

# COLAB SAN LUIS OBISPO COUNTY

WEEK OF MAY 13-19, 2012

INSIDE THIS UPDATE

## ALERT

ELECTION DAY IS TUESDAY, JUNE 5, 2012  
LAST DAY TO REGISTER IS MONDAY, MAY 21, 2012  
81,000 VOTE BY MAIL BALLOTS ARE OUT THERE  
YOUR VOTE IS CRUCIAL

BOARD BAILS OUT ON TRUANCY ORDINANCE

PROPOSED FY 2012-13 BUDGET TO BE PRESENTED  
(CUT THE BUDGET TO CUT THE HEAD OFF THE SNAKE)



HUASNA VALLEY OIL PROJECT DENIAL APPEAL  
SET FOR 1:30 PM TUESDAY, MAY 15, 2012  
A MAJOR ISSUE FOR ALL THOSE WITH MINERAL RIGHTS  
IN SAN LUIS OBISPO COUNTY

### **Board of Supervisors Meeting of Tuesday May 7, 2012 (completed)**

**Proposed Truancy Ordinance withdrawn from consideration.** The controversial and meddlesome ordinance that was proposed by the Children's Services Network and supported by the Sheriff, Probation Chief, and County Superintendent of Schools was withdrawn permanently from the agenda, effectively killing it in the current version. The staff is now going to seek legislative changes in Sacramento to enable them to bring truants before the Juvenile Traffic Court in order to enforce the law which requires minors to attend school.

Background: As readers may recall, the ordinance received severe criticism when it was introduced back on January 17, 2012. At that time, the Board directed the Sheriff and Probation Chief to meet with community representatives.

The ordinance was ill conceived, and its presentation suffered from shoddy staff work and failure to engage stakeholders, especially the parents who send their children to private schools or who home school their children. More significantly, there were major Constitutional and operational issues which were never properly covered.

COLAB pointed out that both incentive and sanction programs used around the country have generally failed to stem the growing truancy problem. There is also a significant high school dropout problem. Universities and employers are finding that, in many cases, those who do graduate do not possess fundamental math, reading, writing and analytical skills. It is possible that the large “comprehensive” high school and junior high school model that was adopted in the first half of the 20<sup>th</sup> century and which had its heyday in the 1950’s and 1960’s is obsolete, and new systems need to be developed. Secondary public education is losing market share as more and more people are shifting their children to private schools and home schooling. Perhaps the present system is like the Post Office, inter-city passenger rail service, and landline telephones. It will simply wither away.

#### **Board of Supervisors Meeting of Tuesday May 15, 2012 (Scheduled)**

**The Proposed Fiscal Year 2012-13 Annual Budget.** The Budget will be presented during the morning session. It is the most important annual County policy document/set of decisions as it allocates resources among the departments and operationalizes the Board of Supervisors’ priorities for the year and sometimes beyond. The actual hearings at which the Supervisors will question the Department Heads, receive public input, hear pleas for funding from a variety of interests and ultimately legally adopt the Budget will take place starting on Monday, June 11, 2012. Generally the Budget process requires several days of hearings and then a final adoption date. The hearing notice only specifies Monday June 11, 2012 at 9 AM. Tuesday, June 12<sup>th</sup> is a regularly scheduled Board meeting, so if they are not finished on Monday, the matter could carry over into Tuesday. It is not clear from the notice when they actually plan on final adoption.

The Budget is available at the County Clerk’s Office, The County Administrators Office, all County Libraries, and supposedly on the County’s website at:

<http://www.slocounty.ca.gov/site4.aspx>

That link takes you to the County’s main webpage. As of the time of this writing, the Budget had not been posted there. It may appear at some point. Copies can be purchased at the County Administrator’s Office for \$30. For those with a real interest in County Government, there is no substitute for reading the Budget.

