



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

October 12, 2010



Folder Time Description

9:02 a.m. Meeting Called to Order at the Mariposa County Government Center with Supervisor Cann excused to be with his ill father.

Pledge of Allegiance

Vice-Chair Allen called for a moment of silence in honor of our troops spread across the world protecting our freedoms.

Introductions – none.

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.
BOARD ACTION: Vice-Chair Allen advised that item 106 is withdrawn.
 Input from the public was provided by the following:
 Eleanor Keuning referred to item 104 and advised of her request to the Arts Council for information on their budget. Supervisor Bibby asked about the County receiving their budget information; and Rick Benson responded, that the County can request the information.
 Supervisors Bibby and Aborn pulled item 107. (M)Bibby, (S)Aborn, the balance of the items was approved/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.
- 2 Public Presentation: For Items within the Jurisdiction of the Board and not on Today’s Agenda (Speakers Limited to Five Minutes)
 Kris Randal, Master Gardener Coordinator, provided an update on the Master Gardener activities and contributions to the county.
 Eleanor Keuning referred to her input at a previous meeting about the need for civility during the final budget hearings, and provided input on an editorial about basic decency. She asked whether the Board will meet on November 23rd or November 30th. The Clerk of the Board advised that the Board is scheduled to meet on November 23rd; however, November 30th is a fifth Tuesday so the Board does not meet.
 Lester Bridges, President of the Chamber of Commerce, noted there are lots of events scheduled for the weekend; advised that over 400 people participated in the Courthouse tours in July and August; and he invited everyone to attend the Heroes dinner on October 21st.

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Board Information

Supervisor Aborn commented on Fire Prevention Week activities and the open house held at the Midpines Fire Station; and he noted the Fish Camp/Forest Service Station is closed for the season. He attended the annual volunteer firefighters' picnic on Sunday. He attended the Airport Advisory Committee meeting on Wednesday and he advised of the presentation by Steve Stuhmer to construct a private hangar and restaurant at the Airport – this request will come to the Board. He advised that information is available in the back of the Board Chambers on speed bumps/humps – this is an issue in El Portal.

Supervisor Turpin advised that he attended the CSEDD (Central Sierra Economic Development District) and the CSPC (Central Sierra Planning Council) meeting in Angels Camp with the County Administrative Officer on Wednesday. He commented on issues with the work being done on the Fish Hatchery at Moccasin. He commented that we need to watch the strategic fire planning for California that has not involved the local government. He attended the CSAC (California State Association of Counties) Executive Committee meeting in Monterey, and he commented on the issues that were discussed. He plans to attend the California Transportation Commission meeting in Murphys on Wednesday; he missed the Farm Bureau dinner on Saturday; he attended the firefighters' picnic on Sunday; he plans to participate by teleconference in the Calaveras-Mariposa Community Action Agency meeting on Thursday; and he plans to attend a meeting in Lake Don Pedro on Friday with the Public Works Director relative to the trails.

Supervisor Bibby advised that she attended the Farm Bureau dinner, and she thanked them for their input on agricultural issues affecting rural counties and for the assistance they provide to the County. She attended the firefighters' picnic and commended everyone who is involved. She plans to participate by teleconference in the Calaveras-Mariposa Community Action Agency meeting on Thursday. She attended the First 5 meeting on Monday and provided input on the issues that were discussed. She advised that a multi-casualty event is scheduled for October 16th at McCay Hall. She thanked Kris Randal for the update on the Master Gardener activities.

Supervisor Allen provided input on the adoption of the State budget and issues affecting the County. He attended the EMCC (Emergency Medical Care Committee) meeting on Thursday and they discussed the multi-casualty event and the possibility of John C. Fremont Health Care District taking over the clinic in Yosemite. He attended the fire station planning meeting on Friday. He attended seven community events on Saturday and the firefighters' picnic on Sunday. He announced that flu shots will be given on Wednesday at the Fairgrounds. There is a BBQ on Saturday at the Ponderosa Basin Fire Station. He plans to attend the Mountain Valley Emergency Medical Services Agency meeting in Modesto on Wednesday – they will discuss the selection of a new director and the status of Stanislaus County's membership in the Region. He plans to attend the San Joaquin Valley Regional Association of California Counties meeting in Stockton. He noted the following items on the County's website: Tire Amnesty Days and job announcements.

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Consider Items Removed from the Consent Agenda

Item 107 – Supervisor Bibby initiated discussion with Allen Toschi, Public Works Director, relative to the work to be done and the contractor(s). Steve Dahlem, County Counsel, and Rick Benson, County Administrative Officer, responded to questions and provided input on options for moving forward with this project. (M)Turpin, (S)Aborn, Res. 10-480 was adopted authorizing the Public Works Director to move forward with the purchase of a well pump from H&B Drilling in the approximate amount of \$11,000; with the purchase of fixed assets consisting of various pumps, an analyzer, and an air bubbler from Lowry Systems in the approximate amount of \$65,000; and approved the

budget action to cover the expenses for this project (\$150,000). Direction was given for the final agreement with Howk Systems to be brought back for action. Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

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Administration

Adopt a Resolution Severing the Link of Benefits Between the Board of Supervisors and Mariposa County Managerial/Confidential Organization (MCMCO) and Establish a Limit for the County Contribution for Medical Benefits for Members of the Board of Supervisors to the Current Amount

BOARD ACTION: Discussion was held with Rick Benson, and he suggested that if and when a change is made in the MCMCO benefits, that he would bring an item to the Board for consideration of whether the Board wants to change its benefits. Supervisor Bibby asked how this would affect retired Supervisors. Supervisor Allen responded that if they retired at the County level, it will affect them; if they chose the State system, the benefits will stay with what is provided by the State. Supervisor Bibby asked if other elected officials are included in this, and was advised that there is no conflict with the other elected officials as they do not participate in labor negotiations. (M)Aborn, (S)Turpin, Res. 10-481 was adopted severing the link of benefits between the Board of Supervisors and MCMCO; and establishing a limit for the County contribution for medical benefits for members of the Board of Supervisors to the current amount of \$803.81 per month/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

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Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos;

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Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos;

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Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs' Association (DSA); Name of County Designated Representative: Richard C. Bolanos; and

9

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff's Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos

BOARD ACTION: Rick Benson withdrew these closed sessions.

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10:10 a.m. County Counsel

CLOSED SESSION: Conference with Legal Counsel: Existing Litigation: Bryce Johnson v. County of Mariposa, et al.; WCAB Claim No. ADJ2509126

BOARD ACTION: (M)Bibby, (S)Aborn, this closed session was held/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

10:30 a.m. Report from Closed Session:

County Counsel advised that the Board took action in closed session, with four members voting unanimously and with one member excused, to approve the Settlement Agreement and Release of Claims between the County of Mariposa and Bryce Johnson, and that the substance of the Agreement was to settle any known and unknown claims that exist on behalf of Mr. Johnson against the County of Mariposa.

Consent Agenda

- CA-101 **Clerk of the Board**
Approval of Summary of Proceedings of September 21, 2010; Regular Meeting
- CA-102 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park; Res. 10-477
- CA-103 **Administration**
Informational Report of Liability Claims Rejected by the County Administrative Officer/Risk Manager for the Months of May through September 2010; Res. 10-478
- CA-104 **Administration**
Approve an Agreement with the Mariposa County Arts Council for Performing Arts, Visual Arts, and Arts Resources and Education Services in the Amount of \$51,000 and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-479
- CA-105 **Human Services**
Appoint Celeste Azevedo to the Alcohol/Drug Abuse Advisory Board for a Term Expiring October 12, 2013
- CA-106 **Human Services**
Approve Third Amendment to Agreement with New Leaf Counseling Service to Provide Residential Alcohol and Drug Treatment for Women, and Authorize the Board of Supervisors Chair to Sign the Amendment; this item was withdrawn
- CA-107 **Public Works**
Authorize the Public Works Director to Purchase Fixed Assets for the Yosemite West Maintenance District, Consisting of Various Pumps, an Analyzer, and an Air Bubbler for a Compliance Issue Regarding the State Lead and Copper Rule, Authorize the Chair of the Board of Supervisors to Sign an Agreement to Install Fixed Assets; and Approve Budget Action Transferring Funds from the Yosemite West Utility Capital Fund to the Yosemite West Maintenance Fund to Cover the Expenses (\$150,000) (4/5ths Vote Required); Res. 10-480 was adopted authorizing the Public Works Director to move forward with the purchase of a well pump from H&B Drilling in the approximate amount of \$11,000; with the purchase of fixed assets consisting of various pumps, an analyzer, and an air bubbler from Lowry Systems in the approximate amount of \$65,000; and approved the budget action to cover the expenses for this project (\$150,000). Direction was given for the final agreement with Howk Systems to be brought back for action.
- CA-108 **Public Works**
Appoint Robin Binder to the Airport Advisory Committee as a Member Representing Category "A" of the Membership Requirements with a Term Expiring January 7, 2013

Adjournment at 10:32 a.m.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors

By: JIM ALLEN
Vice-Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

October 19, 2010



DRAFT – PENDING BOARD APPROVAL

Folder Time Description

9:03 a.m. Meeting Called to Order at the Mariposa County Government Center

Pledge of Allegiance

Chair Cann called for a moment of silence in honor of our armed forces serving across the world to defend our freedoms.

Introductions – none

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.
BOARD ACTION: Jim Rydingsword, Human Services Director, provided input on item 111 and noted this is an example of collaboration between the Probation Department and Human Services; and he commended Chevon Kothari for writing the grant. Supervisor Aborn referred to item 106 and asked whether consideration has been given to contacting the Master Gardeners to assist with landscaping projects. (M)Bibby, (S)Turpin, all items were approved/Ayes: Unanimous.
- 2 **Chair Cann**
Proclaim October 23 – 31, 2010 as “Red Ribbon Week” (Sheriff)
BOARD ACTION: (M)Bibby, (S)Allen, the Proclamation was approved and presented to Doug Binnewies-Sheriff; and Mariah Tate-Prevention Specialist for Mariposa Safe Families/Ayes: Unanimous.
- 3 Public Presentation: For Items within the Jurisdiction of the Board and not on Today’s Agenda (Speakers Limited to Five Minutes)
Lester Bridges, President of the Chamber of Commerce, encouraged everyone to attend the Heroes Dinner on October 21st. Chair Cann noted the Board adopted a Proclamation for this event under the Consent Agenda this morning; and he plans to present the Proclamation at the dinner on behalf of the Board.
- 4 Board Information
Supervisor Aborn advised of the El Portal Planning Advisory Committee meeting and continued discussion of the speed bump/hump issue, and issues relative to the speed limit on Highway 140 through the El Portal area. He plans to attend the Heroes

dinner. He advised that Mr. Stuhmer's request for a restaurant and hangar at the Airport is scheduled for the next Board meeting.

Supervisor Allen advised that he attended the Mountain Valley Emergency Medical Services Agency Joint Powers Authority meeting in Modesto on Wednesday, and they received a report from Stanislaus County relative to the membership in the region. He attended the San Joaquin Valley Regional Association of California Counties meeting in Stockton last week, and he advised of the issues that were discussed. He attended the Ponderosa Basin Fire Station BBQ on Saturday. He will miss the Heroes dinner as he will be in San Diego, but extended his best wishes to all of the first responders/heroes.

Supervisor Turpin advised that he attended the California Transportation Commission meeting in Murphys on Wednesday, and he will provide a report under the Local Transportation Commission meeting later today. He participated in the Calaveras-Mariposa County Community Action Agency meeting by teleconference on Thursday. He met with the Public Works Director on Friday relative to the Don Pedro trails and sewer plant lift station issues. He attended the charter school presentation on Saturday in North County. He plans to attend the Friends of the Red Cloud Library meeting in Greeley Hill on Wednesday; the open house at the Agricultural Commissioner/Farm Advisor/Resource Conservation District complex on Thursday; the fire station planning meeting on Friday; and the Greeley Hill Community Club open house on Saturday.

Supervisor Bibby extended a special thanks to the heroes and to the Chamber of Commerce for honoring them; and she advised that she will be unable to attend as she has a previous commitment for her 25th wedding anniversary. She advised that the 4-H Achievement Night is scheduled for Sunday. She participated in the Calaveras-Mariposa County Community Action Agency meeting by teleconference on Thursday, and advised that they are looking for two members from the private sector. She received confirmation that Mother Lode Job Training is receiving its federal funds from the State, and they are looking for a person to fill the private business membership category. She advised that First 5 is looking for a board member representing the public sector. She noted the importance of voting, and advised that absentee ballots have been mailed out. She thanked everyone who participated in the casualty incident training.

Supervisor Cann thanked everyone for their understanding during his absence as he was spending time with his father who has a terminal illness; and he advised that he will need to return to Pennsylvania on October 29th if not before. He referred to the press release on *Sierra Sun Times* webpage relative to an incident on El Capitan and the interagency cooperation; and he noted that those responders/heroes provide assistance throughout the world. He plans to attend the Heroes dinner. He also plans to attend the Environmental Joint Powers Authority meeting in Sacramento on Thursday. He commented on the presentation of AB 32/global warming initiative at the Regional Council of Rural Counties conference and the financial impacts.

5 Consider Items Removed from the Consent Agenda – none

Board to Convene as

9:45 a.m. LOCAL TRANSPORTATION COMMISSION

(Chair – Commissioner Lyle Turpin, Vice-Chair – Commissioner Brad Aborn)

6 Public Presentation: For Items within the Jurisdiction of the Local Transportation Commission and not on Today's Agenda (Speakers Limited to Five Minutes)

Eleanor Keuning expressed concern with the way the traffic lanes are marked at the intersection of Highway 49 North and Highway 140.

Chair Turpin reported on the California Transportation Commission meeting he attended in Murphys with Barbara Carrier/Transportation Planner. He advised of his input relative to the condition of our roads and the Ferguson Rockslide and the comments he received relative to the status of the Ferguson Rockslide. He was advised that CalTrans is sending out documents this week.

7

Public Works

Approve an Agreement with Nelson/Nygaard for Implementation Assistance with the Coordinated Plan Recommended Strategies and Authorize the Board of Supervisors Chair to Sign the Agreement

COMMISSION ACTION: Discussion was held with Barbara Carrier, and she advised that the contract will not exceed \$75,000 – she plans to have tasks one through five done with that amount. Commissioner Aborn commented on the Ferguson Rockslide project and the status of scheduling of a meeting in Mariposa and El Portal. (M)Bibby, (S)Cann, LTC Res. 10-21 was adopted approving the agreement, in an amount not to exceed \$75,000/Ayes: Unanimous.

10:58 a.m. Reconvened as
BOARD OF SUPERVISORS

8

Public Works

Adopt a Resolution of Intention to Form a Zone of Benefit for Royal Oaks Estates, and Set Public Hearing for December 14, 2010 at 9:00 a.m.

BOARD ACTION: Discussion was held with Allen Toschi and Mark Dvorak/PWD-Engineering, relative to process and costs.

Input from the public was provided by the following:

Eleanor Keuning questioned why the property owners pay taxes and are being asked to pay for the zone of benefit for road maintenance.

George Heiss, applicant, clarified that there are 33 parcels in the subdivision.

(M)Bibby, (S)Allen, Res. 10-491 was adopted - intention to form the Zone of Benefit, with the correction to show 33 parcels/Ayes: Unanimous. George Heiss thanked the Public Works Director and County Administrative Officer for bringing this matter forward.

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Administration (Estimated Time 11:00 a.m.)

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos;

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Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos;

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Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs' Association (DSA); Name of County Designated Representative: Richard C. Bolanos; and

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Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff's Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos

BOARD ACTION: These closed sessions were not held.

10:17 a.m. Recess and Lunch

2:00 p.m. Reconvened

13

Planning

CONTINUED PUBLIC HEARING to Consider Amended Site Plan Application No. 2009-124 to Allow Modifications to the Approved Site Plan and Architecture, and Clarifications of Certain Conditions of Approval for the Silver Tip Resort Village Project; Planned Development No. 99-1 and Conditional Use Permit No. 267. The Silver Tip Village Resort Project was approved by the Board of Supervisors in December 2003. The Silver Tip Resort Village Project Consists of 47.3 Acres and is Located at the Intersection of State Highway 41 and Fish Camp Lane in the Fish Camp Town Planning Area. The Site Includes Assessor's Parcel Numbers: 010-550-035, 010-550-054, 010-550-056 and 010-550-057. Applicants: PacificUS Real Estate Group. (Continued from September 21, 2010)

BOARD ACTION: Chair Cann reviewed the hearing process. Kris Schenk introduced John Anderson/consultant planner for the County for this project; and Bill Abbott-Abbott and Kindermann/legal counsel for the County for this project; and Sarah Williams/Deputy Planning Director was present.

