

COLAB SAN LUIS OBISPO COUNTY

WEEK OF July 21-27, 2013

GRAND JURY REPORT: CONTRADICTIONS ON REGULATION OF EVENTS

PLANNING DIRECTOR RECRUITMENT COMES UP DRY

ALERT

SAVE AUGUST 6TH FOR PASO WATER BASIN POLICY

**SAVE AUGUST 23RD FOR PASO WATER BASIN
ORDINANCE HEARING**

Board of Supervisors Meeting of Tuesday, July 16, 2013 (Completed)

County Counsel Rejects Brown Act Violation. During the Public Comment Period, Chairman Gibson called upon County Counsel Rita Neal to reject the assertion that the Board violated the Brown act by substantively discussing potential provisions of emergency regulations to be imposed on landowners (especially vineyard owners) in the Paso Robles water basin. Neal stated that there was no violation because the Act:

- Allows the Board to make “brief” comments in response to public comment.
- Allows the Board to give “preliminary” direction to staff.
- Allows staff to respond to the Board.
- The Board has scheduled a Board Business Item for August 6, 2013, where it will make actual decisions about the new restrictions which are to be imposed.
- The Board has scheduled August 23, 2013 to adopt new regulations and ordinances restricting land use and water use in the basin.

The County Counsel has glossed over the facts:

- The Board conducted an extensive discussion, both time-wise and substance-wise.
- The issue of whether staff should work on the restrictions and moratoria was not noticed.
- Her Chief Deputy was sufficiently concerned to warn the Board to stop discussing the matter, which the Chairman ignored.

As former Chicago Mayor Daley (the senior) used to say of his political machine: “If we stick together no one can get us.”

Background: Supervisors Gibson and Hill maneuvered the Board members into collectively violating the Brown Act in at least three specific instances during the public comment period outlined above:

a. First of all, they held a substantive discussion of policy and gave direction and deadlines to staff to prepare emergency policies and emergency ordinances on an issue which was not on the agenda and which had not been noticed, thus constituting a violation of the California Open Meeting Law (The Brown Act). County residents, impacted property owners, agriculturalists, and corporations had no official notice or even an inkling that the Board would be considering such policies and giving direction to develop them during the July 9th meeting. Thus, they had no opportunity to comment on the Board's substantive direction to staff to prepare the policies and ordinances. The Board did not consider alternatives or hear from the public on alternatives, but forcefully directed staff to move forward to prepare emergency restrictions and the means to operationalize them.

b. The four Board members, at one time or another during the discussion, all expressed their commitment to adopt emergency measures. They thus **collectively** took an action on a matter which had not been noticed on the public agenda. They went far beyond scheduling or suggesting matters for future analysis and future consideration.

The definition of "action taken" in the Brown Act means a collective decision made by a majority of the members of a legislative body, *a collective commitment or promise* by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body upon a motion, proposal, resolution, order, or ordinance (CAL GOV CODE 54952.6).

In this case they made the promise to the audience to develop and to support emergency water use and development restrictions for the Paso Robles Water Basin. They then acted on that promise by giving orders to the staff and offering proposals for specific outcomes.

Somewhat deviously, the Board never actually passed a motion giving direction, but simply directed staff verbally from the dais by consensus. This does not vitiate the Brown Act violations.

c. When Chief Deputy County Counsel Tim McNulty tried to warn the Board that the policy substantive discussion had gone too long and was too far afield, Board Chair Gibson silenced him with a sharp retort, "This is an emergency." Later, an irritated Gibson rejected any alternative process with the statement, "We must direct staff to do our will." Here we have the Board Chairman flagrantly ignoring a warning from the County Counsel that the discussion was over the line. Local legislative bodies may conduct discussions of emergency measures which are not on an agenda, but only once a legal emergency has been declared by the CAO (which must be confirmed by the Board within 5 days), the Board, the Governor, or the President of the United States. The Board has not declared the Paso water Basin circumstances a legal emergency under the Statutes.

Board of Supervisors Meeting of Tuesday, July 23, 2013 (Scheduled)

Item 4 - Grand Jury Report on Regulation of Events. The Civil Grand Jury has issued a report recommending that the Board of Supervisors update the Events Ordinance regulating public attendance at for-profit and not-for-profit events at farms, ranches, estates, ranchettes, venue barns, and so forth. Problematically, the Jury's report states that its review of the issue was based on receiving two complaints. From a statistical standpoint, it is unfortunate that a public agency would single out the events issue for study and proposed augmented regulations on the basis of only two complaints. The County contains thousands of square-miles and hundreds of events venues, and hosts at least several hundred events per year. (Note: Neither the County nor the Jury has any real statistics.) The report evinces the current propensity of government agencies to promote increased regulation, interference, and cost on an ideological basis rather than on actual analysis of real problems.

