

COLAB SAN LUIS OBISPO COUNTY

WEEK OF JUNE 17-23, 2012

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Board of Supervisors Budget Hearings: Monday, June 11, and Wednesday June 13, 2012 (Completed)

No Real Budget Review: On Monday, June 11, the Board “reviewed” the entire \$469.4 million Proposed 2012-13 Budget in just 2 hours and 45 minutes (except for the portion where outside not-for-profit agencies seek County contributions, which was prescheduled for Wednesday the 13th). The 450 plus page document, which contains a great deal of important background, economic and demographic, as well as financial information was never engaged in public. There were few questions, no challenges, and no reductions. Except for a regular environmental advocate, who focused on libraries and buses, COLAB was the only speaker. After Public Comment and the departure of the regular Los Osos crew, the audience consisted entirely of County staff.

Brown Act Open Meeting Law Questions Again: As the astonishingly short Monday session ended, the Board members were once again effusive in self-congratulation and praise for the staff. As the discussion progressed, Board members expressed satisfaction that matters were so smooth and settled. They were pleased that they were able to consider the entire annual financial and operating plan for the County in less than three hours. Suddenly, they began to catch themselves and realize that the situation could be viewed differently. It was at this point that it was explained that the short cursory review was possible because

“individual Board members had been meeting with staff for months.” Once this potentially dangerous statement was proclaimed, the County Administrative Officer tried to bail out the Board members by stating that there had been other public review sessions during the year, such as strategic planning sessions and quarterly financial reports. This attempt to bevel the situation falls flat. Those sessions do not constitute a public review of the County’s most important annual policy document and plan. In fact State law is clear: each County must publish a Budget, give the public time to review it, and then conduct budget hearings.

We wonder what information, strategy, considerations, and problems were discussed when the board members “met with staff for months?” Did individual Board members give the CAO, Department Heads, and others direction individually? It appears that as a result of such meetings the Board members had already made up their minds about what expenditures, revenues, and programs should be adopted for 2012-13 before any public budget hearings took place and before any public testimony occurred.

Some questions which could be explored in public:

1. The Board is pleased that the County has been able to “balance” its budget by reducing its workforce by 200 over 5 years using attrition. The performance measures, which are included within each departmental budget, do not reflect any significant service reductions. How can this be?

2. Local general revenues, such as property tax, general sales tax, and TOT are essentially flat.

- Since these taxes are a function of the local economy, what is the Boards strategic approach to growing them?
- How do the County’s “smart growth,” Climate Action Plan, Conservation and Open Element, proposed Events Ordinance revisions, Transfer of Development Credits Ordinance, proposed revised Ag Cluster Subdivision Regulations, Green Building Ordinance, Green House Gas Thresholds, etc., impact potential growth of these revenues?
- What do performance measures for the county’s economic investment activities tell us about the effectiveness of these programs? What has been the impact of the investment in the EVC, Visitor and Convention Bureau, Expedited Permitting, Golf Courses, etc., in terms of new investment?

3. Why wouldn’t the Board members engage the Department Heads in public during the budget hearing about the performance measures’ relation to their expenditure requests?

4. Does the Board care if the measures are real? Why do most of them omit ordinate numbers (counts) and express data only in percentages? Does the Board care? Do they look at and consider the relationship of the measures to the expenditures? Are the measures, and perhaps the whole budget, just window dressing because the real action happened when Board members met with “staff for months”?

5. The Revenues are the most important aspect of the Budget. Why is no segment on the Revenues scheduled during the Budget hearings?
6. Why, for the most part, do the Long Range Capital Improvement Plan and Capital Budget contain only those projects that are funded? What are the unfunded capital needs (infrastructure needs) of the County. How does this unfunded need relate to the budget in the future and to the County's growth management plans and lack of a strategic plan?
7. What is the true debt picture (both principal and interest) including County-backed bonded debt, utility revenue bond debt, loans from other governments and agencies, unfunded pension liability, unfunded post-retirement health benefits, capital infrastructure that needs to be replaced, and new capital infrastructure, which is important for the future?
8. What is the year-by-year five-year budget forecast from FY 2012-13 – FY 2017-18? Is there a growing gap? If so, why? If not, why not? If so, what is the Board's strategic plan to deal with it?

