COLAB SAN LUIS OBISPO COUNTY

WEEK OF DECEMBER 25- 31, 2011

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LOCAL GOVERNMENT POLICY BOARDS
OFF FOR WINTER RECESS BUT YOU ARE NOT SAFE

2011 BOTTOM LINE: UNPRECEDENTED REGULATORY BURDEN

PAY ATTENTION TO THE APCD GREENHOUSE GAS THRESHOLDS

Board of Supervisors and Other Regulatory Bodies on Winter Recess

The Board of Supervisors, Planning Commission, Air Pollution Control District (ABCD), San Luis Obispo Council of Governments (SLOCOG), and San Luis Obispo Integrated Waste Management Board are not conducting board meetings until January 2012. You are not safe. Staff members are still at work fomenting a variety of strategies to implement so called "smart growth strategies" and subsidiary regulatory measures. In fact and in the absence of being bothered by their elected bosses and in the absence of meetings and agenda deadline pressures, the staffers can plan a good deal of future damage.

"Here Arrabella, have another natural holiday seaweed cookie and thanks for all your great work on the Alternate Day Toilet Flushing Ordinance. This will cut water use in San Luis Obispo County by almost one half and make us a national leader. We are sure to get an American Planning Association award at next year's conference. The Board will be delighted."

Unprecedented Regulatory Initiatives Undertaken in 2011

During 2011 San Luis Obispo County policy boards adopted and or revised an unprecedented number of new and or revised plans, ordinances, and regulations designed to force future development into urban nodes or otherwise restrict human activities in the name of global and/or local protection of the natural environment.

1. The annual Resource Management Study (RMS) which is conducted each year by the Planning Department to determine if water resources, air resources, school availability, traffic congestion, and other factors limiting development, was refined and extended. At least it's now only going to be done every two years instead of every year. COLAB pushed

for abolition, Supervisor Mecham pushed for once every three years, and this is the result – slight progress and recognition that this is a waste of time.

2. The Planning Commission approved a rewrite of the Events Ordinance, which imposes strict, costly controls on venues that host both nonprofit and for-profit events. The Board of Supervisors sent it back to staff for more work. For obvious reasons, we doubt it will be back before the primary election in June 2012.

3. The APCD approved the Dunes Dust regulation, which forces the State Parks Department to adopt measures to reduce the particulate matter generated as a result of human activities in the Oceano Dunes.

4. The Integrated Waste Management Authority adopted a ban on single use plastic bags distributed by supermarkets, drug stores, department stores, and big box stores. The ban does not go into effect until September 2012, after the June primary election. Once again, the proponents don't want to antagonize the electorate until it's too late.

5. The Climate Action Plan, now called the Energy Wise Plan, was adopted by the Board of Supervisors. Staff and the Board say the plan is not a rule with requirements. They claim that it is instead a list of potential requirements and incentives that the Board may choose to implement in the future. An inherent conflict has now been created. On the one hand the Board says the Climate Action Plan does not contain enforceable requirements. On the other hand, the APCD (on which all 5 Board members sit) says in its Greenhouse Gas Threshold Requirements Document (see below) that Climate Action Plans that do not have measurable requirements will not qualify.

6. The Board renewed the Housing in Lieu Fee program even though it has not produced any real substance. This is the program where new home construction is taxed to provide subsidies to "low and moderate income housing projects." It simply discourages the production of new homes and apartments and taxes one segment of society to provide County officials with patronage money to give to their non-profit political supporters.

7. The Board demanded that an independent panel oversee seismic studies of certain geologic faults before the Nuclear Regulatory Commission allow Pacific Gas and Electric Company(PG&E) to proceed with its Diablo Canyon Nuclear Plan relicensing application. It turns out that the studies will cost $100 million, and PG&E is seeking a rate increase to cover the cost.

8. The Board raised fees by an average of 9.9% for inspecting, monitoring, and record keeping of businesses and farms. This includes everything from gasoline tanks to agricultural chemicals to farm stands to restaurants, etc. It also raised fees for a variety of land use, health, fire, and public works permits.

9. The APCD raised all of its fees 5.7% across the board. Its justification was that it had to cover salary and pension cost increases.

10. The Board of Supervisors shut down development of rural properties (accept for agriculture) in the Paso Robles Water Basin by certifying a level III water shortage within

the aquifer. It is not clear from the data if the aquifer is in overdraft or not. The staff is preparing a series of ordinances to restrict development.

