

COLAB SAN LUIS OBISPO COUNTY

WEEK OF DECEMBER 15-21, 2013

NEW DATA SHOWS URGENCY ORDINANCE UNJUSTIFIED

AGRICULTURE PUMPING LESS TODAY THAN IN 1980'S

MORE LOS OSOS SEWER COST OVERRUNS

PASO BASIN ORDINANCE LAWSUITS DEFENSE (YES OR NO? - AGAIN NO ANSWER)

MORE TURMOIL AT BOARD (SPEAKERS LIMITED ON EMOTIONAL CHILDREN'S MATTER)

Board of Supervisors Meeting of Tuesday, December 10, 2013 (Completed)

The Board processed the agenda in normal fashion. There was little discussion or conflict on the scheduled items.

A controversial unscheduled matter surfaced at the General Public Comment period and resulted in considerable discourse and acrimony. The Board must have had wind of it because they had staff in the room to respond and a Sheriff's supervisor in the room as the security, the latter probably on deck in case reinforcements had to be called in to manage the crowd.

Reporter's Grandchildren Seized By Child Welfare Services: It turns out that the grandchildren of a local investigative news reporter, Karen Velie, of the online Cal Coast News, were seized by the County's Child Welfare Services (CWS) and placed in foster care. Over the years, Velie has been critical of the County and particularly Supervisor Adam Hill. County officials are prohibited by law from disclosing the particular circumstances causing the decision by CWS to remove the Children from Velie's daughter's home. Unsubstantiated rumors cite a domestic dispute between a couple staying at the house which resulted in a response by the police. It is not clear if the dispute impacted the children. Reportedly, the police called in CWS in because the home was "dirty".

Under State law CWS matters are held strictly confidential to protect the children. Additionally these matters are under the jurisdiction of the Courts. All parties are legally

represented (parents, children, County as an entity, and CWS). While the Board of Supervisors has budgetary and personnel authority over CWS, it may not normally interfere. All this notwithstanding, Velie believes that the County exceeded its authority, lacked cause, and improperly took her grandchildren. For whatever reason the Court has not determined to order CWS to return them.

A diverse group of about 70 citizens showed up and conducted a protest rally in front of the County Court House and then proceeded to the Board meeting with the intent of speaking at General Public Comment for matters not on the agenda. They were treated to a tutorial on how CWS matters work legally by County Counsel. Board members pled “no ability to affect the issue” because it is under the jurisdiction of the Court. Fourth District Supervisor Caren Ray invoked her Constitutional expertise as a high school history teacher (her former day job before her appointment to the Board) stating that the “separation of powers” doctrine is the most important feature of American Constitutional system. Apparently, the implication in this case is that she is defending the Board’s hands off stand in the name of protecting the Constitution. Parenthetically, we wonder why Constitutional doctrines of private property, protections against arbitrary seizures, and their underpinning of basic liberty were not so prominent in her mind when she vigorously and enthusiastically voted for the Paso Robles Basin development and water moratorium immediately after she was sworn in.

Board Chair Gibson appeared offended that the group was there at all and tried to limit public comment on the matter to a total of 15 minutes, which would have left most potential speakers out in the cold. After some discussion, he relented and limited speakers to two minutes each. (Remember, the normal is 3 minutes.)

Clearly there is concern in the minds of some of the public (and perhaps fear by Ms. Velie) that the seizure of the grandchildren of an investigative reporter is not an independent or random coincidence but is instead somehow inspired by Hill (or supporters) to blunt Velie from her critical investigative reporting of him and CAPSLO executives whom Velie has accused of conflicts of interest and theft. It seems impossible that the professional officials involved would even talk to elected officials about the case, let alone allow themselves to be influenced. We have been provided no smoking gun evidence linking Board members or CAPSLO executives to these allegations, but we have experienced the direct ire of Hill ourselves. We have also seen that standard practice in SLO County is for the individual Supervisors to summon County staffers of all ranks directly into their office for private conversations without the presence of the County Administrator or his staff. The potential for direction, implied direction, or simple co-optation of professional staff is manifest under such a bad system. (This in itself, and separately from the current dispute, would make a good investigation for the Civil Grand Jury).

Both the County Counsel Rita Neal, whose office represents the County in these matters, and the Social Services Director Lee Collins, who has direct management control of CWS cases, assured the Board that everything has been and is being handled legally and properly.