The report is contradictory. On the one hand and to its credit, the Jury points out that the Planning and Building Department has failed to keep statistics on the complaints which it may have received on events. This is a stunning failure. The Planning and Building Department has proposed new and expensive regulations concerning events over the past several years, yet it has no empirical evidence that there is even a problem. Why would the Jury, knowing that there is no statistical evidence of a problem, then recommend increased regulations?

The Jury then compounds its contradictory report by recommending increased public oversight, but then in the next breath, recommends that the process be "streamlined." This is of course an oxymoron. The County regulatory process is already expensive, tedious, and subject to bureaucratic and political manipulation. As our readers know, the proposed events ordinance which was deferred last year, contained scores of expensive fees, irrational requirements, and venue killing provisions.

- a. The Board of Supervisors should reject the notion of intensifying the regulation of events.
- b. The Board should direct the County Administrator to make sure that Planning and Development Department, as well as all county agencies, has a uniform and accurate system for collecting, tabulating, and reporting public complaints.
- c. The Board should set a deadline for the establishment of the complaint system and its incorporation into the County's budgetary performance system.
- d. For those events which currently require various levels of permits, the Board should require that such permits be issued or denied within strict time limits.
- e. Failure of County agencies to perform within such time limits should result in employee discipline up to and including dismissal. Management should be especially accountable.

f. The Board should receive a monthly report on the number of events which have been permitted, the number denied, the average days to receive a permit, and the fees charged for each permit.

Item 6 - Appointment of Eric Meyer to Planning Commission. Eric Meyer, current SLO City Planning Commissioner and founder of the Simple Shoe Company in 1991 (“environmentally” crafted skateboard shoes), has been nominated by Supervisor Hill for the Planning Commission. He would replace Carlyn Christensen, who was elected to the SLO City Council. Meyer was a successful niche entrepreneur who sold his brand to Deckers Corporation, which owns Uggs and other brands. Deckers discontinued the Simple Brand several years ago.

Positively, Meyer has expressed criticism of corporations that try to portray themselves as “green” in order to market their products. Negatively, he would appear to embody much of the stock countercultural philosophy that dominates left political doctrine. In a 2011 interview he stated:

My dad Gerald Rupp was a modern architect who in the late 1940’s and early 1950’s built a group of 12 small modernist houses out of redwood, masonite, and glass and sold them to musicians, artists, and philosophers. In the 50’s and 60’s this area of Morro Bay, CA was known as Beatnik Hill. I was raised there before moving to Ananda.

Many famous Beats came through on their way to SF or Big Sur... they would stop for the night. My mom ran a metaphysical book store that also sold Jazz records and she served coffee. So I was raised in this beat culture household... full of really creative types... and then moved to the intentional community Ananda. I have always had this strong community feeling... about what is the right way to live a happy healthy life... even today I am a Planning Commissioner here in San Luis Obispo.

I am not sure if you are familiar with what are known as the Awahnee Principles???... but this is a fairly new idea really... wrapped around a lot of old knowledge. It is about how people should live. I think I was raised amongst this old knowledge sorta... I grew up with parents searching for this type of thing. Anyway... this upbringing led me to feel that people

need to live a certain type of life... they need fulfillment, happiness, love, shelter, quality food. After that there is very little we need.¹

The Ahwahnee Principles are named for the famous Yosemite Hotel where they were drafted in the fall of 1991. Nancy Skinner, the founder of ICLEI, was among the participants.

Ahwahnee Principles for Resource-Efficient Communities

Preamble

Existing patterns of urban and suburban development seriously impair our quality of life. The symptoms are: more congestion and air pollution resulting from our increased dependence on automobiles, the loss of precious open space, the need for costly improvements to roads and public services, the inequitable distribution of economic resources, and the loss of a sense of community. By drawing upon the best from the past and the present, we can plan communities that will more successfully serve the needs of those who live and work within them. Such planning should adhere to certain fundamental principles.

