



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: CEO
Department No.: 012
For Agenda Of: July 10, 2012
Placement: Departmental
Estimated Time: 45 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Chandra L. Wallar, County Executive Officer, 568.3400
Director(s) *CW*
Contact Info: Dennis Bozanich, Assistant to the CEO, 568-3400

SUBJECT: Appeal of federal Fee To Trust determination for 6.9 acre parcel for Santa Ynez Band of Mission Indians

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a. Receive and file staff report,
- b. Provide direction on undertaking an administrative appeal to the Department of Interior's Interior Board of Indian Appeals (IBIA) of the Regional Director's decision to accept 6.9 acres of land in trust for the Santa Ynez Band of Mission Indians, and
- c. Determine through CEQA Guidelines sections 15060, 15352 and 15378 that the County's decision about undertaking an administrative appeal concerning the decision by the Bureau of Indian Affairs to accept 6.9 acres of land into trust for the Santa Ynez Band of Mission Indians is not the approval of a project subject to the California Environmental Quality Act

Summary Text:

On June 13, 2012, the Pacific Region Director of the Bureau of Indian Affairs, US Department of Interior (DOI), issued a decision letter granting the Santa Ynez Band of Mission Indians' request for a 6.9 acre parcel of land to be taken into trust for the Santa Ynez Band of Mission Indians. (Attachment A) This is a continuation of an earlier appeal of a 2005 decision on the same matter.

The County's ongoing potential interests and concerns during acceptance of land into trust is the loss of engagement in land use, and environmental issues along with the loss of property tax revenue from land

and improvements. The Board may choose to appeal the Department of Interior's decision. If the Board chooses to appeal, the County must file its notice of appeal by July 17, 2012.

Background:

In 2005, the Department of the Interior (DOI) decided to accept the 6.9 acres into federal trust. At that time, the County was involved in negotiations with the Santa Ynez Band of Mission Indians to establish an intergovernmental agreement which would have limited the potential uses of the 6.9 acres. The Board of Supervisors did not appeal the 2005 trust decision to the Interior Bureau of Indian Affairs (IBIA).

In 2009, United States Supreme Court decided, *Carcieri v Salazar*, 129 S. Ct. 1058 (2009) which held that only Indian tribes which were "under federal jurisdiction" in 1934 were eligible to have trust transfers on their behalf. The Interior Bureau of Indian Affairs (IBIA) used the Supreme Court decision in *Carcieri* to make a decision to remand the 2005 case to the Regional Director for further fact finding on the historic status of the Santa Ynez Band of Mission Indians. By remanding the matter to the Regional Director, it appears to have also re-opened an opportunity for the County to appeal.

The Santa Ynez Valley Community Plan is relevant to your Board's decision:

- Goal LUG-SYV states: "Maintain the Santa Ynez Valley's rural character and agricultural tradition while accommodating some well-planned growth within the township boundaries that is compatible with surrounding uses."
- Policy LUG-SYV-6 states: "The County shall oppose the loss of jurisdictional authority over land within the Plan area where the intended use is inconsistent with the goals, policies and development standards of the Plan or in the absence of satisfactory legally enforceable agreement."
- Action LUG-SYV-6.1 states: "The County shall pursue legally enforceable government to government agreements with entities seeking to obtain jurisdiction over land within the Plan area to encourage compatibility with the surrounding area and mitigate environmental and financial impacts to the County."

The Board of Supervisors has broad discretion to construe the above Goal, Policy and Action in light of the Community Plan's purposes and courts will generally accord great deference to a local government agency's determination of consistency with its own Community Plan. (*Jamieson v. City Council of Carpinteria* (2012) 204 Cal. App. 4th 755, 763.)

Fiscal and Facilities Impacts:

Staff time and other resources may be expended to process an appeal of the federal trust decision of the Department of the Interior.

Property Tax Impact

The loss of current and potential property tax from the movement of the 6.9 acres to federal trust might be considered from the following perspectives:

- The 6.9 acres, as they are today, pay \$43,953 per year in total property taxes of which \$15,082 is distributed to the County and dependent special districts. In twenty years, the 6.9 acres would pay \$64,031 (2% Prop 13 CPI Factor) per year in total property taxes of which \$21,973 would be distributed to the County and dependent special districts.
- If the 6.9 acres were not taken into trust but developed as proposed in 2005 by the Santa Ynez Band of Mission Indians, the current total property taxes would be \$142,503 per year of which \$48,902 would be distributed to the County and dependent special districts. In twenty years, the 6.9 acres would pay \$207,600 (2% Prop 13 CPI Factor) per year in total property taxes of which \$71,240 would be distributed to the County and dependent special districts.
- If the 6.9 acres were not taken into trust but fully developed under current zoning and in compliance with the Santa Ynez Valley Community Plan, the current total property taxes would be \$271,472 per year of which \$93,159 would be distributed to the County and dependent special districts. In twenty years, the 6.9 acres would pay \$395,484 (2% Prop 13 CPI Factor) per year in total property taxes of which \$135,715 would be distributed to the County and dependent special districts.

Attachments:

A – Decision Letter

B – Map of Property

C – Santa Ynez Valley Community Plan

Authored by:

Dennis Bozanich, Assistant to the County Executive Officer

Ed Price, Auditor-Controller, Rick Holly, Clerk, Recorder Assessor and David Lackie, Planning and Development contributed the Property Tax Impact

CC: