

Minutes For May 14, 2002

The Solano County Board of Supervisors met in regular session on this day at 8:28 a.m. The meeting was called to order by Chairman Carroll. All members were present.

CLOSED SESSION: The Board moved into Closed Session at 8:29 a.m. to discuss Meet and Confer: Unit 16, Mid Managers with Yolanda Irigon, Director of Human Resources. The Board moved out of Closed Session at 8:45 a.m.

The Solano County Board of Supervisors reconvened on this day at 8:48 a.m. with the Pledge of Allegiance and a moment of silence.

PRESENTATIONS

(Item 7A) RESOLUTION NO. 2002-105 DECLARING THE WEEK OF MAY 12 THROUGH MAY 18, 2002 AS TRANSPORTATION WEEK IN SOLANO COUNTY, ADOPTED

On motion of Supervisor Silva and seconded by Supervisor Thomson, the Board acted to adopt Resolution No. 2002-105 Declaring the week of May 12 through May 18, 2002 as Transportation Week in Solano County. So ordered by a vote of 5-0.

(see Resolution Book)

On behalf of the Board, Supervisor Silva presented Resolution No. 2002-105 to Director of Transportation Charlie Jones who received the resolution on behalf of his department and a number of the road crew that were in attendance. Mr. Jones reviewed the history leading to the celebration of Transportation Week.

(Item 7B) RESOLUTION NO. 2002-104 RECOGNIZING C. RANDY KITTS UPON HIS RETIREMENT FOR HIS MANY YEARS OF SERVICE TO SOLANO COUNTY, AND PLAQUE OF APPRECIATION, APPROVED

On motion of Supervisor Thomson and seconded by Silva, the Board acted to adopt Resolution No. 2002-104 honoring C. Randy Kitts upon his retirement. The Board further acted to authorize a Plaque of Appreciation for Mr. Kitts. So ordered by a vote of 5-0. (see Resolution Book)

On behalf of the Board, Supervisor Thomson presented Mr. Kitts with Resolution No. 2002-104 and a Plaque of Appreciation honoring him upon his retirement after thirty-five years of service to Solano County.

Mr. Kitts likened his departure to leaving a family, friends, and many memories behind.

Assessor-Recorder Robert Blechschmidt thanked Mr. Kitts for his 35 years of dedication and loyalty to the County.

APPROVAL OF AGENDA

On motion of Supervisor Kromm and seconded by Supervisor Kondylis, the Board acted to approve the submitted Agenda, incorporated herein by reference, with the following modifications:

(Item 14) Approval of a resolution and various documents to provide for the issuance of \$45,000,000 in General Obligation Bonds for the Fairfield-Suisun Unified School District, removed from the Consent Calendar.

(Item 15) Approval of release of accountability for unaccounted for fixed assets in the amount of \$18,781 (Probation), removed from the Consent Calendar.

(Item 18) Approval of a cooperative agreement for literacy joint venture projects with Vallejo City Unified School District and the City of Vallejo, removed from the Consent Calendar.

So ordered by a vote of 5-0.

CONSENT CALENDAR

On motion of Supervisor Kondylis and seconded by Supervisor Kromm, the Board acted to approve the following Consent Calendar items by a vote of 5-0.

(Item 12) MINUTES OF THE BOARD OF SUPERVISORS MEETING OF APRIL 23, 2002, as outlined in the Agenda Submittal from the Clerk of the Board dated May 14, 2002, incorporated herein by reference, approved.

(Item 13) NAME CHANGE FOR ULATIS RESOURCE CONSERVATION DISTRICT TO SOLANO RESOURCE CONSERVATION DISTRICT, as outlined in the Agenda Submittal from County Counsel dated May 14, 2002, incorporated herein by reference, approved.

(Item 16) AGREEMENT WITH LEVEL II INCORPORATED RE CALIFORNIA
LAW ENFORCEMENT
TELECOMMUNICATIONS SYSTEM (CLETS) MESSAGE SWITCH, as outlined in
the Agenda
Submittal from the Sheriff dated May 14, 2002, incorporated herein by
reference,
approved and Chairman authorized to sign said contract on behalf of Solano
County.

