

**SAN BENITO COUNTY
BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
APRIL 13, 2004**

The Board of Supervisors of San Benito County met in the Board Chambers on the above date in regular session. Supervisors Loe; Scagliotti; Monaco, Kesler and Cruz were all present. Also present was County Administrative Officer Terrence May, County Counsel Karen R. Forcum and Assistant Clerk Sally Navarez. Chairman Bob Cruz presiding when the following was had to wit:

9:30 a.m. CALL TO ORDER:

- a) Pledge of Allegiance.
- b) *Upon motion duly made, seconded and carried, acknowledged the Certificate of Posting.*
- c) **Public Comment:** There was no one wishing to address the Board.
- d) **Department Head Announcements:** There were no announcements.
- e) **Board Announcements, Introductions and Presentations:** There were no announcements.

CONSENT AGENDA:

Supervisor Scagliotti made the motion to approve Consent Agenda Item #1 through Item #8. Supervisor Monaco was second on the matter.

Upon motion duly made, seconded and carried, approved Consent Agenda Item #1 through Item #8. Motion passed unanimously 5-0.

ADMINISTRATION:

1) **Approved** agreement with Professional Services Industries (PSI), Inc. re: materials testing and inspection services at the former convalescent hospital on Southside Road with a contract term of April 14, 2004 through June 30, 2005 and authorized Chair to sign. *(file #30.1)*

AUDITOR:

2) **Approved** Departmental Claims.

COUNTY COUNSEL:

3) **Rejected** amended claim of Gloria Segura filed with the clerk of the board on March 18, 2004 and directed clerk to notify claimant. *(file #235)*

4) **Rejected** claim of Joseph A. Littlejohn filed with the clerk of the board on March 11, 2004 and directed clerk to notify claimant. *(file #235)*

INTEGRATED WASTE MANAGEMENT:

5) **Approved** request to apply for Department of Conservation/Division of Recycling 2004/2005 grant funds. *(file #142)*

PUBLIC WORKS:

6) **Approved** amendment to agreement with the Hollister Babe Ruth League re: PG&E service payments and authorized Chair to sign. *(file #105)*

7) **Approved** Request For Proposal (RFP) re: custodial and maintenance services for county owned buildings. *(file #105)*

SUBSTANCE ABUSE PROGRAM:

8) **Approved** transfer of funds from the Substance Abuse Program's Contingency Fund in order to pay back California Department of Alcohol and Drug Programs unexpended Safe and Drug Free Schools FY2001/2002 funds. *(file 1053)*

REGULAR AGENDA:

PRESENTATIONS / RECOGNITIONS:

9) **Presentation of Certificates of Recognition to County employees serving 20, 25 and 35 years of continuous service. (Human Resources)**

Thirty Five (35) years:	Twenty-five (25) years:	Twenty (20) years:
Paul Matulich	Alice DeNoris	Mary Lou Andrade
	Barbara Larios	Juan Caudillo
	Joe Martinez	Marta Denice
	John Pat Stevens	

Human Resources Director Elizabeth Brown came forward. Ms. Brown and Chairman Cruz presented twenty-year certificates to Mr. Juan Caudillo and Ms. Marta Denice. Treasurer / Tax Collector Mary Lou Andrade was absent.

Ms. Brown and Chairman Cruz presented twenty-five year certificates to Ms. DeNoris and Mr. Martinez. Ms. Larios and Mr. Stevens were absent.

Ms. Brown and Chairman Cruz presented a thirty-five year certificate to Mr. Matulich.

All employees present were met with a round applause from the Board and audience.

Ms. Brown thanked the Board for the honor in presenting said certificates. *(file #630)*

10) **Consider Certificate of Recognition to retiring employee, Mark Tognazzini - Agricultural Commissioner / Sealer of Weights and Measures for over 40 years of service to the County.**

Chairman Cruz asked Mr. Tognazzini to come forward. Chairman Cruz thanked Mr. Tognazzini for serving as the Ag Commissioner, Sealer of Weights and Measures, even as an Interim CAO for approximately six months. Chairman Cruz noted it was an honor to present Mr. Tognazzini with the Certificate and while he will be greatly missed, a great man will also be replacing Mr. Tognazzini.

As Mr. Tognazzini approached the podium, he received a standing ovation from the Board and audience.

Mr. Tognazzini noted he would keep with his style of not making long speeches. Mr. Tognazzini stated he had no idea that an original ten day temporary assignment would turn into a four decade career. Mr. Tognazzini stated it has been both satisfying and gratifying; although, frustrating and challenging at times.

Mr. Tognazzini took the opportunity to thank everybody who helped support him in all of this - present Board and past, his wife, family, staff who actually did all the work while he would come before the Board for money.

Mr. Tognazzini noted that the longevity piece is an interesting observation is that there is something about the Ag Department that creates longevity. He felt part was due to working with the farmers, when they get into it, they stay into it and while they may change what they raise, they stay with it. Mr. Tognazzini stated it was a fact that he had more years of service than the Board of Supervisors in total and the remaining staff have ninety-six years of county service, the permanent employees. Mr. Tognazzini felt this was a good thing and was sure it was due in part of the great working environment they all had that promotes this longevity.

Mr. Tognazzini again thanked everybody who has supported and was responsible for him to be able to stay this long and that the ten day temporary, four decade assignment is over. Mr. Tognazzini concluded by again thanking the Board of Supervisors and audience. *(file #630)*

ADMINISTRATIVE BUSINESS:

11) **Consider and approve FY 2004/2005 Budget Timeline and set Budget Hearings for August 2nd, 3rd and 4th.**

Administrative Officer May noted this item concerns the budget calendar for Fiscal Year 2004/2005 budget. As you know, the County operates on a fiscal year basis that begins on July 1st of each year and ends on June 30th of the following year. In keeping with past years, the Board has typically held Budget Hearings during the first week of August and the calendar he was proposing

here would continue that practice. Mr. May was requesting that the Board set August 2nd, 3rd and 4th as the days for Budget Hearings to held on the 2004/2005 Budget.

Mr. May stated over the next several weeks, the Administrative Office will be meeting with Department Heads in order to come up with a Recommended Budget for the Board. A budget that will be balanced with finance sources offsetting financing requirements. Mr. May stated that budget is typically submitted to the Board in late June or early July and adopted as your Proposed Budget or interim or provisional budget to provide spending authority for Departments as we head into a new fiscal year on July 1. Mr. May explained until such time as the Board concludes the budget hearings in August, at which time, of course, the Board may make any changes deemed appropriate to the Proposed Budget. Once that Proposed Budget is adopted as the Final Budget incorporating any changes made by the Board during Budget Hearings, it does become the adopted budget for the Fiscal Year.

Mr. May asked if there were any questions of the Board.

Chairman Cruz asked if negotiations were underway with the Department Heads, Elected Officials, etc.

Mr. May replied those will be scheduled within the next week or two. Mr. May noted it was respectfully recommended by staff that the Board of Supervisors approve the Fiscal Year 2004/2005 Budget Timeline and set Budget Hearings for August 2nd, 3rd and 4th.

Supervisor Kesler made the motion to approve the request as outlined by Mr. May. Supervisor Loe was second on the matter.

Upon motion duly made, seconded and carried, approved Fiscal Year 2004/2005 Budget Timeline and set Budget Hearings for August 2nd, 3rd and 4th, 2004. Motion passed unanimously 5-0. (file #865)

CLOSED SESSION AGENDA:

- 12) **Conference with Legal Counsel - Anticipated Litigation**
 - a) **Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9. Number of cases: 3**

Prior to entering Closed Session, Counsel Forcum noted all three cases had been withdrawn. (file 235.6)
 - b) **Initiation of litigation pursuant to subdivision (c) of Government Code Section 54956.9. Number of cases: 3**

Prior to entering Closed Session, Counsel Forcum noted all three cases had been withdrawn. (file #235.6)

- 13) **Conference with Legal Counsel - Existing Litigation**
 - a) **Sandman vs. County of San Benito**

Upon exiting Closed Session, Counsel Forcum indicated
 - b) **Monteon vs. Richard Scagliotti, San Benito County Board of Supervisors, San Benito County Financing Corporation et al.**

Upon exiting Closed Session, Counsel Forcum indicated
 - c) **California Farm Bureau Federation, et al. vs. California Department of Forestry and Fire Protection, et al.**

Upon exiting Closed Session, Counsel Forcum indicated that no action was taken. (file #235.6)

- 14) **Conference with Labor Negotiators:**

Agency Designated Representatives: Terrence May, CAO and Elizabeth Brown, Human Resources Director
Employee Organization: General Unit - SEIU, Local 817

Upon exiting Closed Session, Counsel Forcum indicated that no action was taken. (file #235.6)

- 15) **Public Employee Discipline/Dismissal/Release**

Upon exiting Closed Session, Counsel Forcum indicated that no action was taken. (file #235.6)

1:30 p.m. PUBLIC HEARING:

16) **Hold public hearing to consider General Plan Amendment 02-24 and Zone Change 02-132 to change the land use designation from Agriculture to Residential and Commercial and to change the zoning designation from Agricultural Rangeland (AR) and Agricultural Productive (AP) to Rural Transition (RT) with a Planned Unit Development (PUD) overlay and Thoroughfare Commercial (C-1) for the development of 154 single-family detached units, 2 ranch estates, 30 affordable townhomes, a 9,400 square foot commercial center, a private championship 18-hole golf course and a public 9-hole golf course, clubhouse, driving range, a 200-room resort hotel, a regional park and agricultural/habitat conservation areas.**

Applicant: Rancho San Justo Company (San Juan Oaks Golf Club). Location: San Juan Oaks Drive at Union Road. Zoning: Agricultural Rangeland (AR) and Agricultural Productive (AP).

