and budget balancing strategy. Essentially the County is conducting a phased multi-year reduction called the “Seven Year Pain Plan,” which was begun in 2007. Property taxes continue to decline slightly while sales taxes and the transient occupancy tax (hotel tax) are flat. Preservation of public safety services, defined as Sheriff, Probation, Public Defender and Fire, is the highest priority which means these budgets are generally reduced very slightly, while the other departments absorb greater reductions. Since 2007 the County has reduced its workforce by more than 230 full time equivalent positions. A major key to balancing the budget are salary and benefit concessions negotiated with the County’s unions.

For the remainder of FY 2011-12 and for FY 2012-13, the key risk is State realignment (shifting State services to counties without equal current or long term revenue shifts). In the current year, FY 2011-12, the State is likely to be forced to make reductions to justice, education, health, and social services. For 2012- 13 the State could be facing a general fund deficit between $13 and $20 billion.

Shandon Community Plan. The Board conducted the hearing and determined to send the plan back to staff and the community for more work. Provision of adequate water to support a more dense population in dry years (drought buffer) will be explored. Another issue is how much suburban (low density) development will be allowed within expanded area. The financing and phasing of capital improvements will also be studied. Expanding transit services to Paso Robles is also a consideration. The largest challenge is developing rationale for the existence of an expanded and denser village center in the first place. There is a chicken and egg dilemma: Will people want to live there without a grocery store, gas station, and other commercial services. Absent greater numbers of people living there, such businesses cannot be established or survive. The basic question is: what is the economic purpose of Shandon? Should it serve highway travelers, host horse shows, develop a thematic set of businesses, or what? No one has figured out this all important question.

Background: The Plan, if approved, would expand the land area of the unincorporated village and coordinate the provision of supporting water, sewer, streets improvements, parks and other amenities. Residents are nervous about new fees, mitigations and exactions that might be required to jumpstart the effort.

Board of Supervisors Meeting of November 22, 2011 (Scheduled)

Energy Wise Plan (Climate Action Plan) To Be Introduced (Hearing 1:30 PM, 1055 Monterey Street San Luis Obispo.) The purpose of the **plan** is to reduce greenhouse gas GHG emissions in San Luis Obispo County by 15% below baseline levels by 2020.[1] As readers of COLAB SLO's weekly updates and the COLAB SLO Monthly Newsletters are aware, considerable background has been provided on the Climate Action Plan. The November 2011 Newsletter and the May 2011 Newsletter contain extensive information. This information is also available on the COLAB SLO website at www.colabslo.org. In the interest of brevity and avoiding repetition, listed below are some of the reasons why the Board should reject the Plan.

1. San Luis Obispo County's effort will be statistically insignificant. CARB projects that by 2020 California will generate 500[2] million metric tons of GHG per year. The SLO County Climate Action Plan will supposedly reduce 134,000 metric tons or .0003% of the projected total per year. The County justifies its massive and costly regulatory effort on the basis of achieving this reduction. Clearly the County's effort is about land use regulation and restriction, not reducing GHG.

2. In 2008 World estimated GHG was 30,000,000,000 metric tons, of which a little over 5 billion were generated by the United States, 7 billion by China (heavy coal use and rapid industrialization), and 4.1 billion by the European Union. Again, San Luis Obispo County is actually trying to trick people into accepting even more County control over their lives by casting this as a world apocalyptic crisis that the County must remedy. Several weeks ago, Supervisor Gibson complained that some groups in the County were falsely asserting that the County's regulatory efforts would have catastrophic results. He coined the word "catastrophisizing" to describe the actions of the unnamed groups. In reality, it is the County which has "catastrophisized" the GHG situation into an excuse for more regulation, erosion of property rights, social engineering, and diminished freedom.

3. The Plan calls for in lieu fees (a tax) on new development, which would be used to fund energy improvements in older properties. This is nothing but a wealth redistribution scheme.

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[1] The County conducted a greenhouse gas inventory in 2006 which found that the County generated 917,700 metric tons of carbon dioxide per year.

[2] The LA metro area accounts for 279 million of California's 500 million metric ton total.

