



SAN LUIS OBISPO COUNTY

DEPARTMENT OF PLANNING AND BUILDING

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DIRECTOR

TO: Vince Morici, Administrative Analyst

FROM: Matt Janssen, Division Manager, Community Relations

VIA: Kami Griffin, Assistant Director, Department of Planning and Building

DATE: July 9, 2009

SUBJECT: Response to Grand Jury Report on Sale of Oceano Dunes Parcels: Errors or Deception?

RECOMMENDATION

It is recommended that this report serve as the Department of Planning and Building's response to the Grand Jury Report on the *Sale of Oceano Dunes Parcels: Errors or Deception?*

DISCUSSION

On June 10, 2009, the Grand Jury issued a report on the *Sale of Oceano Dunes Parcels: Errors or Deception?* This response addresses the findings and the recommendations pertaining to the Planning and Building Department.

The Department's complete response is included in the attached report. It is shown in italics following the specific applicable portions of the Grand Jury Report.

OTHER AGENCY INVOLVEMENT/IMPACT

Not Applicable

FINANCIAL CONSIDERATIONS

Costs for preparing this response are included in the current department budget.

RESULTS

This response will meet the legal requirements for responding to a Grand Jury report with findings and recommendations.

ATTACHMENT 2

**Response by the Department of Planning and Building to the
Grand Jury Report of June 2009 on the
Sale of Oceano Dunes Parcels: Error or Deception**

The San Luis Obispo County Department of Planning and Building has the following comments to offer in respect to the **Grand Jury's Findings 1-3, and Recommendations 1-3** contained within the report titled: **Sale of Oceano Dunes: Errors or Deception.**

GRAND JURY FINDINGS

1. The failure to include the "Figure 4 map" and references to it in the staff report was at best inept staff performance or at worst deliberate deception.

Response: The Planning and Building Department disagrees partially with the finding.

Failure to include the Figure 4 of the South County Area Plan (Coastal) in the staff report was a mistake by staff. There was no effort to deceive the public or decision makers. The omission of the last sentence of Standard #9 (that goes with Figure 4) was also a mistake by staff, and was not intentional to deceive the public or decision makers. Whether a mistake made by staff is "inept performance" is subjective and should not be part of "findings" from a Grand Jury unless is it supported by facts. No facts contained in the Grand Jury report that would lead to a determination that the staff member in this case was inept or was acting to deliberately deceive.

2. The staff report was a crucial element in an important decision by the Planning Commission and it was only public testimony at the Commission hearing that prevented a decision counter to approved land use policy.

Response: The Planning and Building Department disagrees partially with the finding.

A General Plan Conformity Report is required for proposed purchase, sale, or lease of land for public purposes (Government Code 65402), and therefore it is an important piece of information in the process. However, the conclusions of the General Plan Conformity Report do not control the decision to buy, sell, or lease land (i.e. decision makers can make purchase, sale, or lease findings contrary to the conclusions of a Conformity Report). Public review and testimony is critical to the planning process, and in this case, was vital in that it was responsible for catching mistakes in the staff report.

3. The staff report concluded that the sale of County land to State Parks was in compliance with County land use policy, a conclusion consistent with the report only because of the omission of the "Figure 4 map" and related text.

Response: The Planning and Building Department disagrees partially with the finding.

A finding of conformity or non-conformity is not necessarily determined by one policy or standard being in conflict with the proposed purchase, sale or lease. Staff reviewed approximately two dozen county policies and standards applicable to the proposed sale, and although the Figure 4 map and related text are important to the conformity analysis, their

absence in the report did not dictate the conclusions of the report. In the end, the Board of Supervisors determined that the sale of county land at Oceano Dunes was partially in conformance and partially not in conformance with the Local Coastal Plan.

GRAND JURY RECOMMENDATIONS

1. The Planning Commission should require relevant source documents accompany reports from the Planning and Building Department.

Response: The recommendation will not be implemented because it is already part of our standard procedure and practice.

2. The Planning Commission should direct Planning and Building Department staff to indicate to the Planning Commission if any source documentations were altered in preparing reports and provide reasons for such alterations.

Response: The recommendation will not be implemented because it is already part of our standard procedure and practice.

3. Training procedures for staff charged with report development should be reviewed and changed so as to prevent the omission or misrepresentation of significant documentary evidence.

Response: The recommendation will not be implemented because it is already part of our standard procedure and practice.