In this case, the County should call in the CWS division of a neighboring County to take over the case and also switch it to the analogous court. In this way it could remove some of the fear and obtain an independent 2nd opinion. There are many other allegations surrounding this case that would benefit from independent review and management.

Executive Session. Prior to Executive Session COLAB again requested that the Board inform the public on whether it would defend against those Paso Basin water lawsuits which have been filed so far. Please see last week's update for information on the suits. After closed session there was no report on the Board's attitude or actions on the suits. Thus it is not known if they have made a decision or they are if just withholding the information.

The Paso water lawsuits remain on the executive session agenda for next week (December 17, 2013). What does each of the Board members think of the lawsuits?

County Counsel did report that they have chosen a finalist for Director of Planning and Building and are negotiating a contract. If they are successful, the name will be made public.

Note that County Counsel Rita Neal's annual performance evaluation is also scheduled for the December 17th closed session. A question: Is she independent enough of Board pressure? She let the Board give all sorts of detailed direction during a July Board Meeting when Pro Water Equity showed up to demand a Paso Robles Water Urgency Ordinance/Moratorium. The matter had not been scheduled on the agenda. Later she rejected the complaint that the session was a Brown act violation. She also facilitated the return of Supervisor Gibson's legislative aide to employment in his office in contravention of normal county policy. She rationalized that a Supervisor can appoint anyone, the policy notwithstanding. The Board itself shares complicity in this one.

Board of Supervisors Meeting of Tuesday, December 17, 2013 (Scheduled)

Item 16 - Some Employees to Pay A Little Bit More Towards Their Retirement.

The Board letter describes the recommendation:

DISCUSSION

Each year, an actuarial valuation is conducted by the San Luis Obispo County Pension Trust ("Trust"). The valuation is intended to provide a measure of the funding status of the Trust. Based on the Pension Trust's 2012 valuation study (report dated January 1, 2013), it has been determined that an increased rate of contribution is needed to appropriately fund the Trust. The total rate increase for all ASLOCDS employees (safety members in the classifications of Deputy Sheriff, Sheriff's Senior Deputy, and Sergeant) is 1.21%. Pursuant to Article 7.1.4 of the ASLOCDS MOU Amendment, dated June 19, 2012 (original MOU dated November 23, 2010), ASLOCDS employees and the County shall equally split the pension rate increase (50/50). Approval of these Resolutions will

increase the employee-paid pension contribution rates and amend the San Luis Obispo County Employees Retirement Plan Appendices.

□ Effective the pay period that includes January 1, 2014, the pension contribution rate for ASLOCDS employees in Bargaining Units 27 and 28 shall increase by 0.60%. The County's appropriation rate shall also increase by 0.61%.

o Tier 1 and Tier 2 member contributions rates are reflected in Appendix B – Safety Members Contribution Rates and Appendix B Tier 2 – Safety Members Contribution Rates, attached hereto, to reflect the new member contribution rates and the County's new appropriation rate.

Item 17 - Miscellaneous Benefit Adjustments Impacting the County's 352 Managers and Confidential Unrepresented Employees (Non-Union). The Board letter states:

Total County costs for FY 2013-14 for pension rate increases, the increase to cafeteria allowance, and the equity adjustments to the four (4) confidential classifications will increase by approximately \$348,637. The County's annual ongoing costs shall increase by approximately \$697,300. Pursuant to Board direction, departments will absorb the increased County costs associated with this resolution.

Item 19 - Addition of Two Staff Planners to Develop a “Robust” set of Plans, Ordinances, and Regulations (with related fees) to:

- 1. Implement the Paso Water Moratorium.**
- 2. Expand It To the Rest of the County. Annual New Cost: \$ 228,730.**

Here it comes. Your tax dollars will be used to further constrain your ability to operate, farm, use your property, and otherwise mess with you. The Board told us that the Paso Water Moratorium Ordinance is just a temporary “timeout.” Last week staff was directed to return in January with a “robust set of proposals for implementing Plan amendments, ordinances, regulations, conservation requirements and so forth. The write up states in part:

Paso Robles Groundwater Basin Urgency Ordinance 3246 Implementation

Staff has begun to implement the provisions of the Urgency Ordinance including issuance of Offset Clearances for both residential and agricultural projects and determinations of various exemptions from the ordinance. In order to continue to implement the Urgency Ordinance without having impacts to existing services, an additional 1.0 FTE Limited Term Planner position is needed. The term of this position would be two years from date of hire, to run concurrently with the effective date of the Urgency Ordinance.

