



AGRICULTURAL COMMISSION

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Greg Boeger, Chair – Agricultural Processing Industry
Lloyd Walker, Vice-chair – Other Agricultural Interests
Chuck Bacchi – Livestock Industry
Bill Draper – Forestry Related Industries
Ron Mansfield – Fruit and Nut Farming Industry
Tim Neilsen, Livestock Industry
John Smith – Fruit and Nut Farming Industry

MINUTES

April 13, 2011

6:30 P.M.

Board of Supervisors Meeting Room
330 Fair Lane – Building A, Placerville

Members Present: Boeger, Bacchi, Draper, Neilsen, Smith, Walker

Members Absent: Mansfield

Ex-Officio Members Present: Juli Jensen, Ag Commissioner/Sealer

Staff Members Present: Chris Flores, Senior Agricultural Biologist
Nancy Applegarth, Clerk to the Agricultural Commission

Others Present: Maryann Argyres, Scott Chadd, Edward Dante, Mary Ann Dante, Bob Day, Michael Drobesh, Brian Fitzpatrick, Daren Mullins, Debra Mullins, Linda O’Neal, Kathleen Newell, Dave Pratt, Kim Pratt, Jack Remington, Randy Rossi, Liz Ryan, Steve Ryan, Matt Smeltzer, Susan Smith, Kathye Russell, Cindy Sullivan, Daryl Sullivan, Sue Taylor, Jonathan Verbitsky

I. CALL TO ORDER

- Chair, Greg Boeger, called the meeting to order at 6:38 p.m.

II. APPROVAL OF AGENDA

Chair, Boeger asked if there were any changes or additions to the agenda.

Chris Flores requested that the Commission hear Item VI. Bucks Bar Bridge Closure, before hearing Item V. Edward Dante. She also stated that staff was changing the recommendation on Item V. Dante, based on new information obtained regarding this application.

It was moved by Mr. Bacchi and seconded by Mr. Walker to approve the Agenda with the requested changes.

Chair Boeger called for a voice vote for approval of the Agenda.

AYES: Bacchi, Draper, Neilsen, Smith, Walker, Boeger

NOES: None

ABSENT: Mansfield

III. APPROVAL OF MINUTES

- Minutes of March 9, 2011

It was moved by Mr. Smith and seconded by Mr. Neilsen to approve the Minutes of March 9, 2011 as submitted.

Motion passed

AYES: Bacchi, Neilsen, Smith, Walker, Boeger

NOES: None

ABSTAIN: Draper

ABSENT: Mansfield

IV. PUBLIC FORUM

Valerie Zentner, El Dorado County Farm Bureau, spoke regarding the Irrigated Lands Regulatory Program. A hearing was held last week, resulting with the regional board hearing well-coordinated testimonies from the representatives from agriculture who spoke of the impacts on mountain and foothill counties. Each person spoke about El Dorado County being different from other counties, our hydrology and ground water monitoring is not the same as those in the valley. The Board certified the Environmental Review documents for the next phase, and did not adopt any alternative. They directed staff to work on the framework they had presented. Staff will come back to them in two months with further information. The Board also did not extend the existing waiver which expires June 20, 2011. This will also be brought back to the June board meeting. Ms. Zentner added that she is encouraged that staff and the board have a clearer understanding of water concerns in El Dorado County.

- V. WAC 10-0004/BLA 10-0036 – Dante WAC/BLA (Edward Dante Jr./Andregg Geomatics, Jack Remington):** A request for a modification to existing Williamson Act Contract (Agricultural Preserve #58) corresponding to Boundary Line Adjustment filed under BLA 10-0036. The property, identified by Assessor's Parcel Numbers 078-230-32, 078-24-37, and 093-050-06, consists of 277.69 acres, and is located on the south side of Crestline Drive approximately 3.5 miles west of the intersection with Pleasant Valley Road, in the Pleasant Valley area. (District 2)

