MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON:	**September 17, 2015**
LOCATION:	Mendocino County Board of Supervisors Chambers 501 Low Gap Road, Room 1070 Ukiah, California
COMMISSIONERS PRESENT:	Little, Krueger, Warner, Holtkamp, Hall, Ogle
COMMISSIONERS ABSENT:	Nelson
PLANNING & BLDG SVC STAFF PRESENT:	Steve Dunnicliff, Director Andy Gustavson, Chief Planner John Speka, Planner III Graham Hannaford, Planner II Adrienne Thompson, Commission Services Supervisor
OTHER COUNTY DEPARTMENTS PRESENT:	Matthew Kiedrowski, Deputy County Counsel

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1. Roll Call.

The meeting was called to order at 9:04 a.m. Commissioner Nelson was absent by prior arrangement.

2. Planning Commission Administration.

2a. Determination of Legal Notice.

The Clerk advised the Commission that all items had been properly noticed.

3. Director's Report and Miscellaneous.

Mr. Dunnicliff presented a verbal Director's Report and noted that an urgency ordinance for formula based business would be discussed by the Board of Supervisors at the September 22, 2015 meeting.

4. Matters from Public.

No one was present from the public who indicated a desire to address the Commission.

5. Consent Calendar.

5a. Approval of the June 18, 2015 and July 16, 2015 Planning Commission Minutes.

Commissioner Krueger submitted a correction by email, which had been distributed to the Commission.

Chair Warner asked that the July 16, 2015 minutes be pulled from the consent calendar for discussion.

Commissioner Ogle noted she had been unable to submit her corrections and asked if the June 18, 2015 minutes would have to be pulled to edit.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Hall and carried by a voice vote of (6-0), the June 18, 2015 and July 16, 2015 minutes were removed from the consent calendar.

Commissioner Ogle discussed her corrections to the June minutes; page 7, capitalize Round Valley, page 11, Condition # 23 parenthesis were awkward.

Mr. Kiedrowski commented the fee was payable to County Counsel.

Mr. Gustavson suggested removing the parenthesis and rewording the sentence.

Mr. Kiedrowski noted the date on page 13, regarding the moratorium on general plan amendments and rezonings should be changed to January 1st.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Ogle and carried by a voice vote of (6-0), the June 18, 2015 Planning Commission Minutes are approved as corrected.

Chair Warner noted she would like to add on to her comments from the July 16, 2015 minutes on page 19 regarding the Dollar General appeal, read her statement into the record and submitted the language to the clerk.

The Commission agreed the language addition was acceptable.

Commissioner Hall noted that the additional comments were the root of the sentiment that he had agreed to in the lines following Chair Warner's comment.

Mr. Kiedrowski noted a more appropriate choice of words for the addition would be to "grant the appeal".

Chair Warner agreed to change her comment.

Commissioner Ogle submitted several corrections; page 5, #2 capitalize Quality, #3 replace the period with a comma after July 31, page 9, #2 add a "d" accesses and add a period, #3 add parenthesis (120+/- acres), page 10, #3 replace be with "by", page 11, #9 add "the", page 16, under Sabrina Teller, replace Mr. with Ms., page 18 Mr. Momsen's comments change study to "studied". She also asked where the public hearing was closed.

Mr. Kiedrowski noted the public hearing was closed on page 19 after Doug Losak's comments.

Commissioner Ogle also noted on page 20 in her comments, with should be replaced by "when".

Mr. Gustavson noted that changes submitted prior to the meeting would be provided in strikeout/underline for review, but additional changes could be made at the meeting.

Mr. Dunnicliff noted the discussion of a process change was to ensure that the Planning Commission was not in the position of approving corrections that they have not reviewed.

Upon motion by Commissioner Ogle, seconded by Commissioner Holtkamp and carried by a voice vote of (6-0), the July 16, 2015 Planning Commission Minutes are approved as corrected.

6. <u>Regular Calendar</u>.

Mr. Gustavson commented that the applicant for 6c. had requested a continuance to the October agenda.