John Anderson presented the staff report, addressing and clarifying the proposed project changes and site plan modifications. He advised of correspondence that was received after the staff report was prepared. The staff report included a review of the following items: parking changes, consolidating the conference center, environmental review, easements held by the Yosemite Alpine Community Services District (YACSD), Condition No. 9/mitigation of the impacts associated with the wetlands areas and sensitive species prior to issuance of a Grading Permit or Building Permit, Condition No. 16/completion of the public water system including storage tank/loop water system/fire hydrants and the provisions to meet commercial fire flow requirements prior to the issuance of Grading or Building Permits, proposed changes in the architecture of the hotel and cabins, relocation of the tennis court site, relocation of the treated effluent disposal fields and storage tank locations, clarification of landscaping the exposed slopes, clarification that the hotel and conference center are part of phase A, clarification that the commercial pad and permanent landscaped areas shall receive treatment, relocation of the cabins, site plan modifications for road access to the remote cabins/parking areas/parking on the Southwest side of the hotel/bus parking, and site plan modifications for the surface parking and adjustments to the main conference center location due to YACSD easements.

Staff responded to questions from the Board relative to the site plan modifications and relocation of the wastewater system; and as to whether there is a change in the visual impact for the neighbors with relocating the conference center.

John Anderson advised of phasing clarifications and minor adjustments in Exhibit 7 of the draft formal resolution, and he presented revised pages. He advised of the Big Creek flooding issue that was raised after the Planning Commission's deliberation; and noted that this was addressed in the environmental review and by the Provost and Pritchard study. He advised of correspondence that was included in the staff report.

Staff responded to questioned from the Board relative to parking and whether adjacent land owned by the County is being used for parking; and the reasons for changing from a parking garage to surface parking.

The public portion of the hearing was opened and input was provided by the following:

John Jameson, Executive Vice President of PacificUS Real Estate Group/applicant, stated he agreed with the staff presentation. He referred to the architecture issues, and he advised that Attorney Jeff Reid is present to discuss the environmental issues regarding the project. John Jameson showed a slide of a more dimensional view of the hotel.

Jeff Reid, legal counsel for PacificUS Real Estate Group, addressed issues of compliance with CEQA (California Environmental Quality Act) and he advised that the changes that have been proposed are in compliance with CEQA. He noted that the Big Creek flood issue was not discussed in the Initial Study and no changes have been made that would impact Big Creek, so he does not feel that is an issue. He responded to a question from the Board relative to the case he cited in this matter – Laurel Heights Improvement Association of San Francisco vs. The Regents of the University of California.

Speakers in support of the proponent: none

Speakers in opposition to the proponent. Chair Cann advised that the input needs to be focused on the changes proposed to the project, and not the project itself.

Lynn Baker, attorney representing the Fish Camp Property Owner's Association (FCPOA) and Block D homeowners, stated she will have Pam Salisbury and Mr. Young provide input. Lynn Baker stated she feels the Big Creek flood issue is pertinent because for the first time on the plan they see fills and new retaining walls up to 19-feet. This is new information that could not have been known at the time the project was approved.

Pamela Salisbury, Block D owner in Fish Camp, corrected the information provided by John Jameson and advised that they are located north and northeast to the project site. She referred to her letter of September 20, 2010, with the NewFields River Basin Services report relative to the Big Creek flood analysis. She provided input on the elevation issues and she feels they have proof that the developer's 100-year flood elevation is inaccurate. She showed a photograph that was included in the NewFields study showing impacts from the 1997 flood. She referred to the Big Creek Flood Analysis cross section diagrams.

Ron Young, Chair of the FCPOA, stated he has been a taxpayer in the County for fifty years and has a lot of experience with Fish Camp and Big Creek. He referred to the 100-foot flood level elevation cited by PacificUS at 4964-feet and noted the hotel is at 4968-feet; and he referred to the May 13, 2010 hydraulic report presented to the County showing normal elevations of Big Creek at 4968-feet upstream and at 4973-feet directly across from the hotel. He referred to the elevations cited by Mr. Bopp. He feels the Board must protect the safety of the residents of Fish Camp. He feels the old data is extremely questionable and noted they have supplied new data backed up with PhDs.

Lynn Baker referred to the information she submitted today from the FCPOA; noted she has not seen information from the other engineers involved in the project; she was a civil engineer before becoming an attorney; and she feels it is the Board's job to make sure that the people are safe and that the flood levels are not impacted for the people in Block D. Until the new plans became available, they were unable to calculate what the water displacement would be and the impacts on flooding. She requested that their questions be answered and feels that the Board has the right and responsibility to have their questions answered. She feels there is only one way to establish the regulatory floodway and that is to have a HEC-RAS One Storm study; and this will provide liability protection for the County. She feels that the Board felt that it was approving a project that was out of the floodway in 2003, and that this Board should have assurance of this. She asked members of the audience to stand and show their support for a HEC-RAS study; and to raise their hands if they live or own property in Fish Camp. She feels that both Big Creek and Cedar Creek should be studied to have correct information for the record and because floods can be serious. She responded to questions from the Board relative to conflicting information on the different elevations and establishing a benchmark that everyone can agree on; whether the FCPOA met and authorized her to represent them and the letter that was submitted; and why she feels the flood elevation data is conflicting.

Dick Ryan, Chair of the YACSD, stated he is not speaking for or against the project, but they are concerned with the water supply for their community. He referred to Conditions 25-27 which must be fulfilled before any Building Permits are issued, and he noted there has been little progress.

Rebuttal by the applicant:

Jeff Reid asked for a recess.

3:33 p.m. Recess

3:47 p.m. The Board reconvened.

Jeff Reid referred to the flood level and elevations issues and advised that they engaged an engineer to do an analysis – it was subject to peer review, the Board’s review, and certification in the Environmental Impact Report (EIR). He referred to CEQA requirements concerning the new information issue; and stated he does not feel that new information has been submitted that is of substantial importance or with significant effects – the previous EIR addressed water and flood level issues. He advised that the berms that will be installed are above the previously determined flood level so it does not raise an issue of whether that flood line was appropriate. He noted that the water level will be higher when you go upstream at a higher elevation. He noted that the applicant could proceed with the project as previously approved.

Rebuttal by opposition:

Lynn Baker provided input on case law and CEQA requirements; and stated this is up to the Board.

Kris Schenk suggested that John Anderson briefly review the conditions of the project and how they are applied.

The public portion of the hearing was closed and the Board commenced with deliberations. John Anderson advised that the site plan presented in 2003 (when the project was approved) is for the most part identical to the plan today as far as the location of the project near Big Creek. He advised that more specific information has been received, and he has been asking for more detailed information relative to the grades, slope stability and treatment and the applicant will submit thorough project details and drawings when they have certainty that these conditions are approved. The applicant will address the issue of the retaining wall and hopes to secure adjacent land to be able to slope the land versus installing a retaining wall. He advised that the flood issues were addressed in the original EIR, and he does not see the issue today being related to CEQA; maybe just a confidence level issue for the Board. He advised that the Board could ask for more information. He noted that there are only a couple of areas where FEMA has mapped flood elevations in the County and this is not one of them. So they are relying on expert testimony in the 2003 EIR, and he noted that has been litigated.

Staff responded to questions from the Board relative to the request for a HEC-RAS study and whether there are other options to determine the correct elevation information; and Supervisor Allen stated he wanted assurance that no one in Block D would be flooded. Kris Schenk advised that the Board could ask the County Engineer to provide an analysis; could ask the applicant to obtain an engineer’s report to compare to the information that has been provided; or ask for a peer review that staff could arrange. Staff responded to questions from the Board as to whether we have anything with an Engineer’s stamp on it for this project, and advised that a study was prepared by Provost and Pritchard in 2000. Beyond that, there are just studies and presentations and nothing with an Engineer’s stamp. Staff responded to a question from the Board relative to clarification of whether there was a peer review in 2003 and advised that they do not know. Staff responded to questions from Supervisor Turpin relative to water run-off concerns and the mitigation measures and conditions for complying with this issue; as well as Public Works’ review of this and the elevation issues. Staff

advised that the plan modifications do not bring anything in the project closer to Big Creek; but they could seek clarity to make sure that things are properly analyzed as they have only seen about ten percent of the engineered drawings for the project. There is still a lot of detail that needs to be shared with staff, including Public Works. Supervisor Bibby asked about options for the Board to ask for further clarification and input since there is no stream gauging station on Big Creek – she feels the studies are extrapolating information and there is a lack of site specific evidence. Supervisor Cann commented on the purpose of today’s hearing and the site plan modifications, and stated he feels it is reasonable for the Board to take action on proposed amendments and to ask the proponents to provide verification of their data. He noted the 1997 flood was prior to the 2003 action to approve this project; and the only information added today was the photograph of the flood and back-up study information. John Anderson stated he feels the question is whether it is reasonable to add conditions outside of the CEQA process, and he referred to the eight conditions added in Exhibit 4 of the draft resolution to the approved project to provide clarification. Supervisor Cann suggested that the Board add a condition for receiving clarity on the flood elevation data. John Anderson suggested that the Board could take a recess for staff to draft language for this condition for the Board’s consideration. Supervisor Bibby asked that there be clarification for resolving the concerns relative to the vagueness about actual construction as it progresses. Attorney Abbott suggested that if the Board is looking favorably on the project amendment request, that it could take a motion of intent to approve the resolution, with staff returning at a later date with a modification for the flood height issue. Supervisor Allen stated he wants to be sure that no one is put in danger of a flood and wants the flood elevation certified with peer review. Supervisor Turpin agreed with verifying the benchmark and having more information on the contours of the land.

4:24 p.m. Recess

4:44 p.m. The Board reconvened. Chair Cann asked for the Board’s consensus on approving the modifications with verification of the data with regards to the stream flow; and he advised that legal counsel would prefer that action is taken on the resolution in its final form, with the condition added for verification of the flood information. Sarah Williams recommended adopting a motion of intent to approve the resolution as provided in the staff report subject to additional language to address verification of the flood elevations. Chair Cann clarified that the proponent will be asked to provide the verification; and he noted that this hearing would be continued in its deliberation phase and reiterated that the public input portion is closed. Discussion was held.

(M)Allen, (S)Aborn, the Board intends to approve the resolution approving the Amended Site Plan Application No. 2009-124 as recommended in the staff report, and subject to additional language to address verification of the flood elevations/Ayes: Unanimous.

(M)Bibby, (S)Allen, the hearing was continued to November 9, 2010, at 2:00 p.m. in the deliberation phase – no additional public input will be accepted/Ayes: Unanimous.

Consent Agenda

CA-101

Clerk of the Board

Approval of Summary of Proceedings of September 28, 2010, Regular Meeting

- CA-102 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park; Res. 10-482
- CA-103 **Planning**
Increase Salary from Step 4 to Step 5, for Extra Help, Part Time Senior Planner Position in the Planning Department; Res. 10-483
- CA-104 **Human Services**
Approve the In Home Supportive Services (IHSS) Anti-Fraud Plan and Authorize the Board of Supervisors Chair to Sign the Plan; Approve Budget Action Increasing Revenue and Appropriations in the Assistance Advance Fund and the Social Services Budget (\$32,724) (4/5ths Vote Required); Res. 10-484
- CA-105 **Human Services**
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- CA-110 **Chair Cann**
Proclaim the Month of October, 2010 as “America’s Heroes Appreciation Month” (Chamber of Commerce)
- CA-111 **Probation**
Authorize the Board of Supervisors Chair to Sign Grant Award Documents to Accept Funding from Department of Justice for the Period of October 2010 through September 2011 in the Amount of \$50,000 for the Justice and Mental Health Collaborative Planning Grant to Provide Support for the Formation of a Countywide Collaborative Group to Strategically Plan to Initiate Systemic Change for the Identification and

Treatment of System-Involved Individuals with Mental Illness or Co-occurring Mental Health and Substance Abuse Disorders, and Approve Budget Action Increasing Revenue and Appropriations in the Probation Budget (\$50,000) (4/5ths Vote Required); Res. 10-490

The Board adjourned at 4:55 p.m. in memory of Marilyn Schill, Bonnie Rae Jordan, Joyce Utterback, and Geraldine Romine.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

October 19, 2010



Folder Time Description

9:03 a.m. Meeting Called to Order at the Mariposa County Government Center

Pledge of Allegiance

Chair Cann called for a moment of silence in honor of our armed forces serving across the world to defend our freedoms.

Introductions – none

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.
BOARD ACTION: Jim Rydingsword, Human Services Director, provided input on item 111 and noted this is an example of collaboration between the Probation Department and Human Services; and he commended Chevon Kothari for writing the grant. Supervisor Aborn referred to item 106 and asked whether consideration has been given to contacting the Master Gardeners to assist with landscaping projects. (M)Bibby, (S)Turpin, all items were approved/Ayes: Unanimous.
- 2 **Chair Cann**
Proclaim October 23 – 31, 2010 as “Red Ribbon Week” (Sheriff)
BOARD ACTION: (M)Bibby, (S)Allen, the Proclamation was approved and presented to Doug Binnewies-Sheriff; and Mariah Tate-Prevention Specialist for Mariposa Safe Families/Ayes: Unanimous.
- 3 Public Presentation: For Items within the Jurisdiction of the Board and not on Today’s Agenda (Speakers Limited to Five Minutes)
Lester Bridges, President of the Chamber of Commerce, encouraged everyone to attend the Heroes Dinner on October 21st. Chair Cann noted the Board adopted a Proclamation for this event under the Consent Agenda this morning; and he plans to present the Proclamation at the dinner on behalf of the Board.
- 4 Board Information
Supervisor Aborn advised of the El Portal Planning Advisory Committee meeting and continued discussion of the speed bump/hump issue, and issues relative to the speed limit on Highway 140 through the El Portal area. He plans to attend the Heroes

dinner. He advised that Mr. Stuhmer's request for a restaurant and hangar at the Airport is scheduled for the next Board meeting.

Supervisor Allen advised that he attended the Mountain Valley Emergency Medical Services Agency Joint Powers Authority meeting in Modesto on Wednesday, and they received a report from Stanislaus County relative to the membership in the region. He attended the San Joaquin Valley Regional Association of California Counties meeting in Stockton last week, and he advised of the issues that were discussed. He attended the Ponderosa Basin Fire Station BBQ on Saturday. He will miss the Heroes dinner as he will be in San Diego, but extended his best wishes to all of the first responders/heroes.

Supervisor Turpin advised that he attended the California Transportation Commission meeting in Murphys on Wednesday, and he will provide a report under the Local Transportation Commission meeting later today. He participated in the Calaveras-Mariposa County Community Action Agency meeting by teleconference on Thursday. He met with the Public Works Director on Friday relative to the Don Pedro trails and sewer plant lift station issues. He attended the charter school presentation on Saturday in North County. He plans to attend the Friends of the Red Cloud Library meeting in Greeley Hill on Wednesday; the open house at the Agricultural Commissioner/Farm Advisor/Resource Conservation District complex on Thursday; the fire station planning meeting on Friday; and the Greeley Hill Community Club open house on Saturday.

Supervisor Bibby extended a special thanks to the heroes and to the Chamber of Commerce for honoring them; and she advised that she will be unable to attend as she has a previous commitment for her 25th wedding anniversary. She advised that the 4-H Achievement Night is scheduled for Sunday. She participated in the Calaveras-Mariposa County Community Action Agency meeting by teleconference on Thursday, and advised that they are looking for two members from the private sector. She received confirmation that Mother Lode Job Training is receiving its federal funds from the State, and they are looking for a person to fill the private business membership category. She advised that First 5 is looking for a board member representing the public sector. She noted the importance of voting, and advised that absentee ballots have been mailed out. She thanked everyone who participated in the casualty incident training.

Supervisor Cann thanked everyone for their understanding during his absence as he was spending time with his father who has a terminal illness; and he advised that he will need to return to Pennsylvania on October 29th if not before. He referred to the press release on *Sierra Sun Times* webpage relative to an incident on El Capitan and the interagency cooperation; and he noted that those responders/heroes provide assistance throughout the world. He plans to attend the Heroes dinner. He also plans to attend the Environmental Joint Powers Authority meeting in Sacramento on Thursday. He commented on the presentation of AB 32/global warming initiative at the Regional Council of Rural Counties conference and the financial impacts.