And:

Processing of Amendments (Countywide and Paso Robles Groundwater Basin)

Your Board has discussed the potential of processing of a number of amendments to the County's Land Use Ordinance and General Plan. In order to bring back a discussion of those potential amendments and then to process any amendments that your Board chooses to authorize, and additional 1.0 FTE Limited Term Planner position is needed. The term of this position would be three years from date of hire in order to allow time for the processing of amendments including outreach, environmental review and public hearings before both Planning Commission and your Board.

The County always intended to make the “moratorium” permanent. In fact each of the Supervisors stated their support for finding Section H of the urgency ordinance which states:

...that in order to address these urgent water needs within the Paso Robles Groundwater Basin, the County is contemplating amendments to its general plan and/or zoning ordinance and intends to study those potential amendments within a reasonable time. In the meantime, the approval of additional subdivisions, land use permits, variances, building permits, construction permits, grading permits, well permits, or any other applicable entitlement for use required to comply with the Land Use Ordinance within the Paso Robles Groundwater Basin would threaten the public health, safety, and welfare by exacerbating the declining water levels of the Basin and contributing the failure of additional residential and agricultural wells. This urgency and interim zoning ordinance will allow County staff time to complete necessary studies and reports for the contemplated amendments to its general plan and/or zoning ordinance while preserving the resources of the Basin.

Item 23 - More Los Osos Sewer Cost Overruns and Project Creep.

1. Water Recycling Facility (Sewer Treatment Plant): The Budget for the Design and Construction of the Plant is \$36 Million (The entire project is \$276 million). Earlier this year staff reported to the Board that the Engineer's Estimate for the plant had grown to \$46 million as the County prepared to go to bid. At that time the staff was optimistic that the actual bids would come in lower and perhaps closer to the original budget. Now the apparent low bid is \$46,390,171, as stated in this week's Board item:

The final portion of the project is the water recycling facility, for which bids were received on November 25. The bids are currently being evaluated and the apparent low bid is for \$46,390,171, or about \$200,000 under the Engineer's Estimate. A staff report being prepared for recommendations to award the contract, which is expected to be presented to your Board in January.

Note that the item states that the bid is \$200,000 less than the engineer's estimate. **In a major omission, the quoted paragraph above fails to note that the bid is more than \$10 million over the budget. This is confirmed by Exhibit A of this item which shows the treatment facility budget at \$36,110,000.**

a. Why doesn't the staff letter note that the bid is \$10 million over budget?

- b. Why is it so much over the original budget?
- c. What is the plan to deal with the overage?
- d. Is the write up a deliberate attempt to cover up the huge overage? The fact that the bid is \$200,000 under the engineer's estimate is OK but avoids the real issue.

2. More Collection System Overruns: Back on June 18th, 2013 staff came to the Board to request an increase in the Collection System phase of the project budget from \$4.9 million to \$6.1 million for collection system engineering design services. The reasons given for the overrun at that time were that the services contract, which had originally been scheduled for 24 months, had to be increased by an additional 20 months because the house laterals had been planned wrong and there were utility conflicts. All this would require more time, engineering, and supervision.

Now the staff is requesting an additional \$2.8 million for a total of \$9.7 for engineering related to the collection system. (Note: we are not sure how the \$6.1 million above, from last June, became \$6.8 million today.) The same justifications which were given in June are given for the new increase.

3. Water Recycling Facility Engineering and Project Management Cost Increase: It's not clear exactly what is happening on this one. The write up states:

An engineering services agreement with Carollo Engineers for the design of the water recycling facility was approved by your Board on November 6, 2012. The agreement included scope and fee estimates for all aspects of the planned services, including final design, bidding, construction, and post-construction phases. However, the agreement and corresponding Board actions of November 2012 authorized the final design and bidding phases only in an amount of \$3,382,504. It is now required that your Board authorize the necessary work, proceeding with the construction services under the agreement, and the corresponding increase in the contract budget. This would bring the total contract amount to \$4,826,599 for authorized services.

- a. Was \$3.8 million the price for all the services?
- b. If it was not, why did they only fund part of the contract?
- c. Or is this a way to slide another cost overrun under the radar?