**Cut the Budget to Decapitate the Snake:** If there is interest, COLAB can conduct a seminar on how to read the budget and locate the policy pressure points. At first glance, the 400-page book may seem too formidable. Actually it can be broken down and is fairly easy to understand. Please let COLAB Government Affairs Director Mike Brown know if your group is interested. [Mbrown.btr@gmail.com](mailto:Mbrown.btr@gmail.com) . Many of the problematical County policy

initiatives and regulatory efforts receive their “fuel” at these one-time per year hearings. For example, the Planning and Building Department Budget is being maintained at over \$11 million and 88 staffers. A whopping 55% or almost \$6 million of this come from limited precious local tax dollars. Another 32% or almost \$ 4 million come from permit revenue. Similarly, County Counsel lawyers, who are used to batter any legal challenges to County policy or to defeat resident appeals of unreasonable regulatory decisions, are funded in the budget.

COLAB will be providing analysis and insight over the coming weeks.

**June 11, 2012 – An Opportunity to Oppose Current County Policy:** Most of the people who attend and/or speak at the annual budget hearing are supplicants seeking more money for their cause, non-profit, or services that they receive from a particular department/program. Few people come and challenge the very smug status quo.

**Appeal by Excelaron Oil of the Decision of the Planning Commission to deny its application for a Conditional Use Permit in the Huasna Valley.** Excelaron is seeking a permit to develop 12 oil wells on a 154-acre parcel. The proposed project is the site of a previous oil project. The Planning and Building Department staff report recommends that the Board of Supervisors affirm the Planning Commission’s denial of the proposed project.

**Analysis:** The staff report is very forceful in interpreting the reasons for the Commission’s denial of the permit. It is summarized as follows:

*The following is a brief overview of the issues identified as the basis for denial:*

*A. Land Use Inconsistencies*

*1. Visual Resources*

*i. Conservation and Open Space Element (COSE) Goal VR-2 cannot be met, which states “The natural and historic character and identity of rural areas will be preserved”;*

**COLAB Rejoinder:** The project activity will only be visible while the portable oil drilling rigs are present. Even then and from the perspective of the valley, their outline will be very small and, of course, temporary. The “historic” objection stands logic on its head. The proposed project is a “historic” oil production site.

*2. Noise*

*i. Noise Element – Nighttime noise exceeding 45 db (Leq) for well drilling;*

*ii. Noise Ordinance – Construction hours outside of 7 am to 10 pm window;*

**COLAB Rejoinder:** The well drilling is only temporary and intermittent. The County calculates the noise level as if it were at the boundary of the property, not the actual oil well site, which is much further away from neighbors.

*3. Fire*

- i. Very High Fire Hazard - steep terrain, highly flammable vegetation;*
- ii. Flammable materials (crude oil, propane);*
- iii. Reduced fire access as “secondary access” eliminated or compromised when Twitchell reservoir nears capacity (590-foot elevation and above);*
- iv. No on-site water source; lack of on-site water source and unspecified long-term water source diminish likelihood that enough water would be available in the event of fire.*

**COLAB Rejoinder:** The hillsides around the Huasna Valley (like most in San Luis Obispo County) are steep and fire prone. Does this mean the County will deny permits for oil and gas wells on any steep terrain, which are naturally fire prone anywhere in the County? The residents of the Valley who oppose the project seem to live there despite these perils and their remote location from fire and emergency services. The project when completed will not have homes or habitable structures.

*B. Neighborhood Compatibility*

- 1. Extremely quiet neighborhood;*
- 2. Odors;*
- 3. Visibility;*
- 4. Proximity to existing residences.*

*C. Constraints*

- 1. Flooding – When Twitchell Reservoir nears capacity, Porter Ranch is either impassable or becomes unstable;*

**COLAB Rejoinder:** This may only happen in wet years, which are intermittent. Moreover, the condition may only exist for a few days or weeks. Excelaron could suspend production for the short period.