Environmental Review: Environmental Impact Report (EIR). *(cont. from 2/10/04 mtg.)*

Deputy Director of Planning Fred Goodrich came forward. Mr. Goodrich noted as the Board would recall, back in the first meeting in February, 2004. The Board had reviewed the San Juan Oaks project which was a review of the Planning Commission's recommendation for approval and certification of the Environmental Impact Report, Mitigation Monitoring Report, Statement of Overriding Considerations, approval of a General Plan Amendment and Zone Change. At the previous meeting, Mr. Goodrich noted he described the scope and size of the project. At the end of the last meeting, the Board had continued consideration of the project as there were three questions that the Board had some concerns with and are basically related to fire, traffic and a secondary access to the project site.

Mr. Goodrich noted since that last meeting, he has had discussions with CDF, County Fire Department, CalTrans and the Public Works Department to be able to come up with some answers to those questions.

Mr. Goodrich explained the first question the Board had was regarding a fire district benefit area, basically, who would pay for the benefit, who might be included in the benefit area and what would be the financial responsibility of the County for fire response. Mr. Goodrich indicated, basically, this project as you have seen it would introduce a larger population and homes into an area that currently is designated either for high or very high fire hazard. Mr. Goodrich explained that the response times to this area are roughly 8-10 minutes which is fairly significant as it is one of the longer response times of any major development in the County. Response times that are that long, tend to put life and property in jeopardy. These impacts were identified as significant but mitigable in the project EIR.

Mr. Goodrich stated the EIR identified that mitigations would include construction, equipping and maintaining of a fire station on the project site. The applicant has indicated they are willing to pay their fair share for fire service protection and under state law, the County cannot require the applicant to fund personnel that would be needed to man the fire station. The fair share contribution however, would probably not be enough to either fully equip nor man the fire station. There could be the dedication of a fire station site, there could be the purchase of equipment for augmenting the CDF operations at another location. However these would not improve fire safety response nor fire safety issues.

Mr. Goodrich noted one of the concerns that the applicant has regarding fire safety is that they would pay all or a large portion of the costs associated with constructing and equipping a fire station and that others in the San Juan Valley or within the County would actually have use of the station. The fire station would not be exclusive for use of the San Juan Oaks project as it would not be a private fire station. That is because if this station were to be funded, built and manned and then dedicated to the County, CDF or County Fire Department would then operate the fire station and there would be mutual aid agreements that would allow that fire station equipment to go to Hollister, San Juan Bautista, actually anywhere in the County to help fight fires. Again, one of the concerns of the applicant is that they pay, they fund but others would receive the benefit of the fire station.

Mr. Goodrich stated that the Board could recommend as a Condition of Approval, that the applicant provide all of this - they provide the land for the fire station, that they furnish all of the equipment and that would all be a one-time cost to them. Mr. Goodrich stated that once that is completed, the fire station, of course, would be turned over to the County for CDF, County Fire, to run. Now, the on-going maintenance of that station, new equipment, personnel costs that would fall on the County and would come from the General Fund.

Mr. Goodrich stated one of the possibilities for an alternative would be a Community Service Area, where the properties in the area would be assessed a fee and that would go towards supporting the fire services in that area. One of the problems, though, is how big of an area would the CSA encompass and who would be included. Mr. Goodrich stated that would be very difficult. Mr. Goodrich noted as mentioned, there would be mutual aid agreements and the people of the City of Hollister would be paying for the services of the San Juan Oaks fire station.

Mr. Goodrich stated also, a CSA would require approval by the County LAFCO and persons that don't want to be part of the CSA couldn't be arbitrarily forced into it without a vote. Mr. Goodrich stated in the long run, it basically appears that the County would carry the responsibility, the financial responsibility for long term maintenance and staffing of the fire station, that is assuming that the project applicant builds the fire station and provides the equipment for the station. The actual cost could not be determined and we would have to sit down for a period of time and discuss it with CDF, County Fire, as to size of the fire station, the type of equipment that would be required and their staffing needs.

Mr. Goodrich stated the Board could forego the requirement of the fire station. The Board could make a Statement of Overriding Consideration or require that the applicant would augment equipment, fire station size at an existing station, such as the Fairview Road station. However, as identified in the project EIR, that would not fully address the deficiencies of the response time and fire safety issues for the San Juan Oaks project.

Mr. Goodrich stated the second question was if the gap project is not constructed, then how would San Juan Oaks mitigate its traffic related impacts. Mr. Goodrich noted last time, one of the major assumptions of the EIR was that both the Hwy 25 and the Hwy 156 "gap" project would be completed prior to buildout of the San Juan Oaks project. Mr. Goodrich noted that the Hwy 25 Bypass project is funded, however, based upon their discussions with CalTrans, the earliest that the Hwy 156 gap project would be completed would be somewhere around 2011 which is well after the projected buildout of the San Juan Oaks project. Currently, Hwy 156 operates at a level service "F" and there is no worse service level than "F" and the project itself would contribute another 2200 daily trips to various roadways and intersections in the County including Hwy 156. It would be only an incremental increase to the highway traffic on 156, but nevertheless, impacts Hwy 156. Mr. Goodrich stated that the major problem here is Hwy 156 is a State highway. Improvements to the highway are beyond the control of the applicant and the County of San Benito. The incremental degree that the applicants' project impacts, Hwy 156 does not justify the applicant being required to pay for full construction improvements to Hwy 156. There is no reasonable nexus, proportionality and all those legal tests that we have to meet.

Mr. Goodrich indicated that the mitigation measures that were included in the project EIR do identify pretty specific traffic mitigation measures that would address the projects impacts, basically, those impacts are Union Road and Union Road at Hwy 156. Those would address, again, the fair share impacts of the project. Short of actual, physical improvements to Hwy 156 by CalTrans, there is no short term fix at this time for the level of service we are currently experiencing on Hwy 156.

Mr. Goodrich stated the third issue was a secondary access road. Would a secondary access road onto Hwy 156 be allowed or approved by CalTrans? Mr. Goodrich noted as originally proposed, the project had only one access road. The applicant has now proposed a second access which would be consistent with the Zoning and Subdivisions ordinance requirements and they are proposing a roadway that was identified as an emergency access from the northerly property line up to Hwy 156 would be developed up to county standards and provide secondary access. We have contacted CalTrans in San Luis Obispo and they have indicated that they may allow access off of 156; however, that access, the improvements would have to be reviewed and approved through an

encroachment permit. They have indicated that they would prefer a full access roadway that is right turn, left turn, acceleration/deceleration left turns in and right turns out and prefer that alignment be Flint or Bixby Road. Mr. Goodrich noted, however, if that design cannot be accommodated, the applicant cannot obtain the property to do that, then they (CalTrans) would still have to approve the design of a secondary access roadway. Mr. Goodrich stated that one of his concerns is that such an access needs to be approved prior to either recordation of the map or before the residential building structures are allowed to go up. We don't want to have a fuzzy picture of what might be allowed as a secondary access point and allow the project to move forward and get bogged down with no sure access to the site.

Mr. Goodrich stated that concluded his presentation of what he found out about those three issues. The Board has the staff report outlining the project, has the Planning Commission's resolutions recommending approvals, the environmental document that has been provided to you, mitigation monitoring program for your consideration and after you conduct the public hearing, staff would need direction as to the preparation of the appropriate resolutions and/or ordinances reflecting Board actions today. Mr. Goodrich stated he was available to address any questions the Board might have about the entire project or a portion of the project. The EIR consultant was present and county staff from Public Works and County Fire were available as well.

Supervisor Kesler asked Mr. Goodrich noted nothing was mentioned about schools. Where were these young people, and there will be young people, get buses? Will the buses have to come in off of Union to pick them up?

Mr. Goodrich noted he wasn't aware of whether or not the buses will have to come in there or not. Mr. Goodrich didn't think that was addressed in review of the project as to whether the buses will go into the actual site or not. Mr. Goodrich noted he would assume, since it is located off the road, the buses would have to drive into some centralized location to pick up the children.

Supervisor Kesler asked what was the starting time that the applicant was wishing for?

Scott Fuller, representing San Juan Oaks, came forward. Mr. Fuller noted to Supervisor Kesler that their allocations are set to start July 1, 2005 however, in light of the various, if approved, the various studies that they would have to do, they were going to suggest a one (1) year delay to July 1, 2006.

Supervisor Kesler mentioned to Mr. Goodrich, those affordable homes, which have been discussed quite often. Supervisor Kesler asked what was an affordable house?

Mr. Goodrich noted he hasn't worked out the specific figures, but what he has looked at was briefing up the thirty units into a certain portion would be moderate income, a certain portion would be low income and a certain portion would be very-low income. Mr. Goodrich stated he hasn't done the actual work as to the dollar amount, but the very low would start somewhere, if these were for sale units, somewhere around \$150,000. Mr. Goodrich stated the moderates would probably run somewhere in the very high \$200,000 to low \$300,000 based upon current medium price and medium income of the County.