Chair Warner commented that Case #UR_2013-0001 (Studebaker/Laytonville Rock) would be continued at the owners request and would not be discussed today.

6a. CASE#: A_2015-0001
DATE FILED: 5/6/2015
OWNER: BEATRIX ROBINSON OSWALD
APPLICANT: WILLIAM OSWALD
PROJECT COORDINATOR: JOHN SPEKA
REQUEST: Re-establishment of a 220± acre Agricultural Preserve and Williamson Act Contract which was previously non-renewed in 2012.
ENVIRONMENTAL DETERMINATION: Categorically Exempt, Class 17.
LOCATION: Within the Coastal Zone, 3± miles south of Elk, lying on either side of Highway 1; Located at 10001 S Highway 1; APN's 131-030-01, -03, -05, -06, -08, -23, -25.
RECOMMENDED ACTION: Recommend approval to the Board of Supervisors.

Mr. John Speka, Project Coordinator, reviewed the staff report and noted that the owners name should be corrected to Beatrix Oswald Robinson. He discussed several maps that were displayed on the projector for the Commission.

Commissioner Ogle noted the last sentence on page 1 of the staff report was unclear.

Mr. Speka suggested deleting "this".

Commissioner Ogle noted the report stated the cattle would be moved the first week of September and asked if that had been done.

Mr. Speka deferred to the applicant.

Beatrix Oswald Robinson, owner, commented that the cattle had been moved as indicated in the report. She noted the property had been in a status of nonrenewal because of the difficulty in finding individuals to lease the property for grazing cattle. She noted they were also growing peas as an alternative operation.

Commissioner Krueger asked if there 5 or 7 owners.

Ms. Robinson stated there were 5 owners; only 3 participated in the lease and the remaining 2 only have 1.5% ownership status.

Commissioner Krueger was concerned about entering into a contract that not all property owners had agreed to.

Commissioner Little commented that the property owners that did sign the lease have a controlling interest.

Commissioner Krueger noted that was true; however the property appeared to be in litigation and the absent owners could claim a diminished value, based on the fact that they did not agree to the Ag Preserve.

Ms. Robinson noted that not all owners were in 100% agreement and would provide staff with contact information for all interested parties.

Chair Warner commented the Commission could not place a condition on an Ag Preserve.

Mr. Speka noted that since the Board approves the contract, the Commission could request that the applicant submit necessary signatures by the time the Board hearing is set.

Mr. Gustavson believed that was correct.

Mr. Kiedrowski further noted that the Planning Commission's recommendation to the Board could be subject to all owners signing the Agricultural Preserve and Williamson Act Contract.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Upon motion by Commissioner Hall, seconded by Commissioner Holtkamp and carried by the following roll call vote (6-0), IT IS ORDERED to recommend approval of Agricultural Preserve #A_2015-0001, subject to all owners signing the Agricultural Preserve and Williamson Act Contract; creating a fully executed contract.

Environmental Findings: This project is categorically exempt from CEQA review per Section 15317 of the CEQA Guidelines (Class 17).

Agricultural Preserve Findings: This proposed agricultural preserve meets the requirements of Section 22.08.050, providing more than the minimum production potential of ten animal units (AU) of feed at a rate of 40 acres or less per AU, and providing adequate feeding capabilities for more than ten (10) mature beef or dairy animals. This proposed agricultural preserve contains more than the minimum of 100 acres required by Section 22.08.020(A)(1).

Williamson Act Findings: The proposed agricultural preserve is consistent with County and State requirements of the Williamson Act with respect to qualifying grazing activity.

