

# COLAB SAN LUIS OBISPO COUNTY

WEEK OF OCTOBER 28-November 3, 2012

## ALERT

SAVE TUESDAY NOVEMBER 13, 2012  
THE BOARD WILL TAKE UP THE REVISED AG. CLUSTER  
SUBDIVISION ORDINANCE

## WILL SEISMIC TESTING THREAT TO MARINE LIFE DOOM DIABLO?



## FAKE ECONOMIC PLAN ADOPTED

## INSUFFICIENT NOTICING FOR AG CLUSTER HEARING PROPOSED

## FEE INCREASE HEARING COMING NOVEMBER 20, 2012

### Board of Supervisors Meeting of Tuesday, October 23, 2012 (Completed)

**Economic Plan Adopted.** The Economic Element was adopted 4/1 with Supervisor Meham dissenting. COLAB, Government Affairs Director of the Home Builders Association of the Central Coast, San Luis Obispo Action Team (SLOCATS) and several other speakers pointed out various questions and problems as detailed in last week's **COLAB SLO Weekly Update**. The Economic Vitality Corporation (EVC) and the San Luis Obispo Chamber of Commerce supported the document and profusely thanked the Supervisors for letting them participate in the development of the document.

Supervisor Hill took the opportunity to suggest that some of COLAB's analysis of the EVC's programs warranted a meeting between COLAB and the EVC so that COLAB could be informed of the productive work in terms of "projects, policy projects, and successes." He also suggested that EVC's Annual Reports contained relevant information. A re-review of the EVC Web site does not provide any year-to-year incisive comparative performance data generated such as business retention, expansion, recruitment, new permanent jobs, property taxes, sales taxes, housing units, hotel rooms constructed, etc. We could not find an annual performance report on the site but do remember a report being submitted to the Board earlier in the year.

Some of what we did find included a section called:

***"SUCCESS STORIES"***

***"Updates coming soon"***

There was also a separate section on what each of the Clusters (industry group committees) have accomplished. Some samples are listed below:

### ***Building, Design & Construction***

#### ***Vision Statement***

*To create head of household jobs and housing designed for personal enjoyment, create a sense of place and demonstrate the efficient use of resources.*

#### ***Core Objectives***

*To fulfill the vision of improving the jobs and housing in San Luis Obispo County, Building Design & Construction cluster members propose to accomplish the following:*

- *Create head of household jobs complimented with appropriate housing types*
- *Promote jobs and housing designed for personal enjoyment, create a sense of place and demonstrate the efficient use of resources*
- *Support community design and housing with regard to Federal and state codes with incentives, consumer choice and cost benefit analysis driving growth*
- *Establish a process that will lead to a stable and sustainable balance of employment and economic growth*

*For more information or to get involved contact EVC at (805) 788-2012 or [info@sloevc.org](mailto:info@sloevc.org)*

#### ***Key Accomplishments***

- *Supported the San Luis Obispo County Process Improvement Committee efforts related to Land Use and Building Permits. Implementation measures provided direct positive impacts to priority outcomes identified in the Economic Strategy.*

*County Process Improvement Committee: An Early Win for the Economic Strategy Action Teams and Projects*

- *Create a workforce housing survey and gather relevant data for the local building industry*

**Note: What ever happened to this survey? It was being worked on last Christmas.**

**Everyone was being exhorted to fill it out. Is it possible that it revealed that many respondents did not support “smart growth,” neighborhood densification, and giving up their cars? Did it get suppressed?**

- *Develop an economic benefit analysis framework to support the County of San Luis Obispo*
- *Develop compelling model projects to illustrate intelligently designed buildings and innovative land use applications*

## ***Green Energy***

### ***Vision Statement***

*To establish SLO County as a world-class leader in green energy through the implementation of a diversified portfolio of key initiatives, which includes energy efficiency, distributed generation systems, and utility scale generation.*

### ***Core Objectives***

*Benefits from Green Energy: The green energy team advocates for these initiatives to upgrade community services based on increased economic activity (jobs, local suppliers & providers); contributing to energy independence and security by avoiding energy fluctuations and foreign imports of energy; and positively addressing the greenhouse gas problem.*

*Benefits from Energy Efficiency: Creates immediate opportunity to conserve and reduce utility costs, improves health and safety for quality livability; reduces maintenance requirements; increases property values; reduces demand on existing resources; promotes development of new technologies; and stimulates on-going business opportunities for retrofits and related services.*