Chris Flores' staff report contained the following information: the applicant's property, located off of Silver Ridge Road, consists of 277.69 acres, has Exclusive Agriculture (AE) zoning, is in Williamson Act Contract # 58, and has a General Plan Land Use Designation of Agricultural Land (AL). The application for the BLA was submitted by Jack Remington, representing First Horizon Home Loans (the property owner of APN 078-240-16; property located to the west of the Dante's). In 2006 it was discovered that an un-permitted house was built on the Dante's property. It was supposed to have been on APN 078-240-16. The property line was unclear due to an existing barbed wire fence. In 2007, the property owner of 078-240-16 had the property surveyed. The surveyor found the original corner marker 102.39

feet west of the existing fence line. The house, a garage and the well head were found to be on the Dante's property. Due to the building's location on the Dante's property, First Horizon Home Loans is unable to obtain a clear title on the property (APN 078-240-16; located at 3800 Springer Road). A court ordered settlement has required the Dante's to agree to the existing fence line as the official property line. By doing so, the Dante's will lose 2.31 acres of their contracted land.

California Government Code Section 51257.(a) states to facilitate a lot line adjustment, pursuant to subdivision (d) of Section 66412, and notwithstanding any other provision of this chapter, the parties may mutually agree to rescind the contract or contracts and simultaneously enter into a new contract or contracts pursuant to this chapter, provided that the board or council finds all of the following:

- (1) The new contract would enforceably restrict the adjusted boundaries of the parcel for an initial term for as least as long as the unexpired term of the rescinded contract, but for not less than 10 years.

Williamson Act contract #58 is not subject to a Notice of Non-Renewal. At the conclusion of the boundary line adjustment, the contract would continue to be in force and effect for a period of at least 10 years.

- (2) There is no net decrease in the amount of the acreage restricted.

The removal 2.31 acres from Ag Preserve number 58 would result in a net decrease in the amount of acreage restricted by the Williamson Act contract.

- (3) At least 90 percent of the land under the former contract remains under the new contract.

The total current acreage in Ag Preserve number 58 is 277.69 acres. The loss of 2.31 acres would result in the total acreage under contract at 275.38 acres; only a 1% loss of total acreage.

- (4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

Consistent with Section 51222, all three parcels, under contract, will be larger than 40 acres, after the boundary line adjustment. Parcels are presumed to be large enough to sustain their agricultural use if they are greater than 10 acres, in the case of prime farmland, and 40 acres in the case of non-prime farmland.

- (5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract.

The parcels, in their current configuration, are being used for agricultural production. The removal of 2.31 acres from APN 078-240-37, would not effect the long-term productivity of the parcels under contract.

- (6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

The parcels will continue to remain restricted by the Williamson Act Contract and used for agricultural productivity. As such, the boundary line adjustment will have no impact on adjacent lands currently utilized for agricultural purposes.

- (7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the General Plan.

After the boundary line adjustment, the parcel will be over 40 acres and consistent with its land use. The parcel configurations will generally stay the same.

All of the findings, above, can be made, except finding number (2). Ag Preserve number 58 will lose 2.31 acres of contracted land and therefore there will be a net decrease in the amount of acreage restricted.

Williamson Act Contract Criteria: California Government Code Section 51257. (a) requires that the current contract is rescinded and a new contract simultaneously entered into if a lot line adjustment (Boundary Line Adjustment) is approved. El Dorado County requires certain criteria to enter into a new contract. For a low intensive agricultural operation (i.e. grazing), the following criteria must be met:

1. Minimum Acreage – fifty (50) contiguous acres that are fenced to contain livestock.
 2. Capital Outlay - \$10,000
 3. Minimum Annual Gross Income - \$2,000
-
1. The Dante's property consists of APN's 078-230-32, 078-240-37, and 093-050-06; totaling over 277 contiguous acres.
 2. Agricultural improvements to property include: perimeter fencing for the entire acreage and interior cattle fencing (verified during site visit), a well, solar panels and electric power (verified during site visit), gravel and dirt roads throughout property (verified during site visit), and a bar for equipment storage (verified during site visit) which exceeds the \$10,000 capital outlay requirement.
 3. Yearly projected income is estimated at \$2,000 to \$2,500, which meets the minimum \$2,000.00 for low intensive farming (grazing).