AYES: Little, Krueger, Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Nelson

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6b. CASE#: A_2015-0002
DATE FILED: 6/1/2015
OWNER: JONATHAN & KATRINA FREY AND EVELYN SILVA
APPLICANT: FREY VINEYARDS, LTD
AGENT: JAMES BARRETT
PROJECT COORDINATOR: JOHN SPEKA
REQUEST: Agricultural Preserve to place 72± acres into 2 separate contracts under a single ownership on non-contiguous parcels of 40± and 32± acres, respectively.
ENVIRONMENTAL DETERMINATION: Categorically Exempt, Class 17.
LOCATION: Two non-contiguous parcels, 1.5± and 2.5± miles northwest of Redwood Valley, located on both sides of West Road (CR 237), 1.25± and 0.25± miles, respectively, from their intersections with East Road (CR 230), located at 11700, 10501, and 10451 West Road; APN's 160-040-24, 161-040-03, and 160-160-11.
RECOMMENDED ACTION: Recommend approval to the Board of Supervisors.

Mr. John Speka, Project Coordinator, reviewed the staff report and presented a power point of the project illustrating the property configuration. He reviewed a history of the vineyard production on the parcels and noted staff was recommending approval to the Board.

Jim Barrett, agent, noted he was in agreement with the staff report and available for questions. He stated that he would be preparing 2 maps for the 2 contracts.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Commissioner Ogle asked if any language needed to be added to the recommended motion in the staff report regarding the 2 contracts.

Mr. Kiedrowski noted the findings reference the preserves and the motion did not need to be changed.

Upon motion by Commissioner Ogle, seconded by Commissioner Hall and carried by the following roll call vote (6-0), IT IS ORDERED that the Planning Commission recommends the Board of Supervisors approve Agricultural Preserve #A_2015-0002 making the following findings, consistent with the General Plan and Mendocino County Code Section 22.08:

Environmental Findings: This project is categorically exempt from CEQA review per Section 15317 of the CEQA Guidelines (Class 17).

Agricultural Preserve Findings: Two individual agricultural preserves, comprised of approximately 40 and 32 acres, respectively, are necessary due to unique characteristics of the agricultural enterprises in the area. Given the smaller sizes of the parcels in this region of the County and their respective histories as established productive vineyards, findings required by County Code can be made with respect to the unique characteristics of the proposed agricultural preserves. In addition, the two proposed agricultural preserves are consistent with the General Plan with respect to Resource Management Goals discussed above under "Key Issue #1- General Plan and Zoning Consistency."

Williamson Act Findings: California Government Code Section 51222 states that "agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is …at least 10 acres in size in the case of prime agricultural land." County Code Section 22.08.021(C) defines prime agricultural land as including "[l]and planted with fruit or nut-bearing trees, vines, bushes or crops… which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars ($200.00) per acre." The proposed agricultural preserves are approximately 40 and 32 acres in size and expected to exceed the minimum levels of production. Therefore, they are consistent with County and State requirements of the Williamson Act with respect to qualifying acreages and agricultural uses.

AYES: Little, Krueger, Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Nelson

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6c. CASE#: UR_2013-0001

DATE FILED: 1/3/2013
OWNER: SEAN & AURORA STUDEBAKER AND VALERIE NORDEMAN
APPLICANT: LAYTONVILLE ROCK
AGENT: CRAWFORD AND ASSOCIATES, INC.
PROJECT COORDINATOR: JOHN SPEKA
REQUEST: Use Permit and Reclamation Plan Renewal to expand an existing hillside quarry mining operation for 30 years. Extraction would consist of up to 325,000 total cubic yards (cy) of material (avg 11,000 cy/yr) with up to 50,000 cy in any one year.
ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration.
LOCATION: 1± mile northeast of Laytonville, lying on the north side of Laytonville Dos Rios Road (CR 322), 0.75± mile from its intersection with Highway 101, located at 1136 Laytonville Dos Rios Road; APN's 035-460-02 & -06.
RECOMMENDED ACTION: Approve by Resolution as recommended.

Mr. Gustavson noted a motion to continue to October 15, 2015, was needed.

Upon motion by Commissioner Hall, seconded by Commissioner Ogle and carried by the following voice vote (6-0), IT IS ORDERED to continue Case #UR_2013-0001 to the October 15, 2015 Planning Commission Meeting.