5 Consider Items Removed from the Consent Agenda – none

Board to Convene as

9:45 a.m. LOCAL TRANSPORTATION COMMISSION

(Chair – Commissioner Lyle Turpin, Vice-Chair – Commissioner Brad Aborn)

6 Public Presentation: For Items within the Jurisdiction of the Local Transportation Commission and not on Today's Agenda (Speakers Limited to Five Minutes)

Eleanor Keuning expressed concern with the way the traffic lanes are marked at the intersection of Highway 49 North and Highway 140.

Chair Turpin reported on the California Transportation Commission meeting he attended in Murphys with Barbara Carrier/Transportation Planner. He advised of his input relative to the condition of our roads and the Ferguson Rockslide and the comments he received relative to the status of the Ferguson Rockslide. He was advised that CalTrans is sending out documents this week.

7

Public Works

Approve an Agreement with Nelson/Nygaard for Implementation Assistance with the Coordinated Plan Recommended Strategies and Authorize the Board of Supervisors Chair to Sign the Agreement

COMMISSION ACTION: Discussion was held with Barbara Carrier, and she advised that the contract will not exceed \$75,000 – she plans to have tasks one through five done with that amount. Commissioner Aborn commented on the Ferguson Rockslide project and the status of scheduling of a meeting in Mariposa and El Portal. (M)Bibby, (S)Cann, LTC Res. 10-21 was adopted approving the agreement, in an amount not to exceed \$75,000/Ayes: Unanimous.

10:58 a.m. Reconvened as
BOARD OF SUPERVISORS

8

Public Works

Adopt a Resolution of Intention to Form a Zone of Benefit for Royal Oaks Estates, and Set Public Hearing for December 14, 2010 at 9:00 a.m.

BOARD ACTION: Discussion was held with Allen Toschi and Mark Dvorak/PWD-Engineering, relative to process and costs.

Input from the public was provided by the following:

Eleanor Keuning questioned why the property owners pay taxes and are being asked to pay for the zone of benefit for road maintenance.

George Heiss, applicant, clarified that there are 33 parcels in the subdivision.

(M)Bibby, (S)Allen, Res. 10-491 was adopted - intention to form the Zone of Benefit, with the correction to show 33 parcels/Ayes: Unanimous. George Heiss thanked the Public Works Director and County Administrative Officer for bringing this matter forward.

9

Administration (Estimated Time 11:00 a.m.)

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos;

10

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos;

11

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs' Association (DSA); Name of County Designated Representative: Richard C. Bolanos; and

12

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff's Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos

BOARD ACTION: These closed sessions were not held.

10:17 a.m. Recess and Lunch

2:00 p.m. Reconvened

13

Planning

CONTINUED PUBLIC HEARING to Consider Amended Site Plan Application No. 2009-124 to Allow Modifications to the Approved Site Plan and Architecture, and Clarifications of Certain Conditions of Approval for the Silver Tip Resort Village Project; Planned Development No. 99-1 and Conditional Use Permit No. 267. The Silver Tip Village Resort Project was approved by the Board of Supervisors in December 2003. The Silver Tip Resort Village Project Consists of 47.3 Acres and is Located at the Intersection of State Highway 41 and Fish Camp Lane in the Fish Camp Town Planning Area. The Site Includes Assessor's Parcel Numbers: 010-550-035, 010-550-054, 010-550-056 and 010-550-057. Applicants: PacificUS Real Estate Group. (Continued from September 21, 2010)

BOARD ACTION: Chair Cann reviewed the hearing process. Kris Schenk introduced John Anderson/consultant planner for the County for this project; and Bill Abbott-Abbott and Kindermann/legal counsel for the County for this project; and Sarah Williams/Deputy Planning Director was present.

John Anderson presented the staff report, addressing and clarifying the proposed project changes and site plan modifications. He advised of correspondence that was received after the staff report was prepared. The staff report included a review of the following items: parking changes, consolidating the conference center, environmental review, easements held by the Yosemite Alpine Community Services District (YACSD), Condition No. 9/mitigation of the impacts associated with the wetlands areas and sensitive species prior to issuance of a Grading Permit or Building Permit, Condition No. 16/completion of the public water system including storage tank/loop water system/fire hydrants and the provisions to meet commercial fire flow requirements prior to the issuance of Grading or Building Permits, proposed changes in the architecture of the hotel and cabins, relocation of the tennis court site, relocation of the treated effluent disposal fields and storage tank locations, clarification of landscaping the exposed slopes, clarification that the hotel and conference center are part of phase A, clarification that the commercial pad and permanent landscaped areas shall receive treatment, relocation of the cabins, site plan modifications for road access to the remote cabins/parking areas/parking on the Southwest side of the hotel/bus parking, and site plan modifications for the surface parking and adjustments to the main conference center location due to YACSD easements.

Staff responded to questions from the Board relative to the site plan modifications and relocation of the wastewater system; and as to whether there is a change in the visual impact for the neighbors with relocating the conference center.

John Anderson advised of phasing clarifications and minor adjustments in Exhibit 7 of the draft formal resolution, and he presented revised pages. He advised of the Big Creek flooding issue that was raised after the Planning Commission's deliberation; and noted that this was addressed in the environmental review and by the Provost and Pritchard study. He advised of correspondence that was included in the staff report.

Staff responded to questioned from the Board relative to parking and whether adjacent land owned by the County is being used for parking; and the reasons for changing from a parking garage to surface parking.

The public portion of the hearing was opened and input was provided by the following:

John Jameson, Executive Vice President of PacificUS Real Estate Group/applicant, stated he agreed with the staff presentation. He referred to the architecture issues, and he advised that Attorney Jeff Reid is present to discuss the environmental issues regarding the project. John Jameson showed a slide of a more dimensional view of the hotel.

Jeff Reid, legal counsel for PacificUS Real Estate Group, addressed issues of compliance with CEQA (California Environmental Quality Act) and he advised that the changes that have been proposed are in compliance with CEQA. He noted that the Big Creek flood issue was not discussed in the Initial Study and no changes have been made that would impact Big Creek, so he does not feel that is an issue. He responded to a question from the Board relative to the case he cited in this matter – Laurel Heights Improvement Association of San Francisco vs. The Regents of the University of California.

Speakers in support of the proponent: none

Speakers in opposition to the proponent. Chair Cann advised that the input needs to be focused on the changes proposed to the project, and not the project itself.

Lynne Baker, attorney representing the Fish Camp Property Owner's Association (FCPOA) and Block D homeowners, stated she will have Pam Salisbury and Mr. Young provide input. Lynne Baker stated she feels the Big Creek flood issue is pertinent because for the first time on the plan they see fills and new retaining walls up to 19-feet. This is new information that could not have been known at the time the project was approved.

Pamela Salisbury, Block D owner in Fish Camp, corrected the information provided by John Anderson and advised that they are located north and northeast to the project site. She referred to her letter of September 20, 2010, with the NewFields River Basin Services report relative to the Big Creek flood analysis. She provided input on the elevation issues and she feels they have proof that the developer's 100-year flood elevation is inaccurate. She showed a photograph that was included in the NewFields study showing impacts from a December (2006) rain event.

Ron Young, Chair of the FCPOA, stated he has been a taxpayer in the County for fifty years and has a lot of experience with Fish Camp and Big Creek. He referred to the 100-foot flood level elevation cited by PacificUS at 4964-feet and noted the hotel is at 4968-feet; and he referred to the May 13, 2010 hydraulic report presented to the County showing normal elevations of Big Creek at 4968-feet upstream and at 4973-feet directly across from the hotel. He referred to the elevations cited by Mr. Bopp. He feels the Board must protect the safety of the residents of Fish Camp. He feels the old data is extremely questionable and noted they have supplied new data backed up with PhDs.

Lynne Baker referred to the information she submitted today from the FCPOA; noted she has not seen information from the other engineers involved in the project; she was a civil engineer before becoming an attorney; and she feels it is the Board's job to make sure that the people are safe and that the flood levels are not impacted for the people in Block D. Until the new plans became available, they were unable to calculate what the water displacement would be and the impacts on flooding. She requested that their questions be answered and feels that the Board has the right and responsibility to have their questions answered. She feels there is only one way to establish the regulatory floodway and that is to have a HEC-RAS One Storm study; and this will provide liability protection for the County. She feels that the Board felt that it was approving a project that was out of the floodway in 2003, and that this Board should have assurance of this. She asked members of the audience to stand and show their support for a HEC-RAS study; and to raise their hands if they live or own property in Fish Camp. She feels that both Big Creek and Cedar Creek should be studied to have correct information for the record and because floods can be serious. She responded to questions from the Board relative to conflicting information on the different elevations and establishing a benchmark that everyone can agree on; whether the FCPOA met and authorized her to represent them and the letter that was submitted; and why she feels the flood elevation data is conflicting.

Dick Ryan, Chair of the YACSD, stated he is not speaking for or against the project, but they are concerned with the water supply for their community. He referred

to Conditions 25-27 which must be fulfilled before any Building Permits are issued, and he noted there has been little progress.

Rebuttal by the applicant:

Jeff Reid asked for a recess.

3:33 p.m. Recess

3:47 p.m. The Board reconvened.

Jeff Reid referred to the flood level and elevations issues and advised that they engaged an engineer to do an analysis – it was subject to peer review, the Board’s review, and certification in the Environmental Impact Report (EIR). He referred to CEQA requirements concerning the new information issue; and stated he does not feel that new information has been submitted that is of substantial importance or with significant effects – the previous EIR addressed water and flood level issues. He advised that the berms that will be installed are above the previously determined flood level so it does not raise an issue of whether that flood line was appropriate. He noted that the water level will be higher when you go upstream at a higher elevation. He noted that the applicant could proceed with the project as previously approved.

Rebuttal by opposition:

Lynne Baker provided input on case law and CEQA requirements; and stated this is up to the Board.

Kris Schenk suggested that John Anderson briefly review the conditions of the project and how they are applied.

The public portion of the hearing was closed and the Board commenced with deliberations. John Anderson advised that the site plan presented in 2003 (when the project was approved) is for the most part identical to the plan today as far as the location of the project near Big Creek. He advised that more specific information has been received, and he has been asking for more detailed information relative to the grades, slope stability and treatment and the applicant will submit thorough project details and drawings when they have certainty that these conditions are approved. The applicant will address the issue of the retaining wall and hopes to secure adjacent land to be able to slope the land versus installing a retaining wall. He advised that the flood issues were addressed in the original EIR, and he does not see the issue today being related to CEQA; maybe just a confidence level issue for the Board. He advised that the Board could ask for more information. He noted that there are only a couple of areas where FEMA has mapped flood elevations in the County and this is not one of them. So they are relying on expert testimony in the 2003 EIR, and he noted that has been litigated.

Staff responded to questions from the Board relative to the request for a HEC-RAS study and whether there are other options to determine the correct elevation information; and Supervisor Allen stated he wanted assurance that no one in Block D would be flooded. Kris Schenk advised that the Board could ask the County Engineer to provide an analysis; could ask the applicant to obtain an engineer’s report to compare to the information that has been provided; or ask for a peer review that staff could arrange. Staff responded to questions from the Board as to whether we have anything with an Engineer’s stamp on it for this project, and advised that a study was prepared by Provost and Pritchard in 2000. Beyond that, there are just studies and presentations and nothing with an Engineer’s stamp. Staff responded to a question from the Board relative to clarification of whether there was a peer review in 2003 and advised that they do not know. Staff responded to questions from Supervisor Turpin relative to water run-off concerns and the mitigation measures and conditions for complying with this issue; as well as Public Works’ review of this and the elevation issues. Staff advised that the plan modifications do not bring anything in the project closer to Big Creek; but they could seek clarity to make sure that things are properly analyzed as they

have only seen about ten percent of the engineered drawings for the project. There is still a lot of detail that needs to be shared with staff, including Public Works. Supervisor Bibby asked about options for the Board to ask for further clarification and input since there is no stream gauging station on Big Creek – she feels the studies are extrapolating information and there is a lack of site specific evidence. Supervisor Cann commented on the purpose of today’s hearing and the site plan modifications, and stated he feels it is reasonable for the Board to take action on proposed amendments and to ask the proponents to provide verification of their data. He noted the 1997 flood was prior to the 2003 action to approve this project; and the only information added today was the photograph of the flood and back-up study information. John Anderson stated he feels the question is whether it is reasonable to add conditions outside of the CEQA process, and he referred to the eight conditions added in Exhibit 4 of the draft resolution to the approved project to provide clarification. Supervisor Cann suggested that the Board add a condition for receiving clarity on the flood elevation data. John Anderson suggested that the Board could take a recess for staff to draft language for this condition for the Board’s consideration. Supervisor Bibby asked that there be clarification for resolving the concerns relative to the vagueness about actual construction as it progresses. Attorney Abbott suggested that if the Board is looking favorably on the project amendment request, that it could take a motion of intent to approve the resolution, with staff returning at a later date with a modification for the flood height issue. Supervisor Allen stated he wants to be sure that no one is put in danger of a flood and wants the flood elevation certified with peer review. Supervisor Turpin agreed with verifying the benchmark and having more information on the contours of the land.

4:24 p.m. Recess

4:44 p.m. The Board reconvened. Chair Cann asked for the Board’s consensus on approving the modifications with verification of the data with regards to the stream flow; and he advised that legal counsel would prefer that action is taken on the resolution in its final form, with the condition added for verification of the flood information. Sarah Williams recommended adopting a motion of intent to approve the resolution as provided in the staff report subject to additional language to address verification of the flood elevations. Chair Cann clarified that the proponent will be asked to provide the verification; and he noted that this hearing would be continued in its deliberation phase and reiterated that the public input portion is closed. Discussion was held.

(M)Allen, (S)Aborn, the Board intends to approve the resolution approving the Amended Site Plan Application No. 2009-124 as recommended in the staff report, and subject to additional language to address verification of the flood elevations/Ayes: Unanimous.

(M)Bibby, (S)Allen, the hearing was continued to November 9, 2010, at 2:00 p.m. in the deliberation phase – no additional public input will be accepted/Ayes: Unanimous.

Consent Agenda

CA-101

Clerk of the Board

Approval of Summary of Proceedings of September 28, 2010, Regular Meeting

- CA-102 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park; Res. 10-482
- CA-103 **Planning**
Increase Salary from Step 4 to Step 5, for Extra Help, Part Time Senior Planner Position in the Planning Department; Res. 10-483
- CA-104 **Human Services**
Approve the In Home Supportive Services (IHSS) Anti-Fraud Plan and Authorize the Board of Supervisors Chair to Sign the Plan; Approve Budget Action Increasing Revenue and Appropriations in the Assistance Advance Fund and the Social Services Budget (\$32,724) (4/5ths Vote Required); Res. 10-484
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The Board adjourned at 4:55 p.m. in memory of Marilyn Schill, Bonnie Rae Jordan, Joyce Utterback, and Geraldine Romine.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

October 26, 2010



Folder Time Description

9:15 a.m. Meeting Called to Order at the Mariposa County Government Center with Supervisor Cann excused to be with his father; and Vice-Chair Allen advised that we wish his family the best.

Vice-Chair Allen noted that the Board delayed calling the meeting to order to listen to the Mariposa County High School Band which was playing in the plaza.

Pledge of Allegiance

Vice-Chair Allen called for a moment of silence remembering our troops serving around the world.

Introductions – none

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.
BOARD ACTION: Supervisor Turpin pulled item 113 to obtain information on the status of Proposition 40 funds; and Allen Toschi/Public Works Director, advised that this item will use the remaining available funds. (M)Bibby, (S)Aborn, all items were approved/Ayes: Unanimous.

- 2 Public Presentation: For Items within the Jurisdiction of the Board and not on Today’s Agenda (Speakers Limited to Five Minutes)
 Brent Joseph, speaking on behalf of the Grizzly Band Boosters, advised of the New York Mayor’s invite for the Band to participate in their November 11, 2011, event. He advised that they are one of two bands from California that have been invited to participate, and they are looking for sponsorship. He asked the Board for a letter of recommendation recognizing the Band’s commitment to Mariposa and for their excellence in music. Supervisor Bibby commented Dr. Phil/Band Instructor for his work and asked the County Administrative Officer to prepare a letter for the Board’s approval.
 Bob Rudzik advised that the St. Andrews Anglican Church donated \$1,000 to the High School Band for their trip to New York.
 Becky Crafts, speaking as an individual, urged the Board’s support for the High School Band.

Peter Schimmelfennig, Executive Director of the Chamber of Commerce, thanked the Board for its support and for the Proclamation recognizing the heroes, and he commented on their Heroes Dinner and recognition of the nominated individuals. He advised that the Merry Mountain Christmas Parade and Lighting celebration is scheduled for November 27th.

