DEPARTMENT: Planning

RECOMMENDED ACTION & JUSTIFICATION:

Adopt a resolution of intention to initiate an amendment to the Mariposa County policies implementing the California Land Conservation Act (LCA) of 1965 in Mariposa County.

Justification for and discussion of the proposed amendments are included in the attached memorandum to the Board of Supervisors.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

1977 - Board of Supervisors adopted Resolution No. 77-157, implementing the Williamson Act in Mariposa County

1978 - Board of Supervisors adopted Resolution No. 78-8, amending the processing requirements established by Resolution No. 77-157

1995 - Board of Supervisors adopted Resolution No. 95-350, clarifying the language contained in Resolution No. 77-157 relative to cancellation penalties for contracts

2003 - Board of Supervisors initiated an update to the county policies implementing the Williamson Act in Mariposa County

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Do not initiate amendment. The Agriculture Exclusive Land Use and Zone would remain unchanged.

Financial Impact?  ( ) Yes  (X) No  Current FY Cost: $  Annual Recurring Cost: $
Budgeted In Current FY?  ( ) Yes  ( ) No  ( ) Partially Funded
Amount in Budget: $ 
Additional Funding Needed: $ 
Source: 
Internal Transfer
Unanticipated Revenue
Transfer Between Funds
Contingency
( ) General  ( ) Other

CLERK’S USE ONLY:
Res. No.: 58-58
Ord. No. 
Vote – Ayes:  _____  Noes:  _____  Absent:  _____  Approved
( ) Minute Order Attached  ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date:

Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: ________________________________
Deputy

Attachments: Memorandum with Attachments:
1. Draft Resolution, 2. Agricultural Advisory Committee Minutes Excerpts, 3. Correspondence From Department of Conservation, 4. Resolution No. 77-157, 5. Resolution No. 78-8,
6. Resolution No. 95-350

County Administrative Officer:

Requested Action Recommended  No Opinion

Comments:

CAO: ________________________________

Revised Dec. 2002
COUNTY of MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BOB PICKARD, CHAIR
LEE STETSON, VICE CHAIR
LYLE TURPIN
JANET BIBBY
DIANNE FRITZ

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRS SCHENK, Planning Director
FROM: MARGIE WILLIAMS, Clerk of the Board
SUBJECT: AMENDMENT TO MODIFY PROVISIONS FOR WILLIAMSON ACT CONTRACTS AND CONTRACTED LANDS IN THE COUNTY
Resolution No. 05-546a

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on November 15, 2005

ACTION AND VOTE:

11:37 a.m.  B) PUBLIC HEARING: Adopt a Resolution of Intention Initiating Amendments to the Mariposa County Resolutions Implementing the California Land Conservation Act of 1965 to Modify Provisions for Williamson Act Contracts and Contracted Lands in Mariposa County

BOARD ACTION: Sarah Williams, Deputy Director, presented the staff report. Staff responded to questions from the Board relative to establishing fees for processing applications; relative to portions of a contracted property not being eligible for a notice of non-renewal, unless that application is accompanied with an application for a new contract for the portion of the property which is not the subject of non-renewal; clarification of provision that states that all parcels applying for contract shall within one year of the effective date of the contract be restricted by zoning of said parcel to agricultural use; clarification of issues relating to agricultural production and compatible uses; and the process for ensuring compliance with the Land Conservation Contract provisions. Additional questions were asked relative to the minimum parcel size and production requirements for contracts; provisions for residential development and home enterprises; whether there is a way to have a uniform contract for all of the existing contract holders; and relative to changes recently enacted by AB 1492.

Input from the public was provided by the following:

Karen Helms Bodfish stated she is a landowner with a Williamson Act contract, and she feels that there needs to be some clarification. She stated she uses her property to lease for dry land grazing and she is concerned with the proposed income requirements. She stated she understood that the purpose of Williamson Act was to help to keep the land from development, and she feels that this is shifting.

Cathie Pierce, President of Mariposa County Farm Bureau, read into the record a portion of a letter of October 5th from the California Farm Bureau General Counsel relative to Williamson Act enforcement and addressed Certificates of Compliance. She stated they would like to see enforcement of provisions for land divisions on contracted parcels.