(Item 17) CORPORATE HANGAR LEASE AGREEMENT WITH COPART AUTO
AUCTIONS, INC.
CORPORATE AIRCRAFT HANGAR AND SUBLETTING AMENDMENTS, as outlined
in the Agenda
Submittal from the Department of Transportation/Airport dated May 14, 2002,
incorporated herein by reference, approved and Airport Manager authorized to
execute the agreements on behalf of the County.

ORDERS

(Item 15) RELEASE OF ACCOUNTABILITY FOR UNACCOUNTED FOR FIXED
ASSETS
(PROBATION DEPARTMENT), APPROVED

The Board was provided with an Agenda Submittal from Probation dated
May
14, 2002, incorporated herein by reference, regarding releasing the
department
of responsibility for unaccounted for fixed assets.

Donald Tipton, Vallejo, expressed concern that unaccounted fixed assets
are becoming a reoccurring problem, with the information left on the missing
computers that could be used to the detriment of the County, and feels each
situation needs a police report to show what is missing.

Supervisor Kromm noted that most of the equipment missing is old, and
looks to the future to ensure the newer assets are better accounted for.

On motion of Supervisor Kromm and seconded by Supervisor Silva, the
Board
acted to release the Probation Department responsibility for the unaccounted
for
Fixed assets. So ordered by a vote of 5-0.

(Item 14) RESOLUTION NO. 2002-106 AND ORDER AUTHORIZING THE
ISSUANCE AND SALE
OF FAIRFIELD-SUISUN UNIFIED SCHOOL DISTRICT, NAPA AND SOLANO

COUNTIES, GENERAL
OBLIGATION BONDS, ELECTION OF 2002, SERIES 2002; PRESCRIBING THE
TERMS OF THE
BONDS AND THEIR SALE APPROVING FORMS OF INDENTURE AND BOND
PURCHASE AGREEMENT;
APPOINTING PAYING AGENT; AND AUTHORIZING EXECUTION OF NECESSARY
CERTIFICATES,
ADOPTED

The Board was provided with an Agenda Submittal from the Treasurer/
Tax
Collector/
County Clerk dated May 14, 2002, incorporated herein by reference, regarding
the
issuance of \$45,000,000 in General Obligation Bonds for the Fairfield-Suisun
Unified School District.

Responding to concerns voiced by Supervisor Kromm regarding Napa
County
residents living in the Fairfield-Suisun Unified School District that were
unaware of the bond election, and feels proper notification is needed to inform
these residents that their taxes will be going up, County Counsel Dennis
Bunting
outlined actions by the Solano County Registrar of Voters notifying Napa
County
for the matter to be placed on the ballot for these particular residents, and
the issue not being on the Napa County Ballot. Mr. Bunting reviewed results of
the election and noted that there would be no change in the results if all the
176 Napa County residents voted. The Bond Counsel is concerned with the risk
of
a challenge to issuance since the Napa residents do have a right to file, but
Mr. Bunting discussed how the court would view the matter and feels it is
appropriate to proceed, and noted his office would send notification to these
voters.

Robert Pierce, Director of Facilities with Fairfield-Suisun Unified School
District, noted the school district is willing to notify the residents.

It was determined that County Counsel would issue the notification to the
residents, since the County is the issuing agency.