Supervisor Kesler asked if these would all be in a cluster of some kind?

Mr. Goodrich noted, while using a display board, pointed to the area of the project where a majority of the affordable homes would be located. Mr. Goodrich explained that the two estate homes would be located further up the hill, the affordable housing is proposed to go along the entry road off of Union Road. It would be clustered.

Supervisor Kesler asked if the affordable homes would be clustered along the main road coming into the project to which Mr. Goodrich indicated that was correct.

Supervisor Kesler asked if there was going to be a lot of tree cutting.

Mr. Goodrich indicated not that he was aware of. Mr. Goodrich stated there were a couple of minor trees, he believed, out near some of the roadways over in the new residential golf course area that would have to be cut but part of the mitigation measures, as have been indicated, is they should redesign some of the roads to try to avoid that.

Supervisor Kesler asked Mr. Goodrich if he felt they (the applicants) would really try to cluster as many houses as they (the applicants) can.

Mr. Goodrich responded the only ones being proposed to cluster, with everything else is laid out along linear patterns through the proposed golf course area. Mr. Goodrich stated there was no real clustering, just this area.

Supervisor Kesler noted as she was driving in this morning for the meeting, she noted she looked at the hills, how pretty and green they were. There are a lot of trees there and would hope they (the applicants) would consider that and help take care of the environment as much as possible. Supervisor Kesler noted she knew things will go through sometime or another and whack them down as some of those trees are a hundred years or so. It takes a long time to grow a tree.

Supervisor Scagliotti asked regarding the issue of the resort and hotel, he asked Mr. Goodrich if there was a timeline for that project? Supervisor Scagliotti noted a lot of adjustments have been made and he knew the Planning Commission gave a lot of thought to the job creation, the revenues that were supposedly or will come to the County via TOT (Transient Occupancy Tax). Supervisor Scagliotti asked if there was a time limit on when that resort will be built or if it will be built at all. And, if not, will it be the fallback position of the County's impacts with no revenues?

Mr. Goodrich noted that was a good question. He indicated he had not seen a specific start date for the resort. The proposal, as he understood it, was that they would build out a 200 maximum room resort at buildout, they would propose to build only the first 100 rooms, but they didn't say specifically what date. Mr. Goodrich stated the Board could probably condition that. However, they (the applicants) would build out the first 100 rooms and then see what the market conditions are and then bring in the remaining units at a later date. We didn't know the specific date.

Mr. Goodrich stated, of course, if the resort were not to be built, one of the basis of some of the findings in the fiscal impact report is based upon the resort generating a certain amount of TOT (Transient Occupancy Tax) and other taxes as well as jobs. That would be lost of course.

Supervisor Scagliotti indicated that as of today, there is no condition that would say that the resort has to be built within a certain amount of time. Supervisor Scagliotti stated on the whole, it could be built before the resort if the resort is built at all.

Mr. Goodrich stated that was correct and the only way you might be able to do that is to condition the vesting map. The vesting map is reviewed by the Planning Commission with no requirement to come to the Board. That is something the Board may want consider.

Supervisor Scagliotti felt that the applicant should address that as well so as to be able to come up with some guarantee for those revenues. If 100 rooms doesn't work or if fifty rooms work, it may be reasonable for them, but that resort is a must. Supervisor Scagliotti thought the hotel is a must for this community. It would be a nice asset to this community and the days of promising and getting are gone as far as he was concerned. Supervisor Scagliotti noted a lot of promises have been made and just giving a house doesn't bring in money and we're left with nothing. Supervisor Scagliotti noted he would like to see that issue worked out with the applicants if possible.

Chairman Cruz inquired about the fire station. Chairman Cruz asked if this was a staff recommendation to put in a fire station?

Mr. Goodrich noted it was in the EIR that to mitigate the impacts associated with the development of this project, that they come in with a plan to develop a station and to equip it. There had been a recommendation for money for personnel, but we can't require that. That would be our recommendation that they provide that and then we would need to find the mechanism for manning it and staffing it.

Chairman Cruz stated no where does staff tell us that if they were to do this on this project, that means that this station would also be used for San Juan Bautista and the surrounding areas. Chairman Cruz noted his question to staff is, that doesn't seem right for the applicant to take all that burden and also be there.

Mr. Goodrich noted they (the applicants) are creating, if the residential use wasn't there, the commercial use wasn't there, there wouldn't be a need for a fire station. Mr. Goodrich stated that the EIR has identified that there are response time issues. 8-10 minutes, at minimum, you have morning commute, evening commute and that might go to 15 minutes. Any firefighter will tell you that a house can be fully involved, and for somebody who is having a heart attack, they could be dead. Mr.

Goodrich stated there is a need. There is no full time, fully manned fire station in San Juan Bautista, so they do have to come from Fairview.

Chairman Cruz stated what he was getting to, and for Mr. Goodrich to correct him if he was wrong, he stated he was also going to ask Mr. Fuller some questions, also, but we look at this project and he knows he has received phone calls for and against this, people are looking at as 154 homes right now. While those fall under the 1%, that to him, what would it take to have a buildout like that?

Mr. Goodrich stated it is already laid out as far as the buildout. It has been approved by the Board and you were looking at a buildout at 2010. There will be a certain number of units every year. The amount varies from year to year. Mr. Goodrich stated just because they get the 1%, if you kept adding 1%, 1% and 1%, and say it is all under the 1%, but ultimately, you have enough population to degrade everything in the County from fire to water to roads, so a project that's large enough is still going to create a problem that they are going to need to solve and pay for. Yes, it is an issue that how do you, if they go in, as is the situation in most development, is it is usually the last guy in the door and the first guy in the door, somebody is going to have to pay for it. Unfortunately, the issue comes up now and we need to find a way to develop a County Service Area (CSA) or something like that that will pay for this.

Chairman Cruz inquired about the second access. Right now, there is one way going in and going out. Chairman Cruz asked if staff was recommending a second access?

Mr. Goodrich stated it was not only a recommendation, but was a requirement. He explained the Zoning and Subdivision ordinances requires for projects of this size and with a dead-end road. There is only one entrance there now and that is a dead-end road, it goes nowhere. It has to be under Subdivision Ordinance requirement and the Zoning Ordinance requirement and there has to be a second access. There has to be for fire access. There has to be another way for fire and emergency to come. The obvious one is to take it out on Hwy 156 because the only other way is to go up over the hill and out on San Juan Canyon. That is probably the least desirable of them all.

Chairman Cruz noted that going in you will be going in from Union Road. He questioned if that wasn't big enough? Chairman Cruz stated he was thinking about another entrance. He stated if you go to Hwy 156, wasn't that creating a mess there?

Mr. Goodrich stated he imagined you could create some situations and again, that is a CalTrans issue being, lets say, there is a grass land fire or an explosion out there. We would have people coming out one road, fire trucks going in the other way and there is an accident. That accident is blocked off, a car explodes, there are all kinds of people who can't get out, the fire department can't get in, there is that situation to look to. Will it ever happen? Who knows? There is a 99% chance that it won't but right now, the Subdivision and Zoning Ordinances required two access points. You would have to make a variance finding that there is some hardship or they couldn't do it. However, that isn't a part of today's' consideration.

Chairman Cruz noted on this or any other project in San Benito County because he as been told repeatedly that this project should not go through because they happen to sit underneath a dam. That dam might break. The dam in San Luis Obispo might break some day, we just don't know. We might get a 9.0 earthquake, anything can happen.

Scott Fuller, representing San Juan Oaks, came forward. Mr. Fuller noted Supervisor Scagliotti raised a question about a guarantee for the hotel. Mr. Fuller noted their proposal calls for the hotel to start construction in the third year of the project. Mr. Fuller noted they were very open to the a condition which required them to build the hotel. Mr. Fuller noted they proposed a 100-rooms to start. If that is economically viable, then they would build another 100-rooms. The estimates for the revenue and employment used, were base on the 100-rooms. But the EIR used the 200-rooms to estimate the impacts. Mr. Fuller indicated they covered both sides of that issue and were very open to that.

Mr. Fuller indicated he misspoke when he stated 2006. Actually, their allocations call for them right now to start July 1, 2004, this year. Mr. Fuller stated they were going to request, if we get to the conditions of approval, they were going to request that they start one year later, July 1, 2005 because they needed time to do various studies and reports as a part of their conditions of approval. Mr. Fuller felt they were not going to have enough time to meet the July 1, 2004 start point.

Mr. Fuller noted as far as the affordabilities as asked by Supervisor Kesler, he stated they proposed that of the 30 affordable homes, 15 or half the affordables, are for the very low income. While not required by ordinance, this was something they did in working with Supervisor Cruz. 15 would be for very low and he thought the other 15 were split fairly evenly between low and moderate. Very low, as stated by Mr. Goodrich, at \$150,000, is their estimate also for the sale price.

Mr. Fuller indicated regarding the trees, as he indicated on the display map, all the trees are a part of the wildlife preserve so they will not be touching those trees.