Becky Crafts, Assistant Assessor, provided input relative to their process for checking with contract holders to determine compliance with the provisions of the contract; and she advised of the amount of subvention revenue that is received for the contracted land.
The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to review of the open space issue; relative to the annual income amounts that are recommended for agricultural activities; relative to the status of historic parcels and non-renewal of the contract; and relative to timelines for this process. (M)Bibby, (S)Turpin, Res. 05-545 was adopted for intention to initiate an amendment to the Mariposa County policies implementing the California Land Conservation Act of 1965 in Mariposa County. Board members thanked staff and the Agricultural Advisory Board members for their work on this matter. Becky Crafts corrected the earlier information that she provided relative to the subvention revenue and advised that it is $203,000. Ayes: Stetson, Turpin, Bibby, Pickard; Excused: Fritz. The hearing was closed.

Cc:  File
MARIPOSA COUNTY RESOLUTION NO. 05-546

RESOLUTION OF INTENTION TO INITIATE AN AMENDMENT TO THE MARIPOSA COUNTY POLICIES IMPLEMENTING THE CALIFORNIA LAND CONSERVATION ACT OF 1965 TO MODIFY WILLIAMSON ACT CONTRACTS AND CONTRACTED AGRICULTURAL LANDS IN MARIPOSA COUNTY

WHEREAS, in 2003, following processing of the Williamson Act Applications for the calendar year, the Mariposa County Board of Supervisors directed staff to commence an amendment to the Mariposa County policies implementing the California Land Conservation Act of 1965; and

WHEREAS, the amendments are necessary based upon changes in state law since 1977, as well as case law involving interpretation and implementation of the act since 1977; and

WHEREAS, the amendments are also necessary based upon the effects recognition of historic parcels through the Certificate of Compliance process have had on the viability of agricultural operations in the county and the appropriateness of the program for Mariposa County; and

WHEREAS, the Mariposa County Agricultural Advisory Committee discussed the issue at thirteen (13) different noticed public meetings and developed a recommendation for amendments to the policy; and

WHEREAS, the Department of Conservation has reviewed the recommendations of the Mariposa County Agricultural Advisory Committee and supported the recommendations with minor amendments; and

WHEREAS, the Mariposa County Agricultural Advisory Committee incorporated the suggested amendments made by the Department of Conservation as appropriate.

NOW THEREFORE BE IT RESOLVED THAT the Board of Supervisors does hereby initiate an action to modify the policies and provision implementing the California Land Conservation Act of 1965 as contained in Exhibits A, B, and C of this resolution.

BE IT FURTHER RESOLVED THAT the Board of Supervisors does hereby adopt the following findings as the basis for undertaking these amendments to Mariposa County’s policies for Land Conservation Act implementation:

1. Agricultural production is and will remain a principle use land in Mariposa County.

2. Agricultural production on lands within Mariposa County constitutes an important physical, social, aesthetic and economic asset to the county.
Agricultural lands contribute significantly to the rural character of Mariposa County.

3. The Land Conservation Act of 1965 provides an important tool to ensure that viable agricultural operations within the county remain economically viable.

4. Properties which are not in compliance with the Land Conservation Act of 1965 and contract provisions threaten the viability of the program within Mariposa County.

5. This amendment is in the interest of the health and safety of Mariposa County residents.

BE IT FURTHER RESOLVED THAT the Board of Supervisors hereby directs that the proposed policies in Attachment 1, Attachment 2, and Attachment 3 be advertised for adoption, be widely circulated in Mariposa County, be noticed to the general public in the newspaper, be advertised to all contract holders, and be referred to the Mariposa County Planning Commission for a recommendation, prior to being brought back to the Board of Supervisors for final consideration and enactment.

BE IT FINALLY RESOLVED THAT the Board of Supervisors directs staff to research options for implementation of these policies to meet the following objectives:

   Objective 1: All parcels under contract shall be subject to the same standards.
   Objective 2: Implement Objective 1 immediately.
   Objective 3: Preserve as many viable parcels under contract as possible.
   Objective 4: Ensure that process is legally defensible.

ON MOTION BY Supervisor Bibby, seconded by Supervisor Turpin; this resolution is duly passed and adopted this 15th day of November, 2005 by the following vote:

AYES: Stetson, Turpin, Bibby, and Pickard

NOES: None

ABSENT: Fritz

ABSTAIN: None

Bob Pickard, Chairman
Mariposa County Board of Supervisors
Resolution No. 05-546; Initiating amendment to Mariposa County Policies for Implementing the Land Conservation Act of 1965

ATTEST:

[Signature]
Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

[Signature]
Thomas P. Guarino
County Counsel
Exhibit A

DRAFT PROCEDURES AND REQUIREMENTS FOR ESTABLISHING OR MODIFYING AN AGRICULTURAL PRESERVE AND ENTERING INTO OR MODIFYING A LAND CONSERVATION ACT CONTRACT

1. Requests to establish a new agricultural preserve and execute a Land Conservation (Williamson) Act Contract, or requests to execute a Land Conservation Act Contract within an existing agricultural preserve shall be filed with the Mariposa County Planning Department on an application form provided by the Department. Requests to modify, non-renew or cancel a contract shall also be filed with the Mariposa County Planning Department on an application form provided by the Department.