3

Board Information

Supervisor Bibby expressed appreciation for the High School Band and for those who support it; and she asked the Boosters to provide background information so that she could help solicit sponsorships. She advised that she plans to attend the Calaveras-Mariposa Community Action Agency meeting with Supervisor Turpin on October 29th. She noted that November 2nd is elections and encouraged everyone to vote. She plans to attend a merchants meeting on November 4th to discuss signs and mobile vendors. She plans to attend the Mother Lode Job Training meeting on November 3rd, and she noted that they finally received their federal funds from the State. She referred to an incident with trees by Mariposa Creek Parkway and advised that Fish and Game is involved.

Supervisor Turpin advised that he attended the Friends of the Red Cloud Library meeting in Greeley Hill on Wednesday; the open house at the ag complex on Thursday; the Chamber of Commerce Heroes Dinner on Thursday; the future fire stations meeting on Friday; the event celebrating the renovation of the Greeley Hill Community Club on Saturday; a meeting with the Human Services Director on Monday relative to departmental issues; and a meeting with the Public Works Director on Monday relative to damages on roads after the Telegraph Fire. He plans to attend the Calaveras-Mariposa Community Action Agency meeting on Friday; and he plans to meet with the Forest Service on road issues. He encouraged everyone to vote.

Supervisor Aborn noted that a lot of construction is occurring around town – Airport taxiway paving, the new Human Services facilities, and the YARTS Park and Ride. He is planning to schedule an agenda item for the speed bumps/humps issue which is being discussed in El Portal. He noted the SPCA yard sale and their supply Christmas items. He urged everyone to vote. He suggested that the High School Band could do concerts for fundraising.

Supervisor Allen noted the High School Band performs at the football games at the new Grizzly Stadium. He advised that he was in Southern California last week and watched the Patriots beat the Chargers, and he noted there was a lot of traffic. He plans to attend a meeting with Planning relative to the Wawona Town Plan status. He noted that there is no Board meeting next Tuesday due to the countywide elections. He plans to attend the Area 12 Agency on Aging meeting in Jackson on November 4th; a meeting with the Director of the Mountain Valley Emergency Medical Services Agency on Friday relative to Stanislaus County's regional membership report; and a fire visioning exercise on November 6th. He noted that the Youth Super Bowl event is scheduled for this weekend in Mariposa. He commented that he received vehicle license information from the Sheriff and there is an increase in new vehicle registrations this year.

8

Public Works

Adopt a Resolution Approving, in Concept, a Proposal to Construct a Private Hangar and Restaurant at the Mariposa County Airport

BOARD ACTION: Discussion was held with Allen Toschi and he advised that this is for conceptual approval. Rick Benson, County Administrative Officer, advised that several steps will need to be completed, including a lease agreement for this project; and he feels that there should be some financial compensation/franchise fee for the County.

Input from the public was provided by the following:

Steve Stuhmer provided input on his proposal and stated he feels that after approval is given to the concept, that a lease agreement will need to be negotiated, then he can prepare architectural drawings and engineering, and will work with staff. He is proposing a 3600 square foot restaurant that will follow the same pattern as his Merced Airport restaurant. He referred to the paving question and advised that he is not expecting the County to do anything – he will cover all costs, reviews, and liability and insurance requirements for this project.

Further discussion was held.

Rob Binder provided input from the aviation aspect relative to the request for a private hangar – he would like to see this pursued and feels that this helps to make our Airport unique and wonderful.

Peter Schimmelfennig stated he feels that the proposal seems to dovetail with current fixed base operations. He feels it would bring additional support for businesses and there is no request for outside funding. He also noted that the proposed site would not allow for development in its current condition.

Discussion was held. Supervisor Bibby asked that a sentence be added to the formal resolution stating the project must comply with all State, local, and Federal regulations. County Counsel provided suggested wording for this requirement. (M)Aborn, (S)Turpin, Res. 10-502 was adopted approving the recommended action, with the inclusion of language that the project must comply with all State, local and Federal regulations. Supervisor Bibby clarified that there will be no cost to the County for this project, and that this action is approving the concept. Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

4

Administration

PUBLIC HEARING to Provide Citizens an Opportunity to Comment on Activities for Preparation of a Disaster Recovery Initiative (DRI) Application(s) Under the Community Development Block Grant Program; and for the Board of Supervisors to Provide Possible Direction on Future Grant Applications Relative to the Community Development Block Grant Program

BOARD ACTION: Rick Benson introduced the item. Marilyn Lidyoff, Business Development Coordinator, presented the staff report, including a review of the grant program. Marilyn Lidyoff and Allen Toschi/Public Works Director, responded to questions from the Board relative to the acronyms that were used and relative to applying for funds to rebuild roads that were damaged in the 2008 fire disaster. The public portion of the hearing was opened and there was no public input. The public portion of the hearing was closed and the Board commenced with deliberations. (M)Bibby, (S)Aborn, Res. 10-503 was adopted directing staff to develop grant application(s)/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann. The hearing was closed.

5

Administration

Approve a Loan Agreement with the Central Sierra Planning Council to Provide Funding Until State Funds are Released, and Authorize the Board of Supervisors Chair to Sign the Agreement

BOARD ACTION: Rick Benson withdrew this item as the State released the funding.

6

Fire

Waive the First Reading and Introduce an Ordinance Amending Section 15.30.010 of Chapter 15.30 Entitled “Mariposa County Fire Code” to Include the 2010 Edition of the California Fire Code in the Mariposa County Code

BOARD ACTION: Discussion was held with Jim Wilson, Fire Chief. (M)Turpin, (S)Bibby, the first reading was waived and the Ordinance was introduced as

recommended. The Clerk of the Board read the title of the Ordinance into the record.
Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

7

Building (10:00 a.m. Estimated Time)

PUBLIC HEARING to Waive the First Reading and Introduce an Ordinance Rescinding Chapters 15.10, 15.12, 15.14, 15.28 of the Mariposa County Code, and Creating a New Chapter 15.10 Entitled “Adoption of California Building Standards Title 24” Incorporating Portions of Chapters 15.12, 15.14 and 15.28

BOARD ACTION: Mike Kinslow, Building Director, presented the staff report and reviewed the changes. He also acknowledged the assistance of Dennis Wister, consultant, for his services with this item. Staff responded to questions from the Board relative to the changes and impacts on residential and commercial construction, including recycling requirements, fire sprinkler system requirements, exclusion of mobile homes at this time from the sprinkler system requirements; changes for the Building Department Advisory and Appeals Board; and relative to grading requirements.

The public portion of the hearing was opened and input was provided by the following:

Ruth Catalan asked how much it will cost to meet the new fire sprinkler system requirements. Mike Kinslow responded that the State Fire Marshal has estimated the costs to be about \$3 to \$4 a square foot for a larger residential home in a subdivision with municipal water. For a home under 1500 square feet, he is estimating about \$6 to \$10 with connection to MPUD, or \$15 a square foot with minimal water storage supply.

Dagny Beck asked for clarification of what happens to the fire sprinkler system when the electricity is lost due to a wildland fire.

The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to fire sprinkler system requirements for existing structures. (M)Bibby, (S)Turpin, the first reading was waived and the Ordinance was introduced as recommended; and the title of the Ordinance was read into the record/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann. The hearing was closed.

9

Clerk of the Board

Discussion and Possible Direction to Cancel the December 28, 2010, Regularly Scheduled Meeting Due to the Christmas Holidays

BOARD ACTION: Following discussion, (M)Aborn, (S)Bibby, Res. 10-504 was adopted cancelling the December 28th meeting/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

10

Clerk of the Board

Approval of Summary of Proceedings of October 5, 2010; Approval of Summary of Proceedings of October 12, 2010, Regular Meetings

BOARD ACTION: (M)Bibby, (S)Turpin, the Summary of Proceedings were approved/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

11

Consider Items Removed from the Consent Agenda - none

12

Administration (11:00 a.m. Estimated Time)

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos; and

13 **Administration**
CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos
BOARD ACTION: (M)Bibby, (S)Aborn, these closed sessions were held/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

14 **Administration**
CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs' Association (DSA); Name of County Designated Representative: Richard C. Bolanos; and

15 **Administration**
CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff's Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos
BOARD ACTION: Supervisor Bibby excused herself from the meeting at 11:27 a.m. for action on these matters and for the portion of closed session on these matters due to a potential conflict of interest as she has a family member employed by the Sheriff's Department. (M)Aborn, (S)Turpin, these closed sessions were held/Ayes: Aborn, Turpin, Allen; Excused: Bibby, Cann. Vice-Chair Allen advised that the Board would reconvene in open session at 2:00 p.m.

11:28 a.m. The closed sessions were held.

12:58 p.m. Lunch

2:05 p.m. Reconvene

Report from Closed Session:

Vice-Chair Allen advised that information was received on all of the closed session matters, and that direction was given on items 14 and 15.

16 **Planning**
PUBLIC HEARING to Consider Appeal No. 2010-82, an Appeal of the Planning Director's Determination Regarding a Portion of Certificate of Compliance Application No. 2009-037 for Six (6) Certificates of Compliance. Property Owners and Appellants: Hornitos Land Company LLC/Steve Sloan. Project Site is APN 011-080-010; Located at the end of Bauer Street in the Town of Hornitos.
NOTE: This Public Hearing will be continued to November 23, 2010 at 2:00 p.m.
BOARD ACTION: Kris Schenk advised of the request received from the agent for the applicant to continue this hearing for the full Board to be present. (M)Bibby, (S)Aborn, the hearing was continued to November 23, 2010, at 2:00 p.m./Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

17 **Planning**
CONTINUED PUBLIC WORKSHOP to Consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan. The Purpose of the Continued Workshop is to Consider the Information Prepared by Staff Regarding the Issues of Concern Identified and Discussed at the Workshop Conducted on August 14, 2010. Staff has Prepared a Matrix with Optional Actions the Board may Consider Regarding each of these Issues. An Opportunity will be Provided for Further Public Comments on the Plan Focusing on the Options in the Matrix. Questions and Discussion will Occur.

Direction to Staff May be Given as a Result of the Workshop (Continued from September 28, 2010)

ADDENDUM TO THE AGENDA:

CANCEL PUBLIC WORKSHOP Scheduled for 9:00 a.m., WEDNESDAY, OCTOBER 27 and THURSDAY, OCTOBER 28, 2010 to Consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan (Continued from September 28, 2010)

Direct Staff to Bring Back Scheduling Discussion and Direction Item on Tuesday, November 9, 2010 at 2:00 p.m. or as soon Thereafter as Possible, to Determine RESCHEDULED PUBLIC WORKSHOP DATES for General Plan Amendment No. 2008-63, the Catheys Valley Community Plan

BOARD ACTION: Kris Schenk advised of noticing that occurred for cancelling the public workshops that were scheduled for October 27th and 28th. Following discussion, (M)Turpin, (S)Bibby, the public workshops for October 27th and 28th were cancelled; and direction was given to staff to bring back an item on November 9th to reschedule the public workshops/Ayes: Aborn, Turpin, Bibby, Allen; Excused: Cann.

Consent Agenda

- CA-101 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park; Res. 10-492

- CA-102 **Administration**
Approve an Amendment to the Job Description for the Assistant Director of Public Works – Operations; Res. 10-493

- CA-103 **Administration**
Approve an Agreement for Services with Yosemite/Mariposa County Tourism Bureau in the Amount of \$500,000 to Provide Marketing Services for the County, and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-494

- CA-104 **Human Services**
Accept the Resignation of Jill Harry from the Mariposa First 5 Commission and Appoint Monica Frederick-Nelson to the First 5 Commission to Complete the Term Vacated by Jill Harry Expiring on January 8, 2011 and Approve an Additional Three Year Term Expiring January 8, 2014

- CA-105 **Human Services**
Accept the Resignation of Linda Lefforge from the In Home Supportive Services (IHSS) Advisory Committee

- CA-106 **Human Services**
Reappoint Vanessa Holt and Marie Pretzer to the Mariposa Local Child Care Planning Council for Terms Expiring October 26, 2013

- CA-107 **Human Services**
Reappoint Janet Bibby to the Mental Health Board for a Term Expiring October 26, 2013

- CA-108 **Human Services**
Accept the Resignation of Edith Ankersmit from the Mental Health Board
- CA-109 **Human Services**
Accept the Resignation of Colin Ritter from the Mental Health Board
- CA-110 **Human Services**
Accept the Resignation of Marilyn Corral and Vicky Mansperg from the Mental Health Board
- CA-111 **Agriculture Commissioner**
Approve Nursery Inspection Agreement No 10-0389 for FY 2010-2011 with California Department of Food and Agriculture (CDFA), and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-495
- CA-112 **Public Works**
Approve Budget Action Transferring Funds within the Public Works Administration Budget to Fund an Extra-Help Account Clerk III Position (\$5,000); Res. 10-496
- CA-113 **Public Works**
Approve Budget Action Reducing Contingency in the CIP Proposition 40 Park Grant Fund to Cover the Costs of the Grizzly Stadium Project (\$42,500) (4/5ths Vote Required); Res. 10-497
- CA-114 **Public Works**
Approve Budget Action Reducing Contingency and Increasing Professional Services in the Hornitos Lighting Fund to Bring the Contingency Amount into the Maximum Allocable Amount (\$4,231) (4/5ths Vote Required); Res. 10-498
- CA-115 **Public Works**
Approve First Amendment with Mountain Sage Nursery for Landscaping of the Red Cloud Library in the Amount of \$3,104 for Additional Materials and Labor, and Authorize the Board of Supervisors Chair to Sign the Amendment, and Approve Budget Action Increasing Revenue and Appropriations in the Facilities Maintenance Budget for the Amendment (\$3,103) (4/5ths Vote Required); Res. 10-499
- CA-116 **Health**
Authorize the Health Officer to Waive Food Facility Fees for Non-Profit Vendors Participating in the Trans Valley Youth Football League (TVYFL) Super Bowl Event on November 6 and 7, 2010; Res. 10-500
- CA-117 **Health**
Approve Public Health Emergency Preparedness Centers for Disease Control and Prevention (CDC) and Hospital Preparedness Program (HPP) Agreement with the State of California Department of Public Health for FY 2010-2011, and Authorize the Board of Supervisors Chair to Sign the Agreement and other Documents to Secure Funding as Delineated within the Agreement; Res. 10-501

The Board adjourned at 2:14 p.m. in memory of Henry “Jim” Favier, Velma Laam, Virginia Updegraff, and Joe Silva.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors

By: JIM ALLEN
Vice-Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

November 9, 2010



Folder Time Description

9:04 a.m. Meeting Called to Order at the Mariposa County Government Center with Supervisor Bibby excused due to her daughter having surgery.

Pledge of Allegiance

Chair Cann called for a moment of silence in honor of our soldiers serving across the globe protecting our freedoms, and he noted that November 12th is Veterans Day. He further advised that at the Veterans Day ceremony at the Mariposa Elementary School on Monday, a mother was present who was on leave from the Army, and he is proud of the members of this community serving in the armed forces.

Introductions

Chair Cann introduced Pete Judy, the new Chief Probation Officer. Pete Judy introduced his wife, Sarah Matlock, and stated he is please to be able to serve the County and its citizens in this role again and he is looking forward to working with the departments and other law enforcement agencies.

Chair Cann introduced Captain Rob Simpson, State Department of Fish and Game, and he noted that our local officer Frank Milazzo was present. Captain Simpson introduced Lieutenant Troy Bruce/Merced-Mariposa Fish and Game Region.

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.

BOARD ACTION: Supervisor Aborn advised of a typographical correction for item 108. Rick Benson pulled item 104 for change of date to be discussed. Chair Cann advised that changes were provided to the minutes for item 101. (M)Allen, (S)Aborn, the balance of items was approved, including the changes to item 101/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

- 2 **Chair Cann**
Proclaim the Month of November, 2010 as “National American Indian Heritage Month” (Connie Waldron and Tony Brochini)
BOARD ACTION: Chair Cann commented on his work in Yosemite National Park and with the Native American community. (M)Allen, (S)Turpin, the Proclamation was approved and presented to Connie Waldron and Tony Brochini/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby. Supervisor Turpin commented on the need for us to be good stewards of the land and follow examples provided by the Miwoks. Tony

Brochini commented on the status of the Miwoks efforts to become a recognized tribe. Connie Waldron, on behalf of the Daughters of the American Revolution, advised of the donation of children's books to the Library. Supervisor Aborn commented on the American Indians helping the early settlers.