One of the most important functions of an elected body (Congress, State Legislature, Board of Supervisors, City Council, etc.) is to provide budgetary oversight. The Budget is not just a list of numbers, but is a jurisdiction's plan of service for the coming year. The job of those elected members is not to be pals with and socialize with the agencies and staff. It is not to have their pictures taken with uniformed safety officers. It is not to accept what is presented to them without question and countervailing analysis. It is not to get along with each other and have smooth collegial meetings without conflict. It is to vigorously, pointedly, and with considerable doubt and suspicion, represent the poor taxpayers and citizens, who pay ever-increasing taxes, fees, assessments, and regulatory exactions.

Accordingly, the Budget session should be a multi-day informative public process involving tests of the logic, analysis, and performance of the agencies and staff. The subject matter should range from the highest strategic considerations down to detailed questions about compensation, absenteeism rates, travel and conference expenditures, injury and workers compensation experience, take-home vehicles, supervisory-to-management ratios, and all the rest.

Such discussions would enlighten and help the public evaluate their government and its leaders. It would test the knowledge of the agency heads on whether they really know the details and could manage with fewer resources. You would think that those who support democracy would demand nothing less.

Background: The Budget totals \$469,410,000, of which \$158,729,000 are local general fund dollars. Of this amount, \$148,819,399 is derived from the property tax. These funds are the primary support for public safety (Fire, Sheriff, and Probation) and justice (District Attorney and Public Defender). The largest component, the secured property tax, is actually down from 2010-11: \$97.9 million to \$97.2 million. Notwithstanding all the political rhetoric about economic development and jobs, the decline provides an empirical comment on the current dismal situation. The Budget supports 2,422 employees, a slight increase from the 2011-12 adopted Budgets, which provided 2,382. The increase is due to a shift in responsibility from the State to the County for some classes of sentenced jail inmates to the

County Jail and some State parolees to County Probation. These costs are currently offset by new State revenue.

The County also operates internal service funds (fleet maintenance, information technology, etc.); manages public enterprises (golf courses); and is responsible for a number of special districts and service areas, which adds \$175,033,000 (\$175 million + \$469.4 million), bringing the grand total to \$644,444,000. For example, the operating budget for the Nacimiento water system is \$15.8 million in FY 12-13.

Board of Supervisors Meeting of June 19, 2012 (Scheduled)

Formal Budget Adoption. The actual legal adoption of the proposed FY 2012-13 Operating Budget and Capital Improvement Budgets is scheduled. It appears, as noted above, that most if not all decisions have been made.

Los Osos Sewer Collection System Bid Award. The Public Works Department is recommending that the Board award the construction contract for several of the collection system zones (the pipes that connect the neighborhoods to the plant) be awarded to ARB Inc. of Lake Forest, California. ARB's bid of \$26.4 million is close to the engineer's estimate (the price which the engineering consultant predicted for the cost) of \$26.2 million plus a construction contingency amount of \$2.6 million. The eight bids ranged from a low of \$24.0 million to high of \$41.9 million. The staff recommends that the low bidder, UNKS Construction, Inc., be rejected because of its failure to comply with the bid document requirements and failure to procure a bond from a company licensed in California.

Our question remains: One of the conditions of the US Department of Agriculture loan and the California State Water Board loan is that the County has property owners under contract to take the treated effluent for irrigation. As of May, the only signed contract was with a school district for a small portion of the effluent. The County had planned for area farmers and municipalities to use the treated effluent. If the condition is not met, will the loans be held up? If the County goes forward with major construction expenses absent meeting the loan conditions, does it expose the general fund and county taxpayers to a risk?

Amended Deputy Sheriffs Contract Provides Concessions. The County has negotiated labor contracts with the Association of San Luis Obispo County Deputy Sheriffs (ASLOCDS) and the Supervisory Sworn Law Enforcement Unit, which extend the current contracts that were to have ended on December 31, 2011, to December 31, 2014. The amended contract provides concessions including a wage freeze for the life of the contract and the establishment of a second, less costly pension tier which:

- Raises the age of retirement from 50 to 55
- Provides a formula of 3% at 55 (formula stays the same, age increases)
- Retains the maximum pension at 90% of earnings (same as Tier One)
- Reduces annual pension cost of living raise from 3% to 2%

The write up summarizes the changes:

Second Tier Retirement: Establishment of a new second tier pension benefit plan (detailed below) and shown as Exhibit A attached hereto. New employees hired on or after June 24, 2012 will be covered by the Tier 2 pension benefit plan. Current County employees in the ASLOCDS Sworn Law Enforcement unit (bargaining unit 27) and Supervisory Sworn Law Enforcement unit (bargaining unit 28) will maintain the current pension benefit tier (Tier One). Current Tier One County employees who promote or transfer or otherwise change bargaining units will remain in the Tier One pension benefit plan.

