

ORDINANCE NO. 102

AN ORDINANCE OF THE SAN SIMEON COMMUNITY SERVICES DISTRICT CONTINUING A MORATORIUM OF THE ISSUANCE OF WATER CONNECTIONS WITHIN THE BOUNDARIES OF THE DISTRICT

BE IT ORDAINED by the Board of Directors of the San Simeon Community Services District (“District”) as follows:

SECTION I. FINDINGS.

The Board of Directors of the District does hereby reaffirm its conclusions in Ordinance 66 and hereby find, determine, and declare as follows:

- A. There continue to exist serious water quality and quantity problems within the boundaries of the District;
- B. There currently exists a moratorium on new water connections within the District originally established by Ordinance No. 61 and extended by Ordinance No. 63 and Ordinance No. 66. The intent of the Board of Directors by this Ordinance is to keep in effect said water connection moratorium while clarifying any inconsistencies with Ordinance 101;
- C. The water quality and quantity problems continue to pose a current and immediate threat to the health and safety of the people within the District;
- D. People, not fixtures, use water. Additional plumbing fixtures to an existing water connection are primarily for the purpose of convenience. Additional plumbing fixtures shall not significantly cause additional water demand.
- E. The granting of additional new water connections within the District contrary to the provisions of this Ordinance would result in an immediate threat to the public health and safety;
- F. The District is diligently pursuing long-term supplemental water supplies, but until the time when such supply is available, it is necessary to continue the existing water connection moratorium.
- G. This ordinance is exempt from the California Environmental Quality Act (CEQA) under Water Code § 10652. This ordinance is also exempt from the requirements of CEQA under the provisions of CEQA Guideline 15269 (c) and 15282 (w).

SECTION II. MORATORIUM ON WATER CONNECTION.

Except as provided in Section IV of this Ordinance, the District shall not allow water connections or services on or to properties located within the boundaries of the District to serve any of the following:

1. Any new structure that will increase its existing EDU requirements or entitlements; or

2. Any expansion or replacement of an existing structure that will increase its existing EDU requirements or entitlements.

SECTION III. DURATION OF MORATORIUM.

The provisions of this Ordinance shall remain in effect until repealed. This Ordinance supersedes Ordinance No. 66.

SECTION IV. PROHIBITION ON WATER CONNECTIONS.

The prohibition on new water connections or services shall be inapplicable to the following connections or uses:

- A. A project receiving a vested rights exemption pursuant to Section 4 of District Ordinance No. 65 which states as follows:

SECTION 4. Any property owner within the District who demonstrates a vested right to sewer and water service, as defined in this section, may make application to the District's Board of Directors for exemption from the provisions of the District's current moratorium ordinance established pursuant to Ordinance No. 61 and continued in effect by Ordinance No. 63. A property owner with a "vested right" to water and sewer services, as used in this section, shall be one whom the Board of Directors finds has done all of the following as of the effective date of this Ordinance:

- a. Obtained paid receipts from the District for deposit of the full amount of current District sewer and water connection fees;
- b. Obtained a "will serve letter" from the District signed by the District's Board President or other authorized representative of the District;
- c. Obtained all permits from other government agencies necessary for construction of the project for which sewer and water connection fees have been deposited, including, but not limited to, final building permit and coastal development permit; and
- d. Has completed substantial on-site physical construction of the project.

Application for vested rights exemption may be made in writing submitted to the District within ninety (90) days of the effective date of this Ordinance. The Board of Directors shall consider the application and evidence presented and determine whether the criteria for vested rights exemption specified in this Ordinance have been met and shall make written findings supporting its decision. If the Board grants a vested right exemption pursuant to this section, the applicant shall be provided water and sewer service subject to such terms and conditions as are established by the District's Board of Directors.

B. An existing “active service commitment” as set forth in Section 3.a. of District Ordinance 101 which states of follows:

a. Active Service Commitments. Active service commitments consist of parcels for which active water service is provided. Active service commitments are those with current billing for service for potable water. active service commitments are categorized as residential and commercial.

C. An existing “non-active service commitment” as set forth in Section 3 of District Ordinance 101 which states as follows:

b. Non-Active Service Commitments. Non-active service commitments consist of those parcels listed on the attached Exhibit “B” that the District has determined have pre-existing commitments for water service, but which do not use all of the EDUs allocated to the parcel.

D. A connection for fire suppression purposes whether for new or the retrofitting of an existing use.

SECTION V. HARDSHIP APPLICATIONS

Any person aggrieved by this moratorium law may file a hardship application for relief from such moratorium, which application shall be determined by the Board of Directors after public hearing and considering such factors as the Board may deem appropriate considering the purposes of the enactment of this law, including but not limited to: (1) nature and extent of financial hardship, (2) extent of proposed usage of water, (3) existence of suspected environmental problems within the vicinity of the applicant, (4) amount of removal of vegetation, (5) amount of traffic to be generated, (6) the general magnitude of potential adverse environmental impacts, (7) potential storm water generation, (8) whether the subject property has the potential for re-zoning, and (9) such other factors as may be significant relative to the individual property and circumstances. The granting of nay hardship shall remain in harmony with the general purpose and intent of this ordinance so that the goals hereof can be achieved and substantial justice done. In granting any hardship, the Board may impose such reasonable and additional stipulations and conditions as will in its judgment thus fulfill the purposes of this ordinance.

SECTION VI. NO TAKING OF PROPERTY INTENDED

Nothing in this chapter shall be interpreted to affect an unconstitutional taking of property of any person. If the Board of Supervisors determines, based on specific evidence in the administrative record, that the application of one or more of the provisions of this chapter to a proposed project would effect an unconstitutional taking of private property, the Board shall disregard such provision or provisions to the extent necessary to avoid such unconstitutional taking.

SECTION V. CONSTITUTIONALITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a Court of competent jurisdiction, such decision shall not affect the validity or the constitutionality of the remaining portions of this Ordinance. The Board of Directors of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION VI. EFFECTIVE DATE OF ORDINANCE.


The Ordinance shall be in full force immediately upon passage. Within fifteen (15) days of passage, this Ordinance shall be published at least once in a newspaper of general circulation in the County of San Luis Obispo.

INTRODUCED AND ADOPTED at a regular meeting of the Board of Directors of the San Simeon Community Services District held on the 11th day of October, 2006, and on the following roll call vote, to wit:

Ayes: 3

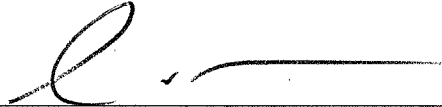
Noes: 0

Absent: Mirabal-Baubion
John Russell



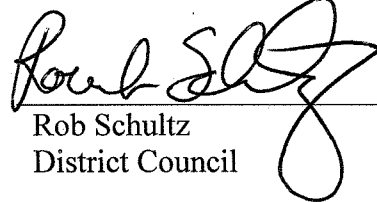
Chairman, Board of Directors

ATTEST:



Secretary, Board of Directors

APPROVED AS TO FORM:



Rob Schultz
District Council