2. Application information shall include, but not be limited to the landowner(s) of record, the location of the property, the legal description of the property, the size of the property, and evidence and certification that the property has been for the past three (3) years and is presently devoted to agricultural production and compatible uses. The application information shall indicate the landowners' intention to enter into a contract that will qualify as an enforceable use restriction as specified in Section 422 of the Revenue & Taxation Code of the State of California.

3. Fees for processing applications shall be established by separate resolution.

4. The Mariposa County Agricultural Advisory Committee shall review all applications for new or amended contracts, contract cancellations, and contract non-renewals and shall forward such applications, along with a Committee recommendation, to the Planning Commission.

5. The Mariposa County Planning Commission shall hold a noticed public hearing on all applications for new or amended contracts, contract cancellations, and contract non-renewals and shall forward such applications, along with a Commission recommendation, to the Board of Supervisors.

6. The Board of Supervisors shall hold a public hearing on all applications for new or amended contracts, contract cancellations, and contract non-renewals, singularly or jointly. The purpose of such hearing is to permit all interested parties to inform themselves and present testimony if desired. The Board shall take action on all applications by resolution, upon finding that the application complies with all requirements established by state law and county policy.

7. Applications on contracted lands, which propose to adjust or amend parcel configurations, shall be reviewed pursuant to state law, county policy and contract requirements. Applications for land divisions shall be conditioned to require that new contracts be recorded for each parcel created by the division.
Applications for lot line adjustments shall be conditioned to require that contracts be amended to reflect amended parcel configurations, prior to completion of the lot line adjustment. State law provisions regulating divisions and adjustments of contracted lands must be met.

8. Certificate of compliance applications shall not be processed on contracted lands, unless accompanied by an application to merge parcels which do not comply with the minimum parcel size and agricultural productivity requirements of state law and county policy. For example, the county could process applications for certificates of compliance, if they were accompanied by parcel merger applications so that all resulting parcels are at least 320 acres in size for grazing land. If an applicant meets these and any other applicable requirements for processing of a certificate of compliance, a contract amendment shall also be required, so that new contracts are executed for each resulting parcel.

9. Portions of a legal parcel as defined by the Subdivision Map Act are not eligible for contract.

10. Portions of a contracted property are not eligible for a notice of non-renewal, unless that application is accompanied with an application for new contract for the portion of property which is not the subject of non-renewal.

11. At the time of establishing an agricultural preserve, the Board of Supervisors shall authorize the Chairman of the Board to sign a Land Conservation Act contract, on a standard form to be hereafter specified by the Board, with any owner of land within the preserve who qualifies for the contract and has requested to enter into such contract with the County.

12. All parcels under contract shall be restricted by zoning of said parcel to agricultural use. All parcels applying for contract shall within one (1) year of the effective date of the contract be restricted by zoning of said parcel to agricultural use. No applications for change in the agricultural use zoning shall be processed for contracted parcels, unless a notice of non-renewal has been filed and there are two or less years remaining in the contract.

13. An indemnification agreement and/or a waiver of any and all claims against the county may be required by the lead agency for any permit or project involving a Land Conservation Act contract, including but not limited to a building permit application.
Exhibit B

DRAFT STANDARDS FOR CONTRACTED LANDS,
AGRICULTURAL PRODUCTION AND COMPATIBLE USES

1. Relationship between State Law and County Policy

Mariposa County has developed county policy to implement state law. Mariposa County’s policy is tailored to local needs, priorities, and policies, in acknowledgement of environmental conditions, opportunities and constraints relative to local agricultural productivity. Mariposa County’s policy to implement state law is more restrictive than and in addition to state law.

2. Minimum Size of an Agricultural Preserve

A distinction is made between the minimum size of an agricultural preserve and the minimum size of a contracted property or contracted parcel. The minimum size of an agricultural preserve in Mariposa County shall be 160 acres or a legal quarter section, which shall be contiguous.

3. Minimum Parcel Size and Commercial Agricultural Productivity

State Law establishes a presumption that a parcel is large enough to sustain an agricultural use if it is at least 10 acres in size in the case of prime land, or at least 40 acres in size in the case of land which is not prime agricultural land. Mariposa County establishes the following minimum parcel size standards which are used in conjunction with standards for commercial agricultural productivity on a parcel under contract or proposed to be put under contract. Land under contract in Mariposa County must comply with both the minimum parcel size standard and standards for commercial agricultural productivity.