On motion of Supervisor Kromm and seconded by Supervisor Kondylis,
the
Board acted to adopt Resolution No. 2002-106 and Order Authorizing the
Issuance
and Sale of Fairfield-Suisun Unified School District, Napa and Solano Counties,
General Obligation Bonds, Election of 2002, Series 2002; Prescribing the Terms
of the Bonds and Their Sale Approving Forms of Indenture and Bond Purchase
Agreement; Appointing Paying Agent; and Authorizing Execution of Necessary
Certificates. So ordered by a vote of 5-0. (see Resolution Book)

(Item 18) AGREEMENT WITH VALLEJO CITY UNIFIED SCHOOL DISTRICT
AND CITY OF
VALLEJO RE JOINT LITERACY VENTURE PROJECTS, APPROVED

The Board was provided with an Agenda Submittal from the Library dated May 14, 2002, incorporated herein by reference, regarding a cooperative agreement for literacy joint venture projects in the Springstowne Library service area in Vallejo.

Responding to concerns voiced by Supervisor Kondylis regarding the controversy surrounding the JFK Library, with no language in the agreement to guarantee service levels will not diminish at this main library, and with sufficient money to operate both libraries, Library Director Ann Cousineau discussed the bond regulations dictating the cooperative agreement strictly address the library being built, the level of services at each library, talks for a separate agreement to expand new programs to the JFK Library, and other specifics to this agreement. A resolution will be coming to the Board to ensure the County will operate the JFK Library as long as the City of Vallejo contained costs for that facility.

Supervisor Kondylis feels the agreement with the City of Vallejo needs to include a set level of maintenance, language to address how the agreements are reviewed in the future, wants to ensure levels of service and resources at the JFK Library will not be reduced, and discussed challenges at both libraries in Vallejo.

Ms. Cousineau discussed an operating agreement that will address the many concerns, and noted this agreement positions the City of Vallejo to declare this a number one priority for funding. Ms. Cousineau assured Supervisor Kondylis resources and services at the JFK Library would not be reduced.

Supervisor Silva does not want to jeopardize the new Springstowne Library, wants to ensure services at the JFK Library are maintained, and discussed problems at the JFK facility.

Responding to questions posed by Supervisor Kromm regarding hours of operation,

Ms. Cousineau noted that the new Springstowne Library would start operation at 52 hours a week.

On motion of Supervisor Kondylis and seconded by Supervisor Silva, the Board acted to approve an agreement with Vallejo City Unified School District and City of Vallejo for Joint Literacy Venture Projects. So ordered by a vote of 5-0.

(Item 20) STATUS REPORT FOR THE SOLANO COUNTY GOVERNMENT

CENTER PROJECT IN
FAIRFIELD PRESENTED

APPROPRIATION TRANSFER THE AMOUNT OF \$1,950,000 TO THE FAIRFIELD
DOWNTOWN
PROJECT, APPROVED

Assistant County Administrator Darby Hayes reviewed the information contained in the Agenda Submittal from his department dated May 14, 2002, incorporated herein by reference, regarding a status report on the new County Government Center, and moving of \$1,950,000 to provide funding for pre-construction activity. Mr. Hayes also discussed formulation of an agreement with the City of Fairfield on specific aspects of the needs for the facility. Scott Johnson, Johnson and Fain, presented a visual presentation, a hard copy incorporated herein by reference, outlining changes to the building exterior, floor plans for the main lobby, and discussed the philosophy of the architecture of the building. Responding to comments by Supervisor Kromm relative to the grand entry not being consistent with the overall building design, that the Old County Library will screen a lot of the front of the building, form and shape are the issue and would like to see grandeur without intimidation, and the need for an inviting large lobby area, Mr. Johnson noted the goal of the entry is to bridge the past and the future and as a portal for a transparent connection between government and the public. Supervisor Kondylis liked the building, but voiced concern with the entry and feels it needs to be more integrated into the overall design. Mr. Johnson discussed the photovoltaic panels that will be on the top level of the garage to provide shade, interest, and generate energy. Mr. Hayes noted the panels will generate 180 kilowatts of power, and noted other benefits the panels will provide. Supervisor Silva feels the entry is a problem, consideration must be given to wind wiping into the large entry, and feels electric vehicle charges need to be incorporated into the parking garage, responding to these comments Mr. Hayes noted charging stations would be incorporated. Mr. Hayes noted the feeling to design a building that is a landmark building, and not to design a building that looked old or like some other building. The entry takes the building and moves the center into the future. Responding to comments by Supervisor Kondylis regarding space for on site employee child care, Mr. Hayes noted a child care area is not incorporated into the building design due to security, and feels reuse of another property in the

area would accommodate child care.