3 Public Presentation: For Items within the Jurisdiction of the Board and not on Today's Agenda (Speakers Limited to Five Minutes)

Eleanor Keuning commented on different instances where trees have been cut or topped in town; and she noted that as a member of the Historical Sites and Records Preservation Commission, she feels they should be aware of anything dealing with historical issues. She commented on the change in serving the Thanksgiving meal at the Senior Center from Thursday to Wednesday, and she asked about the status of the wood program for the seniors. She advised of her efforts to help find people who could use donated items, and suggested that there be a coordinated effort in Human Services programs for handling donations.

Lester Bridges, President of the Chamber of Commerce, offered his condolences to Chair Cann on the passing of his father. He advised that he is attending New Life Christian Fellowship and they are taking orders (currently have 367) for Thanksgiving dinner platters since the Senior Center is not preparing dinner on Thanksgiving this year. He thanked the Board for its support of the Heroes dinner. He advised the Merry Mountain Christmas Parade is scheduled for December 4th at 4:00 p.m.

Ruth Catalan expressed concern that the seniors will not be able to congregate on Thanksgiving for dinner at the Senior Center with the change in serving the meal on Wednesday.

Keith Williams, County Clerk, provided a status report on the November 2nd election activity.

Peter Schimmelfennig, Executive Director of the Chamber of Commerce, advised that the Chamber is seeking nominations for businessman, businesswoman, business and volunteer of the year.

4 Board Information

Supervisor Turpin congratulated the voters in the County that voted November 2nd. He advised that he attended the following: October 29th – Calaveras-Mariposa Community Action Agency meeting in Coulterville; November 2nd – helped with election day activities for North County with Norm Ross; November 3rd – the Solid Waste Task Force meeting at the Landfill, and an informational meeting in Sacramento with Regional Council of Rural Counties, California State Association of Counties, and State Farm Bureau relative to the Williamson Act reimbursement formula; November 4th – a meeting with the Forest Service in Sonora reviewing a road agreement; November 5th – fire station planning meeting and he advised there will be an information meeting in Don Pedro on December 9th at 7 p.m. relative to their fire station; and November 8th – Veterans Day ceremony at Mariposa Elementary School. He plans to attend the SWIFT meeting in Moccasin on Wednesday and the Airport Advisory Committee meeting; advised that the 13th is a work day at Station 26 in Coulterville to get ready for the holidays; and the continued workshop on the Catheys Valley Community Plan is scheduled for Monday.

Supervisor Allen extended sympathies and welcomed Supervisor Cann back. He advised that he has been attending meetings with the National Park Service and Planning relative to the Wawona Specific Plan update. He attended the Bootjack Fire Station breakfast fundraiser, the Hospital Foundation Black and White Ball, and the Veterans Day ceremony at Mariposa Elementary School. He attended the Area 12 Agency on Aging meeting in Jackson and advised that they have received their funding and are repaying the loan from the County. He attended the fire visioning/team building exercise on Saturday. He attended the Youth Football Super Bowl and

commended the businesses for staying open and extended a special thanks to Bob Kirchner for organizing the event. He met with the Mountain Valley Emergency Medical Services Agency Director here on Friday relative to the Stanislaus Report concerning their membership in this region; and he has a meeting scheduled with the Stanislaus County Chief Executive Officer and Supervisor DeMartini on Friday on this matter. He referred to the input provided about the change in serving the Thanksgiving dinner at the Senior Center to Wednesday, and he advised that he has not received any complaints from those who have attended in the past, and he thanked those who assist with this dinner. He advised that the wood program is up and running through the Senior Center.

Supervisor Aborn advised that the El Portal Town Planning Advisory Committee is meeting this evening and they are still discussing speed bumps/humps. He advised that he attended the dedication of the new Amtrak station with Marvin Wells in Madera.

Supervisor Cann thanked everyone for their support and prayers while he was in Pennsylvania with his family for his father. He advised that he attended the bon fire at the Youth Football Super Bowl event on Friday; and he noted it was a busy weekend in town. He attended Bob McHugh's funeral on Saturday. He received the transient occupancy tax revenues for the first quarter of this budget year on Monday and he thanked the Tourism Bureau, Chamber of Commerce and the business owners for their efforts and investment in tourism and the preservation of our culture. He thanked the Board and the public for rescheduling matters, especially the workshops on the Catheys Valley Community Plan. He attended the Heroes dinner and thanked the Chamber of Commerce for sponsoring that event. He noted the camping areas were full at the Fairgrounds over the weekend.

- 13 Consider Items Removed from the Consent Agenda
Item 104 – Rick Benson initiated discussion and advised of the change in dates for the Merry Mountain Christmas Parade from November 27th to December 4th. Peter Schimmelfennig advised that they may want to revisit changing the dates next year; and he was advised that there should be early coordination with the affected departments if the Chamber wants to change the dates. (M)Turpin, (S)Aborn, item 104 was approved with the change in dates/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

- 5 **Technical Service**
Presentation by the Mariposa County Technical Services Director on the Status of Information Technology/Technical Services
BOARD ACTION: Rick Peresan, Technical Services Director, gave a PowerPoint presentation, including the current organization and staffing and workload of the Department; areas where he recommends changes and relative to addressing unmet needs; and suggestion for establishing a stakeholder group of elected and appointed department heads.

- 6 **Fire**
Waive the Second Reading and Adopt an Ordinance Amending Section 15.30.010 of Chapter 15.30 Entitled “Mariposa County Fire Code” to Include the 2010 Edition of the California Fire Code in the Mariposa County Code
BOARD ACTION: The Clerk of the Board read the title of the Ordinance into the record. Jim Middleton, Deputy Fire Chief, advised that no new information was received. (M)Aborn, (S)Allen, the second reading was waived and Ordinance No. 1072 was adopted as recommended/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

- 14 **Administration (11:00 a.m. Estimated Time)**
 CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee
 Organization: Service Employees International Union Local 521 (SEIU); Name of
 County Designated Representative: Richard C. Bolanos;
- 15 **Administration**
 CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee
 Organization: Mariposa County Managerial and Confidential Organization (MCMCO);
 Name of County Designated Representative: Richard C. Bolanos;
- 16 **Administration**
 CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee
 Organization: Deputy Sheriffs' Association (DSA); Name of County Designated
 Representative: Richard C. Bolanos; and
- 17 **Administration**
 CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee
 Organization: Sheriff's Management Association (SMA); Name of County Designated
 Representative: Richard C. Bolanos
BOARD ACTION: (M)Allen, (S)Turpin, the closed sessions were held at 10:56
 a.m./Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

11:55 a.m. The Board reconvened in open session.

Report from Closed Session:

Chair Cann advised that information was received and direction given on the closed session items 14, 15, 16, and 17.

11:57 a.m. Board Convened as

7 **MARIPOSA PARKING DISTRICT**
Supervisors Bibby and Cann

Discussion, Direction, and Possible Action Regarding Renewing Leases in the Parking District

PARKING DISTRICT ACTION: Supervisor Cann commented on the parking lot issues. Steve Dahlem, County Counsel, provided input on the background to the leases and advised of recommendation for renewing the leases. Kris Schenk, Planning Director, provided input on the ramifications for businesses in the Parking District if the agreements are not renewed.

Input from the public was provided by the following:

Ron Iudice, Seventh Street Properties, advised that parking has been a problem and he feels the only solution is to build a parking structure in town. He advised that he has a piece of property that would lend itself for this purpose and he is willing to work with the County. He feels the new YARTS Park and Ride will help to alleviate parking congestion at the parking lot by MPUD.

Todd Layton, Yosemite Gifts, stated he feels the parking lots need maintenance; commented on the issue of parking for the businesses overlapping; and expressed concern that a dumpster is taking parking spaces.

Eleanor Keuning stated she agrees with Ron Iudice's suggestion for a parking garage as long as it is designed properly and centrally located.

Todd Layton further commented that he also has an issue with the other businesses using the parking lots and not paying taxes for them; and he would like to see the liability insurance bond raised from one million to five million dollars for protection.

Discussion was held. Supervisor Cann advised of the discussions he and Supervisor Bibby have had with CalTrans relative to the potential for safety funding for a parking structure – renewing the leases will allow time for this option to be pursued.

County Counsel provided input on the questions relative to maintenance and insurance. Supervisor Cann advised that he and Supervisor Bibby would be willing to host a meeting for the property owners to discuss the Parking District issues. The Board concurred with County Counsel asking the property owners to renew the leases.

Reconvened as

12:18 p.m. BOARD OF SUPERVISORS

8

County Counsel

Consider Approval of Publication of Summary Ordinances Where Applicable and Designate Preparation of Summary Ordinances for Publication to County Counsel

BOARD ACTION: Following discussion with County Counsel, (M)Allen, (S)Aborn, Res. 10-515 was adopted approving the publication of summary ordinances where applicable and designating County Counsel as recommended/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

12:21 p.m. Lunch

1:34 p.m. Reconvene

9

Building

Waive the Second Reading and Adopt an Ordinance Rescinding Chapters 15.10, 15.12, 15.14, 15.28 of the Mariposa County Code, and Creating a New Chapter 15.10 Entitled “Adoption of California Building Standards Title 24” Incorporating Portions of Chapters 15.12, 15.14 and 15.28

BOARD ACTION: Mike Kinslow, Building Director, advised that minor clerical changes were made. (M)Allen, (S)Turpin, the second reading was waived and Ordinance No. 1073 was adopted. The Clerk of the Board read the title of the Ordinance into the record. Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

10

Building

Discussion and Possible Direction from the Board Regarding the 2010 California Residential Code Section R313 which Mandates that Residential Fire Sprinklers be Installed in all New Construction of One and Two Family Homes after January 1, 2011
BOARD ACTION: Discussion was held with Mike Kinslow relative to sending letters expressing concern with the new regulations.

Input from the public was provided by the following:

Ron Iudice commended Mike Kinslow for his work; and stated he sees the new regulations as a detriment to real estate and growth. He supports the letters and suggested that a citizens committee be established to work on this.

Further discussion was held. Mike Kinslow clarified that the first letter is to ask for a 180-day delay in implementing the new regulations; and the second letter is asking for consideration of modifying the fire sprinkler requirements for the rural areas. Discussion was held relative to sending a letter from the Board as well. (M)Turpin, (S)Aborn, Res. 10-516 was adopted authorizing the Building Director to send the two letters and to prepare and send a similar letter from the Board – signed by the Chair/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

11

Clerk of the Board

Approval of Summary of Proceedings of October 26, 2010, Regular Meeting

BOARD ACTION: (M)Turpin, (S)Allen, the minutes were approved/Ayes: Aborn, Turpin, Allen; Abstained: Cann; Excused: Bibby.

12

Administration

Authorize Payment to Hanson Bridgett LLP for Legal Services Related to the FICA Withholding Issue and Approve Budget Action Reducing General Fund Contingencies and Increasing Administration Budget (\$25,622) (4/5ths Vote Required)

BOARD ACTION: Following discussion, (M)Allen, (S)Aborn, Res. 10-517 was adopted authorizing payment and approving the budget action as recommended/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

1:55 p.m. Recess

2:04 p.m. The Board reconvened.

21

Planning

CONTINUED PUBLIC HEARING to Consider Amended Site Plan Application No. 2009-124 to Allow Modifications to the Approved Site Plan and Architecture, and Clarifications of Certain Conditions of Approval for the Silver Tip Resort Village Project; Planned Development No. 99-1 and Conditional Use Permit No. 267. The Silver Tip Village Resort Project was Approved by the Board of Supervisors in December 2003. The Silver Tip Resort Village Project Consists of 47.3 Acres and is Located at the Intersection of State Highway 41 and Fish Camp Lane in the Fish Camp Town Planning Area. The Site Includes Assessor's Parcel Numbers: 010-550-035, 010-550-054, 010-550-056 and 010-550-057. Applicants: PacificUS Real Estate Group (Continued from October 19, 2010)

BOARD ACTION: Kris Schenk advised that the public portion of the hearing was closed on October 19, 2010, and of the Board's action of intent to approve the project with verification of the elevation for the 100-year flood plain on the site. John Anderson, J.B. Anderson Land Use Planning/representing the Planning Department on this project, advised of the language for Condition No. 99 relative to the 100-year flood elevation. He reviewed information that has been provided on the flow rate for Big Creek from the 2003 Provost and Pritchard study and subsequent information received from NewFields and from Dale G. Mell & Associates. He advised that additional information was submitted by the applicant and Fish Camp Block D. Staff responded to questions from the Board relative to the confines of the 2003 Environmental Impact Report and Condition No. 99 and being able to move forward with final approval of the amended site plan at this time. County Counsel responded to a question from the Board relative to his recommendation for dealing with Condition No. 99 and consideration of reopening the public portion. He advised that the staff report contains information submitted by the applicant after the closure of the public portion, and subsequent information received from Fish Camp Block D; and he recommended that the public portion be reopened and limited to accepting input on Condition No. 99/flood elevation.

The public portion of the hearing was reopened as recommended by County Counsel, and input was provided by the following:

Jeff Reid, legal counsel for PacificUS Real Estate Group, stated it is his understanding that additional correspondence was received after the closure of the public portion of the hearing. He understands that Lynne Baker is willing to not provide additional testimony, that the Board will accept the written documentation that has been submitted; and based on this, they are willing to not provide additional testimony.

Lynne Baker, representing the Fish Camp Property Owners Association, stated she would like to dispute a comment made in the verbal staff report relative to the eleven feet of fall in elevation, and provided input on this issue. John Anderson clarified that the reference point being disputed is located off of the property for the project. Lynne Baker withdrew her concern, and stated she is in support of Condition No. 99.

The public portion of the hearing was closed and the Board commenced with deliberations. (M)Turpin, (S)Allen, Res. 10-518 was adopted approving Amended Site Plan Application No. 2009-124 with modified conditions of approval and with the inclusion of Condition No. 99. Sarah Williams, Deputy Planning Director, clarified that the action should be as stated in the formal resolution, with the inclusion of Condition No. 99.

2:33 p.m. Recess

2:36 p.m. Supervisor Turpin restated his motion to approve Amended Site Plan No. 2009-124 with findings, to allow modification to the approved Silver Tip Resort Village project, to clarify and modify certain conditions of approval for Planned Development No. 99-1 and Conditional Use Permit No. 267, Fish Camp Plan; and to approve modifications to architecture and the approved site plan, with the inclusion of Condition No. 99/flood elevations – PacificUS Real Estate Group, project applicant. This motion was agreeable with the second. Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby. The hearing was closed.

2:38 p.m. Recess

22

2:50 p.m. Planning

CONTINUED PUBLIC HEARING to Consider Zoning Amendment 2009-87; Agritourism and Agri-Nature Tourism Amendments to County Code; Proponent: Mariposa County. Adopt a Resolution Adopting a Negative Declaration and Approving Zoning Amendment No 2009-87; Waive First Reading and Introduce Ordinance Amending Title 17, County Code Pursuant to Zoning Amendment No. 2009-87 Including Amending Chapter 17.40, Agriculture Exclusive Zone; Chapter 17.108, Supplementary Standards; Chapter 17.148, Definitions; and Adding of a New Chapter 17.114, Administrative Use Permits

Amendments to Chapter 17.40 apply to Properties in the AE Zone. Amendments to Chapters 17.108 and 17.148 and the New Chapter 17.114 Potentially Apply to Properties County-Wide (Continued from October 5, 2010)

BOARD ACTION: Karen Robb, consultant, advised that the changes the Board requested on October 5th were referred to the Planning Commission; and she advised that the Commission made three additional editorial changes for clarification and adopted a resolution recommending that the Board adopt the Zoning Amendment. County Counsel advised that the public portion of the hearing was closed on October 5, 2010, and the Board commenced with deliberations and took action to refer the modifications that were made to the Planning Commission for a report and recommendation, pursuant to California State Law. He recommended that the public portion of the hearing remain closed and that the late submittals of information not become a part of the record for this project; and the Board concurred. (M)Allen, (S)Aborn, Res. 10-519 was adopted adopting a Negative Declaration and approving Zoning Amendment No. 2009-87 with findings, as recommended by the Planning Commission on October 22, 2010; and the title of the Ordinance was read into the record and the first reading was waived and the Ordinance introduced approving amendments to the Zoning Ordinance pursuant to Zoning Amendment No. 2009-87. Sarah Williams noted that the recommended action includes repealing Ordinance No. 1049 to be effective upon the effective date of this Ordinance – the motion was amended by the maker, agreeable with the second, to include repealing Ordinance No. 1049 as recommended. Supervisor Turpin stated he hopes the Chamber of Commerce and the Tourism Bureau will encourage individuals to look at this and that if changes need to be made, that we do not wait two years to bring them to the Board. Ayes:

Aborn, Turpin, Cann, Allen; Excused: Bibby. The hearing was closed. Supervisor Cann asked about the status of the issue of dealing with agritourism that is not on Agricultural Exclusive zoned land. Kris Schenk advised that Planning will bring an overall work program to the Board after the first of the year and this issue will be included for review.