*Benefits from Distributed Generation Systems: Offers decentralized opportunities for residential, commercial, government, and educational institutions to increase use of renewable energy in the County; reduces utility bills for participants; provides immediate opportunities for implementation; and builds upon successes of leading firms located in the County and a cadre of employees and suppliers who can expand service here for local jobs and import revenues through service elsewhere.*

*Benefits from Utility Scale Generation: Leverages the unique solar resources and transmission infrastructure of the County to create a significant economic engine; enables the entire County to be a green energy contributor (democratization of solar); stimulates solar market transformation by reducing the unit prices of solar panels; and launches SLO County into national/international recognition as a showcase of green energy and environmental sustainability.*

### ***Key Accomplishments***

- *Advocacy and support of the approved California Valley Ranch and Topaz Solar Farm projects (Note the project was approved by the Board of Supervisors, who supported the project and two of whom are on the EVC Board of Directors. The only opposition was from the Sierra Club, several environmental groups, and a few neighbors.)*
- *Cluster members supported efforts to promote Building Performance Institute Training and Certification for local contractors*

### ***Action Teams and Projects***

- *Solar Advocacy for distributed and large-scale solar power generation*
- *Foster SLO County as a Green Energy region by promoting local expertise via case studies*
- *Advocate for education and training in support of green technology workforce development including the identification of appropriate curriculum and certification programs*
- *Identify and market green energy financing programs*

### ***Case Studies***

*See SLO County examples of commercial and residential Green Energy projects.*

## ***Health Services***

### ***Vision Statement***

*To establish San Luis Obispo County as a center for wellness excellence by expanding the range of care facilities, new technologies and services, enabling residents to “age in place” without need to travel outside the area.*

### ***Core Objectives***

- *Launch a community education initiative*
- *Work with the Knowledge & Innovation group to build a Health Information Exchange for SLO County*

### ***Action Teams and Projects***

*Action teams are being formed to fulfill the vision and work toward accomplishing the core objectives.*

**We rest our case.**

The full Economic Element document may be accessed at the link:  
[http://www.slocounty.ca.gov/Assets/PL/Housing/rev\\_econ\\_element.pdf](http://www.slocounty.ca.gov/Assets/PL/Housing/rev_econ_element.pdf)

See last week's **COLAB SLO Weekly Update** for the details of the problems and weaknesses of the policy document at:  
<http://www.colabslo.org/dnn/LinkClick.aspx?fileticket=B38SmsCUCv8%3d&tabid=36&mid=377>

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**We All Bundle – Olive Oil Processing and New Requirements for Farm Stands.** We had thought that these items were scheduled for October 30, 2012. It turned out that the Planning staff bundled them in the same hearing item as the Economic Element. The agenda item was not explicit in that it did not call the items out by name but only cited the numbers in the Zoning Code as Sections 22.30.070, 22.30.075, and 22.80.030. Supervisor Meham expressed concerns about this issue as well as unresolved problems in the Olive Oil Processing ordinance. COLAB complained about the agenda process as well as increasing restrictions in the Farm Stand ordinances. The matter was continued to a meeting in November. We will report.

<b>Board of Supervisors Meeting of Tuesday, October 30 (Scheduled)</b>
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**Reprise of the Diablo Nuclear Plant Seismic Testing Issue (Item 22).** This issue is scheduled for 1:30 PM. (Many speakers expected)

A long, emotional, and advocacy dominated session is expected on the seismic testing plan. Readers will recall that the County, led by Supervisor Bruce Gibson strongly supported a requirement that PG&E conduct seismic testing of a recently discovered submarine geologic fault. The studies are to be completed before the Federal Nuclear Regulatory Commission can process PG&E's application for an extension of the life of the Diablo Nuclear Power Plant. The concern is that the geologic fault could move and cause earthquake damage to the plant, which would result in release of radioactive material and/or generation of a tidal wave which would break the plant and cause a release. The State legislature, Santa Barbara County, and everybody else jumped aboard this requirement. The Japanese Fukushima Nuclear power plant tidal wave-generated meltdown and radiation leak resulted in new and broadening support for shutting the plant down altogether.

**The Study:** The testing would contain an offshore survey component consisting of a geophysical vessel towing a series of sound-generating air guns and sound-recording hydrophones. The hydrophones would capture reflected images of the submarine geology, which could be converted into digital geologic images that could then be studied by geologists. The earthquake threat to the plant (particularly the potential magnitude) could be assessed. The Nuclear Regulatory Commission (and the public, County "experts," and everyone else could then speculate about the safety of the plant operation.