Supervisor Kromm agrees that child care facilities should be very close by, and feels the timing is very good to pursue financing due to low interest rates.

Albert King, URS Corporation, presented a brief overview of the "Best Value Procurement" process and the differences with the "Design Build Delivery" process, and feels "Best Value Procurement" will deliver the highest quality product in the context of competition.

Supervisor Kromm noted how essential a project labor agreement is for the project, with an emphasis on hiring local talent.

Donald Tipton, Vallejo, feels the entry does have a funnel effect, it makes a strong statement, the design does mix two design styles, and feels an area in the parking garage should be dedicated for people serving on jury duty.

Mr. Hayes noted there will be ample parking for everyone in the parking garage,

this entry design will lend itself as a backdrop as a stage, and the glass will reflect the colors of the plaza to enhance the building.

Responding to questions posed by Supervisor Kondylis regarding a delivery area,

Mr. Johnson noted deliveries would be done off Jefferson Street at the parking garage through a freight elevator.

On motion of Supervisor Kromm and seconded by Supervisor Thomson, the

Board acted to approve an appropriation transfer to move Public Facilities Fees Contingency funds in the amount of \$1,950,000 to Public Facilities then to the Fairfield Downtown Project. So ordered by a vote of 4-1; Supervisor Kondylis voted no.

(Item 21) RESOLUTION NO. 2002-107 OF INTENTION TO SELL 9.188
ACRES OF COUNTY
REAL PROPERTY LOCATED IN THE CITY OF FAIRFIELD (PORTION OF
ASSESSOR PARCEL 028-
103-120) TO THE HIGHEST BIDDER THROUGH A PUBLIC BID PROCESS,
ADOPTED

PUBLIC HEARING TO OPEN SEALED BIDS AND CONSIDER ORAL BIDS FOR THE
POSSIBLE SALE
OF THE REAL PROPERTY SET FOR AUGUST 6, 2002 AT 9:00 A.M.

The Board was provided with an Agenda Submittal from General Services dated May

14, 2002, incorporated herein by reference, regarding setting the date to consider sealed bids and possible oral bids for the sale of the Old County Hospital site.

Donald Tipton, Vallejo, voiced concern that the property had already been sold and questioned what had happened to the down payment.

Responding to questions posed by Supervisor Silva relative to the size of the parcel, Director of General Services Jim Werdell noted the parcel is smaller

than previously offered, the other 2.5 acres will be retained to accommodate any expansion of the Juvenile Hall facility.

Responding to concerns voiced by Supervisor Silva regarding the property being put up for sale and the County having to wait for a developer to find potential tenants, and questioned the term of escrow, Mr. Hayes noted there is 75 days prior to the opening of the bid package on August 6th, and escrow should close within 30 days.

Responding to concerns voiced by Supervisor Thomson regarding selling the property in "as is - with all faults" condition, Mr. Werdell discussed the cleanup work that has already been done, and that this type of sale will expedite the transaction.

Supervisor Kondylis feels the property should be leased not sold.

On motion of Supervisor Thomson and seconded by Kromm, the Board acted to adopt Resolution No. 2002-107 of Intention to sell 9.188 acres of County Real Property located in the City of Fairfield (Portion of Assessor Parcel 028-103-120) to the highest bidder through a public bid process, and to set August 6, 2002 at 9:00 a.m. to open sealed bids and consider oral bids for the possible sale of the real property. So ordered by a vote of 4-1; Supervisor Kondylis voted no.

(Item 22A) MARK HALL APPOINTED TO THE BOARD OF TRUSTEES OF RECLAMATION DISTRICT #2034

Donald Tipton, Vallejo, feels the Board should take over running the reclamation district since there are so few members.