Mr. Fuller stated he wasn't going to go through the whole project again as he has already done so twice. He indicated he was only going to address the staff report so he could clarify some issues. Mr. Fuller indicated in reading the fire hazard zone map in the General Plan, none of the property is in the "very high" area. We do have the hills in the "high" fire danger. But as stated, those are going to be preserved as a wildlife preserve, except we get two estate lots in those 1200 acres each with a 5-acre building area. Mr. Fuller explained where the bulk of the development goes is called the "local responsible building area." We are in that area for the bulk of our development because we read those maps. Mr. Fuller explained this is the area for mutual aid response - CDF, City of Hollister and the San Juan Bautista Volunteer Fire Department.

Mr. Fuller indicated the EIR points out that the site "would not experience response times that exceed the San Benito County Fire Protection Master Plan response standard." So, Mr. Fuller explained, it does comply with response time standards in the County Fire Protection Master Plan. Because it also is subject to mutual aid, it is not only CDF that would respond but the City of Hollister as well. In fact, City of Hollister might be the first to respond and we need to keep that in mind also. Mr. Fuller noted fire was still an issue and they were willing to do at least their fair share.

Mr. Fuller stated the EIR does not call for San Juan Oaks to construct a fire station. The EIR calls for a Benefit Assessment Area to be established or to provide for fire protection facilities and service. Mr. Fuller noted that Benefit Assessment Area is not limited to just them. One thing he noted he has forgotten to point out is that they have proposed full sprinklering for every residential unit and all commercial units. That is a significant mitigation for fire hazard and they have proposed that, not just the combustible areas of the home, but the entire residential unit we have proposed for sprinklering. Mr. Fuller noted they were willing to set aside property for a fire station and were willing, if the County wants them to, take the lead to either establish a Benefit Assessment Area, to collect funds, including their fair share for fire protection facilities and equipment and to take the lead for the county to establish a CSA or activate CSA 26 which he thought was established but has not really been activated. They were willing to take the lead in seeing people in CSA 26 are only to pay for structural fire protection along with ourselves. This wouldn't include having to pay for fire protection for the San Juan Valley.

Mr. Fuller noted regarding traffic, their full build out is 2011 which roughly corresponds with CalTrans' Hwy 156 completion date. We realize there are uncertainties about that and that is an issue. We have agreed to settle all additional Public Works mitigation measures that are not in the EIR that deal with Union Road and the Union Road/Hwy 156 intersection. Our impact fees, which everybody pays, but wanted to point out are almost \$3-million from the residential portion of the project, some of that will go to the County share of the Hwy 156 improvements. Mr. Fuller stated we cannot widen Hwy 156, but by complying with all the rules of the County 1% growth system, including the total number of their lots and the slow buildout of about 28-lots per year, we are consistent with the County's' goals and intentions of allowing managed growth until and while the County's' infrastructure needs are addressed and the County attempts to catch up with that.

Mr. Fuller noted regarding the secondary access road on Hwy 156, we do recognize that as a requirement. He wanted to clarify that they have the right to access Hwy 156 at their current, what is now a dirt road. We do have that right and CalTrans has acknowledged that. We do need an encroachment permit from them, therefore, we need to comply with whatever issues they (CalTrans) comes up with for that encroachment permit. Mr. Fuller indicated if the Board conditions their project to need that encroachment permit, then they cannot go forward without getting that. Mr. Fuller indicated that was an issue for them to deal with with CalTrans but they do have the right to access onto Hwy 156.

Mr. Fuller stated he was available to answer any questions before or after public testimony.

Supervisor Kesler noted she was concerned about the CSA. Sometimes it works and sometimes it doesn't as she knew of a few that weren't working too well. Supervisor Kesler asked if there was something they had in mind to make sure it works, such as a fire station?

Mr. Fuller stating he didn't know much about CSA's but basically knew how they worked. Mr. Fuller noted he didn't know how to make it unsuccessful versus successful, not right now. Mr. Fuller indicated he could research that. Mr. Fuller stated his thought was that either through a Benefit Assessment Area or a CSA, and apparently one does exist, and we would have to do a mail in ballot to see if people in that existing CSA would pay for structural fire protection. That was one option and San Juan Oaks would be willing to take the lead on that. Benefit Assessment Area, of course, are established for many different things such as road improvements or facility improvements such as we were talking about. Their idea was that they would take the lead in attempting to establish those in a way that would be effective and utilizing their site for a fire station and fire equipment. Mr. Fuller felt a CSA could be used for staffing as well, but wasn't sure of that.

Supervisor Monaco noted that it was mentioned that San Juan Oaks was willing to set aside a site on the property for the fire station. How flexible were they willing to be on that site? The establishment of the physical site for a fire station, in other words, do they have this in one particular area that was specifically set aside or is it possible that it could be negotiated for two or three sites that are possible options?

Mr. Fuller indicated they had one area that they had in mind, but were open to other areas as long as they work with the project.

Supervisor Monaco noted his concern about that was in future growth, we might want the flexibility of looking at establishing a fire station in somewhere other than the site Mr. Fuller indicated.

Mr. Fuller indicated they were open to that as well.

Chairman Cruz asked Mr. Fuller if the homes were all going to be with fire sprinklers?

Mr. Fuller indicated that was correct, in the homes and the commercial as well.

Chairman Cruz asked it could be set aside for future use, even though it is not an environmental factor, as the only thing missing from this project is senior affordable housing. Was that ever discussed and could it be possible? Not only manning the station and putting in equipment, but for the future?

Mr. Fuller indicated they would be happy to do more housing, but no additional housing was studied by the EIR, so the map could indicate potential future housing. Mr. Fuller indicated instead of where the commercial site is now, a farmers market, deli, convenience mart, etc. that could be moved and then that spot would be available. Mr. Fuller indicated in their original plan a long time ago before the 1% came in, they did have what they called "senior villas" in that area, where the par 3 sits now, that was an area that could be set aside for a future study. Mr. Fuller stated as long as it was alternative to what is being proposed now, not given, but an alternative.

Supervisor Kesler asked in stead of having a fire station, have a place for senior citizens or both?

Chairman Cruz stated he was having trouble for any project put all the fire truck and equipment for a project for over 150-homes, but see setting aside a lot big enough for some day putting in a fire station with help from the surrounding areas including maybe, San Juan Bautista. But, lets think about putting in, in the future, some senior housing.

Supervisor Kesler noted we weren't talking about 154 houses, but 184 houses.

Chairman Cruz noted that was at the end of build out, the year 2011 and he guaranteed by 2011, San Benito County is going to grow by 20,000 - 30,000 people.

Mr. Goodrich stated to clarify something, you were talking about an area designated for additional senior housing, you don't want to go there right now and open up a can of worms in that if you designate to put senior housing in, you have changed the scope of the project. You haven't discussed the whole of the action, the whole of the project under CEQA, you would have to go back and do another EIR.

Chairman Cruz stated if wasn't an environmental factor, but if we give a break, how about giving the County a break in maybe thinking about putting in future senior dwellings which we do not have in this project. That's all he was saying - is it possible.

Supervisor Monaco asked about the site for the fire house, of allowing multiple options of some sites which would be mutually agreeable. Supervisor Monaco stated for some reason, he liked the flexibility but was willing to be shot down by Mr. Goodrich in being told it wasn't a great idea to go that way or to agree with him.

Mr. Goodrich indicated the Board could designate a couple of site on here that might work. The EIR just addressed fire needs in general they didn't say it had to be right here or there.

Supervisor Monaco, in continuing with that line of thinking, it maybe as this folds out, it may be more feasible to put it in a different site than originally proposed for a variety of reasons. If it is agreeable for the applicant, that maybe we could look at that flexibility.

Mr. Goodrich stated the Board could do that.

Supervisor Scagliotti noted he has sat on the Fire Committee for the past sixteen years and has discussed these issues in years past for different studies. You can point and say you can reserve whatever spots you want. It may not be the appropriate place in San Juan Oaks at all for a fire station. Supervisor Scagliotti noted he didn't think they should be held accountable if the area is going to benefit. It is going to be for CDF and the consultants to say that this is the best response time in the area of benefit that we are going to build this station. That is what has been looked at before. Where is the best response time? Where is the best place for this to be built so that it is close to who it is going to benefit. If it is going to benefit San Juan, then it needs to be built closer to San Juan, if it is going to benefit the valley.

Supervisor Scagliotti noted we shouldn't kid ourselves as there has only been one fire station built in fifty years. If you think you are going to build three more in twenty, God bless you, but he didn't think it was going to happen. You had better be very careful where you build this and along those lines, Supervisor Scagliotti noted he didn't think it was really fair to ask the applicant to come up out of pocket for more money towards a fire station or equipment because it's really not being specific. It is like a buyoff and what we need to do is look at our fire fees overall and look at the cost of buying a piece of property. If we have to buy it or if it is donated to us, where is the appropriate spot, how much is the equipment going to cost then, recalculate our fees and spread it over the entire county like we have done over the past fifteen years so that everyone is paying a proportionate share because everyone will benefit by that new station. This station will not be tied up. That station will respond this side of the valley.