23

Planning

Reschedule Public Workshop Dates for General Plan Amendment No. 2008-63, the Catheys Valley Community Plan for:

1st Workshop Date: Monday, November 15, 2010

2nd Workshop Date (if Needed): Monday, November 22, 2010

3rd Workshop Date (if Needed): Thursday, December 9, 2010

Schedule for each Public Workshop with be:

9:00 a.m.: Start Workshop

12:00 Noon: Recess for Lunch

1:00 p.m.: Reconvene

BOARD ACTION: (M)Allen, (S)Aborn, the Board approved the rescheduled workshop dates as recommended/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

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Administration

CLOSED SESSION: Conference with Legal Counsel: Anticipated Litigation: Significant Exposure to Litigation pursuant to Subdivision (b) of Government Code Section 54956.9; Number of Cases to be Discussed: 1;

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County Counsel

CLOSED SESSION: Conference with Legal Counsel: Anticipated Litigation: Significant Exposure to Litigation Pursuant to Subdivision (b) of Government Code Section 54956.9. Number of Cases to be Discussed: 1; and

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County Counsel

CLOSED SESSION: Conference with Legal Counsel: Existing Litigation: Paulo Guinn v. County of Mariposa, et al.; Case No. 1:10-CV-00320-LJO-DLB

BOARD ACTION: (M)Aborn, (S)Turpin, these closed sessions were held at 3:00 p.m./Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

3:50 p.m. Report from Closed Session:

Chair Cann announced that as a result of the closed session matters that direction was given to staff on items 18, 19 and 20.

Consent Agenda

CA-101

Clerk of the Board

Approval of Summary of Proceedings of October 19, 2010, Regular Meeting

CA-102

Administration

Resolution Continuing the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park; Res. 10-505

CA-103

Administration

Authorize the County Administrative Officer to Assign a 4/10 Work Schedule to Specific Staff in Administration, Board of Supervisors, Economic Development, and Personnel Departments Effective May 1, 2011; Res. 10-506

- CA-104 **Administration**
 Consider Request by Chamber of Commerce to Approve and Authorize the Public Works Director to Sign the Application for a Cal Trans Encroachment Permit in Support of Closing Highway 140, Between Jones and 3rd Street, on November 27, 2010, for the Merry Mountain Christmas Parade and for Holiday Banners Along Highway 140 and Authorize the Board of Supervisors Chair to Sign the Letter of the Board’s Support and Approval; Res. 10-514 with change in date of Parade to December 4th
- CA-105 **Auditor**
 Approve Establishing the Tax Rate on the Yosemite High School Bond for the Secured Property Tax Roll of 2010-2011; Res. 10-507
- CA-106 **Auditor**
 Approve Establishing the Tax Rate on the Bass Lake Joint Elementary School District Bond for the Secured Property Tax Roll of 2010-2011; Res. 10-508
- CA-107 **Human Services**
 Accept the Resignation of Marilyn Coppola (Community Member-at-Large) from the First 5 of Mariposa County
- CA-108 **County Clerk**
 Approve Exhibit A – Amendment 2010, the List of Conflict of Interest Filers and their Disclosure Categories Pursuant to the Regulations of the Fair Political Practices Commission, which Constitutes the Revised Mariposa County Conflict of Interest Code; Res. 10-509
- CA-109 **Planning**
 Approve Road Name Application No. 1020-146 Approving the Proposed Road Name “Leap Frog Lane” for the Subject Easement; Res. 10-510
- CA-110 **Health**
 Authorize the Health Officer to Apply for a Grant to Develop Electronic Reporting for Businesses that Handle Hazardous Materials and for the Regulatory Agency (the Certified Unified Program Agency (CUPA) – Mariposa County Health Department); Res. 10-511
- CA-111 **County Clerk**
 Appoint Judith Clare Eppler – District III, to the Mariposa County Unified School District Board of Trustees and Governing Board, and Appoint Candy O’Donel-Browne and Robert Leon Rudzik, as Directors to the John C. Fremont Healthcare District, Pursuant to Elections Code Section 10515 (a); Res. 10-513
- CA-112 **Chair Cann**
 Resolution and Tile Plaque Recognizing Cathy Cutter Upon her Retirement as Court Clerk II (Superior Court); Res. 10-512

The Board recessed at 3:52 p.m. in memory of Robert Cann, Bob McHugh, Henry Jones, Winnie Gallagher, Joseph Ashworth, and Theresa Chaffin; and continued the meeting to Monday, November 15, 2010, at 9:00 a.m. for the following:

- 24 **Planning**
 CONTINUED PUBLIC WORKSHOP to Consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan. The Purpose of the Continued

Workshop is to Consider the Information Prepared by Staff Regarding the Issues of Concern Identified and Discussed at the Workshop Conducted on August 14, 2010. Staff has Prepared a Matrix with Optional Actions the Board may Consider Regarding each of these Issues. An Opportunity will be Provided for Further Public Comments on the Plan Focusing on the Options in the Matrix. Questions and Discussion will Occur. Direction to Staff May be Given as a Result of the Workshop (Continued from October 26, 2010)

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS



SUMMARY OF PROCEEDINGS

November 15, 2010

(Continued from 11-9-10)

Folder Time Description

9:04 a.m. Meeting continued from November 9, 2010, was called to order at the Mariposa County Government Center.

Pledge of Allegiance

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Planning

CONTINUED PUBLIC WORKSHOP to Consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan. The Purpose of the Continued Workshop is to Consider the Information Prepared by Staff Regarding the Issues of Concern Identified and Discussed at the Workshop Conducted on August 14, 2010. Staff has Prepared a Matrix with Optional Actions the Board may Consider Regarding each of these Issues. An Opportunity will be Provided for Further Public Comments on the Plan Focusing on the Options in the Matrix. Questions and Discussion will Occur. Direction to Staff May be Given as a Result of the Workshop (Continued from October 26, 2010)

BOARD ACTION: Kris Schenk/Planning Director; Sarah Williams/Deputy Planning Director; and Andy Hauge/Hauge-Brueck Associates were present. Kris Schenk reviewed the conclusions reached at the September 28th workshop relative to issue No. 1/the necessity of the Catheys Valley Community Plan (CVCP) and direction to move forward with the CVCP; issue No. 2/size of planning area and keeping the boundaries as recommended by the Planning Commission on May 7, 2009; and issues No. 3 and 11/agricultural preservation policies and staying with the language and policies of the General Plan. Chair Cann called for a recess for staff to make copies of the matrix available.

9:16 a.m. Recess

9:19 a.m. The following issues were reviewed:

Issue No. 4: Minimum Parcel Size in the Planning Area (2.5 acres v. 5 acres in the current "interim community center" area) – Andy Hauge reviewed this issue for the Mountain Home zoning. Supervisor Cann noted the CVCP calls for 5-acre minimum parcel size and the General Plan calls for 5-acre average parcel size with a minimum of 2.5-acres for Mountain Home and that the CVCP language was written before the adoption of the General Plan. Andy Hauge noted that the following issues deal with clustering in the Mountain Home zone: 6/Clustering-minimum parcel size v. maximum density provisions for subdivisions; 9/Potential increased setbacks for residential development adjacent to agriculture/working landscape land use; and 17/Increasing parcel sizes approaching agricultural uses. Staff responded to questions from the Board and advised that the proposed CVCP does not allow clustering; there has not been any subdivision applications in the Mountain Home zone with 5-acre averaging since adoption of the General Plan; and the Whispering Oaks subdivision followed a clustering design and this type of development would not be allowed in the proposed CVCP. Supervisor Allen expressed concern with having Mountain Home zoning regulations in town planning areas (TPAs) that are different

from the General Plan. Staff responded to additional questions from the Board and advised that the General Plan gives credit for undevelopable land with clustering - however, rules still need to be developed for applying the credit; relative to being able to have deed restrictions for further development when clustering is used; defining undevelopable land; relative to the size of the parcels in the Owens Creek subdivision; clarifying that the density remains the same if clustering is used; and relative to the State law allowing second homes.

Input from the public was provided by the following:

Don Starchman, Starchman & Bryant Law Offices, stated he feels the CVCP needs to be consistent with the General Plan as much as possible. He feels it is better to cluster development to make best use of the property; and clustering allows for terrain, vegetation and services to be taken into consideration. He noted that any plans for development go through the public hearing process, and there was a lot of discussion and consideration of this issue with the General Plan. He cited Whispering Oaks as an example of allowing clustering. He referred to the Dunn Ranch/Allison development and stated they would have liked to have the clustering option. He referred to the ready-to-build requirements and noted they would still be required. He clarified that the clustering does not create more parcels and can reduce environmental impacts; and he feels that this should be encouraged.

Rita Kidd stated she is speaking as a citizen of Catheys Valley for 30 years. They live on a hilltop that is screened from view for the most part. Speaking for the Friends of Community Planning, they do not support the minimum 2.5-acre parcel size. She feels the County creates more parcels by minor subdivision than by major subdivision. She stated there are no parcels smaller than 3-acres in Whispering Oaks. She feels the County has little control on minor parcel subdivisions and being able to add a second dwelling creates impacts, including impacts to the landscape. She referred to the General Plan requirements and stated she feels that deed restrictions can be challenged and that developers have come back to develop "open space." She feels legal counsel needs to be consulted on this issue, and she questioned who manages the "open space." She commented on calculations of density and "remainder" parcels. She questioned the legality of permanently restricting land without compensation to the landowner. She noted that Mountain Home is 5-acre zoning and Rural Residential is 2.5-acre zoning. She presented a map of the Whispering Oaks subdivision.

Steve Saunders thanked the Board for the workshops and for decisions on the Agriculture Exclusive (AE) land. He stated Catheys Valley is a community of people and not open space. He supports the General Plan and feels that neighbors have purchased their land under the representation of the General Plan. He does not like the down-zoning of Mountain Home - he feels the proposed Plan takes away potential parcels. He noted there are several agencies and regulations that apply for any development application. He feels that taking away the option for 2.5-acre parcels makes them non-conforming.

Tim Miller, Miller Planning of Sonora, stated that as a planner for 30-years, he encourages the CVCP to be consistent with the policies in the General Plan. He noted that the size of clustering being discussed is different that what occurs in the urban areas. He feels that a project has not been proposed with clustering because our zoning regulations have not been brought up to date and there are implementation issues that need to be dealt with to implement the current policies in the General Plan. He sees the clustering option as an advantage.

Brett Baumann stated he was speaking as a real estate broker in Catheys Valley for 20-years. He advised the Owens Creek subdivision consists of parcels that are 5-acres minimum; Whispering Oaks Estates consists of parcels that are 5-acres minimum; and Whispering Oaks West doesn't have any parcels that are less than 3.15-acres in size. Speaking as a homeowner and member of the Association for Whispering Oaks West, he advised that people like to have a choice of the size of parcel. Retirees

like smaller parcels due to maintenance; and the 5-acre parcels tend to have overgrown grass. He feels the smaller parcels are better maintained and aesthetically pleasing. He supports clustering and feels it is environmentally friendly and smart planning. This would allow the parcels to be conforming v. non-conforming.

Barbara Cram, resident of Catheys Valley, stated she is a retiree and does not like 5-acres, she wanted 40-acres. She hopes the Board will keep the 5-acre minimum. She feels that people that want smaller parcels, want development; and she feels that Catheys Valley is perfect the way it is.

Jim Eason stated he lives on 5-acres and is retired from a small lot in Merced. The surrounding parcels are 2.5-acres to 15-acres and each neighbor is an individual with individual dreams and desires. He agrees with the General Plan and is not interested in “cookie cutter” development. He wants property rights retained for the individual and for the creativity of individuals.

John Kinsey thanked the Board for the workshops. He addressed the minimum parcel size and clustering issues – he feels there is a misconception that 5-acres is environmentally superior. He feels that clustering is far superior. He noted the impacts with 5-acre developments with roads and fire hazards. He supports shared water v. individual wells; and he feels that clustering improves buffers between residential and agricultural uses, and that it increases opportunities for preservation. He agrees with having more uniform guidelines.

Anita Starchman Bryant, Starchman & Bryant Law Offices, stated she is representing the F.E. & M. Engineering Employees Defined Plan and the Eugene and Dolores Fortner Family Trust. She asked if the Board is ready to address the other differences between the General Plan and the CVCP, and Chair Cann advised that the Board is staying with the parcel size issue at this time. Anita Starchman Bryant noted a compromise was reached during the General Plan hearing process, and she does not feel that this community should have a separate set of rules, and that no justification has been provided for that.

Debbie Lester stated she lives in Catheys Valley on 5-acres, and she wants to maintain the rural and scenic atmosphere.

Philomene Schultz, resident of Catheys Valley and retired, but lives on a cattle ranch. She thanked the Board for supporting the agricultural land decisions, and asked the Board to use the same discerning analysis on these issues. She agrees with the General Plan and feels that the proposed CVCP will “trash” peoples’ dreams. She does not feel that she should be told what to do with her land. The General Plan was adopted to serve everyone. She feels Catheys Valley is being discriminated against by people with their own agendas.

David Ardell stated he works at UC Merced as a teacher and lives in Catheys Valley off of Old Highway. He was originally from Los Angeles, and he feels we are sitting on a gold mine in this County with the space. It is his understanding that water is more variable and unpredictable in the County. He referred to infrastructure and stated he would like to see a vision for the area that is not about stopping people from what they want to do with their land, but would create a world-class destination with a quality of life. He does not feel that we should allow too much density. He responded to a question from the Board as to whether he feels 2.5-acres is too small, and he stated he agrees with a smaller density footprint near Highway 140. He does not know very much about the history of the area, but would like to see good data on water and fire impacts for future planning. He feels that Catheys Valley provides a different environmental scene from the rest of the County with the oak scrub land. He is concerned with impacts created by asphalt.

Fred Friedland expressed concern with water issues and people density; and he is concerned with how the land that is set aside for open space would be restricted in the future. He questioned whether a 5-acre subdivision would be required to have

paved roads. He feels we should stay with 5-acres as he feels it will keep the population down, and he does not feel that we have the resources to support more.

Bob Stark asked if he could obtain a copy of Rita Kidd's statement, and Chair Cann advised that a recording of the meeting is available.

Jim Fortner stated he is a Catheys Valley property owner, and he feels the point has been missed that we are talking about 5-acre average density with a minimum of 2.5-acres. He feels that this option would allow for more open space to be locked out from development and the population will be the same.

The public portion was closed on this issue, and discussion was held. Staff responded to questions from the Board and advised that prior to the 2006 General Plan Update that clustering was not allowed; relative to being able to have a development like Bellevue with 2.5-acre parcels and "granny flats" with a larger remainder and there being no setbacks from neighboring parcels – staff advised that clustering in the General Plan still needs to be defined with the details to be worked out; and relative to the State law for sizing "granny flats." Supervisor Bibby expressed concern with the impacts with smaller parcels, including barking dogs, lighting and noise issues. She feels we would have lost our argument with the State on the well and septic requirements applying to rural areas if we had smaller parcels. She noted with the larger parcels, we have been able to meet CalFire fire clearance/defensible space requirements and have not lost tracts of housing. She further noted that there is no specific setback required between residential and agricultural uses. Staff responded to questions from the Board relative to the potential for dividing the land in the Mountain Home area into 5-acre average density – Kris Schenk advised that there is about 3850 acres with a potential of about 770 parcels, and that 287 parcels already exist. He does not feel that the maximum number of potential new parcels would exceed 400 with 100-percent build-out. Supervisor Cann noted that number is the same whether it is 5-acre average or 5-acre minimum. Supervisor Bibby noted that historic patents create an unknown population that could be added to this for Catheys Valley and countywide; and she questioned how wetlands would be counted, and was advised that the policy has not dealt with specific issues. Supervisor Cann advised that he would not support clustering without an absolute way to deal with restricting future development of the remainder/open space. He commented on the 5-acre minimum impacts with wildlife and on the land. Supervisor Aborn commented that the 2-acre parcel he had in Los Angeles was extremely small, and he feels 10-acres would be a more appropriate minimum parcel size. He noted that allowing "granny flats" increases the density, and he feels we need to maintain the character of the Highway 140 corridor.