County Counsel Dennis Bunting noted the reclamation district is under the control of the landowners.

On motion of Supervisor Kondylis and seconded by Supervisor Thomson, the Board acted to appoint Mark Hall to the Board of Trustees of Reclamation District #2034. So ordered by a vote of 4-0; Supervisor Silva excused.

(Item 22B) WILLIAM TAYLOR APPOINTED TO THE TREASURY OVERSIGHT COMMITTEE

On motion of Supervisor Kondylis and seconded by Supervisor Thomson, the Board acted to appoint William Taylor to the Treasury Oversight Committee. So ordered by a vote of 4-0; Supervisor Silva excused.

(Item 22C-1) REAPPOINT JOYCE HALTON TO THE SOLANO COUNTY ARTS COUNCIL

On motion of Supervisor Kondylis and seconded by Supervisor Thomson, the Board acted to reappoint Joyce Halton to the Solano County Arts Council for a term to expire February 2, 2004. So ordered by a vote of 4-0; Supervisor Silva excused.

(Item 22C-2) JEFF KAUFFMAN REAPPOINTED TO THE RYER FIRE PROTECTION DISTRICT

On motion of Supervisor Kondylis and seconded by Supervisor Thomson the Board acted to reappoint Jeff Kauffman to the Ryer Fire Protection District for a term to expire March 1, 2006. So ordered by a vote 4-0; Supervisor Silva excused.

(Item 22C-3) STAN R. ARTERBERRY APPOINTED TO THE ROCKVILLE CEMETERY DISTRICT

On motion of Supervisor Kondylis and seconded by Supervisor Thomson, the Board acted to appoint Stan R. Arterberry to the Rockville Cemetery District for a term to expire March 1, 2006. So ordered by a vote of 4-0; Supervisor Silva excused.

(Item 22D) JOYCE FLOYD APPOINTED TO THE SOLANO-NAPA-YOLO COMMISSION ON MEDICAL CARE DBA PARTNERSHIP HEALTHPLAN OF CALIFORNIA

On motion of Supervisor Kondylis and seconded by Supervisor Thomson, the Board acted to appoint Joyce Floyd to the Solano-Napa-Yolo Commission on Medical Care d.b.a. Partnership HealthPlan of California for a term to expire December 21, 2002. So ordered by a vote of 4-0; Supervisor Silva excused.

(Item 23A) RESOLUTION NO. 2002-108 UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF MINOR REVISION NO. 1 TO USE PERMIT NO. U-00-13, ADOPTED

Vice-Chairman Kromm noted that Chairman Carroll had been excused for the afternoon session due to illness.

County Counsel Dennis Bunting noted the appellant has the right to request a continuance until a full board is available, or to waive that right and the

matter would be heard by the four members present.

Rich Radigonda noted he would waive continuing the matter.

Matt Walsh, Department of Environmental Management, reviewed the information

contained in an Agenda Submittal from his department dated May 14, 2002, incorporated herein by reference, regarding an appeal of a decision by the Planning Commission to authorize additional time for the temporary drilling, and

well construction of a natural gas well on an existing production pad in the Primary Management Area of the Suisun Marsh.

Vice-Chairman Kromm opened the public hearing.

Ted Carlson, California Exploration, presented a summary of the project, noted problems making the October 1, 2001 deadline due to drilling complications, drilling will be done in the same hole, addressed the concerns voiced by Mr. Radigonda, and noted the work done to comply with the conditions and to correct

any problems.

Responding to questions posed by Vice-Chairman Kromm regarding an independent

monitor, who would select the monitor, Mr. Carlson noted there would be an independent monitor, the Planning Commission noted California Exploration would

choose the monitor. Vice-Chairman Kromm expressed concern with California Exploration choosing the monitor, Mr. Carlson noted they would not object to the

County selecting the monitor.