4. The plan seeks to require expensive home energy audits and even more expensive required heating, electric, appliance, window, and water system upgrades on older homes before they can be listed or sold. Realtors testified at Planning Commission hearings that the proposed requirement could cost as much as $50,000 per home.

5. The plan says it will encourage the use of smart meters for electricity, gas, and water on all residential and commercial buildings. The Plan calls for working with energy companies to develop a web based application to provide customers with real time feed-back on their energy consumption and related cost. Block rate increases and ultimately external control of appliances and other devices will follow.

6. The plan calls for amendment to the County's land use plans and ordinances to direct most new residential development away from rural areas and concentrate new residential development in higher-density residential areas located near major transportation routes away from rural areas. Will existing neighborhoods be forced to accept higher densities? Will the dream of owning a free standing single family house on a large lot or country estate or ranchette be outlawed?

7. These and other requirements will effectively redline the entire unincorporated County, as potential buyers and lenders realize the inherent costs and difficulties in buying, selling, and building homes and commercial properties. It is unlikely that most of the cities or the neighboring counties will adopt such confiscatory provisions. In turn, this will devalue property. Will the County lower the property tax assessments as this occurs?

8. The Plan will provide the Board and staff with an inventory (ammunition) of new regulatory schemes which they can implement piecemeal over time when people are not paying attention.

9. Neither the Planning Staff nor the Planning Commission have conducted or authorized a study of the potential economic impacts of the Plan. In fact, both the planner in charge of the project (Caruso) and the Chair of the Planning Commission, Carlyn Christianson, responded to requests for such a study as " ridiculous," "not appropriate," "we are not going to do that," and stated that, "No, this is not a purview of the Commission … It's the Board's responsibility."

10. The cost to the County of implementing the Plan is unknown.

11. The costs of complying with the Plan are unknown.

12. The cost benefit of the Plan is unknown. (However as indicated in item 1 above, the Plan will have little or no impact on the meaningful reduction of green-house gases in terms of the alleged problems). On the other hand it calls for costly required changes in the living patterns of residents of unincorporated San Luis Obispo County.

13. The Board should suspend further work until SLOCOG's work on the Sustainable Community Strategy (SCS) and subsequent Regional Transportation Plan (RTP) is complete and reviewed by the California Air Resources Board (CARB). It is SLOCOG which has the obligation under SB 375 to provide a report to the CARB. The Board should also suspend work until the recession is over and a local economic recovery is clearly proven.

Resource Management System (RMS) Changes Incorporated into Zoning Ordinances. As we have reported previously, the RMS is an annual process whereby the County conducts an analysis of water quality, water availability, traffic, school overcrowding, and availability of park land in a survey called the Resource Summary Report (RSR). The data is then considered by the Board and is used to lock out or otherwise restrict development in areas which the Board finds (certifies) to have "inadequate" resources. Last Spring COLAB pointed out to the Board that the statistics do not change significantly from year to year and that the elaborate and costly staff work of researching the data, preparing charts and graphs, and writing a lengthy report could be abolished or at least only done every 3 to 5 years. Subsequently the Board directed the staff to change the process from an annual project to a biannual project.

The RMS and subordinate RSR are part of the County's zoning ordinances, and these have to be amended to incorporate the policy direction from last spring. The Board item is on the agenda for a hearing and vote to effect the schedule change. There have been some indicia in the last week that there may be opposition from environmental zealots to the change.

FY 2011-12 First Quarter Financial Report. The report indicates that most departments are living within their adopted revenues and expenditures. There could be a problem in the Sheriff's budget as fuel costs, vehicle repair and overtime have exceeded budget.

<u>Planning In Budget Trouble -- Permitting Revenue Down.</u> Based on first quarter experience, the Planning and Building Department could have a revenue shortfall as high as $439,000. Apparently they didn't notice that there is hardly any development in the unincorporated county when they put the budget together. The County Administrator's write-up says it all: *The main driver of the revenue shortfall is building permit revenue that is falling short of budgeted amounts. The issuance of building permits shows a decline of 9% as compared with the same time in 2010-11. The summer months of the first quarter of each year* (fiscal year) *are typically a more active time in terms of building permit applications.*

Apparently not this year. Meanwhile and notwithstanding data from the field such as this, the Board persists in forcing forward its broad agenda of increased regulation and restriction. One problem is there is very little to regulate. Perhaps the Climate Action Plan, plastic grocery bag ban, dunes dust rule, events ordinance restrictions, and the new agricultural cluster subdivision rules will help.