Peter Maurer explained that without changing the Williamson Act Contract, the Commission would not be able to make the findings for the Boundary Line Adjustment because there would be a net reduction in the amount of acreage. The process, on this application, is to

roll-out the 2.31 acres by canceling the old contract and entering into a new contract on the

portion remaining, making the new contract qualify.

Jack Remington, Andregg Geomatics, representing the Dante's, explained that there had been an agreement reached between the two property owner's to cover the loss of property.

Edward Dante gave further explanation of the project. He explained that he would have preferred to have the buildings demolished, however, the court decided that it was not feasible. He said that the bank has offered compensation for the loss of the 2.31 acres. He said his main concern was to remain in a Williamson Act Contract.

It was moved by Mr. Draper and seconded by Mr. Smith to recommend that since Government Code Section 51257 (a) requires that the current contract is rescinded and a new contract simultaneously entered into if a lot line adjustment (BLA) is approved, if El Dorado County approves BLA 10-0036, the Commission recommends APPROVAL of WAC 10-0004, as the minimum criteria for a low intensive agricultural operation has been met by APN's 078-230-32, 078-240-37, and 093-050-06.

Motion passed

AYES: Bacchi, Draper, Walker, Neilsen, Boeger, Smith

NOES: None

ABSENT: Mansfield

VI. BUCKS BAR BRIDGE CLOSURE – John Smith

Commission member, John Smith, offered to recues himself from this item as he is an owner of a winery in the Fair Play/Somerset area and the project will have an impact on him personally.

Chair Boeger and the Commission suggested that as the project will not have just an affect on his business alone, he should hear the item in the capacity as an Ag Commission member.

Matt Smeltzer, P.E., Department of Transportation, provided information to the Commission regarding the Bucks Bar Bridge rehabilitation project. This project entails the replacement of the existing bridge at the North Fork Cosumnes River, in addition to widening and minor realignment of Bucks Bar Road approaching the bridge. Three alternative plans have been offered by DOT staff. As the closure may have severe impact on the wineries, farms, businesses and the employees of such, several people spoke of their support for alternative plan #3 which would minimize the road closure. It was suggested, that all concerned, should become pro-active before any construction begins on this project. A winery owner suggested the installation of billboards and/or signage on every major roadway into the south county, advertising the many agricultural attractions this area offers to tourists.

There was discussion of the three alternative plans as presented by Mr. Smeltzer. After

consideration of the numerous public comments in support of Plans 2 or 3 over Plan 1, the Commission agreed that Plan 3 would be a better approach and in the best interest of the agricultural businesses in the South County.

It was moved by Mr. Bacchi and seconded by Mr. Walker to recommend to the Department of Transportation and the El Dorado County Board of Supervisors, the Agricultural Commission's support of DOT Alternative Plan #3, as it will have a less severe impact to agricultural businesses in the Fair Play/Somerset/Mt.Aukum area. The Commission also recommends leaving the current Bucks Bar Bridge intact for the historical value it adds to the county.

Motion passed.

AYES: Bacchi, Draper, Walker, Neilsen, Boeger

NOES: None

ABSTAIN: Smith

ABSENT: Mansfield

For more information please see Department of Transportation website: *Road Projects – #77116*

VII. ZONING ORDINANCE UPDATE AND DISCUSSION

Peter Maurer, Development Services, gave an update on the new changes to the Ag Zoning section of the Draft Zoning Ordinance. Along with the zoning ordinance update, the County's General Plan is being reviewed to create consistency between the two documents. The Economic Development Advisory Committee, (EDAC) and a sub committee, the Regulatory Reform Committee have identified some concerns with the General Plan that some of the policies are leading to some constraints in meeting the county's moderate housing needs, providing jobs, retaining sales tax and protecting the Ag and Natural Resource industries. Potential solutions are being studied and will be presented to the Board of Supervisors on July 25, 2011.