Rich Radigonda, Benicia, noted his previous concerns prior to the original approval, and reviewed problems with four additional wells going into the area, with monitoring, the number of trips to the site, vegetation damage near the road, with work being done prior to the permitted time, extending of the pad, no

enforcement of the conditions, under cutting of the levy, with installing a pump in his pond to remove water, excessive noise from diesel engines running 24 hours a day, with soot from the engines coating the area, with spilled diesel fuel around the drilling rig, night lighting, with trash around the site during the drilling, and with the reduction in the number of ducks in the marsh. Mr. Radigonda noted his reason for the appeal is due to the cumulative effects of activities in the area. If the operation is allowed to continue the first day of activity/operation should begin with the first day of the permit, and posed many questions with reactivation of drilling in a well that has had concrete inserted, ways to ensure that the drilling does not go in another direction, and Mr. Radigonda feels there should be a new permit.

Responding to questions posed by Supervisor Kondylis if Mr. Radigonda had called

Environmental Management with complaints, Mr. Radigonda noted he had called the department.

Mike Yankovich, Department of Environmental Management noted that Bay Conservation and Development Commission (BCDC) is the lead agency for enforcement and the County is the secondary enforcement. Complaints would go to the County Code Enforcement Officer.

Responding to questions posed by Supervisor Kondylis regarding logging complaints, of review of the site prior to drilling, Mr. Walsh noted he does not keep a log, noted it is standard practice to take photos of the area prior to work beginning. The photos of the area were not sufficient to determine if there were problems prior to commencement of drilling.

Responding to questions posed by Supervisor Thomson if a grading inspector had

gone out when Mr. Radigonda had called with a complaint, Mr. Walsh noted no one

had gone out. Mr. Yankovich noted no formal complaint had been filed with Code

Enforcement.

There was a brief discussion regarding complaint calls.

Responding to questions posed by Supervisor Silva regarding permit enforcement,

pre-site visits, and are the applicants allowed to place things on the site before the permit starts, Mr. Walsh noted it is the County's responsibility to enforce County permits, but BCDC usually takes the lead on code compliance actions in the Primary Management Area of the marsh. Site inspections are done

at the time of application only. This permit only notes that drilling can not commence prior to the start date of the permit.

Supervisor Silva voiced concern with work being done on the site prior to the permit beginning date, and feels all work should be done during the permitted time only.

Responding to questions posed by Supervisor Silva regarding pumping water from

Mr. Radigonda's pond, if there is an on-site supervisor, and allegations of a diesel spill, Mr. Carlson noted informing the site supervisor that pumping water was not allowed, and instructed the supervisor to remove the pump. The delay in

removing the pump was due to an independent contractor having to remove it, and

noted no water was pumped from the pond and there would not be enough water in

the pond to supply the drilling needs. There are company supervisors there 24 hours a day. A diesel spill would be a dangerous situation, and Mr. Carlson feels Mr. Radagonda may have observed a water-based drilling mud that is used

that looks like diesel. Veneco, Inc. who has a day to day operating permit and leases did movement of equipment in the area in June, and California Exploration

equipment did not arrive until after June 15th.

Responding to questions posed by Supervisor Kondylis regarding the feasibility of this hole due to casing breaks, Mr. Carlson noted the bottom of the hole is no longer feasible, but the upper portion can be used for reentry and discussed procedures on how the drilling would continue.

As there was no one further who wished to speak on this matter, the public hearing was closed.

Supervisor Kondylis expressed concern with the increase in the number of wells

in the marsh, the need to review procedures, more controls are needed for applications in the future, a log of complaints should be kept listing the complaint and the remedy, detailed photos need to be taken before and after, the

monitoring person should be contracted for by the County with agreement of the

applicant, this applicant has agreed for a mutually agreed upon monitor that should be done as soon as possible, and that no work should begin prior to the permit date. Supervisor Kondylis feels the Planning Commission's decision should be upheld except for the monitoring requirement, and to ensure that County staff investigates complaints.

Supervisor Silva feels staff needs to maintain a log of calls.

