

IN THE BOARD OF SUPERVISORS  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

Tuesday, November 26, 2013

PRESENT: Supervisors Frank R. Mecham, Adam Hill, Caren Ray, Debbie Arnold and  
Acting Chairperson Gibson

ABSENT: None

RESOLUTION NO. 2013-292

RESOLUTION REGARDING A VESTED RIGHT TO COMPLETE SITE PREPARATION,  
PLANTING, OR SALE OF PRODUCT UNDER ORDINANCE NO. 3246

The following resolution is now hereby offered and read:

WHEREAS, Ordinance No. 3246 became effective on August 27, 2013 and imposed new legal limitations and prohibitions on production agricultural activity that was previously unregulated by County ordinance; and

WHEREAS, in adopting the Ordinance the Board recognized that agriculturalists subject to the Ordinance may have begun substantial site work and incurred substantial liabilities in detrimental reliance upon the lack of any needed approval in the pre-Ordinance environment; and

WHEREAS, the Ordinance contains certain exemptions, including an exemption creating a limited vested right to complete the installation of new irrigated crops where satisfactory evidence can be provided that, prior to the effective date of the Ordinance, an applicant has secured such a vested right to complete site preparation, planting, or sale of product; and

WHEREAS, in order to better implement the Ordinance and based on the advice of its County Counsel, the Board of Supervisors wishes to direct its staff regarding the appropriate application of the vested right exemption in Ordinance No. 3246.

NOW THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, in a regular meeting assembled on the 26<sup>th</sup> day of November, 2013, that:

County staff shall use the following procedure when presented with a request for an Ordinance 3246 vested right determination:

1. Satisfactory evidence that an applicant has secured a vested right to complete site preparation, planting, or sale of product, as described in Section 6.A.4 of Ordinance 3246, consists of **all** of the following:
  - a. Evidence of a valid well permit applied for and accepted as complete, including payment of any required fees pursuant to Chapter 8.40 of the County Code prior to August 27, 2013.
  - b. Evidence that a well has been installed onsite pursuant to the valid well permit described above, or evidence that a contract was entered into with a licensed well driller prior to August 27, 2013 for installation of the well.
  - c. Evidence that the applicant owned the land prior to August 27, 2013 or had entered into an irrevocable lease for the specific purpose of agriculture prior to August 27, 2013.
  - d. For permanent crop types (i.e. vineyard, orchard, tree fruits, tree nuts) on sites of greater than 20 acres, evidence shall be provided to show that at least three (3) of the following requirements have been met prior to August 27, 2013:
    - i. The applicant was contractually obligated to accept future delivery of the plants intended to be planted and all contractual conditions precedent to accepting future delivery of said plants were satisfied including a deposit paid towards the full cost of the contract or the plants intended to be planted (i.e. rootstock, trees) were delivered to the applicant.
    - ii. The applicant has entered into a contract, including paying a deposit towards the full cost of the contract, for the design and installation of irrigation infrastructure (such as tanks, pumps, underground piping) required to supply water to the area intended to be planted or such infrastructure has been installed in the area intended to be planted.
    - iii. Any fencing that is necessary to maintain the crop has been installed as evidenced by invoices for fencing materials dated prior to August 27, 2013 or a contract paid in full for installation of fencing.
    - iv. The applicant was contractually obligated to provide product from the area that is intended to be planted within a specific time frame that would require that the area be planted within the timeframe the Ordinance 3246 is in effect.

- e. For annual crops (i.e. grains, field crops, vegetables, field fruits, flower fields and seed production, ornamental crops, irrigated pasture) on sites of greater than 20 acres, evidence shall be provided to show that at least two (2) of the following requirements have been met prior to August 27, 2013:
  - i. The applicant was contractually obligated to accept future delivery of the plants intended to be planted (i.e. seeds, transplants, plugs) and all contractual conditions precedent to accepting future delivery of said plants were satisfied, including a deposit paid towards the full cost of the contract, or the plants intended to be planted were delivered to the applicant.
  - ii. The applicant has entered into a contract, including paying a deposit towards the full cost of the contract, for the rental of irrigation infrastructure (such as sprinklers, piping) required to supply water to the area intended to be planted, or the applicant owns such infrastructure.
  - iii. The applicant was contractually obligated to provide product from the area that is intended to be planted within a specific time frame that would require that the area be planted within the timeframe Ordinance 3246 is in effect.
- 2. Persons or organizations wishing to rely on the exemption described in Section 6.A.4 of Ordinance No. 3246 to establish new or expanded irrigated crop production, and/or to convert dry farm or grazing land to new irrigated crop production, will provide the evidence described in Section 1 above to the Director of Planning and Building prior to establishment of, and/or conversion of dry farm or grazing land for, new irrigated crop production, who will review the evidence submitted and render a written decision.
- 3. The decision of the Director of Planning and Building pursuant to Section 2 above is equivalent to issuance of a ministerial permit.

Upon motion of Supervisor Mecham, seconded by Supervisor Arnold, and on the following roll call vote, to wit:

AYES: Supervisors Mecham, Arnold, Hill, Ray and Acting Chairperson Gibson

NOES: None

ABSENT: None

ABSTAINING: None

The foregoing resolution is hereby adopted.

Bruce S. Gibson  
Acting Chairperson of the Board of Supervisors  
of the County of San Luis Obispo,  
State of California

ATTEST

JULIE L. RODEWALD  
County Clerk and Ex-Officio Clerk  
of the Board of Supervisors,  
County of San Luis Obispo,  
State of California

By: Annette Ramirez  
Deputy Clerk

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By: /s/ Whitney McDonald  
Deputy County Counsel


Dated: November 15, 2013

**STATE OF CALIFORNIA ) ss.**  
**COUNTY OF SAN LUIS OBISPO)**

I, **JULIE L. RODEWALD**, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.

Witness, my hand and seal of said Board of Supervisors this 4<sup>th</sup> day of December, 2013.

**JULIE L. RODEWALD,**  
County Clerk and Ex-Officio Clerk of the Board of Supervisors

By:   
Deputy Clerk