Big Picture:

What is the plan to wash out all the cost overruns? At one point staff reported that construction bid costs of one of the collection system phases was millions under budget. Is that still true? The exhibit A budget chart needs to provide more data in terms of updated revised budget versus original adopted budget. See the link for the current chart:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/2863/RXhoaWJpdCBBIC0gQnVkZ2V0IFN0YXR1cyBVcGRhdGUucGRm/12/n/22429.doc>

Item 32 - Womens' Jail Project "Only" \$2 Million Over Budget. The budget status is summarized in the chart below:

Table #1

Revised Project Costs			
Costs			
Component	Est. Cost Aug. 2013	Est. Cost Dec. 2013	Change
Construction Housing/Medical	\$ 24,468,152	\$ 29,721,565	\$ 5,253,413
Construction Electronic Security	\$ 5,300,000	\$ 1,910,018	\$ (3,389,982)
Architectural & Design	\$ 3,619,222	\$ 3,619,222	\$0
CEQA	\$ 477,339	\$ 477,339	\$0
Construction Management	\$ 3,275,325	\$ 3,275,325	\$0
County Administration	\$ 1,557,903	\$ 1,691,317	\$ 133,414
Total Project Estimate	\$ 38,697,941	\$ 40,694,786	\$ 1,996,845

The reason given for the overrun is "construction costs." This does not explain why or what part of the construction costs went over.

It's too bad that there is not a chart similar to the one presented here for the Los Osos Sewer Project, which would explicate the cost changes.

Item 33 - Southern California Gas (SCG) Franchise. The County has reached an agreement with SCG for a 30 year, \$750,000 per year franchise. Cities and counties are allowed to negotiate franchise agreements with utilities that run wires and pipes in the public right-of-way.

a. Is the Board majority compromising its climate action and anti-carbon ethics by accepting revenue from a company that sells natural gas, which when burned, generates CO₂?

b. During the Board meeting of December 10, 2013, some of the members, led by Supervisor Ray, were wringing their proverbial hands over the lack of funding for capital investment in roads and other public facilities. They were lamenting the fact that this forced them to impose heavy exactions on developers to try to fund necessary projects. This in turn causes vital economic developments not to happen. Here is an opportunity:

a. They have a guaranteed \$750,000 per year for 30 years (\$22.5 million). Obviously the \$750,000 will decline in value over the years as inflation reduces the value of each dollar.

b. Why not issue \$22.5 million in capital infrastructure bonds now and apply the current dollars to some critical unfunded projects which are barriers to economic development? Pledge this guaranteed revenue to secure the bonds, and pay them off over time with the inflated less valuable dollars.

Item 35 - Paso Robles Groundwater Basin Management Plan Implementation Update. This item presents a list of recommended and necessary tasks for the Public Works Department (not Planning and Building) to:

1. Update the Paso Robles Basin Groundwater Management Plan in order for it to become the basis for operations and regulatory activities to be undertaken by the proposed new special district which would oversee the basin. Absent the establishment of the district, the County itself could undertake the activities.
2. Undertake studies, prepare information, and recommend alternative structures for the water management district.
3. Conduct a study of how to obtain new water sources to sustain the Paso Water Basin's perennial yield. (More on this further in this section.)

The report contains timelines summary descriptions of the tasks, indicates whether staff or consultants would perform them, and lists cost estimates – a total of \$1.1 million in 2014.

The Board is requested to indicate whether it wishes to move forward.

A Stunning Revelation - The Basin is almost in balance right now! This reinforces the view that the urgency ordinance/moratorium is unneeded and that the Board of Supervisors was stamped into adopting it.

Perennial Yield: A Key Concept. The staff write-up states:

For the purposes of this report, the perennial yield for the Basin is defined as the amount of water that can be withdrawn and consumed on an average annual basis over the long-term and under given land use conditions without exceeding the recharge to the groundwater basin. Managing groundwater basins in a manner consistent with perennial yield helps avoid long-term adverse impacts such as groundwater level declines. Because land uses and hydrologic conditions can change over time, the perennial yield must be re-evaluated periodically.

The County has completed a new analysis of the Basin which indicates that it is pretty nearly in balance, on average, over the years in terms of perennial yield. The power point of the new study can be accessed at the link:

<http://agenda.slocounty.ca.gov/agenda/sanluisobispo/2868/UFJHQiAyIC0gUHJlc2VudGF0aW9uLVdhZGVyIEJhbGFuY2UgRXN0aW1hdGlubi5wZGY=/12/n/22518.doc>

The summary chart below summarizes the perennial yield data:

Attachment 3

Preliminary Water Balance and Perennial Yield Estimates Summary

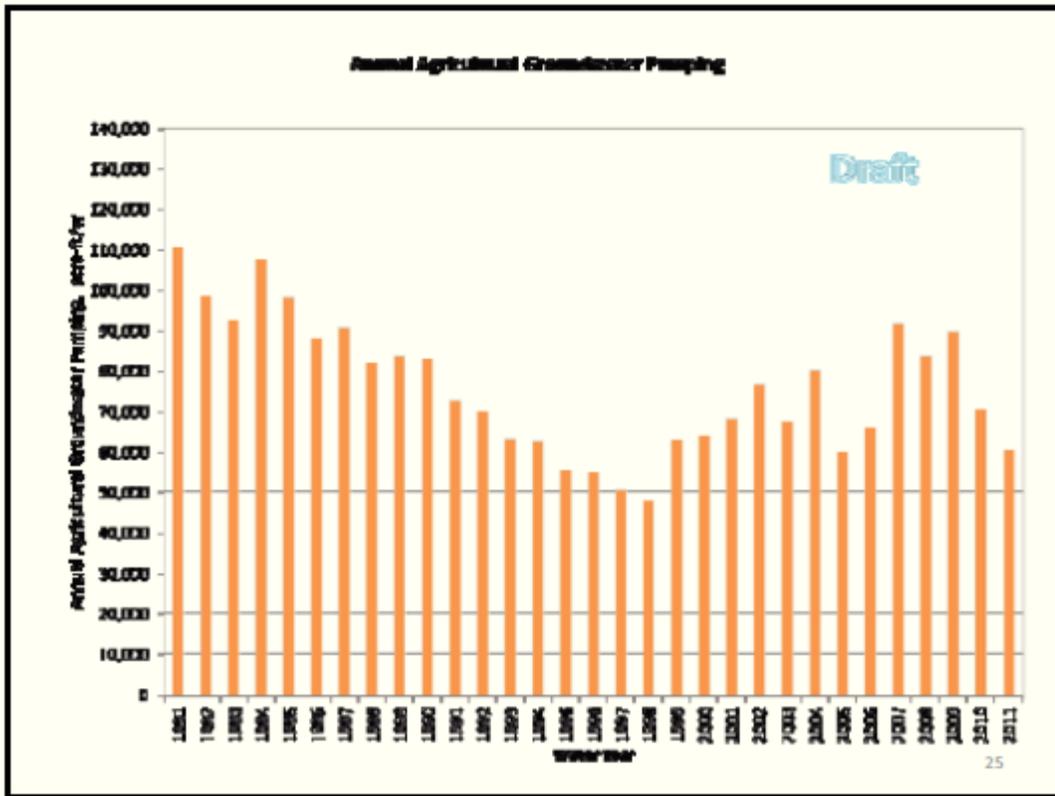
	Geoscience 2013*	Fugro 2005
Perennial Yield (acre feet per year)	89,200	97,700
Base Period	7/1982 – 6/2010	7/1981 – 6/1997
Change in Storage		
Average Annual Acre Feet/Year		
1981 - 1997	-3,800	-1,500
1998 - 2011	-1,800	NA
1981 - 2011	-2,900	NA
Pumping		
Average Annual Acre Feet/Year		
1981 - 1997	95,000	100,000
1998 - 2011	90,700	NA
1981 - 2011	93,200	NA

*The Geoscience 2013 study estimates are preliminary and need to be validated during the basin model update portion of the computer modeling project.

It shows that in the nearest term analysis (1998-2011) average pumping was 90,000 acre-feet per year (AFY). Perennial yield was 89,200 AFY. This is not some disaster requiring and urgency ordinance, massive regulation, mandatory offsets, water meters, water cap-and-trade programs and all the rest.

As the song says: Whatsamatta you?

Even more damning is one of the charts depicting agricultural use over the period 1981-2011 displayed on the following page (p. 10):



**AGRICULTURE IS PUMPING LESS WATER NOW THAN IN THE 1980'S!
THIS WHOLE THING IS A HUGE SCAM**