AYES: Little, Krueger, Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Nelson

6d. CASE#: GP_2015-0002

DATE FILED: 7/27/2015
OWNER: NUMEROUS
APPLICANT: COUNTY OF MENDOCINO
AGENT: PLANNING AND BUILDING SERVICES
PROJECT COORDINATOR: GRAHAM HANNAFORD
REQUEST: Amend Chapter 3- Development Element of the Mendocino County General Plan to include the Disadvantaged Unincorporated Communities study.
ENVIRONMENTAL DETERMINATION: Categorical Exemption, Class 6 (CEQA Guidelines Section 15306).
LOCATION: All of Mendocino County
RECOMMENDED ACTION: Recommend approval to the Board of Supervisors.

Mr. Gustavson noted the document had been before the Planning Commission before in conjunction with the Housing Element update. He discussed State law requirements to include the Disadvantaged Unincorporated Communities (DUC) as a modification to the General Plan and noted staff had brought the DUC back to the Planning Commission for a recommendation to the Board to amend and include the information in the General Plan.

Mr. Graham Hannaford, Project Coordinator, reviewed the staff report and noted that the Commission had reviewed the information with the Housing Element; however the DUC had not been properly noticed. He discussed SB 244, which required all jurisdictions to adopt the study and update the Land Use Element of the General Plan. He presented a power point of the study as a refresher for the Commission.

Commissioner Holtkamp commented that the information regarding the water assessment seemed outdated, as it was from 2000.

Mr. Hannaford noted it was the most recent data available from the Local Agency Formation Commission (LAFCO).

Commissioner Hall agreed that the numbers seemed more appropriate for an area like Round Valley, which had more abundant water and thought that most wells were closer to 40+ feet in Anderson Valley. He also commented that Boonville and Philo were 2 separate towns with different boundaries, although they were included together in the study.

Commissioner Little commented that he assumed the study was a State mandate.

Mr. Gustavson stated that was correct.

Commissioner Little felt the study would not accomplish anything and did not provide a solution. He felt the study provided only a cursory review of issues in the communities and does not adequately identify the problems. He noted several other communities, such as Westport, Piercy, Elk, etc. with similar disadvantages and asked why other areas were not included.

Mr. Gustavson noted the communities were defined by the census tracts, not community boundaries established by the General Plan and felt there were other communities within the County that would undoubtedly qualify as disadvantaged, but were not identified by the census data.

Commissioner Little felt it was important to list all the disadvantaged communities within the DUC, not just those identified in the census data, and asked staff to add further information.

Mr. Gustavson asked that the request be included in the motion and believed it was a valid clarification.

Commissioner Little clarified that Laytonville's fire protection was provided by the Long Valley Fire Protection District, which operates as the Laytonville Volunteer Fire Department and they no longer had an Office of Emergency Services unit. He felt that Emergency Services were a critical factor not addressed in the DUC. He asked that staff provide further information on Emergency Services and how they were provided and funded in the DUC.

Commissioner Ogle asked the purpose of SB 244.

Mr. Gustavson noted that SB 244 helped to assure that the General Plan identifies communities and describes areas with potential need for improvement to assist in seeking funds. He noted the DUC would put the matter on the table and begin to elevate awareness and concern that could lead to a Board directive.

Commissioner Little stated there was a critical need in Laytonville for a sewer system, but nothing was mentioned in the DUC.

Mr. Kiedrowski stated that SB 244 was a tool used by LAFCO in terms of review and documentation.

Commissioner Holtkamp agreed that further information should be added to the DUC to address Laytonville's sewer needs, Anderson Valley's water issues and the lack of Emergency providers and costs of fire departments.

Chair Warner commented that having the DUC separated out did help provide scrutiny and bring issues out for discussion.

Mr. Gustavson clarified that the DUC was not a component of the Housing Element, but would be added to the development chapter of the General Plan. He felt it was appropriate to discuss the issues, but stated the discussion did not tie back to General Plan policies.

Chair Warner noted the Anderson Valley water issue and had a concern with the proximity of wells to septic tanks, especially in the core downtown area.