**A New Complication:** It turns out that the sound generated by the tests is very high decibel, and it is asserted that it will be harmful to both fish and marine mammals and therefore the testing should be suspended. PG&E's own study states in part with respect to fish:

### ***Fish***

*Summary of Findings: The potential effects of high-energy offshore seismic surveys on different life stages of fish can include direct mortality to early life stages, but more frequently involves changes in the behavior and distributions of adult populations. Experimental studies have shown that sounds from non-explosive survey devices, Such as air guns, are generally not lethal to fish, and that significant physiological Effects are restricted to fish within a few meters of the air guns. Adult and juvenile Fishes have differing susceptibility to effects as compared to smaller planktonic fish eggs and larvae, and pelagic juveniles. The magnitude of any effects will be inversely proportional to the distance from the sound source (Figure 2).*

### ***Short Term Effects***

*The proposed 3-D seismic survey may have short-term effects on fish catches, mainly from changes in fish behavior, but any extended effects on fish catches in an area Would likely be limited, at most, to a period of a few days after exposure. Trawling and long-line experiments examining the duration of catch per unit effort (CPUE) reductions in species such as hake, haddock, and Atlantic cod have shown either no effects or effects lasting from 1-5 days depending on the frequency and intensity of the sound sources. In all such experiments, natural variation in CPUE Figure 1. Proposed 3-D survey track lines. Brown lines indicate where air gun emissions would occur; green lines indicate vessel tracks for turning. Gridoverlay is CDFG statistical catch blocks for commercial fisheries.*

Area fishermen are very concerned about harm to the fish and/or the fish being driven away. They wish to be financially indemnified by PG&E against any losses.

**Mammals:** There is considerable literature on the harm that noise can do to marine mammals. Much of this has been developed in reaction to the impact of US Navy anti-submarine warfare testing and combat practicing using a variety of explosive torpedoes, mines, depth charges, and precision guided missiles. PG&E says it will use trained spotters and take other precautions including:

*For example, before a survey track begins, a single air gun will sound at a low-level to warn marine life before ramping up to full power. The air gun sound will be managed or reduced based on the proximity of marine mammals to the survey boat. During the survey, a 180-decibel exclusion zone, and an even larger 160-decibel safety zone, will be established around the boat for the protection of marine mammals. The zones were established with help from the National Marine Fisheries Services.*

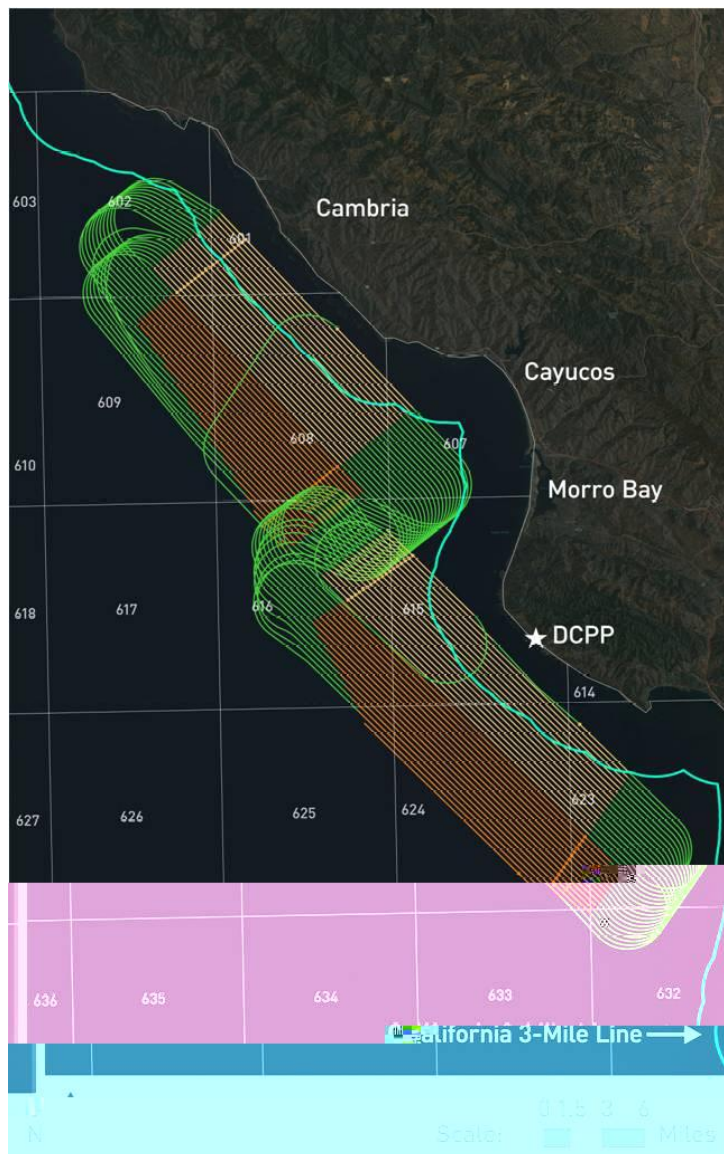
*If marine mammals appear likely to enter the 180-decibel exclusion zone — a 1.1-mile ring around the boat — then other mitigation efforts will kick in, including powering down of the sounding equipment or suspension of the work. And if the mammals enter the larger 160-*