Responding to comments by Vice-Chairman Kromm regarding payment for the monitor,

and collection of the fees when the County hires them, photos of the site, observing the sight at night to ensure lighting conditions are complied with, and noise monitoring, Mr. Walsh noted the applicant had paid the monitor, and funds can be collected from the applicant. The applicant submitted photos at night showing the lighting, but the photos were not clear. An acoustical engineer hired by the gas company did noise level testing.

Vice-Chairman Kromm feels photos need to be taken before, during, and after, that a staff person should check for compliance of the lighting requirements at night, and feels a better job of monitoring the project needs to be done by staff.

Supervisor Kondylis reviewed additional things that need to be done such as the

log of complaint calls, photos, the County hiring a mutually agreed upon project

monitor along with noise monitoring and paid for by the applicant for this permit, and for staff to include these requirements in all future permits.

On motion of Supervisor Kondylis and seconded by Supervisor Silva, the Board acted to adopt Resolution No. 2002-108 Upholding the Planning Commission's Approval of Minor Revision No. 1 to Use Permit No. U-00-13, along with additional conditions as noted above. So ordered by a vote of 4-0; Chairman Carroll excused.

(Item 23B) RESOLUTION NO. 2002-109 DENYING AN APPEAL AND
AFFIRMING THE PLANNING

COMMISSION'S DENIAL OF AN APPLICATION FOR MINOR REVISION NO. 4 TO
USE PERMIT NO.
U-95-03 FOR THE VACAVILLE SEVENTH DAY ADVENTIST CHURCH AND
SCHOOL, ADOPTED

County Counsel Dennis Bunting noted the appellant has the right to request

a continuance of the hearing until a full board is available, or to waive the matter which would be heard by the four members present.

Dr. Glenn Toppenberg agreed to waive a hearing by the full board for the Seventh Day Adventist Church and Marantha Broadcasting.

Matt Walsh, Department of Environmental Management, reviewed the information

contained in the Agenda Submittal from his department dated May 14, 2002, incorporated herein by reference, regarding an appeal of the Planning Commission

denial of a minor revision to the use permit for the Seventh Day Adventist Church and Marantha Broadcasting for conversion of an existing building to a radio broadcast studio and offices.

Vice-Chairman Kromm opened the public hearing.

Dr. Glenn Toppenburg, applicant/appellant, presented a brief history of the Seventh Day Adventist Church and the development of the church project, new legislation Religious Land Use and Institutionalized Persons Act of 2000

(RLUPA), and the feeling this legislation would allow the Seventh Day Adventist Church to incorporate the radio station into the church activities on this site.

Dr. Toppenburg noted the affiliation of this project with the RLUPA legislation, described the conversion of the building, and explained how the broadcasting would be done in the current building with no increase to the number of people on the site. Dr. Toppenburg feels the County does not have a compelling governmental reason to restrict the use of the land, he discussed other points pertaining to Federal law, emphasized that the radio broadcasting is a ministry of the church, this facility would have no impacts, local support for the radio station, discussed spiritual considerations, and asked the Board to grant the application to run a radio ministry.

A letter was received from the California Catholic Conference in favor of allowing a radio station at the Seventh Day Adventist Church, incorporated herein by reference.

A letter was received from Dr. Ken Takeshita, MS, DVM, Diplomate ACPV, requesting the Board uphold the Planning Commission's denial of the Minor Revision No. 4 of Use Permit No. U-95-03, incorporated herein by reference.

Fred Blum, Attorney, feels there is an absence of any negative impact of changing the building use, reviewed points of the RLUPA legislation, and feels RLUPA was passed to prevent the "not in my back yard" (NIMBY) attitude.

Dr. Bradford Newton, Sacramento, noted reasons for his support of the church and

allowing the radio broadcast station at their site.

Allen Reinach, President Seventh Day Adventist Church State Council,

discussed

many religious liberty issues, RLUPA and those points pertinent to this case, and support for allowing the radio broadcast station.