10:52 a.m. Recess

11:05 a.m. (M)Bibby, (S)Aborn, to go with option "a"/no change and stay with the 5-acre minimum parcel size, failed by the following vote: Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen. Supervisor Turpin stated the 5-acre minimum and the 5-acre average does not change density; and he moved to mirror what is in the General Plan – that future development have a minimum of 5-acre average, (S)Allen, who stated he feels that uniformity is important. Supervisor Cann reiterated his previous statement that he wants an absolute caveat relative to being able to control the "remainder" and he asked Planning staff to come up with clear language for this. He noted that the setback requirements are unchanged, and he stated he would be willing to have future discussion on the State's size restrictions for "granny flats" as the County currently does not have a size restriction. Supervisor Bibby asked for clarification of whether Supervisor Cann's request is included in the motion, and Supervisor Turpin advised that it is not – he agrees with the need to discuss this later. Andy Hauge referred to language in General Plan section 5.3.02(e); and discussion was held relative to restricting the "remainder." Supervisor Bibby expressed concern that people will find

ways around the rules for development, and she feels that this creates additional complications and staying with 5-acre minimum parcel size is keeping it simple. She asked what will happen to the other community plans that have been acted on if we mirror the General Plan for everything, and how will the uniqueness of each area be dealt with. Supervisor Cann clarified that what is done for the CVCP does not impact other TPAs. Ayes: Turpin, Cann, Allen; Noes: Aborn, Bibby. Kris Schenk advised that this action takes care of issues 4 and 6.

Chair Cann advised that discussion on the next issue(s) will be for those related to the Mountain Home zone and review of “granny flat”/second home restrictions; and he asked for input on which issues are involved in this discussion. Andy Hauge noted that additional decisions still need to be made on issue No. 4 relative to the interim community center.

Input from the public was provided by the following:

Don Starchman stated he feels that issue No. 11/Role of the Planning Advisory Committee (PAC) and requirements and approvals should be included in this discussion. Chair Cann advised that those issues will be discussed separately.

Steve Saunders stated he feels that issue No. 7/Hillside-ridge top and knoll standards should be included – he is concerned with the inclusion of “knolls.” He referred to issue No. 9/Setbacks and stated he feels the “right-to-farm” ordinance for the County is a filter and it lets people know what to expect. He referred to issue No. 17/Increasing parcel sizes approaching agricultural uses and stated he feels the “right-to-farm” ordinance solves any problems.

Issue No. 7: Hillside-ridge top and knoll standards for subdivisions and new residential building permits (compare to General Plan policies); Issue No. 9: Potential Increased Setbacks for Residential Development Adjacent to Agriculture/Working Landscape Land Use; and Issue No. 17: Increasing parcel sizes approaching agricultural uses – Supervisor Bibby noted that there is the potential for 2.5-acre parcels with the action just taken by the Board.

Input from the public was provided by the following:

Rita Kidd referred to the Board’s motion on the previous issue and stated she feels that will allow for building on the “remainder” parcel and she believes that motion just increased the density and referred to development rights. Chair Cann clarified the motion that was taken. Rita Kidd referred to the request to take “knoll” out of the title for issue No. 7, and she referred to the General Plan’s reference to terrain. Representing the Friends of the Community, they feel there should be discussion of “rolling hilltop” in the definition for CVCP if “knoll” is removed. She feels that tourists go out of their way today to travel Highway 140 as it is the last uncluttered route to Yosemite. She noted there are 15 other community planning areas defined by the General Plan and it is very specific about roles and responsibilities of self-direction, and she feels that the decisions being made today may lead to a major new General Plan amendment and Environmental Impact Report (EIR). She feels a much different EIR will be required because of the greenhouse gas issue and that developers will tier off of that.

Steve Fortner stated he helped with the Whispering Oaks development and he is happy with that. He referred to their Specific Plan process they started in 1999 for their project and they subsequently put it on hold pending adoption of the General Plan and then the CVCP. He feels that because of the cloud of uncertainty of what could be done, there has basically been a moratorium. Now an update is due on the General Plan and a lot of time has been spent on other planning issues. He feels that staff should proceed with updating Title 17 so that it is consistent with the General Plan.

Anita Starchman Bryant referred to issue No. 7 and requested that references to hillside/ridge top and knolls be removed. She noted where the proposed

language differs from the General Plan language, and she does not want to take away private property rights – some individuals may own a parcel where they plan to build on a hillside or ridge top, etc. She is concerned about establishing policy for “view” and feels the General Plan policy should prevail. She referred to issue No. 9 and stated she supports option “b”/removal of the implementation measure, and she cited Attorney Chappel’s letter to the Board and advised that she feels the added setbacks would be subjective – they should be required as a part of the current code. She referred to issue No. 17 and Attorney Chappel’s July 26th letter and stated she feels we should require this as a part of the current code, and she noted that we have the right-to-farm ordinance. She referred to Issue No. 11/Role of PAC and quoted from the CVCP section 5.1.02A(5) as she feels that this affects existing parcels. The PAC role is not defined and is highly subjective.

David Ardell stated he would like to ask about the 2.5-acre issue, and Chair Cann advised that the Board has taken action on that issue.

Brett Baumann referred to what he feels is aesthetically pleasing and common sense and stated he feels the language relative to knolls should be removed. He does not feel that it is appropriate to build a home in a lower area. He feels that by allowing a variety in planning, it is the “spice of life.” He referred to Whispering Oaks West and noted that the homes that have been built on the knolls and ridge tops can’t be seen. He feels a variety should be allowed.

Bob Stark stated he feels it is more expensive to build on top of a hill with driveway construction, etc., but that it should be allowed. He noted there are hardly any flat areas in Catheys Valley.

Fred Friedland stated he feels there should be mitigation measures, including screening, if a house is built on the top of a hill; and he feels that the Plan addresses this and does not preclude it.

Don Starchman stated he does not see anything in issue No. 11 that talks about screening. He feels that the problem is that this Plan is an effort to create CC&Rs (covenants, conditions and restrictions) for a huge area. A major subdivision like the Dunn Ranch will have its own CC&Rs. He does not feel that this language should be left so subjective with view sheds when we do not know what views we are talking about. He feels that we should not adopt something unless we have standards and that we should stay with the language in the General Plan.

Jim Eason stated he was a maintenance superintendent for CalTrans and he referred to the flood and slides on Highway 140 and economic problems. He feels that this is an economic situation with the tourists on Highway 140 as this is the all weather and shortest route to Yosemite.

David Ardell suggested that there be a multi-use trail system for access to Yosemite and that this will increase tourism. He feels that we should be asking for easements with development projects for future pedestrian and horse trails.

Rita Kidd referred to the setback issues (issue No. 9) and noted that no one from the agricultural community, except Joe Simon, is present to speak on this issue. She suggested that this be held for input from the Farm Bureau or the Agricultural Advisory Committee. She feels that we need to keep in mind the operational problems that cattle ranchers have with increased human activity. Supervisor Cann asked whether a purchaser buying agricultural land, also buys interest in the neighboring residential land. Rita Kidd responded that she feels you buy with the expectation that government policies will afford you the opportunity to stay in business; and that you need setbacks as an equal property rights issue.

Victoria Trujillo stated she likes to see the houses on the knolls and likes to drive the countryside to look at houses. She feels it is a matter of opinion that people only want to see land. She feels that the tour buses use Highway 140 because it is convenient, not to see Catheys Valley. She noted they have cows and do not feel that having people next door affects them. They like seeing people come up to them.

Don Starchman stated he feels that cows in Catheys Valley are not different that anywhere else in the County, and that the General Plan language should be used.

Steve Saunders stated he feels that those who write this Plan are limiting human activity. People are already there and now he feels that the people who wrote the Plan want to control them and this is not what is going on in the rest of the County. He feels the right-to-farm ordinance tells people of the agricultural activity.

Fred Friedland referred to property he owned in Merced County near a farm that used chemicals and efforts to work with his neighbor. He finds that his ranch cattle are skittish unless they are used to people.

Bob Stark stated he feels that when people move to the area, they know they will be next to agricultural land, and that the right-to-farm ordinance tells them. He disagrees that cattle feed in circles around a ranch.

Judie Huffman stated she has lived here for many years and her ancestors lived in the area and raised cattle and horses. She feels that people from the city will complain if the cows get out and eat their garden, they will not understand that there will be problems with neighboring agricultural activities.

The public portion was closed on these issues, and discussion was held. Staff responded to questions from the Board relative to the proposed hillside and ridge top restrictions and advised that a property owner will always be able to build on existing parcels, and responded relative to dealing with new subdivisions and clustering that specific policies would need to be developed. Supervisor Bibby expressed concern with well contamination issues that have occurred when a well is sited near a fence line neighboring agricultural activity. Staff responded to questions from the Board and advised that there are no setback requirements for wells, but the Health Department looks at surrounding issues. Supervisor Cann stated he feels the word “knoll” is indefinable and is ubiquitous. Supervisor Turpin referred to the discussion held during the General Plan process relative to erosion control and trying to have minimal cuts and fills, and he expressed concern with trying to dictate what can be done with every parcel. He questioned whether this is a problem with what we have. Supervisor Aborn noted there are setback requirements between wells and septic; and he referred to a home on a ridge top above the town of Mariposa where the trees have been removed below the home and it is obvious – leaving an open space on the hillside. Supervisor Bibby noted the 100-foot fire clearance requirements and that homes on a ridge top are more threatened by fires and are more difficult to protect. Supervisor Cann referred to the hillside and ridge top discussion and noted the General Plan talked about slopes in excess of 15 percent, and he asked what guidance is lacking that needs to be addressed in the CVCP. Kris Schenk responded relative to the difficulty staff would have in reviewing building permits and determining if the owner is trying to comply with this policy. Sarah Williams noted that the difference in the CVCP is that it would apply to existing parcels the way it is written. Supervisor Cann agreed with the need to deal with agricultural uses and contaminated wells. Supervisor Aborn commented on the impacts that outside lighting from homes on ridge tops have on the dark skies. Sarah Williams advised that we do not have any ordinances that regulate residential outside lighting. Supervisor Cann stated he feels the standards should apply across the board. Supervisor Bibby asked if development on a knoll would be reviewed the same as for that on a hillside.

(M)Bibby, (S)Aborn, to select option “a” for issue No. 7/no change and to leave “knolls” in the CVCP language, failed following further discussion. Andy Hauge clarified that the language in the CVCP applies to all slopes, not just those above 15 percent as applied in the General Plan. Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen. (M)Bibby, (S)Aborn, the Board adopted the language in section 5.1.02A(5) relative to average slope, removing the “knoll” language; and with direction that the hillside/ridge top standards would apply to all parcels, existing and future. Discussion was held. The motion was amended by the maker, agreeable with the second, to

include the 15 percent slope language used in the General Plan. Supervisor Turpin asked that information be provided on the average slope in Catheys Valley – how many residential parcels are existing that exceed 15 percent slope. Ayes: Aborn, Bibby, Cann, Allen; Noes: Turpin.

Supervisor Cann initiated discussion relative to setbacks and parcel size in issues No. 7 and 9, and consideration of graduating lot sizes to larger parcels near AE zoning. Staff advised that this is not required in the General Plan, but it could be made criteria as a goal. Discussion was held. (M)Bibby, (S)Aborn, the no change option “a” was selected for issue No. 9. Kris Schenk advised that a program for setbacks adjacent to Agriculture/Working Landscape Land use would be developed. Supervisor Cann clarified that this would not limit the ability to build a structure on a legal parcel, there would be allowances for something like a variance. Sarah Williams stated the policy would be written to take into account varying parcel sizes, and it would be applicable to any parcel in the residential land use that is adjacent to Agriculture/Working Landscape Land use. Supervisor Cann asked that language be added to the motion to not preclude otherwise legal development on a parcel. Following discussion the motion was amended by the maker, agreeable with the second, to state that the setback policy is not precluded from development and that a variance process is available if needed. Following further discussion, the amendment to the motion was restated to say that the setback policy will not preclude the building of a single family residence on a legal parcel. Ayes: Unanimous.

Discussion was held relative to issue No. 17, and Chair Cann advised that with the previous action, this issue was addressed – there will be a design goal to have increasing parcel sizes approaching agricultural uses, but it is not statutorily required. Andy Hauge advised that within the new subdivision design standards, a new goal will be added that there will be graduating lot size goals, and that text will come back to the Board. Chair Cann noted that this concludes the Mountain Home zone discussion.

1:19 p.m. Lunch

2:34 p.m. The Board reconvened.

Chair Cann asked for input relative to the issues dealing with the interim community center. Supervisor Turpin asked about the status of design review requirements for the Mountain Home zone. Kris Schenk advised that they were modified to only apply to commercial and institutional settings and not residential.

Don Starchman stated he feels that Supervisor Turpin’s question is related to issue No. 11 concerning the PAC and residential land use.

Chair Cann stated he feels the role of the PAC should be addressed separately. Supervisor Turpin stated he would continue to look for the reference on design review. Staff reviewed the changes in the TPA area to what is currently proposed in this draft Plan. Staff responded to questions from the Board and reviewed Resolution No. 03-438 relative to the PAC; responded relative to the timing of changes in the TPA boundaries; advised that the interim community center is identical to the original TPA boundary; and advised that the term “grandfathered” is being used instead of “non-conforming.” Andy Hauge advised that issue Nos. 36 and 37/corrections and clarifications deal with change in the language of “grandfathered” parcels to be consistent with the General Plan.

Issue No. 4: Minimum parcel size in the planning area (2.5 acres v. 5 acres in current “interim community center” area; and Issue No. 5: Commercial land use – size (acreage), location, type (to serve residential and agricultural needs of Catheys Valley) - Chair Cann asked for input relative to parcel size in the interim community center/the old TPA area. Supervisor Turpin expressed concern that the

proposed Plan will take away subdivision rights from what is currently allowed – currently 2.5-acre parcels are allowed and the proposed Plan calls for 5-acre minimum in the interim community center. Supervisor Allen asked whether a change would require a new EIR; and Andy Hauge responded that the Board has already made a decision that a new EIR will be required for the Plan. Supervisor Cann asked about the PAC’s reasoning for 5-acre minimum parcel size; and staff advised that water availability and maintaining the rural character with larger parcels were examples. Supervisor Turpin asked whether this change in parcel size is down-zoning; and staff (Andy Hauge and County Counsel) responded relative to the zoning regulations for TPAs being different than zoning in other areas of the County.

Input from the public on this issue was provided by the following:

Rita Kidd stated she disagrees that there was a purposeful intent to down-zone the interim community center. She advised of the PAC’s review of the interim community center as being the same as the rest of the residential area in the TPA. She feels the Board could have the same opinion for the interim community center as the action it took this morning to allow 5-acre density with a 2.5-acre minimum. The interim community center was only created until the Plan was adopted.

Jim Fortner asked why another EIR would be needed for option “b” to revise the minimum parcel size to 2.5 acres. He stated he feels that they are being down-zoned and penalized with this Plan; and he noted their Specific Plan proposal is still on hold.

Steve Saunders referred to the 2006 General Plan and the commercial zone parcel size compared to the CVCP and asked what the differences are; and Sarah Williams responded advising of differences for commercial between the TPAs and the rest of the County. Steve Saunders asked about the conditional discretionary use process and was advised that he could apply for a commercial use today. He expressed concern that there is very little commercial zoned land in the Plan. He noted that the Plan states that when you reach a threshold of activity, you have to move to a commercial area. So with the limited acreage that is available, he does not feel that any additional commercial activity will be allowed.

Supervisor Bibby noted that home-based businesses are allowed; and she noted the global warming challenge that the Board received citing the 21-acres set aside for commercial use as being too large.

3:24 p.m. Recess for Supervisor Bibby to present Cathy Cutter who is retiring from the Superior Court with a resolution and tile plaque that the Board approved on November 9th.

3:52 p.m. The Board reconvened.

Discussion was held relative to the change from the old TPA area to the proposed Plan and the amount of acreage allowed for commercial development. Andy Hauge suggested that the Board could establish a “community commercial” designation that would reflect a little larger area than the Neighborhood Commercial. Supervisor Bibby asked if this could be defined with the Title 17 update for the General Plan.

Input from the public on this issue was provided by the following:

Brett Baumann stated he feels that the highest and best use of property along the Highway is not residential. He feels there should be more commercial potential there. He noted the parcels marked for commercial use already have commercial structures or are somewhat unbuildable. He feels we need to allow for the ability to have future potential businesses. He noted that he and the Postmistress Glenda Miller have witnesses accidents at the intersection of Highway 140 and Hornitos Road; and from a safety factor, he feels a loop road should be allowed.