Current (Tier One) Pension Benefit Summary: Retirement formula of 3% at 50 Final retirement compensation based upon the single highest year salary Retirement earnings may reach 90% of income 3% retiree cost of living adjustment (COLA), with carryover Includes a Deferred Retirement Option Plan (DROP) 50/50 cost sharing of any pension rate increases as adopted by the Pension Trust Board after receipt of actuarial data

New (Tier Two) Pension Benefit Summary: Retirement formula of 3% at 55 Final retirement compensation based upon highest 3 year average final compensation Retirement earnings may reach 90% of income Limits retiree COLA to 2% with no carryover

The dollar financial impact is not projected. The item simply says that it expects that its contribution rate will start at 17% of payroll for the new Tier Two deputies. The item states that the current contribution rate for Tier One employees is 34% of payroll. It is not clear if this is an average for all employees or for sworn safety employees.

County Administrative Officer to Retire. County CAO Jim Grant announced that he will retire in the fall. He has served for three years as CAO and had a long career with the County prior to assuming the top job. He had actually retired as an Assistant CAO and came back to stabilize the County after termination by the Board of the previous CAO, David Edge, and the Assistant CAO for alleged misconduct.

The speculation is that the Board of Supervisors will select the next CAO from within the County organization. This would be in line with the desire to keep the organizational environment stable, continue the collegial atmosphere, and not rock the boat. Assistant County CAO Buckshi might be the person the Board members have in mind. He served as a budget analyst for eight years before being appointed Assistant CAO in January 2010. He has been the key staffer leading County budget preparation and management. He has also been the primary executive interfacing with the Economic Vitality Corporation on economic development efforts. Prior to working for the County he was a procurement manager with Hewlett Packard from 1997-2001. He received a BA from Michigan State University in 1994 and has an MA in Public Policy from Cal Poly. He is an Affiliate Member of the International City/County Management Association (ICMA).

There is also speculation that several of the Department Heads could be interested in the position.

Since Mr. Grant is not leaving until the fall, should the Board wait until its new member Debbi Arnold is seated in January before making a permanent appointment?

Since Mr. Edge served for ten years and was then followed by insider Grant, the Board members have not looked at the local government chief executive market for a long time.

Sometimes comparison-shopping is educational and may well vindicate the choice of an insider.

Appointment of the County Counsel. Board Chair Patterson has submitted a letter on behalf of the Board to appoint Assistant County Counsel Rita Neal as the County Counsel for a four-year term, with a salary of \$181,875 per year. Ms. Neal will succeed the current County Counsel, Warren Jensen, who will retire in September. Jensen has served since 2008. Supervisor Patterson's letter on behalf of the Board states the Board's reasons for the appointment:

Ms. Neal has been a member of the County Counsel's office since 1998, first serving as a Deputy County Counsel. She was promoted to Chief Deputy County Counsel in April 2008, and in September of 2008, was appointed Assistant County Counsel. During her time with the County Counsel's office, Ms. Neal has advised numerous County departments including the Administrative Office, Human Resources, Risk Management, General Services, Health Agency, and the San Luis Obispo Council of Governments, the San Luis Obispo Regional Transit Authority, and others. Additionally, she has been personally involved in and successfully handled several complex litigation matters involving the County and for many years she has managed most of the litigation that is handled by outside counsel. She is well versed in all matters of governmental law. Prior to joining the County Counsel's office in 1998, Ms. Neal was in private practice in San Luis Obispo, specializing in civil litigation. Ms. Neal is able and qualified to act as County Counsel.

Ms. Neal has an undergraduate degree from Cal Poly and a Law degree from the Santa Clara University School of Law.

Planning Commission Meeting of Thursday June 14, 2012 (Completed)

The Commission conducted a lengthy hearing on the extension of the life and expansion of the Cold Canyon Landfill. The proposal includes increasing the amount of tonnage that can be disposed per day from 1620 to 2050.

Neighbors were very concerned and have pointed out that the permit under which the landfill operates today contains a clause that would appear to condition prior approval on the guarantee that the landfill would be closed at the end of the existing permitting period. Area residents are concerned about traffic, noise, lighting, and odor. A number of speakers representing area merchants, people who supported the Recycling Center located at the landfill, and others who are simply interested in refuse (trashocrats) spoke in support of the new permit.

The Commission continued the matter to its meeting of Thursday, June 28, 2012.