*decibel zone –a 3.8-mile ring around the boat — they will be monitored by one of the trained spotters and either the boat speed or course will be altered to avoid them.*

*Acoustical and infrared equipment on the research and supporting vessels also will be used to monitor for marine life.*

*In addition to the National Marines Fisheries Services, PG&E is working with U.S. Fish and Wildlife Service, California Department of Fish and Game and the U.S. Geological Survey.*

The map below depicts the area of testing.



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**Plains Exploration and Production Company (PXP) Appeal of Exaction Fees.** This item was continued from and earlier meeting. It is to be continued again indefinitely.

**Background:** The County charges developers of commercial, residential, and industrial property so-called mitigation fees (really a tax), which are then used to fund roads, county buildings, fire houses, parks, and so forth. The theory is that the new development causes a demand for increased county services, which in turn must be supported by facilities. PXP is redeveloping the Price Canyon Oil Field, and the County has levied the fees. PXP is appealing. The item did not mention the dollar amounts at issue.

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**Agricultural Subdivision November 13, 2012 Hearing Abbreviated Notice (Item 9).**

The staff is recommending that the Board authorize it to publish a summary hearing notice for this major attack on private property. As readers may recall, COLAB has requested the Board to actually send a letter to each affected property owner because this proposal is really a huge taking. Their justification is that it would save money. Instead, the staff wants the Board to let them get away with the following newspaper ad:

*On November 13, 2012, your Board will hold a public hearing for the following amendment:*

*1. Hearing to consider a request by the COUNTY OF SAN LUIS OBISPO to amend Title 22 (the Land Use Ordinance) and Title 23 (the Coastal Zone Land Use Ordinance) of the County Code regarding agricultural cluster land divisions to a) revise Land Use Ordinance Sections 22.22.150 (Agricultural Lands Clustering), 22.22.152 (Major Agricultural Cluster) and 22.22.154 (Minor Agricultural Cluster) and b) add Coastal Zone Land Use Ordinance Section 23.04.037 to allow Agricultural Lands Clustering in the Coastal Zone. This request also includes amending Agriculture Element Policies AGP 5, 20, 22 and 23 and the San Luis Obispo Area Plan to make these policies and plans consistent with the proposed new Agricultural Lands Clustering provisions. The primary changes to Title 22 include but are not limited to: deleting the density bonus, requiring a hydrogeologic report, establishing mandatory findings for adequate water supply, eliminating the distinction between major and minor agricultural cluster projects, revising the eligibility criteria so that agricultural cluster projects must be located within two miles from specified Urban Reserve Lines, increasing the minimum parcel size of clustered residential parcels from 10,000 square feet to 2.5 acres, and requiring clustered lots to be contiguous and form a single cluster of lots. The proposed revision to Title 23 will allow agricultural lands clustering based only on existing lots, without creating new lots. The proposed amendments to Titles 22 and 23 would affect land in the Agriculture land use category.*

In addition to notifying the impacted property owners, the Board should place a full page add in all major newspapers with a map of the areas where the potential of an Ag. Cluster

subdivision is being removed. It should include some of the tables from the EIR that show the impact.

**2012 Legislative Program (Item 15).** The Board will receive an update from its Sacramento lobbyists Yoder and Lang. The report is very general and simply describes overall highlights of the Legislative session, State Budget, and the impacts that will result if Proposition 30 (State income tax and sales tax hikes) is not approved by the voters. A separate report posted on the County Administrator's website actually provides better information on the County's specific interests. It can be found at the link:

<http://www.slocounty.ca.gov/Assets/AD/Status+of+Legislation+of+interest+to+County.pdf>

**Brown Act Violation?** An interesting comment in the Board letter states that the lobbyist-consultants will be visiting each Board member in order to ascertain their priorities for the 2013 Legislative Program. This seems like an illegal serial meeting in violation of the Brown Act Open Meeting Law. Why wouldn't the consultants and staff be informed of each Board members preferences in an open public session? Presumably, the consultants and staff will then craft a document for public consideration. The staff and consultants will translate what they heard in private from the Board members into a recommended program. How can the public tell which matters are professional recommendations of the consultants and staff and which are direction of an individual Board member? What if 3 board members give essentially the same direction in private and it's a bad idea? Will the staff and consultants still include it in their "professional" recommendation?