11. The Board of Supervisors extended the life of the Transfer of Development Credits (TDC) ordinance and made it mandatory. Readers will remember that the TDC process in effect taxes owners of rural property who wish to subdivide the property by requiring them to extinguish some lots and by requiring simultaneously that the foregone density be applied to urban property.

12. The Board approved the permits for the construction and operation of two large solar plants (250 MGD and 550 MGD respectively) in the eastern part of the County. State law prohibits localities from levying the property tax on “green energy” facilities. Accordingly the school district and County forgo about $17 million per year in property taxes per year that would have resulted from an unsubsidized free market solar development (as far as we know, there is no such thing as an unsubsidized solar development). The County did not negotiate to receive any of the carbon credits resulting from the projects, which have a market value. PG&E will have much higher energy costs because it is forced to buy this more costly electricity under the State’s “green energy” sources policy. PG&E will file rate increase applications (to which it is entitled under the law) to raise its rates to customers to cover the cost. The energy companies, which own the plants, will use the carbon credits to offset carbon dioxide exceedances (under Federal EPA orders) on those coal-fired plants that they own back east. The residents of San Luis Obispo County can feel good that they are environmentally correct as they pay their higher electric bills and reflect on the fact that their carbon credits will enable the energy companies to keep coal fired plants belching millions of tons of soot and smoke on people in upstate New York, Delaware, and Pennsylvania.

13. The Board of Supervisors approved two separate contracts ($190,000 and $80,000) with its nonprofit Economic development partner, the Economic Vitality Corporation (EVC) to assist the County with economic development. A real question is whether the EVC is an active supporter of “smart growth” and its consequential erosion of property rights.

14. During 2011 the Board continued to pour millions of general fund dollars into the Planning and Building Department and the County Counsel’s Office to drive forward its so-called smart growth and regulatory initiative.

Disconnect Continues: Meanwhile, home prices continue to fall, unemployment remains high, and foreclosures and bankruptcies multiply. Citizens continue to experience delay, cost, and frustration on those few projects that are submitted for permits. One applicant has been trying to get an appointment with Planning Department Management for several weeks. The first possible appointment is on January 25, 2012!!!! How pompous, arthritic, and out of touch is a local government where a regulatory department with 60 employees, with no business, and which is commanded by its Board of Supervisors to provide customer service cannot schedule an appointment for over a month?

Next Board Meeting: January 10, 2011

OTHER GOVERNMENT ENTITIES

ALERT ALERT ALERT
APCD GREENHOUSE GAS THRESHOLDS

The APCD could adopt its greenhouse gas "threshold guide" as early as January 26, 2012. Architects, engineers, project planners, surveyors, developers, realtors, land use attorneys and others with interest in future residential, commercial, and industrial projects should go to the APCD web site (www.slocleanair.org) and review the document. Representatives may wish to file comments prior to the January 6, 2011 deadline. Those potential applicants with projects in design should take notice prior to progressing too far or they could be faced with substantial rework and cost.

The guide will be issued to the cities and the County, which in turn will be required to utilize the standards in the guide to determine if a particular development project is likely to exceed specified GHG generation limits (in metric tons) during 1) construction and/or 2) its operational life. If the project does exceed the guide limits, the permitting agency (city or County) must impose GHG reducing design alternatives and/or mitigations. There are 3 proposed methods for calculating the greenhouse gas thresholds: one would require projects that exceed 1050 metric tons of CO_2E per year to mitigate the level to a lower level; the second would require that projects that generate 4.9 metric tons per year of CO_2E per resident and /or employee per year over the life of a project would require mitigation; and the third would require stationary industrial projects (for example, boilers, oil processing plants, etc.) that generate in excess of 10,000 metric tons per year to apply mitigations. The calculations used by the APCD to establish these thresholds are very arcane and confusing. Moreover, APCD has said that the projects, which otherwise comply with a jurisdiction's adopted Climate Action Plan (CAP) may comply by meeting requirements contained within that CAP. Thus the contradiction and enforcement problems, which are cited in item 5, above, come into play. All this is a result of AB 32, SB 97, and SB 375 (GHG reduction laws passed to forestall climate change).

This is a new level of regulation and will be applied as part of the CEQA review.

Planning Commission

Planning Commission Meeting

The next Planning Commission meeting is on January 12, 2012.

Future Events

APCD Project Development CEQA Greenhouse Gas Emission Thresholds: Comment Deadline January 6, 2012. Public Hearing, January 26, 2012.

Vacation Rental Ordinance to Board of Supervisors on January 10, 2012.

Excelaron, Huasna Valley Oil Development to Planning Commission on February 23, 2012.