Supervisor Scagliotti noted the other reason is because everyone is talking about CSA 26 which is over twenty years old, never activated and was county-wide. Supervisor Scagliotti noted he has never seen a CSA within a CSA or a Benefit Assessment Area within a CSA. We have available to us CSA 43 which is police and fire. Every new subdivision within the last eight to ten years has been required to annex into. It is not deactivated. It could be activated at any given year that this Board chooses to do which would give you revenue for personnel. It just takes the political mind of this Board to say, for you people that got trapped outside of it and that is one of the conditions of approval were before the impacts are created in the system, they would have to mitigate. If you want to activate something, activate CSA 43 which would give your revenue for police and your revenue for fire. This whole theory of doing something within CSA 26 doesn't fly. Supervisor Scagliotti felt CSA 26 was basically a dead horse unless you go to the people.

This being the noted time and place, Chairman Cruz opened the public hearing.

Rebecca McGovern, San Juan Bautista resident, came forward. Ms. McGovern stated when she last spoke on this project, she asked Mr. Fuller if he would be willing to agree to a 100 house project and no more than that. She stated Mr. Fuller said he would and that was a mistake. Ms. McGovern noted she should have asked the new owners from Japan. We know that the Brandenburg Company has sold the entire project. We do not know if their prize employee is going to stay with them or go with the new owners. Or, if he will leave as soon as the approval process is completed. Ms. McGovern noted the rushing through with this project is, she believed, the result of the propoganda or PR efforts of one man who has insinuated himself into every facet of this community to

guarantee his success which is his job in the Brandenburg Company. Lay the groundwork for this big project. Give time for the project to be sold and then come back home. Ms. McGovern noted Scott Fuller, who proclaims his love for this county and its people and its history, in all the time that he has been here, his family has never come down to live here. He has never been registered to vote here.

Ms. McGovern stated San Benito County, that's the hickville county of the State, the developers all say. Go in, pat them on the head, throw them a few bones, barbecued, build them a pretty picture and you can do whatever you want, which is what is happening here. She wanted to remind the Board of the Rajkovich Mission Green project which was turned down several years ago. It was a 900 unit project on flat, level land and then there was the Mairose project which was reduced down to seven units. She stated the barbecue is on.

Chairman Cruz asked Ms. McGovern if she was saying that he, Supervisor Cruz, was given a barbecue and that is the reason he was looking at this project? Was that what she was saying?

Ms. McGovern stated, no, as she wasn't accusing Supervisor Cruz of anything, but was saying this was what has happened. It was either a barbecue or a dinner or a breakfast.

Chairman Cruz asked Ms. McGovern for who. If she was going to stand there, look him in the eye and tell him for who. Chairman Cruz stated if Ms. McGovern was going to tell him that he has been given a barbecue or whatever, please tell us.

Ms. McGovern noted she was not tell him, but was telling you, not Supervisor Cruz personally, you in the editorial view, create an atmosphere that allows this sort of thing to happen here. We were going to lose all of our valleys. We are going to lose our agricultural economy. We are going to turn this whole county into a suburb of Silicon Valley because we have been targeted as the place to develop which is why this project.

Chairman Cruz stated to Ms. McGovern that he would accept her answer like that because he has been here and seen Hollister grow from 4,000 to 57,000. But, to stand up there and say this project was maybe over a barbecue, those are words that she just got through say and he took exception to that.

Ms. McGovern noted she was not saying that but rather in an editorial sense.

Chris Brigantino, neighbor of San Juan Oaks, came forward. Mr. Brigantino stated on a lighter note, he believed this was a great project. He felt the applicants have complied to a lot of things and the concerns are good ones. Mr. Brigantino felt the sprinklers was a good idea for fire. The access road was a good idea as well and believed with Supervisor Scagliotti about a fire station. Mr. Brigantino noted it could be looked at in a variety of different ways. He asked the Board to approve this project and believed it was run by people who couldn't be beat. Mr. Brigantino thanked the Board for the opportunity to speak.

Gary Clifford, and attorney representing himself, came forward. Mr. Clifford stated he wasn't planning on speaking, but when Ms. McGovern made some remarks specifically that the project was Japanese owned, he didn't know if that was to factor into somebody's thinking on this. Mr. Clifford noted he wasn't sure of the relevance of it, but was married to a Japanese/Brazilian. He grew up playing with Japanese Americans some of whom are farmers in the San Juan Valley. Mr. Clifford noted his father sold tractors to Supervisor Scagliotti's father and has been here a long time. He came back to practicing outside of this area thinking that he would come home, in the age of the internet and practice in a community that was growing and integrating itself and becoming part of the world. Mr. Clifford noted really the fact that we have a project backed by investors that are outside of this area is a positive fact. It just shows that this is indeed a remarkable area of the world and if somebody wants to come here and help build the beauty of this world into something that even more people can appreciate, it is a great thing.

Mr. Clifford noted he just had visitors from Singapore over this past weekend and when bringing them into town, they had no idea where to stay, but coming off of Hwy 156 into Hollister, their first remark was if they didn't know Mr. Clifford, they would be staying at the Cinderella Motel. We do not have a really standout facility to bring people into this area and he thought what San Juan Oaks is proposing in putting us on the map, we can bring people to our community, be proud of what is here and really contribute to overall growth and the economy. Mr. Clifford noted Supervisor Scagliotti's conditioning another resort to generate the jobs and income is a positive step on this, but overall, it is

a situation which is impossible to lose. People are going to be driving by this area on the way to the Monterey area from the Central Valley area as is grows one way or the other. His only question was, do we take some of the money out of their pockets and their cars, put it in our coffee counters or do we send it all to Pebble Beach.

Chairman Cruz noted he was going to say something to Ms. McGovern but didn't about the Japanese. Chairman Cruz stated his daughter-in-law was Japanese and his grandson, his only grandson happens to be half Japanese and half Mexican.

Ms. McGovern, from the audience, noted that some of her best friends were placed in internment camps, so don't tell her.

Chairman Cruz stated it doesn't matter who the money comes from whether it be from Germany or whatever. What did that have to do with the price of tea in China?

Jim Dellamonica, CDF County Fire, came forward. Chief Dellamonica stated he would like to clarify a couple of things brought up here. One, placement of the station. We looked at the EIR when it first came out and one of the reasons they chose close to Union Road by the eucalyptus trees was because it would give them easy access in and out of San Juan Oaks and Union Road to be able to go anywhere out in the County not exclusively for San Juan Oaks.

Second, Chief Dellamonica stated the fire station would be a San Benito County fire station and not a private San Juan Oaks fire station. It would go anywhere in this County and it would also be your only County fire station.

Third, Chief Dellamonica stated the mitigation that was put in the EIR that three mitigations, one being a piece of land dedicated, two being a piece of land, he believed with a station and three being a piece of land with a station and equipment. Obviously, the fire service is prone to number three - a piece of land with a station and equipment. This is not totally unheard of, in fact it is quite regular on projects of this size. An example would be Pebble Beach, Spanish Bay resort was required to buy a 100-foot aerial truck for the fire department in order to build their hotel. The main reason being there was nothing in Pebble Beach that could reach three stories. In this instance here, what you are looking at is 186 homes, not counting the 100-200 unit hotel, not counting the convention center commercial area. If you do the math with the meaning average American family being four, you were putting quite a population out there. Now fire, we can mitigate that. It just takes us a little longer to get there and it will burn a little more. Sprinklers would be required anyhow.

Chief Dellamonica felt more of a life safety issue here. 8-10 minutes, yes, fourteen years ago fell within the Master Plan for response times, that was the last time it was done. Chief Dellamonica stated 10-12 minutes on a good day, with no traffic is still 6-minutes longer than it takes for a person to live with a heart attack. How many good days do we have on Union Road or Hwy 156 when there is no traffic? No matter how you look at it, if we have to come from Fairview, you were looking at a pretty big responsibility being put on their backs to get there because of the population being put in there. Chief Dellamonica noted he understood the concerns. They were placed on the mitigations in the EIR for a reason and he just wanted the Board to look at them real closely and feel free to ask any questions. CDF was in favor of the project and Chief Dellamonica wanted the Board to know that as well.

Hearing no one else wishing to address the Board, Chairman Cruz closed the public hearing period.

Chairman Cruz asked Mr. Goodrich if there was anything else he wished to state at this time.

Mr. Goodrich stated this was more on a personal planning level and just wanted to recognize Mr. Fuller for a couple of meetings - one before the Planning Commission and one before this Board of Supervisors. Mr. Goodrich wanted to thank Mr. Fuller for being able to work with him. There were a lot of times that Planning Staff has been bashed for not working with people or not wanting to work with people, but Mr. Fuller would be the first one to tell the Board that they might not have agreed with everything on this project and probably still don't, but we were able to sit down at a table, across from each other and have a conversation. Mr. Goodrich just wanted to thank Mr. Fuller for that as it was appreciated at staff level when someone recognizes that we do try hard to work with people.

Chairman Cruz stated this Board realized, especially he personally, as he has sat on the Planning Commission for seven years and did realize it wasn't that easy being at that level.

Chairman Cruz stated since he has closed the public hearing, if there were any questions from the Board at this time.

Supervisor Loe asked Mr. Goodrich, on the fire situation, she stated she was just as confused now as she was to begin with. Supervisor Loe asked when would the final decision be made as to what the mitigation, the actual mitigation and at what step of the process would that happen?