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**AB 109 Plan and Status Report (Item 16).** The Board will hear an operational plan for the current fiscal year, will receive a status report on operations so far this fiscal year, and will be asked to add various staff positions to carry out the program. The staff report summarizes the issue as follows:

#### **BACKGROUND**

*The 2011 Public Safety Realignment Act (AB 109) was signed into law on April 4, 2011. AB 109 transfers responsibility from the State to counties for offenders convicted of certain lower level felonies, defined as non-serious, non-violent, non- registered sex (N3) offenses.*

*This transfer of responsibility includes three groups. First, offenders convicted of new crimes in San Luis Obispo Superior Court which meet the N3 definition will now serve their sentence in county jail, rather than State prison. Second, offenders released from State prisons deemed eligible for Post Release Community Supervision (PRCS) will now be supervised by the County Probation Department, rather than the State's Division of Adult Parole. Third, parolees supervised by State Parole, will now serve time in County jail if they violate the terms of their parole and are returned to incarceration.*

**What Happens in 2013-14 If Proposition 30 Fails?** The State in all likelihood will be unable to meet commitments to fund the counties for Prop. 109 costs if the Governors ballot measure increasing the State income tax and sales tax fails. What is the County's contingency plan, since it will have costs of \$5.2 million to cover if the State can no longer fund the program? There is no discussion of this potential problem in the Board letter.

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**Fee Increase Hearing to be Set for November 20, 2012 (Item 1).** The Board will consider setting a hearing for November 20, 2012, to consider adopting its annual master fee increase. The report indicates that the County has a total of 1,998 fees, of which 311 are slated to go up and 107 are to be reduced. Of the total, 891 fees are charged by the Planning and Building Department. Other departments which have fees that particularly impact the private sector, individual owners, and property rights include Public Works, Public Health, Environmental Health, and the Agricultural Commissioner. They should wait until the new Board is seated in January for this one. The entire item and the very large detail files can be seen at the link:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/Proposal.html;jsessionid=BD6BAC0E426F7BFCF3678E85AAC0A7DB?select=1550>

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<b>Planning Commission Meeting of Thursday, October 25, 2012 (Cancelled)</b>
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The Planning Commission meeting had to be canceled because there was no quorum. It appeared that only Commissioner Christianson showed up. The reason was not apparent. The items below have been continued to Thursday, November 8.

**Coastal Christian School.** The County notice describes the request for an amended permit as follows: *Hearing to consider a request by COASTAL CHRISTIAN SCHOOL to modify Conditional Use Permit DRC2008-00021 to change the phasing plan for the development of a private K-12 school. This modification would introduce a new temporary interim phase to occur prior to development of the permanent campus. The interim phase would last between 1 and 10 years and include 18 portable structures (approx. 18,500 square feet total), 45 parking spaces, and a basketball court, an 80-foot by 130-foot sports field, a lunch patio, and a kindergarten play yard. The temporary campus would serve up to 200 students, with up to 20 faculty and staff members. The project is located on the west side of Oak Park Boulevard between James Way and Noyes Road, (at 705 North Oak Park Boulevard). The site is immediately adjacent to the city limits of Pismo Beach and Arroyo Grande. The site is in the San Luis Bay (Inland) Planning Area.*

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**Inclusionary Housing Ordinance Continued from October 11, 2012.** This issue was heard on the 11th and we thought it was being sent forward to the Board. For whatever reason, the Commission wishes to work on it further. A danger is that some members (particularly Commissioner Christianson) may wish to make it more severe and accelerate the "fee" (tax) requirements.

**Background:** The bottom line is that over the decades, the process of developing residential and commercial property has become so overregulated and expensive that developers cannot afford to produce affordable housing and prefer to develop larger, more expensive units. In turn, the State Legislature made things worse by enabling cities and counties to require that developers include a stipulated number of affordable units in their project or pay an "in lieu fee," which is really a tax on development. The dollars generated from the "in lieu fee" are accumulated and then given to non-profit housing developers to help finance their affordable projects. This is really a government blackmail program to force homebuilders to charge more for their market units to bail out the politicians' failed public policy.

<b>Planning Commission Meeting of Thursday, November 1, 2012 (Cancelled)</b>
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