All proposals to change boundaries of land under contract in Mariposa County must comply with both the minimum parcel size standard and standards for commercial agricultural productivity. Proposals to change boundaries of land under contract include, but are not necessarily limited to, lot line adjustments, parcel mergers, land divisions, and certificate of compliance applications.

Portions of a legal parcel as defined by the Subdivision Map Act are not eligible for contract.

Parcels which are not adjoining shall not be eligible for a single contract.

A contracted site or a contracted parcel must be of adequate size to sustain a commercial agricultural operation as follows:

a) 320 acres or a legal half section shall be presumed to be of adequate size for any commercial agricultural operation.
b) Properties of less than 320 acres or a legal half section in size may be a commercial agricultural operation if the minimum annual revenue on the property is at least $3,000 for grazing land, however no parcel of less than 160 acres or a legal quarter section in size may be considered for contract if the agricultural use is grazing land.

c) Properties of less than 160 acres or a legal quarter in size may be a commercial agricultural operation if the minimum annual revenue on the property is at least $10,000 for specialty crops.

d) In cases where applications are submitted for a property which contains multiple legal parcels which are less than the minimum size necessary to sustain a commercial agricultural operation pursuant to county policy, the parcels shall be merged prior to entering into contract into parcels which comply with the adequate size criteria for a commercial agricultural operation, or the contract shall include a restriction prohibiting sale of individual parcels during the tenure of the contract.

e) In no case shall properties of less than 40 acres or a legal quarter-quarter section in size be eligible for contract.

f) Income from sales of agricultural commodities or income from lease of land used for commercial production of agricultural commodities shall be the only sources of income used to calculate annual revenue. If a portion of a contracted parcel is managed for production of an agricultural commodity and a portion of the same contracted parcel is leased, then income from both uses may be counted. Revenue from other compatible uses or ancillary uses of the land shall not be included in the revenue calculation. Tax documents may be used to substantiate the commercial agricultural use of the property. Revenue shall mean gross agricultural income generated by the property. Monetary values may be adjusted over time to account for inflation, using 2006 as the base year.

4. Agricultural Production and Compatible Uses

The primary use of contracted land shall be for commercial agricultural production uses including production of agricultural commodities for sale in wholesale or direct marketing channels. Agricultural commodities shall mean an unprocessed product of farms, ranches and nurseries.

Agricultural production and compatible uses shall be defined as follows:

a) Agricultural Production Uses: The following land uses, and those uses which in the opinion of the Board of Supervisors may be substantially similar in nature thereto, shall be deemed agricultural production uses and thus permitted within an agriculture preserve and on Land Conservation Act contracted lands:

i. General farming, including but not limited to the growing and harvesting of vegetables, field crops, fruit and nut crops, bush and berry crops, vineyards, hay crops, and nursery, cut flower, and other ornamental crops.
ii. Production of agricultural livestock, which may include horses used primarily for ranching work.

iii. Rangeland and pasture for livestock production.

iv. Dairies

v. Keeping of honey bees.

vii. Accessory uses and structures appurtenant and necessary to the operation of the permitted uses, including one-family dwellings located on the land and occupied by persons directly engaged in the operation, and including raising and keeping of horses used in the operation.

b) Compatible Uses: The following compatible uses may be permitted within such preserves, providing they are not the principal use.

i. Forestry, but not including any processing facilities.

ii. Utility lines and substations.

iii. Processing and vending facilities for products grown on land within the county.

iv. Recreation, but not including permanent structures.

v. Private airstrips and heliports if used as a part of an agricultural production use on-site.

vi. Production of game animals.

vii. Mining if conducted in accordance with all requirements of county ordinance and state law, the Surface Mining and Reclamation Act of 1975. Reclamation shall be to an agricultural use. A finding shall be made that the proposal is of limited extent and duration, so as to meet compatibility principles of state law.

viii. Maintaining of horses used primarily for ranching work.

ix. Growing and harvesting of hardwoods.

x. Home enterprises conducted entirely within existing conventional single family residential structures as determined by the Planning Director, and operated by permanent residents. Home enterprises on contracted lands shall not create any significant traffic impacts and there shall be no external evidence of the existence of the business.

Other uses may be considered compatible uses upon review by the Board of Supervisors, upon a finding that the proposal complies with the compatibility
principles of the Williamson Act (Government Code), and upon a finding that the proposal is incidental and secondary to the primary agricultural use of the parcel.