Bernice Stalk, Vacaville, voiced concern with the activities of the church in a rural residential area, feels the radio station is a commercial use, and noted her support of the decision of the Planning Commission to deny the revision. Kenneth Boshnell, Vallejo, noted the government should not prohibit the free exercise of religious ministries, and feels the radio station should be approved.

Joe Moore, Vacaville, feels the issue is landuse, voiced concerns regarding potential problems with septic, with flooding in the area, noise issues, the building not being used as permitted, and noted opposition to the radio station.

Pastor Stan Caylor, Vacaville, feels the church needs to exercise their rights as outlined in RLUPA, feels noise is not a problem from the school, will exercise their opportunity to appeal, feels RLUPA was passed for just this type of case, the need to look at the facts, and noted there really is no impact on the neighborhood, and requested approval of the Minor Revision request.

Allan Brownstein, Professor of Constitutional Law at UC Davis, feels the issue is the exercise of religion and a new Federal law protecting the exercise of religion against landuse regulations. Professor Brownstein discussed why RLUPA

was adopted, the church expressing their ministry through radio, feels the radio

station is not an accessory use, feels the fragmentation of the applicants ministry constitutes a substantial burden on the exercise of religion, and noted support for approval of the radio station.

As there was no one further who wished to speak on this matter, the public hearing was closed.

Responding to a request by Supervisor Thomson relative to what the current

facilities are on the site, Mr. Walsh noted there is a church, the caretakers unit, and a K-8 school in the rural residential area.

Responding to a questions posed by Supervisor Thomson on who determined

this was not a communications facility or accessory use, and does RLUPA change

things, Deputy County Counsel Jim Laughlin discussed two arguments for approval

of the use and reasons why the approval was denied, and the two bases for denial

were upheld by the courts. Mr. Laughlin feels RLUPA does not change the basic arguments, the same basic concepts address substantial burden, compelling interest, least restrictive means and the courts have used those concepts for a number of years.

Assistant County Counsel Wendy Getty discussed the underlying litigation,

noted that staff did substantially brief the issue, feels RLUPA codifies

substantial tests used by the courts, and that this matter has been litigated. Ms. Getty discussed the base case and the appeal points.

Responding to questions posed by Supervisor Thomson regarding the purpose of zoning law, and how will placing the satellite dish on the home negatively impact the community, Mr. Yankovich, Department of Environmental Management

noted the purpose of the zoning law is to ensure the uses in the area are compatible, and that this use is not allowed in a rural residential district.

Supervisor Thomson feels that a broadcast facility would not negatively impact the community.

Supervisor Kondylis discussed the RLUPA law, reasons for the codified law, feels we have compelling governmental interest to deny the broadcast station, the County is not imposing a substantial burden, the use is inappropriate in the rural residential area, and noted support to uphold the decision of the Planning Commission.

Supervisor Silva feels zoning laws bring order, the Board has not denied religion, voiced concern with one use permit on the property but there are two corporations on that single property, his decision is based on the facts, and noted support to uphold the Planning Commission decision.

Vice-Chairman Kromm feels the church must prove burden, noted concern with the size of the unit, with running a commercial enterprise on the site in a rural residential district, and noted support for the Planning Commission's decision.

On motion of Supervisor Kondylis and seconded by Supervisor Silva, the Board acted to adopt Resolution No. 2002-109 Denying an Appeal and Affirming the Planning Commission's Denial of an Application for Minor Revision No. 4 to Use Permit No. U-95-03 for the Vacaville Seventh Day Adventist Church and School.

So ordered by a vote of 3-1; Supervisor Thomson voted no, Chairman Carroll excused.

ADJOURN - This meeting of the Board of Supervisors adjourned in memory of James Bridges at 4:53 p.m.

William J. Carroll, Chairman

Maggie Jimenez
Clerk to the Board of Supervisors

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SOLANO COUNTY BOARD OF SUPERVISORS' MINUTES

May 14, 2002