Permit Fee Increases. The Board will conduct a hearing prior to considering whether to raise hundreds of fees. Each year the County departments review the 2,648 fees charged by the various departments. Of these, 723 building inspection fees, which are no longer used (new combined fees have replaced them) are being abolished. As the board letter states, they *"are being eliminated due to lack of use or the ability to expand current fees to incorporate these services."*

Some of the fees of interest to COLAB which are being raised include:

<u>Planning and Building:</u>

Request for exemption during area plan update: $1,774 to $2,639.
Request submitted for exemption during plan update, version II: $5,037 to $5285.
Lot line adjustment with initial study: $7,174 to $8,632.
Tract map with initial study: $10,401 to $10,787.
Tract map with Development to Plan/Conditional Use Permit: $10,800 to $11,224.
Development Plan/Conditional Use Permit with Categorical Exemption: $ 6,732 to $7,785.
Development Plan/ Conditional Use Permit with initial study: $11,914 to $14,603.
Minor Use Permit-Tier I: $1,936 – no increase.
Minor Use Permit Tier III with Initial Study: $7,576 to $9,175.
Geologic Review-Major: $3,656 to $3,852.
Code Enforcement Violation Major: $1,519 to $1,799.
Mitigation Monitoring/Site Visit: $3,066 to $3,916.

<u>Public Works:</u>

Parcel Map Application Fee for Checking Through Tentative Approval: $1,400 to $1,998.

<u>County Fire:</u>

Fire Safety Plan: $396 to $405. (Remember, this is one that is proposed to be required in order to obtain permits under the pending events ordinance)
Development Plan/CUP, Oil Wells, Mines: $594 to $600 plus hourly billing.

<u>Health Agency:</u>

Annual Retail Food Facility Fees:

Bar-no food: $315 to $330.
Restaurant/over 50 seats: $528 to $553.
Farm Stand: $231 to $254.
Ag. Homestay: $212 to $233.
Produce Truck: $195 to $215.

Land Use Review Fees:

EIR Review: $1,201 to $1,833.
Verification of Water and Sewer Disposal: $363 to $399.
Tract Map Review (Water and Sewer): $1,336 to $1,405)
Parcel Map Review: $1,288 to $1,358.
Planning Department Pre-Application Meeting: $477 to $491.
Building Department Pre-Application Meeting: $524 to $552.

COMMENT: And we thought that there was one department called the Planning and Building Department. You would think they could have one meeting and one price. Evidently the Health Agency hasn't heard of the new highly touted permit streamlining and business friendly fatwah issued by the Board of Supervisors earlier this year. It is strange that a meeting with an applicant and a building inspector rates more than a meeting with a planner.

Hazardous Material Fees, annual permit renewal:

Service Station: $170 t0 $178.
A Facility with 1-4 Hazardous Materials: $201 to $210.
An Ag. Facility with 1-4 Hazardous Materials: $186 to $265.
New Underground Storage Tank: $3,381 to $3,697.

Key COLAB recommendations include:

1. Do not raise fees which negatively impact business and development during a protracted recession.

2. The Board should explore privatization of these functions. It is clear that even with labor union concessions (no raises for the employees who provide these services in FY 2012-13), it will be impossible in the long run to economically produce these services utilizing a government employee, career-benefited civil service labor force.

3. If this is any example, the Board's streamlining initiative has not impacted these regulatory functions. The costs should be going down and the processing should be getting faster, if the initiative is working. Before considering fee increases, the Board should ensure that each department requesting higher fees is running the permitting processes on a cheaper, faster, and better basis.

OTHER GOVERNMENT ENTITIES

Planning Commission

Planning Commission Meeting of November 18, 2011 (Completed).