Mr. Goodrich stated right now. This all falls on the Board because if you certified the environmental document today, or some point in the future, mitigation measures from that, when preparing the resolutions reflecting Board direction, the Board is the one that makes that decision. Mr. Goodrich stated the Board would either have to override various impacts and say we don't need those, or yes we need these mitigation measures. Mr. Goodrich stated it was all up to the Board of Supervisors.

Supervisor Loe noted according to the report, she noted there were three alternatives. The Board of Supervisors needs to pick one of those alternatives today?

Mr. Goodrich noted the Final EIR spells out what the recommendation is for public services under fire and it discusses fair share fees to fund one or more of the following components and lists those. Mr. Goodrich stated if you adopt that mitigation measure, the fair share fees would go for funding of one of those, not all of them, but it lists provision for a future fire station construction, new fire station equipment and it goes down the list. It could go for any one of those. If the Board wanted to be a little more specific, pick one or two, that what their option.

Supervisor Loe noted when Supervisor Scagliotti brought up CSA 46, if we were to decide we wanted to look into implementing that, what would the steps be?

Mr. Goodrich noted he wasn't familiar with the CSA process and deferred the question to Planning Director Rob Mendiola.

Mr. Mendiola, from the audience, noted we could extend the CSA or include this in 43, either way, we can address that.

Supervisor Loe stated we had talked about another CSA hat was brought up that was the whole county.

Mr. Mendiola stated that was CSA 26.

Supervisor Loe noted if we wanted to go with a CSA, we should be talking about CSA 43, correct because that was more of a general CSA.

Mr. Mendiola noted if that was the direction we were headed, then yes.

Supervisor Loe asked if that was a requirement for approval?

Mr. Goodrich stated no it wasn't. However, one of the issues that the Board may want to consider is that you are just looking at certifying a document, a General Plan Amendment and a Zone Change. Normally, a General Plan Amendment and a Zone Change don't necessarily have conditions of approval on them. The bulk, 99% of the conditions of approval that you may want to see on a project of this type would be on the vesting tentative map. The vesting tentative map, at this particular time, only reviewed and approved by the Planning Commission. At one of the previous meetings, under one of the motions that died, was to bring, for the Board to see, the entire vesting tentative map and all of the conditions of approval. Mr. Goodrich stated that might be one of the things the Board may want to consider because those are going to be very significant - those conditions of approval.

Supervisor Scagliotti noted one of the questions being asked by Supervisor Loe was at the tentative map stage, it is a requirement. The whole point was that if create another CSA, which they probably will for other services in this development, you will have a duplication of fire by saying that you have fire in the new CSA when a condition of approval for all subdivision maps in San Benito County is annexation into CSA 43 for police and fire, therefore, it is covered.

Mr. Goodrich noted that would be included.

Supervisor Loe noted she wanted to take this one step further in order to understand this - as Mr. Fuller said, they would be interested in going forward as a lead agency in putting together a CSA that would address fire protection in the Valley and work with the people in the Valley to increase fire protection. Supervisor Loe asked how would we put that mechanism into place if this Board decided they wanted to do that?

Mr. Goodrich noted you could put that in as a condition. We could craft language and put it in as a condition of approval. Mr. Goodrich noted if the applicant is unsuccessful, does he satisfy the condition by going out and trying or does he actually have to do it? There has to be some tests, litmus test. He either tries and we relieve him of that condition or he does something else. This is certain open ended condition and Mr. Goodrich felt the Board was trying to make it a little bit tighter.

Supervisor Loe stated that was correct.

Mr. Goodrich agreed the Board was trying to make it tighter, but didn't know, as this was somewhat of an open ended condition that they (the applicants) work with the people in the Valley and may not have it nor get anyone. So, does that mean he fails and the whole project goes away or is there some other test. Mr. Goodrich stated he didn't have an answer and didn't know if there was a legal way out.

Chairman Cruz cited work with the people in the Valley. What did that mean?

Mr. Goodrich stated that was his question. What is working with the people? How many people did he have to get? What did you want them to do - campaign, want them to run, knock on everyone's door, send out mailers? Mr. Goodrich stated that was part of his concern. If he has a condition that say work with the people, and I say Mr. Fuller, you are supposed to work with the people and Mr. Fuller says, work with the people?

Chairman Cruz, for example, stated if I live already there and you knock on my door, of course I'm not going to give you another penny. His response would be go to another door as he wasn't going to pay, regardless if this was the best thing ever in the County.

Mr. Goodrich indicated he didn't know how, as a condition of approval, how he would hold Mr. Fuller up to, yes you met it or no you haven't.

Chairman Cruz asked if any future building, anywhere in that area, would have no other choice but to join CSA 43, is that possible?

Mr. Goodrich asked for a subdivision? Yes, that would be a condition. If you have a single family lot of record, he wasn't sure we could force anybody to do it. The building permit is a ministerial act, we just have to sign it off. But, if it is a subdivision, a division of land it would be done.

Mr. Fuller noted one idea, and he wasn't aware of CSA 43, but with what Supervisor Scagliotti has said, with CSA 26 not being viable, but CSA 43 being one mechanism, one solution would seem to get to what Supervisor Loe is saying would be, CSA 43 becomes a condition that our residents have to contribute to that. Number two, we could still set up, he thought, a Benefit Assessment Area which is similar to what the Board does with roads. Mr. Fuller explained they would set up a Benefit Assessment Area for fire protection which includes us and, he knew Mr. Goodrich mentioned what the limits of that are, we could working with the Fire Department and the Fire Safety Committee determine the limits, reasonable limits of the Benefit Assessment Area and charge ourselves and new development a fee for structural fire protection or public safety if you want to broaden it.

Mr. Fuller stated, admittedly, that is a slow process because you only collect money as development occurs, that is true. That is the negative of that. But, that might be one, in other words, if we give a site, we come into CSA 43, which he wasn't familiar with but one that raises money for fire protection, and we establish a Benefit Assessment Area which we contribute to and broaden it and get additional contributions, that would at least be one program that you could at least have some perimeters around as opposed to being open ended. Mr. Fuller felt with a Benefit Assessment Area, it wouldn't be a matter of knocking on doors and saying you have to contribute to this. It is for new development, so as someone goes and gets approvals, they are required to do that just as the Board did a Benefit Assessment Area for the future widening of Union Road. Mr. Fuller noted the negative is, it is slow but then their project build out is slow too since it doesn't finish until 2011. Combining CSA 43 which exists, with a Benefit Assessment Area with their site, you have some kind of a program.

Supervisor Loe asked Mr. Fuller, and noted it might be a premature question, she knew that Mr. Fuller couldn't give her a direct answer, but we were looking into a Transfer of Development (TDC) program. Would San Juan Oaks, as some point, be interested in participating and promoting, although she knew Mr. Fuller couldn't say to what degree, but would they work with the program?

Mr. Fuller noted they, again not knowing what the program would be, were certainly be willing to work with it to try to part of that type of program. We have done agricultural easements before. A long time ago, we discussed credits with the farmers in front of us when we might have a bigger project before the 1%, so we are quite familiar with the concepts. We would be willing to talk with people about it, participating as appropriate, promote it. We think done properly, is certainly a viable and good thing for this County.

Chairman Cruz would like to entertain a motion, but prior to accepting one, he stated he would like to state we have a project here that has been on board for many years now and we have them including 30 affordable homes, there hasn't been another project in San Benito County and looked at some of the developers out in the audience who have never come before this Board with any low, affordable homes in San Benito County. Here we have a project that will give us some affordability here and are willing, though not in the EIR and not even mentioned, but are willing to work with us for senior housing which we also need. We have a project that probably if following the 1%, not knowing what's going to happen in the years to come, but the total buildout done in 2011. As far as fire protection, this isn't something new regarding CSA 43, if we can work things out with CSA 43 do so. Regarding traffic, we have a problem with traffic on Hwy 156 and that's not going to go away. In San Benito County, we can punish all of the developers by stating until Hwy 156 is either widened or the "three-in-one" goes into effect, but punishing our developers, our own people, we have to go to the other side of Pacheco Pass and stop the Santa Nellas, the Pattersons, Gustine from using Hwy 156 as they are building like mad. There is only one way to get to Santa Cruz, Monterey, San Luis Obispo and Santa Barbara, and that is via Hwy 156. We have a choice - either punish everybody and stop growth or do it the proper way. We do have the mechanics to do it the proper way. We did go into a 1% two or three years ago and it is a good mechanism to control growth. This was a good project as far as he was concerned and felt the affordability on this outweighs some of the comments received here today.

Chairman Cruz noted it wasn't too long ago that there was a group of people that said the farm workers would never be able to afford a home and they were going to lose their jobs, etc. Well, he didn't know how that came about, but there maybe a possibility here that they might now be able to afford a home and concluded by noting this was a good project.

Supervisor Loe indicated she made some notes but wasn't sure where they fell into the process and asked Mr. Goodrich if he could let her know what has to happen. On the encroachment permit that the applicant go forward with CalTrans with the permit on the secondary access to which Mr. Goodrich indicated that was correct.

Supervisor Loe cited the letter from the San Benito County Water Board that those conditions be placed on the project to which Mr. Goodrich indicated that was correct.

Supervisor Loe that the resort start building within the three year period or at the end of the three year period. That we bring back the vesting tentative map for the Boards' approval with the conditions so the Board can look at the final conditions on that. That there be sprinklers installed in the houses and that we do look into the Benefit Assessment Area.