Commissioner Holtkamp commented that the demand on water was greater now than in the year 2000 and felt like the truth of the issue should be noted.

Commissioner Little commented that the issues should be clearly stated so the reader can tell what needs to be done in each community.

Commissioner Holtkamp agreed that how Emergency Services were delivered and paid for was important and did not want to "gloss over the problems". She thought Emergency Service funding was a statewide issue that could have resources available at the State level to solve the problem.

The Commission noted they would like the DUC to discuss water and Emergency Services issues.

Chair Warner noted corrections on page 3-24E, add "a" before number of financial mechanisms, the last sentence needs another comma after "districts".

Commissioner Ogle discussed the Covelo/Round Valley area and asked if the numbers included the tribe and was amazed that 89% were unemployed.

Mr. Hannaford noted he would have to check, but assumed the numbers included the overall population.

Commissioner Krueger noted that Hopland referenced the average household income while all the other areas used the "median" household income and felt they should be consistent.

Mr. Gustavson noted the motion by the Commission could be to recommend the Board of Supervisors approve the general plan amendment as presented by staff with the correction of typographical errors. He commented that SB 244 was intended to provide the setting to identify opportunities for financial support, and noted, that if the Commission wished, they could also recommend that the Board consider adopting a separate document at a later date that could address specific General Plan policies, respond to water issues, emergency service funding, the need for a sewer system in Laytonville and other disadvantaged communities that were not included in the DUC. ~~Mr. Gustavson advised the Commission to include the requested revisions in their motion to the Board of Supervisors to amend the document and be incorporated in the final and amend the General Plan. He noted staff could amend the document and bring back a separate item that addressed General Plan consistency, applicable policy and action items. He commented that SB 244 was intended to provide the setting to identify opportunities for financial support.~~
[d1]

The Commission noted they did not need to review the document and the requested additions could be made and presented to the Board.

Mr. Gustavson noted the Background section could be amended to add an explanation.

Commissioner Little made the recommended motion on Page 6, recommending the Board of Supervisors adopt General Plan Amendment, GP_2015-0002 with the correction of typographical errors. He further recommended the Board consider adopting a separate document at a later date that could address specific General Plan policies, respond to water issues, emergency service funding, the need for a sewer system in Laytonville and other disadvantaged communities that were not included in the DUC, ~~with the addition of an analysis of Emergency Service funding/providers, a discussion of the included communities and the reason why other communities of a similar nature were not included in the study~~[d2]. The motion was seconded by Commissioner Hall.

Under Discussion Commissioner Krueger referenced the median income correction.

Commissioner Little made the recommended additions from the Commission and to the General Plan Consistency findings as identified on Page 5.

Commissioner Hall, as the second, agreed with the additions.

Upon motion by Commissioner Little, seconded by Commissioner Hall and carried by the following roll call vote (6-0), IT IS ORDERED to recommend that the Board of Supervisors adopt General Plan Amendment, GP_2015-0002, with the correction of typographical errors and that the Board considedr adopting a separate document at a later date that could address specific General Plan policies, respond to water issues, emergency service funding, the need for a sewer system in Laytonville and other disadvantaged communities that were not included in the DUC~~addition of an analysis of Emergency Service funding/providers, a discussion of the included communities and the reason why other communities of a similar nature were not included in the study, including all typographical corrections and other additions made by the Planning Commission.~~

AYES: Little, Krueger, Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Nelson

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[Break 10:34-10:45 AM]

7. Matters from Staff.

7a. REQUEST: Review and Update of the Planning Commission Bylaws and Rules of Procedure, including additions such as procedure for correcting Minutes.
RECOMMENDED ACTION: No action at this time.

Mr. Gustavson noted that Mary Lynn Hunt was not available; however she had prepared a memo that had been mailed to the Commission in their packets for discussion. He noted staff had found an outdated Planning Commission Rules and Procedures/Bylaws document and would like to update the material to provide the Commission with a current document that accurately reflected the order of agenda, procedures, duties of the Commission, etc.