Planning Commission Retreat. On Friday, November 18, 2011, the Commission conducted an all-day study session from 9AM to 4PM at the Fairways at Dairy Creek at El Chorro Regional Park, 2990 Dairy Creek Rd. The purpose of the retreat was *to Discuss Planning and Building Department organization and process, Planning Commission roles and responsibilities, the Planning Commission Agenda process and procedures, and Long Range Planning initiatives.*

As we opined last week, they could have saved themselves and the community considerable trouble and recommended a moratorium on long-range planning initiatives. Staff work (recommendations and reports to the Commission and Board of Supervisors) should go through the Director and be signed off by the Director. There should be a formal structured project management system. Reports from staff on permit applications to Commission and Board should indicate how much the applicant has been charged in fees and how long the process has taken, and should disclose the cost of any mitigations or exactions which are being imposed.

San Luis Obispo Air Pollution Control District Meeting of November 16, 2011 (Completed)

Dunes Dust Regulation. The Regulation, which requires the State Parks Department to reduce the amount of dust being generated at Ocean Dunes State Park by 2015, was approved on a vote of 7 to 4. County Supervisor Mecham, Atascadero Council member Fonzi, Paso Robles Council member Hamon, and Pismo Beach Council Member Waage voted against the Rule. Grover Beach Council member Bright abstained. County Supervisors Gibson, Hill, Patterson, and Teixeira voted in the affirmative. City representatives Costello, Arroyo Grande; Marx, San Luis Obispo; and Smuckler, Morrow Bay all voted for the Rule. Grover Beach council member Bright abstained. Proponents repeatedly stated that the intent is not to foreclose all-terrain vehicle riding (ATV) in the dunes or to close the park. Supervisors Gibson, Hill and Patterson all stated that they supported ATV riding in the Park. However, none of the officials voting for the Rule are willing to guarantee that ATV riding will not be prohibited in the end. Once the Rule is in place enforcement is controlled by the APCD Executive Director. By law, the Board cannot interfere. Once the cruise missile is launched, it cannot be called back.

Pismo Beach City Councilman Ed Waage, who is a PhD scientist, repeatedly tried to question various aspects of the methodology and logic of the studies used to justify the Rule. APCD Chair Gibson publicly expressed impatience and disdain. Gibson repeatedly beckoned and encouraged APCD Executive Director Larry Allen to refute and diminish Waage’s questions.

Similarly Atascadero City Council Member Roberta Fonzi attempted to obtain clarification on why the Rule with penalties was needed in the first place, as opposed to using an existing or new memorandum of understanding between the APCD and State Parks to develop and implement a dust reduction plan. She was basically flipped off and was never given a logical answer.

<u>Regulation without Representation:</u> Both Council member Marx of San Luis Obispo and Council member Bright of Grover Beach requested APCD staff Counsel Ray Biering to clarify the role of the Board and the responsibilities of the members. He asked whether they represent their cities and supervisorial districts or some broader undefined public interest in terms of the function of the APCD to reduce air pollution. Biering’s answer was unequivocally in favor of the latter. This raises a broader question about the danger of unaccountable quasi-independent agencies governed by board members who are elected to a separate body. Powerful agencies such as the APCD, Integrated Waste Management Authority, and San Luis Obispo Council of Governments, Local Agency Formation Commission, Central Coast Regional Water Quality Control Board, and California Coastal Commission are notorious for undermining local control and diluting democracy. It is time for major structural reform.

Background: The Rule requires the State Parks Department to undertake a phased and growing series of mitigation measures to slow down the blowing sand so that impact of the blowing grains as they fall back to the ground does not generate dust above certain levels. There is a 3-year phase-in period during which the Parks Department must implement accumulative measures to stop the exceedances. Starting in 2015, exceedances will result in the Parks Deparment being fined by the APCD for each exceedance. Repeated exceedances will result in progressively increasing accumulative fines. At some point and if the fines become too costly, the use of ATV's and/or use of the Park could become threatened.

Restriction or elimination of ATV use will have a negative impact on the hospitality industry in the five cities area and San Luis Obispo. This in turn could threaten jobs, capital investment, municipal revenues and public services. Several reputable scientists have challenged the APCD's studies and consultant reports. The APCD has ignored them.