Mr. Goodrich noted most of what was described by Supervisor Loe would be conditions placed on the vesting tentative map so we could bring that back after the Planning Commission reviews the project. But, it would include all of those conditions. Most of them he has already worked into the conditions of approval that we would bring to the Planning Commission and at the Boards' direction, bring that back to the Board for review and concurrence.

Supervisor Scagliotti asked Supervisor Loe what her issues were again.

Supervisor Loe responded the encroachment permit, the Water District conditions and that the construction on the resort begin with three years and that the vested tentative map come back to make sure that it met with the conditions of the four, the sprinklers and the affordable housing.

Supervisor Scagliotti asked about the fire station.

Supervisor Monaco asked if that would be handled with the vested tentative map if we wanted to look at optional locations? Supervisor Monaco noted he still wanted to include that.

Mr. Goodrich noted we could write a condition to look at alternate areas for a fire station.

Supervisor Monaco noted he would like to include that.

Supervisor Scagliotti explained to Supervisor Monaco that part of that is what is the condition that he wants? Supervisor Scagliotti noted he read three scenarios where they buy equipment, build a station and equipment and build a station, buy equipment and man it.

Supervisor Monaco noted he was just interested in the site, a designated site for a fire station.

Supervisor Scagliotti asked dedicate a designated site?

Supervisor Monaco stated yes, but wanted the option open to the Board, so that it is not just one designated site, that the Board have the option of other sites available.

Supervisor Scagliotti noted supposing it wasn't on the project property?

Supervisor Monaco noted we couldn't necessarily hold them (the applicants) to something that is not on their property.

Supervisor Scagliotti noted he wanted to make that clear. Theoretically, if you do a fire study, let it show that it could be somewhere else in the valley, more appropriate.

Supervisor Monaco noted he understood that, but at this stage, with their (San Juan Oaks) commitment to a site or possible three because his thinking was it may come to a point after widening Hwy 156 or something, we might want to look at a site off of that secondary access road for a fire station at some point.

Supervisor Scagliotti agreed but just wanted to point out that it might not be on their property and that needs to be explained here that we don't know and cannot make that call today. There is no basis nor desire to make the applicants do anything other than designate just a site to which Supervisor Monaco indicated that was correct.

Supervisor Loe noted if the site is not on their property, what, then, are we asking them (the applicants) to do to which Supervisor Scagliotti indicated to pay their fees.

Supervisor Loe understood that, but weren't they (the Board) asking for something over and above that? She would assume if they were not going to give us the land, they would have to pay into the land or then give us something. We are going to have to make some overriding findings here and part of those are because we are going to get a little extra on the fire protection. If it is not the land, then it should be something else.

Supervisor Monaco noted he didn't have a problem with that but maybe ask Mr. Fuller or Mr. Goodrich to address that.

Mr. Fuller indicated they would rather give the land because they had so much of it. But he understood Supervisor Scagliotti's point that if there is a better spot, that's the spot that you got. Mr. Fuller noted they were willing still to do a Benefit Assessment Area and are willing to do that and that would establish not only them paying fees but setting up a mechanism to collect additional fees which would go towards all these other things.

Mr. Fuller explained the Board wouldn't have to make overriding considerations if they did that because that is what the EIR calls for. It calls for the establishment of a Benefit Assessment Area and us paying our fair share and we are willing to do that.

Mr. Fuller indicated the answer would be they were willing to set aside a site, be flexible about where that might be on their property. Were willing to establish a Benefit Assessment Area, work on that and pay their fees, collect other fees whether it is on their land or some other place that is a better spot.

Supervisor Loe asked if the Board didn't build the station on their site, was the County still going to get the money?

Mr. Fuller noted that could be discussed and suggested taking a break and was willing to discuss that matter with Supervisor Loe.

Supervisor Scagliotti noted to Mr. Goodrich, in his Board letter, he had a potential condition where the project applicant could be required to find the land on which to locate the fire station, construct the fire station and furnish equipment as a one-time cost.

Mr. Goodrich stated the Board could require that.

Supervisor Scagliotti noted that was his point - not only does the County get the land, but they get construction and equipment.

Mr. Fuller stated, lets say their site, and noted the City site was four acres, one idea was that the County didn't use their land because the County found a better site, you could trade that land to

someone else. The Board could sell it, use it, etc. In other words, that land would be available to the Board, 4-5 acres, to generate revenues from even though the Board didn't use the land for a fire station. This was just another idea to raise money.

Supervisor Loe noted that addressed her question. Ultimately the Board would get the four acres to which Mr. Fuller indicated that was correct.

Mr. Fuller indicated whatever was an appropriate size, the Board could leverage that for the other site that the Board determines may be a more appropriate location.

Supervisor Scagliotti stated to Mr. Goodrich that regarding one of the options discussed, he asked County Counsel Forcum if there would be a problem if the applicant was to dedicate the land, build a station and equip it, there is a significant capital outlay, it would also then be required to pay the fire impact fees. There is the question of duplication there, legally, can you do that what they built and what they dedicate to the County? Can they get a credit towards their impact fee?

Counsel Forcum stated that was a good question and noted she didn't have an answer without further research but she imagined there would be some sort of provision for a credit given that they would have, or potentially, paid into the capital facility. Counsel Forcum noted she could research that further and didn't know how that would be implemented in reality.

Supervisor Scagliotti noted the station should be built and equipped and then worry about whether it would be the Board's basically, job to fund the personnel for that station. It is a benefit to the whole county. Supervisor Scagliotti stated if it was legal to do both, then he would ask the Board to do consider it. After all, one thing the Board has to remind themselves is that this is basically a gift of the public for increasing these densities. Densities never were established or in the General Plan out there. This is something that is requested to increase the density on an area wasn't settled in the General Plan to be this high of a density. They (the applicants) are providing considerations, jobs, a tax base, Transient Occupancy Tax, but again, Supervisor Scagliotti thought we needed to balance what we can ask them for the most public benefit and that would be something that is a huge public benefit. Supervisor Scagliotti noted the bottom line was he wasn't opposed to asking for that condition and stated he would make that request that the applicants be required to provide the land, locate the fire station, construction the fire station and to furnish the equipment as a one time cost.

Supervisor Scagliotti noted the rest should be worked out with County Counsel, the duplication of charging for fire impact fees. Supervisor Scagliotti noted this might take some negotiations with the Board and would probably require changes to the ordinance and the impact fee structure itself for the one time credit. Supervisor Scagliotti asked that that condition be part of the conditions - that the fire station be built and the equipment be provided.

Chairman Cruz wanted to make sure he understood Supervisor Scagliotti correctly, for the applicant to put up all the money for the fire house?

Supervisor Scagliotti stated exactly. One of the conditions be, that the applicant dedicate the land, build the fire station and man it.

Supervisor Monaco asked if it was to be manned as well?

Supervisor Scagliotti stated no, it will be equipped.

Chairman Cruz noted he wasn't sure what the applicant would say about that.

Supervisor Scagliotti noted it wasn't up to the applicant, Chairman Cruz. The point of the fact was again, that you are in reality giving something to an individual or corporation that did not exist. In reality, it is a gift of some type of public funds because you are allowing somebody to create impact that will not fully be mitigated. By your own actions, you are going to make overriding considerations because of the traffic impacts and other things. The point is Supervisor Scagliotti believed that for the public good, one of the considerations should be that they (the applicant) make this contribution. Supervisor Scagliotti noted the Board be willing to look at not compensating double by paying their impact fees while building this facility. Again, if you think they are going to build 150 custom home sites on a golf course of the magnitude they are talking about for the resort and they are going to lose money, then he didn't know what else to explain. You are looking at \$500,000+ lots, do the math. You are not looking at \$5million, you are looking more at \$75million worth of land sales just in the lots. Yes, they are going to have to put out some infrastructure, but let's be realistic. That is going to be

there forever, there is no changing it. Supervisor Scagliotti noted it was a small price to pay for the good of the community.

Supervisor Monaco noted we had to have some clarification about the impact fees at some point. He realized that Counsel Forcum had to research that.

Chairman Cruz noted to Supervisor Scagliotti, in order to approve this project, they (the applicants) had to put up a fire station and equip it.

Supervisor Scagliotti stated that was correct and the County has to man it.

Chairman Cruz noted was that between now and 2011 or how soon would that have to be.

Supervisor Scagliotti noted that has to be worked out with the applicant. Supervisor Scagliotti noted that doesn't have to be done up front, but phased in over time, probably mid-construction time by 2005. Again, we need to get a legal opinion on the impact fees so that can be accomplished. Supervisor Scagliotti noted he didn't want them (the applicants) to have to pay double. They will be paying more, he believed, just by paying the impact fees, but again, they are receiving more, a lot more.

Chairman Cruz asked Mr. Fuller if he would like to address this issue.

Mr. Fuller stated he understood sitting in that chair, he understood that. Mr. Fuller appreciated Supervisor Scagliotti saying not in the beginning, but at some reasonable time because that is very, very important that they be allowed to have some revenue prior to making that kind of considerable expense. Mr. Fuller stated we felt it would be fulfilling their obligation, based on their impact, to give the site and set up the Benefit Assessment Area and pay their fair share. Mr. Fuller noted we still feel that and again understood where Supervisor Scagliotti was coming from. We feel that for 150 homes, knowing the need for fire protection and everything Supervisor Scagliotti said, we still feel that is excessive for us to do ourselves. If the Board insists on that, then the Board insists on that. That is their privilege. We would ask that if the Board does insist on that, at least, and Supervisor Scagliotti mentioned that, is we get to see if can apply our fire mitigation fees to that. Mr. Fuller indicated he had no idea what those fees are and how they might impact that.