Agricultural production and compatible uses are also subject to all applicable Zoning Ordinance provisions and requirements. In cases where there is conflict between the terms and provisions of the county policy for LCA Contracts, the terms and provisions of the contract, and the applicable zoning ordinance provisions and requirements, the more restrictive provision shall apply.

5. Residential Development

a) Any residential structure on any parcel encumbered by contract must be occupied by persons directly engaged in the agricultural operation on-site. Property owners who lease their land for commercial agricultural uses may reside on a permanent or temporary basis on contracted land to monitor the lease arrangements and provisions pursuant to this restriction.

b) For residential development on contracted parcels at or above the minimum parcel size of 320 acres or a legal half section, there is no discretionary review for any proposed single family residential home. There is no maximum home size, however the structures must be a single family dwelling as determined by the Planning Director. Attached residential development, such as duplexes or dormitories as may be appropriate for employee housing, shall be subject to a discretionary permit and shall comply with density provisions of the applicable zoning and general plan land use designation.

c) For residential development on contracted parcels of less than 320 acres or a legal half section in size, the first single family residence is permitted with no size limitation. The structure must be a single family dwelling as determined by the Planning Director. Any proposed residential development which creates more than one residence per contract is subject to a discretionary permit and shall comply with density provisions of the applicable zoning and general plan land use designation.

d) No new residential dwelling permits may be issued to a contracted parcel, unless the parcel is in full compliance with state law, county policy, and contract requirements. In no case shall a permit be issued to allow construction of a residence on a contracted parcel which is less than forty (40) acres or a legal quarter-quarter section in size.

e) Home sites on contracted parcels shall be allocated parcel sizes of no less than 2.5 acres for appraisal purposes.

6. Modifications to Contracted Lands

a) For any proposal to non-renew a portion of land under contract, a finding must be made that the remaining property under contract must meet the criteria established for contract by state law and county policy. If this finding cannot be made, the
county shall cause a non-renewal to be filed for the remaining property under contract.

b) Requests for modification of a parcel boundary, where that parcel is under contract, shall be accompanied by or conditioned to require that the companion contract be modified to reflect the new boundary. A contract shall always encumber all property within any legally established or legally modified parcel.

7. Contract Period

The minimum contract period shall be no less than twenty (20) years

8. Cancellation Penalty

The minimum cancellation penalty shall be no less than 25% of the fair market value of the property, without the contract imposed on the land.
A. Public Education

1. Establish program to educate realtors about Williamson Act Contracts and restrictions.
2. Establish program to educate new property owners about Williamson Act Contracts and restrictions.
3. Establish program to educate existing contract holders about proposed changes to Williamson Act Contract restrictions.
4. Make Williamson Act contract program and reporting requirements and other information available on the county’s website.

B. Amended Reporting Program

1. Require Assessor’s Office / Planning Department / Agricultural Commissioner / Farm Advisor to mail “agricultural activity” questionnaire to all property owners under contract on annual basis.
2. Revise agricultural activity questionnaire based upon updated policies and requirements.
3. Revise questionnaire to indicate response now mandatory. County may request evidence of agricultural income which may include, but not be limited to sales receipts, tax returns, etc. County shall request such evidence if fraudulent reporting is suspected.
4. If completed questionnaire not returned following second written notice, county may file notice of non-renewal and/or take other appropriate enforcement action.
5. If completed questionnaire doesn’t indicate compliance for 3 consecutive years, county may file notice of non-renewal following notice and/or take other appropriate enforcement action pursuant to the terms and provisions of the contract, state law and county policy.
6. If completed questionnaire indicates change in use which isn’t in compliance with contract provisions, county may file notice of non-renewal following notice and/or take other appropriate enforcement action pursuant to the terms and provisions of the contract, state law and county policy.

C. Parcel Activity

1. Upon transfer of title to a property under contract, the Assessor will notify the Planning Department which shall mail the new owner information regarding the contract restrictions and requirements.
2. Property may only be transferred if it complies with the minimum parcel size and agricultural production requirements of the county Williamson Act Program and an individual contract exists for that property.
3. If the transferred property does not comply with contract provisions or the Williamson Act Program, the county may file a notice of non-renewal and/or take other appropriate enforcement action pursuant to the terms and provisions of the contract, state law and county policy.

D. Proposed Development

1. Upon permit application, Planning Department staff shall review project to ensure compliance with Williamson Act requirements.
2. Permit application will also trigger review of parcel to ensure compliance with Williamson Act requirements. Permit shall not be issued to any parcel which is not in compliance with all Williamson Act program requirements.
3. Review may necessitate input from the Agricultural Advisory Committee.