Agricultural Zoning – Chapter 17.21.020 – Agricultural and Resource Zones, was provided to the Commission and members of the public for referral. Mr. Maurer stated that one of the issues often encountered is in property that is zoned AE (Exclusive Agriculture) that rolled-out from a Williamson Act Contract (WAC) years ago, but the property owner never came back to apply for a new rezone because they did not have plans for any current changes to the property at that point in time. This circumstance can create problems when there is a development application or an agricultural setback requirement and the property is zoned AE but is no longer in productive agriculture. The AE and PA (Planned Agricultural) zones are identical except that one is in a Williamson Act Contract and one is not. It is not required by law that Williamson Act properties have a separate zoning. The AP (Agricultural Preserve) zone is another zone for Williamson Act Contracts that provides the Right-to-Farm, setback requirements, and buffering protections but does not allow the commercial activities that the AE and the PA would allow by right. Chris Flores and the Development Services staff have been working together to analyze ag zoned parcels. The proposal is to eliminate the AE and

AP zones. Anything currently zoned AE will be zoned PA. The uses would remain the same, the zoning allowances, setbacks, etc. would be identical.

The AP (Agricultural Preserve) zone will be zoned LA (Limited Agricultural). This will also apply to any new sites that are identified as being active agricultural. Any AE zoned parcels that are in contract for a low intensive ag operation (i.e. grazing) will be rezoned AG (Agricultural Grazing).

Chair Boeger questioned Mr. Maurer regarding the Use Types; Industrial: Mineral Exploration, Mineral Production and Slaughterhouse. He asked that these be given some additional consideration. Also, under Use Types; Agricultural, Processing (where the nature of product is changed), it was suggested that the definition be changed to eliminate “wine”.

Mr. Walker asked how the property owner would be notified of a zone change.

Mr. Maurer answered that under the law, if you are changing the zoning of more than a certain number of parcels, you do not have to provide individual notice to every property owner. However, the Board of Supervisors may decide to provide the information on an individual basis, but this could be a very costly endeavor. Mr. Maurer added that there will be as much public outreach as can be provided with various workshops around the community, advertising on the County website and public notices in the newspaper.

Several public comments were taken under consideration by the Commission.

Agricultural Homestays – Chapter 17.40.050 has been added to the draft zoning ordinance. An amendment to Article 8, Definitions: Deleted “Ranch Style Lodging” under Lodging Facilities and added Agricultural Homestay, defined as “Lodging facilities operated by the resident and owner of a bona fide agricultural or ranch operation on which the facilities are located...” Mr. Maurer said that the staff has looked at state law, as it addresses the food handling facilities in order to provide an administrative permit process for Ag Homestays.

Right to Farm Ordinance – There was discussion regarding the current Right to Farm Ordinance. It was suggested that the ordinance be changed to include language used in Business and Professions Code Section 11010 regarding the use of important farmland soils as criteria for a Notice of Right to Farm. Mr. Maurer said after reviewing the requested changes with Ag staff, he feels that his reading of the B&P Code says it does not apply to zoning. The B& P Code refers to a real-estate disclosure requirement. There is nothing in the current County Right to Farm Ordinance that requires any disclosure.

Chris Flores stated that our current Right to Farm Ordinance applies to lands with agricultural zoning, only. A piece of property with an agricultural operation located within an Ag District does not have the Right to Farm protections if the parcel has a residential zoning (i.e. RE-10).

Mr. Maurer said if someone wants the benefits of the various ag protections they can zone their property for such. He feels a lot of these issues will be resolved in the mapping process.