Secondly, Mr. Fuller asked that they be allowed to set up a Benefit Assessment Area that is bigger than them so if we, similarly to the way we did the stoplight at Union Road. We put that stoplight in up front, but set up a Benefit Assessment Area and got reimbursed over time as future developers and future development which benefits from that stoplight developed. Mr. Fuller noted he wanted to be clear in what they proposed, was reasonable for their impact but understood that the Board has the right to require more than that. Mr. Fuller noted if the Board does require that, they would ask, as Supervisor Scagliotti mentioned, that the Board work with them on the timing of it, reasonable timing.

Thirdly, Mr. Fuller asked they be allowed to set up a Benefit Assessment Area because this fire station will not only serve us, but will serve, and you are not going to assess current residents, only a Benefit Assessment Area to assess future development that will also benefit from this fire district so we get reimbursed for our up-front costs that we outlay, if the Board is going to move forward and approve that.

Chairman Cruz asked Supervisor Scagliotti if that was more or less what he wanted.

Supervisor Scagliotti stated what he wanted was very clear. He would ask the Board to consider placing the condition that he read from staffs' report that the applicant be required to dedicate the land, build the fire station and equip it. He asked if the Board wanted to also consider action of creating a Benefit Assessment Area, the Board can add that too. But, the Board needs to understand that would be the Boards' responsibility and the Board would be taxing their constituents as that what a benefit area is. You will tell everybody in that area when you draw that circle in that area, if you create a parcel or build a house, you are going to pay a fair share. Every property owner will be notified and your chambers will be packed when you do that, but that's the critical choice the Board has to make.

Chairman Cruz stated you can't do that.

Supervisor Scagliotti noted in a Benefit Assessment Area you most certainly can. You can't force them to pay it up front, but at the time that a building permit or lot permit is taken out, depending on how it is conditioned, you can do that. Supervisor Scagliotti noted his whole point was again, this

isn't an ordinary subdivision. This isn't a piece of property that had 154 parcels that are in the General Plan that allowed itself to be divided into this high of a number. This is a General Plan Amendment - this is an amendment to the General Plan asking to increase the densities. If you start giving these densities away as we have in the past, you get nothing but problems that you can't mitigate which we are dealing with today. All of the problems that we have today are done because this Board failed to implement proper mitigations over the years. To keep doing that, Supervisor Scagliotti believed was wrong especially when General Plan Amendments, you have broad powers and you need to apply those powers and have people pay not only their fair share, but to mitigate and have the general public of the county gain, as a whole. The people need the benefit, and the benefit in this would be that they have better fire protection. Supervisor Scagliotti stated you are giving them probably 100 units more than what they are allowed under the current General Plan designation today. The Board needed to remember that. They (the applicants) were asking the Board to give them something. When you give something at this level, you're giving from the taxpayers and not out of your pocket. You were giving them (the applicants) and extra 100 units, an extra 100 impacts which impact this whole county. Supervisor Scagliotti explained that is why this is a small price to pay for the amount of money they are going to receive from their investment.

Supervisor Scagliotti noted they (the applicants) have done a tremendous job. There is no doubt about it. You put the pressure to them and Mr. Fuller should be applauded because he showed everybody it can be done and can be done in an appropriate fashion to the best of the community. Supervisor Scagliotti stated if he was Mr. Fuller, he would be arguing harder than Mr. Fuller has regarding the fire station. But, unfortunately, Mr. Fuller was on one side and Supervisor Scagliotti was on the other side.

Chairman Cruz stated he was going to base his vote on whether the applicant can live with that or not live with that.

Mr. Fuller stated he understood all those points. He thought for them, if every 186 lots required a fire station, you would have 70 fire stations in the county. Mr. Fuller knew there was a built up need for this and they were trying to address that, but we still feel that their 186 lots, by itself, what they have offered, was appropriate. Mr. Fuller stated it doesn't require a fire station. If they end up building one, we should at least get what they asked for before and maybe it should be appropriately sized for their development then. In other words, if this is a gift, and he understood that concept about amending the General Plan, that maybe if they had to do that, it should be sized for their development and not for the entire county if they were going to have to pay for it all. Obviously, they would respond outside the property, but if it is for their project, then it should be sized for their project if they have to move forward with that.

Mr. Fuller still noted on the record that we think that condition is excessive for their development, but again, acknowledging Supervisor Scagliotti, the points he was making. Mr. Fuller still felt what they have offered was appropriate for the size of their impacts.

Chairman Cruz asked Mr. Fuller, before making the vote here, could they (the applicants) live with that?

Mr. Fuller noted the answer to that was we object to it, but as Supervisor Scagliotti said, the vote is up to the Board. But, they would have to object.

Supervisor Loe asked Mr. Fuller, if the Board were to decide to go forward with this, then obviously the fire sprinklers wouldn't be needed in the homes.

Supervisor Kesler stated no, that wasn't correct.

Supervisor Loe asked if the sprinklers were still necessary to which Supervisor Kesler noted that was correct as it was a law.

Mr. Fuller stated he didn't think it was a law.

Supervisor Loe asked if the project would still go ahead with the fire sprinklers in the houses?

Mr. Fuller stated they probably would. This was such a good, safe thing that they probably would still go ahead with the sprinklers.

Supervisor Scagliotti made the motion for the Board to consider the issues that were addressed by Supervisor Loe and also the condition that was just discussed, the dedicated station to

be built and equipped and that the Benefit Assessment Area be established to reimburse San Juan Oaks for the oversize.

Chairman Cruz asked if this was in the form of a motion.

Supervisor Scagliotti noted that was in the form of a motion. That covered all of the issues.

Supervisor Loe was second on the matter. However, under the question, Supervisor Loe noted we could use this for reimbursement on their fees if that is legal?

Supervisor Scagliotti added that to his motion that we look at the credit of impact fees. Supervisor Scagliotti noted the Board needed a legal determination if they could do that - give San Juan Oaks a credit towards their fire impact.

Under the question, Counsel Forcum asked if this was a motion with regard to direction to staff on a resolution? Counsel Forcum noted that the resolution would include a reference to the certification of the EIR and adoption of the Mitigation Monitoring Reporting Program, approval of a Statement of Overriding Considerations and then a recommendation to approve the General Plan Amendment and Zone Change.

Supervisor Scagliotti indicated that was correct, to incorporate that into his motion with Supervisor Loe, as second on the matter, concurring..

Under the question, Supervisor Monaco asked if that would include the option of looking at different sites as he mentioned before?

Supervisor Scagliotti indicated that was correct.

Chairman Cruz called for a roll-call vote with the results as follows:

Supervisor Loe - yes

Supervisor Scagliotti - yes

Supervisor Monaco - yes

Supervisor Kesler - no

Supervisor Cruz - yes

Motion passed 4-1.

Upon motion duly made, seconded and carried:

- a) *directed that the conditions outlined in a letter received from the San Benito County Water District be included;*
- b) *the applicant move forward with CalTrans regarding obtaining an encroachment permit for the proposed secondary access to the project;*
- c) *begin construction on the hotel/resort begin within the first three years of project construction;*
- d) *dedication of land for a fire station to be built and equipped by applicant;*
- e) *that a Benefit Assessment Area be established in order to reimburse San Juan Oaks for the oversize;*
- f) *direct County Counsel review and return with an opinion regarding potential credit to the applicants regarding fire impact fees;*
- g) *direct Planning Staff return to the Board at their meeting of May 4, 2004 with applicable resolutions/ordinances reflecting certification of the EIR; adoption of the Mitigation Monitoring Reporting Program; approval of a Statement of Overriding Consideration and approving the General Plan Amendment and Zone Change.*

Motion passed 4-1 with Supervisor Kesler voting no on the matter.

Supervisor Kesler noted she was not ready to cement over the environment at this point, she wasn't ready to do that and that was the reason for her vote.

Mr. Goodrich noted for clarification, he had to prepare the resolutions and asked if the Board wanted to set a date specific for him to bring that back?

Chairman Cruz noted as soon as possible.

Mr. Goodrich noted he would have to have everything ready and available for Counsel for next Wednesday, the 27th, and felt that was a little quick.

Chairman Cruz asked Mr. Goodrich if May 4th was better to which Mr. Goodrich indicated that would be better. **(file #790)**

The vote of each member of the Board of Supervisors upon each matter at the foregoing meeting, unless otherwise stated, was as follows:

AYES: SUPERVISORS: P. Loe; R. Scagliotti; R. Monaco, R. Kesler & B. Cruz
NOES: SUPERVISORS: None
ABSENT: SUPERVISORS: None

There being no further business the Board adjourned to its next regularly scheduled meeting on Tuesday, April 27, 2004 at 9:30 a.m.

BOB CRUZ, CHAIR
San Benito County, Board of Supervisors

ATTEST:

BY:

John R. Hodges
Clerk of said Board

Sally Navarez
Assistant Clerk of said Board