Chair Warner thought it would be appropriate to change the document and asked how many Commissioners had received the Commissioner notebook and if the changes would be incorporated into the notebook.

Commissioner Holtkamp commented that she had never seen the notebook.

Mr. Gustavson noted that Ms. Hunt was working with the notebook and would be updating that document as the Commission provided input.

Mr. Dunnicliff commented that staff had found an older version and hoped the Commission could discuss whether it made sense to create the “Mendocino County” Commissioner Handbook or if the statewide model, found on the Office of Planning and Research website, might be sufficient.

Commissioner Krueger suggested having the manual posted on the website so it could be updated easily and did not need to be printed.

Mr. Dunnicliff thought having the manual posted on the website was a terrific idea, as it would also be available to the public.

Commissioner Holtkamp agreed that the website made sense and it would ensure that all the Commissioners were reviewing the same information. She noted that binders could contain older information if the sections were not updated frequently.

Commissioner Ogle agreed, no binder, all digital.

Commissioner Little discussed Rule #8, regarding the 2/3 vote limits and what can added to the agenda.

Mr. Kiedrowski noted those types of actions were also covered by the Brown Act and reviewed the process for the Commission. He felt the information would not need to be duplicated in the Commission's Handbook.

Commissioner Ogle commented on the short time frame to review minutes and submit corrections. She did not think the timeline could be met unless the Commission received their packets earlier.

Commissioner Hall noted that the practice used to be that substantive issues were brought up at the meeting and grammar/typo's were submitted to the clerk.

Chair Warner noted that the public perception is that the Commission is accepting changes without a full review of the changes if they only occur via email. She noted the importance of having the changes available for everyone to review.

Commissioner Little commented that if changes were unable to be made, the minutes could be continued to a future hearing date for approval.

Mr. Gustavson noted that in most cases it was not necessary to have the minutes approved at a subsequent hearing; however a matter could be scheduled for a Board hearing and the minutes would be important to include.

The Commission discussed email protocol with the clerk to submit corrections. They also stated a desire to move the review of minutes to the end of the agenda after all projects had been completed.

Commissioner Ogle discussed Rule 5 and Rule 7, and Sections 8-10, which she found confusing.

Mr. Kiedrowski noted the language was outdated, but also included in Robert's Rules of Order and the Brown Act.

Mr. Gustavson agreed the language seemed antiquated and unnecessary.

Chair Warner noted on page 3 of the Bylaws #2 stated the Commission's duties to review a capital improvement program.

Mr. Gustavson commented that the Planning Commission should be reviewing the Department of Transportation's capital improvements for consistency with the General Plan and reporting their findings to the Board of Supervisors.

Commissioner Ogle asked if the document would be back before the Commission in October as revised.

Mr. Gustavson felt it was worthwhile to discuss at each meeting and noted he hoped an updated document could be completed by January.

Chair Warner asked about the fire findings.

Mr. Gustavson noted Adele Philips would be presenting the item at the next meeting.

Mr. Kiedrowski discussed the moratorium on formula businesses and noted the definition language would mirror the "Formula" business definition written for the Mendocino Town Plan Update.

Chair Warner noted potential development requests around the bypass connections in Willits.

Commissioner Little noted the issues were addressed in the EIR for the bypass, but would be limited as the lands to the north were wetlands.

Mr. Kiedrowski noted for the Commission that the Agricultural Update/Williamson Act Ordinance would be back before the Board on October 6, 2015 for final adoption.

8. Matters from Commission.

Commissioner Little discussed the establishment of temporary cell towers during emergencies, such as the recent fires.

Mr. Gustavson noted the Director grants approval of the temporary tower and the permit is issued for a limited time.

Chair Warner noted she would be absent in October.

Commissioner Little noted he would be absent in November.

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9. Adjournment.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Hall, and unanimously carried (6-0), IT IS ORDERED that the Planning Commission hearing adjourn at 11:55 a.m.