Valerie Zentner agreed with Ag staff's interpretation of the State Law interpreting the law to mean property owners have the Right to Farm protections if they have soils included on the "Important Farmland Map". The Department of Conservation map is the criteria that would apply. She feels the zoning is inconsistent with the State law. If realtors are required to disclose the Notice of Right to Farm if a property is within one mile of local, important or choice soils, then a property owner would have protection, irrespective of zoning. The specific use regulations also state that the local disclosure statement required of the local realtors is as prescribed by the Ag Commissioner. She feels we have the ability for change but that is only half of the solution. The other solution is to fix the specific use regulation and tie it to the State law.

Peter Maurer stated he would work with Valerie Zentner on this issue and come back to the Commission with their findings.

VIII. LEGISLATIVE AND REGULATORY ISSUES

- Juli Jensen spoke regarding several bills that will have an affect on Agriculture.

AB 10 (Alejo) – Raises minimum wage to \$8.50 on January 1, 2012. This bill was passed by the Assembly Labor & Employment Committee on March 30, 2011 and has been sent to the Appropriations Committee

AB 243 (Alejo) – Requires Farm Labor Contractors to put information about farmers and ranchers they work for, on employee pay stubs, making it easier for employees to sue farmers and ranchers – sponsored by CRLA – a similar bill vetoed by Gov. Schwarzenegger in 2007. This bill passed out of committee on March 30, 2011.

AB 316 (Carter) – As amended, Vehicles: theft inspection. Grand theft: copper materials. Existing law generally provides that grand theft is theft when the money, labor, or real or personal property taken is of a value exceeding \$950. Existing law

AB 634 (Huber) – Vertebrate pest control: carbon monoxide. This bill would authorize the use of carbon monoxide for the control of vertebrate pests, subject to specified provisions governing pest control operations and the use of agricultural chemicals. This bill read a second time and ordered to the Assembly consent calendar.

SB 394 (DeSaulnier) – Healthy Schools Act of 2011. This bill requires mandatory school Intergraded Pest Management for 1050 school districts and 17,000 daycare facilities. Requires that only self-contained baits, gels, and pastes deployed as crack and crevice treatments and spot treatments may be used on school sites. The bill would prohibit use of a pesticide on a school site if that pesticide contains an ingredient known to the state to cause cancer or reproductive toxicity, as specified, or any one of specified cholinesterase-inhibiting pesticides. The bill would prohibit, in and after January 1, 2014, the use of a pesticide on a school site if that product contains certain toxic or dangerous ingredients including any cholinesterase-inhibiting active ingredient, an active ingredient that is a groundwater or toxic air

contaminant, as specified, or a fumigant, as identified by the Department of Pesticide Regulation.

SB 104 (Steinberg) – Passed by the Senate on March 31, 2011 – card check bill denies agricultural workers the right to a secret ballot to decide union representation. This bill is currently in Assembly – third reading.

VIII. CORRESPONDENCE

- None at this time

IX. OTHER BUSINESS

- Economic Development Advisory Committee (EDAC)/Regulatory Reform Update
Maryann Argyres, chairwoman of EDAC, stated that this group was given the task of researching recommendations to improve and reform the regulatory process. She said that she has been working with a group that has great expertise in this area. The Board of Supervisors recently gave the group another three or four months to come back in June or July with many issues, hopefully, resolved. She described this job as a “work in progress” with thousands of free hours being spent to accomplish the task. Ms. Argyres complimented Chris Flores and Valerie Zentner for their excellent work in representing agricultural interests and said they always have their homework done when they are asked to look into something for EDAC.
- Notice of Non-renewal of Ag Preserve 322 from Roy and Marilyn Rutz
- Sundance Subdivision – BOS Agenda (April 5, 2011)
- Williamson Act update

X. ADJOURNMENT

- Chair Boeger adjourned the meeting at 9:30 p.m.

APPROVED: _____

Date: _____