*2. Traffic*

- i. Highway 166 – Postponement of intersection improvements at Hwy. 166 and Alamo Creek Road;*
- ii. Huasna Road - if Porter Ranch Road becomes impassable, traffic will use Huasna, which includes narrow and windy sections that large trucks cannot navigate within their own lane;*

*D. Significant and Unavoidable (Class I) Impacts from EIR*

- 1. Aesthetics – public visibility of Pad #2;*
- 2. Air quality – creating odor events during releases or upset conditions;*

3. *Biological Resources – rupture or leak from oil wells, storage tanks, pipelines, or other oil field related infrastructure during operation, or spillage during transportation of oil and other materials could impact jurisdictional stream and aquatic species;*

**COLAB Rejoinder:** Oil wells and tanks can leak anywhere in the County. Does this mean that oil production should be banned everywhere?

4. *Land Use Compatibility - Noise generated from drilling, and facility maintenance and operations;*

5. *Noise – Drilling would significantly increase noise levels in the area*

*E. Other Factors*

1. *Off-site Water - no sustainable source for long-term project; no intent-to-serve letter.*

*Basis for Denial*

*The proposed project is inconsistent with various provisions of the General Plan, including the Land Use Ordinance (Noise Section) and the Land Use Element. Under State law, the County's decision makers must consider the project's consistency with the County's General Plan including: Noise Element, Conservation and Open Space Element (COSE) and Safety Element.*

*The Project would result in five significant and unavoidable (Class I) impacts from the Project, including:*

1. *Aesthetics*

2. *Air Quality (Odors)*

3. *Biological Resources*

4. *Noise*

5. *Land Use (incompatible with surrounding area).*

**The Bigger Problem -- Property Rights/Taking:** A number of people hold mineral rights for this site, other sites in the Huasna Valley, and of course sites throughout San Luis Obispo County. If the project is denied, what do those rights mean? Does the County in effect buy an oil project with an illegal taking? What about other sites in the Valley? What are the implications for the rest of the County?

**Templeton Community Services District request for fee waiver.** The Templeton Community Services District requests the Board to waive a \$14,000 fee being charged by the Planning and Building Department for a Conditional Use permit. The permit is for the District to install two modular units to serve as a fire training facility. **Why does it cost \$14,000 for such a simple analysis?**

**Consent Item: Sewer Pump Stations Bids.** This item is a request from Public Works for the Board to authorize going out to bid for an estimated \$6.5 million in pump stations for the collection system portion of the project. Bids are to be opened on June 21, 2012.

### **Planning Commission Meeting of Thursday May 10, 2012 (Completed)**

There were no large policy initiatives on this agenda. There were however, several applications that are illustrative of the ongoing overkill on permit review and the imposition of conditions.

**Octagon Barn Museum.** The Commission recommended (5-0) that the Board of Supervisors approve a conditional use permit to convert the historic octagon barn (just outside the South Boundary of San Luis Obispo off South Higuera) into an agricultural museum and event center. The Commission only took one and one-half hours to grant its recommendation for approval. The applicants request permission to hold 100 events with up to 200 attendees each per year. Perhaps farmers, ranchers, and vintners should cast their properties and facilities as agricultural museums. There are over 90 conditions and sub-conditions attached to the permit. Many require inspection and/or clearance by the County Planning staff. All this will help keep some County staff employed.

**Biaggini Subdivision Request.** The Commission approved (5-0) the request of Harold Biaggini for a subdivision (to divide 330 acres into two lots of 160 acres and 170 acres respectively -- a 1-lot split). The property is about 4 miles east of Morro Bay on State Highway 41. Even with the approval, the applicant (in addition to all the processing fees and costs for specialists already paid) will have to pay the County:

- A Park Fee
- An affordable housing in-lieu fee
- Over 120 additional conditions and sub-conditions. Many of these will contain expensive inspections, clearances, further analysis, etc. All this for a lot split in a rural area. The only neighbor is the individual requesting the split.
- Additional construction expense. Commissioner Topping, in his usual meddlesome, tedious, and cost inducing way, insisted on requiring the applicant to build a bridge over the creek to one of the properties. Is this a ploy to kill the split without actually denying it?

Deputy County Counsel McDonald further bollixed it up by insisting that a condition be added that an existing historic house (grandfathered in) be brought into permit compliance or be demolished as a condition of approval.

After approval, the Chair said, “Congratulations” to the applicant.