Community Principles

- 1.All planning should be in the form of complete and integrated communities containing housing, shops, work places, schools, parks and civic facilities essential to the daily life of the residents.*
- 2.Community size should be designed so that housing, jobs, daily needs and other activities are within easy walking distance of each other.*
- 3.As many activities as possible should be located within easy walking distance of transit stops.*
- 4.A community should contain a diversity of housing types to enable citizens from a wide range of economic levels and age groups to live within its boundaries.*
- 5.Businesses within the community should provide a range of job types for the community's residents.*

¹ Environmental Interview: Eric Meyer Founder of Simple Shoes 1/2January 7, 2011 in Awesome Eco-Friendly Products, Environmental Interviews, Interviews with Founders - Startup

6.The location and character of the community should be consistent with a larger transit network.

7.The community should have a center focus that combines commercial, civic, cultural and recreational uses.

8.The community should contain an ample supply of specialized open space in the form of squares, greens and parks whose frequent use is encouraged through placement and design.

9.Public spaces should be designed to encourage the attention and presence of people at all hours of the day and night.

10.Each community or cluster of communities should have a well-defined edge, such as agricultural greenbelts or wildlife corridors, permanently protected from development.

11.Streets, pedestrian paths and bike paths should contribute to a system of fully-connected and interesting routes to all destinations. Their design should encourage pedestrian and bicycle use by being small and spatially defined by buildings, trees and lighting; and by discouraging high speed traffic.

12.Wherever possible, the natural terrain, drainage and vegetation of the community should be preserved with superior examples contained within parks or greenbelts.

13.The community design should help conserve resources and minimize waste.

14.Communities should provide for the efficient use of water through the use of natural drainage, drought tolerant landscaping and recycling.

15.The street orientation, the placement of buildings and the use of shading should contribute to the energy efficiency of the community.

Regional Principles

1.The regional land-use planning structure should be integrated within a larger transportation network built around transit rather than freeways.

2.Regions should be bounded by and provide a continuous system of greenbelt/wildlife corridors to be determined by natural conditions.

3.Regional institutions and services (government, stadiums, museums, etc.) should be located in the urban core.

4.Materials and methods of construction should be specific to the region, exhibiting a continuity of history and culture and compatibility with the climate to encourage the development of local character and community identity.

Implementation Principles

- 1.The general plan should be updated to incorporate the above principles.*
- 2.Rather than allowing developer-initiated, piecemeal development, local governments should take charge of the planning process. General plans should designate where new growth, infill or redevelopment will be allowed to occur.*
- 3.Prior to any development, a specific plan should be prepared based on these planning principles.*
- 4.Plans should be developed through an open process and participants in the process should be provided visual models of all planning proposals.*

More smart growth coming courtesy of Supervisor Hill. As Meyer says, you “ need to live a certain kind of life.”

Item 17- Contract For Analysis of the Santa Maria Water Basin. The Board will consider issuing a \$200,000 contract to the Fugro Corporation for a study of the Santa Maria Water basin (portion in SLO County). This is the same consultant that has done much of the work to develop restrictions in the Paso Robles Water Basin. The Board contract contains considerable technical jargon about the work process and method of study. The Board letter says the purpose of the contract is “to develop a salt and nutrient management plan.” The Board should ask:

- a. Why?
- b. What are the possible downside risks to property owners and farmers?
- c. How does this relate to, overlap, amplify, or do whatever to the Agricultural Order of the Regional Water Quality Control Board (which is highly problematical and contains horrible costs and process issues)?

Recruitment for Director of Planning and Building Department Comes up Dry

Apparently, the recruitment for a new Planning and Building Director did not attract a sufficient number of highly qualified candidates who could actually do the job in SLO County’s hothouse, politicized planning and regulatory environment. Insufficient salary, continuing salary and benefit freezes and take backs, constant direct Board access and communication with professional staff subordinates, frequent night meetings, acrimonious interest groups, and the cozy SLO County organizational culture all make the job risky for a true apolitical professional. The salary range tops out at \$152,000 per year. The prior director, Jason Giffen, came in June, 2010, and left in March, 2013, a tenure of less than 3 years.

The Board should ask:

- a. How does the salary range and how do the benefits compare with other central coast jurisdictions: City of SLO, SLOCOG, APCD, County of Santa Barbara, County of Monterey, Regional Water Quality Control Board, etc.?
- b. How should the Board communicate with the Planning staff?
- c. How should the Board communicate with the Planning Director ? What is the role of the County Administrative Officer?
- d. What signal does having all of the Board's aides on the "citizens" advisory panel send to the candidates? If 3 or more of the aides recommended candidate x to their respective bosses, is there a Brown Act problem?