Rita Kidd referred to the General Plan and rural commercial being an acceptable use in community planning areas, and she noted that there is a limit of 20-acres. She read from page 5-39, section d.2 concerning lot sizes and land use goals and policies and implementation measures. She presented information and photographs of a neighborhood retail commercial development in Diamond Springs, and she noted the costs for the developer and the small size of the parcel versus what is allowed in Catheys Valley.

Fred Friedland referred to the town of Mariposa and stated he feels the 20-acres should be sufficient for Catheys Valley. He referred to the move of Light Racing from a home business to commercial, and he stated people can still do business at home.

Anita Starchman Bryant reviewed what was originally allowed in the TPA of 500-acres, subsequent changes with the General Plan and with what is now allowed in the proposed CVCP. She does not feel that the development Rita Kidd referred to was for a TPA area, but that it was for a new development area, and she asked that staff review this. She referred to the General Plan language concerning community plans and stated she feels that we need to expand the commercial area. She noted the language specifically calls for all community plans to include land area to accommodate rural home industry that outgrow their home-based location – she feels that this can't be done on the 21-acres that is built-out or is undevelopable. She feels 2.5-acre average density with 1-acre minimum lot size should be allowed for residential, with community sewer or water if acreage goes below the 2.5-acres; would like 9,000 square foot lots for commercial development so that folks with “mom and pop” operations can afford to have the smaller lots.

Bob Stark stated only part of the Fortner's 11-acre parcel is usable.

Don Starchman stated he feels that the commercial needs to be expanded, especially when you consider setbacks and on-site septic systems. He noted that if he owned one of the parcels designated for commercial use, he would make sure that it was not built-out so that he wouldn't have any competition. He feels we need to expand to provide services for the tourists as that industry is important to the County. He feels that providing local services will save on the greenhouse gas impacts. He noted that the greenhouse gases will impact the whole County and needs to be look at as a County problem.

Supervisor Bibby referred to a letter the Board received stating the commercial area is too large; and she referred to the other sections in the General Plan above the section that Anita Starchman Bryant referred to relative to community plans.

Rita Kidd quoted from Tim Miller's letter relative to the issue that the 20-acres is large enough, and from Attorney Petrulakis' letter relative to the greenhouse gas adequacy. She referred to the mixed-use site in Copperopolis. Supervisor Cann noted that there are varying parcels and terrain with development. Rita Kidd stated she feels that we need to keep it Neighborhood Commercial and something fitting for the County.

Steve Fortner encouraged the Board to not lose the opportunity that exists to create jobs in the community. He feels they could create a village development and create jobs and a tax revenue on their property.

Bob Stark commented on the amount of land it takes for a sewer system for commercial development, and he feels that more than 21-acres is needed.

Anita Starchman Bryant stated she was not taking her statement referencing the General Plan out of context. She referred to the environmental work and the alternative to implement existing zoning, and stated what they are asking for is less than what was analyzed. She reiterated her request for 1-acre minimum parcel size with 2.5-acre average density, and stated she feels that this provides an opportunity for plans to be brought forward for discretionary review. She noted that the Fortners would like to have an opportunity to bring forward a plan versus a 5-acre “cookie cutter” subdivision.

Steve Fortner stated he does not feel that it gets any better than to have the opportunity to recreate, live, and work within a short distance of each other. This creates a community as it allows some sort of core development and minimizes greenhouse gas emissions.

Fred Friedland stated he feels we have an opportunity to leave Catheys Valley as it is – it is a wonderful place. He does not want it to become a town and he likes the rural area.

Debbie Lester commented on the controversy over the Subway in Mariposa and stated they do not want to compete with Mariposa. They want to stay rural and meet their community needs, and she feels that 21-acres is enough for commercial development.

The public input portion was closed on this issue and discussion was held. Supervisor Turpin asked how much land in the 21-acres is developable. Supervisor Cann reviewed the parcels in the 21-acres designated for commercial development and asked why the PAC made its recommendations. Discussion was held relative to access issues off of Highway 140 to the various parcels. Supervisor Bibby referred to the input concerning the accidents that occur at the intersection of Highway 140 and Hornitos Road and noted there are problems at the Schoolhouse Road intersection. She referred to a mixed-use facility in Turlock with medical facilities and a restaurant, etc. on a small parcel. The Board reviewed each of the parcels in the 21-acres and neighboring uses and discussion was held. Supervisor Cann noted that if Elrod does not allow development on his parcels in the commercial area, that nothing will happen.

(M)Bibby, (S)Aborn, to select option “a”/no change to the map designating the 21.1-acres (six parcels) plus a reserve of 6-acres for commercial land use, failed following discussion. Staff responded to questions from the Board as to whether there would be additional staff costs if there are changes to the parcels that are included in the Commercial Land use designation, and advised that there would be some change in the calculation, but it is felt that this would be within the allocated budget. Discussion was held relative to having access from the Highway and not being visible from the Highway; and relative to the 20-acre maximum issue that was raised for commercial development. Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen. Following further discussion, (M)Allen, (S)Turpin, the Board directed that the following parcels be included in the Commercial Land use designation: 11.56-acres owned by Fortner, 2.70-acres owned by Allison, 2.06-acres owned by Good, 4.45-acres owned by Elrod, and 1.88-acres owned by Elrod; with the 4.78-acre and the 2.93-acre parcels owned by Elrod to be changed to Reserve Commercial. Sarah Williams noted that this results in 22.65-acres in Commercial Land use and the two Elrod parcels in Reserve Commercial. Ayes: Turpin, Cann, Allen; Noes: Aborn, Bibby.

Supervisor Turpin requested a further definition of “clustering.”

Andy Hauge summarized the decisions made today:

- Issue No. 4 – the average is 5-acres and the minimum parcel size is 2.5-acres following the guidelines in the General Plan for subdivision
- Issue No. 5 – there were changes in the commercial parcels in the interim community center; and he noted the size of residential parcels in the interim community center still need to be determined
- Issue No. 6 – selection of option “b” for clustering – using the General Plan provisions
- Issue No. 7 – direction to use the text from the General Plan for hillside and ridge top standards, and that these standards also apply to existing parcels in addition to future parcels; and with the deletion of “knolls”
- Issue No. 8 – was not discussed to reach conclusions concerning non-conforming/grandfathered policies/text

- Issue No. 9 – language was adopted to develop policies for increased setbacks for residential development adjacent to Agriculture/Working Landscape land use, with the addition that this does not preclude residential development on existing parcels. Supervisor Turpin clarified that standards still need to be developed.
- Issues No. 10, 11, 12, 13, 14, 15, and 16 – these issues have not been dealt with
- Issue No. 17 – eliminate the policies and direction was given to staff to come back with a new goal relative to parcel size in relation to the Agriculture/Working Landscape land use

Chair Cann stated he would like the Board to consider reviewing Issue No. 10/air quality standards (greenhouse gas regulations) after finishing Issue No. 8 at the next workshop, and then continue with the process.

Supervisor Turpin referred to Issue No. 17 and suggested that consideration be given to requiring a minimum size of 5-acres for parcels adjacent to AE zoned land.

Chair Cann continued the workshop to Monday, November 22, 2010, at 9:00 a.m.

5:44 p.m. Chair Cann adjourned the meeting.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

November 16, 2010



Folder Time Description

9:05 a.m. Meeting Called to Order at the Mariposa County Government Center

Pledge of Allegiance

Chair Cann called for a moment of silence in honor of our armed forces spread across the world defending us and in honor of the young man (Staff Sgt. Salvatore Giunta) awarded the Medal of Honor – the first living service member awarded this Honor since the Vietnam War.

Introductions – none

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.
BOARD ACTION: Supervisor Turpin referred to item 112 and thanked Public Works for their work on this project. (M)Aborn, (S)Turpin, all items were approved/Ayes: Unanimous.

- 2 Public Presentation: For Items within the Jurisdiction of the Board and not on Today’s Agenda (Speakers Limited to Five Minutes)
 Bob Kirchner, Trans Valley Youth Football League Superbowl Event Coordinator, thanked the Board and County Departments for their support and provided input on the success of the event. Board members thanked Bob for his work on this event.
 Vaden Savage advised of a letter he received from the Board relative to his driveway situation, and he brought buckets of debris that was removed from the fill during their efforts to try and fix the problems. He commented on the history of their efforts with the County to get the driveway fixed, and he expressed concern that the contractor was allowed to continue to work in the County. He asked the Board to reconsider its choice to do nothing about this.
 Beth Savage followed up on her husband’s input and stated she feels that they were let down by the contractor and by the County. She commented on their efforts with the Contractors Licensing Board and the arbitration process, and of her discussions with the County Administrative Officer and the Board members.
 Leslie Lovelace stated she moved here last year and she took some of the animals for the Savages that needed to be moved for their driveway to be redone. She noted that her husband is a civil engineer and could not believe how the driveway was put

together as he observes the fill being removed. She referred to her experience in Madera County with a house and driveway work and interactions with the County. She stated she knows that the County has immunity, but feels that the legal issues are not always moral ones – and she feels the Board has a moral responsibility to do what is right for this family.

Evie Wilson said she is a neighbor to the Savages and she is concerned about this situation and questioned how many other people have been treated this way. She asked about the closed session procedures for the Board.

Eleanor Keuning advised of the November 20th Kiwanis hayride event.

Lester Bridges, Chamber of Commerce President, invited the Board members to the mixer for two new businesses at the Visitor Center, and he invited a Board member to help with judging of the Merry Mountain Christmas Parade scheduled for December 4th.

3

Board Information

Supervisor Bibby thanked the Board members and the public for their understanding of her missing the Board meeting on November 9th for her daughter's surgery. She extended congratulations to Cathy Cutter on her retirement from the Superior Court. She advised that she plans to meet with CalTrans and the Public Works Director on November 18th relative to road issues; attend the November 19th Calaveras-Mariposa Community Action Agency meeting; and advised that the mountain lion film (Cougar Killer by Jay Bruce) will be shown in Hornitos on November 21st. She thanked the community for its support of the many events; and thanked the residents, merchants, law enforcement and emergency services for a safe Halloween.

Supervisor Turpin noted he passed a load of cedar logs headed to the mill this morning; and he noted that the Lake is down as he crossed Bagby. He attended the SWIFT meeting in Moccasin on Wednesday and heard a presentation from the Pine Mountain Home Association on addressing fuel reduction for vacant lots. He is planning to meet with the Business Development Coordinator on Friday relative to the potential of grants for road improvements. There is a work day at Station 26 in Coulterville on Saturday. He attended the NRA dinner on Saturday. He attended the Board meeting for the Catheys Valley Community Plan workshop on Monday. He plans to attend the Red Cloud Library monthly meeting on Wednesday; a Sierra Nevada Conservancy meeting at the landfill on Thursday relative to biomass; the fire station planning meeting on Friday; a Don Pedro community meeting on December 9th relative to the Deerwood complex project; and the Catheys Valley Community Plan workshop on November 22nd.

Supervisor Allen stated he started last Friday with meetings with Catheys Valley residents, and he attended a meeting in Modesto with Supervisor DeMartini and Stanislaus County Chief Executive Officer relative to Stanislaus County staying in the Mountain Valley Emergency Medical Services Agency region. He advised that there is a JPA meeting on December 15th relative to this issue. He worked on the Wawona Specific Plan with residents of Wawona and the Park Service last week.

Supervisor Aborn advised that he attended the NRA dinner on Saturday. He commented on the importance of YARTS and the rail transit systems to access Yosemite. He referred to the public presentations concerning the failed driveway and the contractor, and he suggested that there be a rule that contractors lose their licenses permanently after three-strikes.

Supervisor Cann referred to YARTS and stated he has a telephone interview with a strategic consultant for YARTS. He advised that the Tourism Bureau Executive Director pulled together a tourism visioning group to meet on December 1st. He met last week with a consultant for the Hospital and with staff relative to their future

planning. He commented on the Catheys Valley Community Plan planning process and noted the Board is moving forward with the commitment made in the General Plan.

Chair Cann recognized the presence of Bill Hodson, recently retired from CalFire, and thanked Kevin Smith/CalFire for being in the community.

9:57 a.m. Board Convened as

LOCAL TRANSPORTATION COMMISSION

(Chair – Commissioner Lyle Turpin, Vice-Chair – Commissioner Brad Aborn)

4 Public Presentation: For Items within the Jurisdiction of the Local Transportation Commission and not on Today’s Agenda (Speakers Limited to Five Minutes) - none

5 **Public Works**

Authorize the Executive Director and Staff to Proceed with the Release of the Short Range Transit Plan (SRTP) Request for Proposals (RFP), and Authorize the Executive Director to Award the Agreement to the Lowest Responsible Bidder, and Authorize the LTC Chair to Sign the Agreement

COMMISSION ACTION: Discussion was held with Barbara Carrier/Transportation Planner, and she clarified that the project is to be completed by June 30, 2011.

Discussion was held relative to the agreement coming back for the Commission to approve and relative to the flexibility in this solicitation. (M)Cann, (S)Aborn, LTC Res. 10-22 was adopted approving the recommended actions. Following further discussion, the motion was amended by the maker, agreeable with the second, to include direction that the final award of the agreement is to come back to the Commission for action/Ayes: Unanimous.

10:04 a.m. Reconvened as

BOARD OF SUPERVISORS

6 **Health**

Adopt the Mariposa County Hazardous Materials Incident Response Plan (“Area Plan”) and Direct Staff to Append the Area Plan to the County Emergency Response Plan

BOARD ACTION: Dr. Mosher, Health Officer, gave an overview of the Area Plan; advised that updates will be made to the information and CDs will be prepared and distributed, with future updates to be made on an annual basis. Dr. Mosher thanked CalFire and the Sheriff for their assistance with this Area Plan. Discussion was held. Supervisor Allen encouraged work on the overall County Emergency Response Plan to get it approved.

Doug Binnewies, Sheriff, expressed appreciation to Dr. Mosher and staff for their work on this Area Plan; and he advised of the new partnership with the Sheriff’s Office and CalFire for hazardous materials response.

Bill Hodson, retired CalFire Unit Chief, provided input on the partnership and the work on the Area Plan. Board members thanked Bill Hodson for his work on this and for his service to the County.

(M)Allen, (S)Turpin, Res. 10-532 was adopted adopting the Area Plan/Ayes: Unanimous.

10:27 a.m. Recess

7

10:40 a.m. Clerk of the Board

Approval of Summary of Proceeding of November 9, 2010, Regular Meeting

BOARD ACTION: (M)Allen, (S)Aborn, the Summary of Proceedings was approved/Ayes: Aborn, Turpin, Cann, Allen; Abstained: Bibby, who was excused from the November 9th meeting.

8

Supervisor Aborn

Adopt a Resolution in Support of the High-Speed Rail Authority Selecting the Merced to Fresno Segment as the Initial Corridor

BOARD ACTION: Supervisor Aborn initiated discussion and requested that the Board send a letter like he sent as Supervisor. Chair Cann asked the County Administrative Officer to compose a letter as suggested, subject to approval by County Counsel. (M)Aborn, (S)Bibby, Res. 10-533 was adopted approving a letter to be sent in support of the High-Speed Rail Authority selecting the Merced to Fresno segment as the initial corridor, and reaffirming the Board’s support of the northern route to the coast/Ayes: Unanimous.

9

Consider Items Removed from the Consent Agenda – none

10

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos;

11

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos;

12

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs’ Association (DSA); Name of County Designated Representative: Richard C. Bolanos;

13

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff’s Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos; and

14

Administration

CLOSED SESSION: Liability Claims; Claimant Name: Danny L. Brown; Claim Number: C10-21; Name of Agency Sued: County of Mariposa

BOARD ACTION: These closed sessions were not held.

10:49 a.m. Recess and Lunch

2:07 p.m. Reconvened

15

Planning/Health/Public Works

PUBLIC HEARING to Consider the 2010 User Fee Update by Warren Cheney, 101 Consulting. Summary Report Recommends Adjustments to Fee Structures and Service Charges in the Planning, Health and Public Works Departments. The Board is Expected to Provide Direction to Staff Concerning Development Fees and Service Charges

BOARD ACTION: Supervisor Allen asked whether the LAFCo Commissioners that were present could ask questions during this hearing. Kris Schenk, Planning Director, stated he felt that it would be okay for the LAFCo Commissioners to ask questions during the public comment period, but not during deliberations; and he advised that

there is a LAFCo meeting scheduled to follow the Board meeting. Kris Schenk advised that this is the first update since the early 1990's and introduced Warren Cheney who contracted to do the study. Warren Cheney presented the staff report, reviewing his study results and he advised of the public workshop that was held. He advised of an option for phasing in the fee increases over a period of time. Chair Cann advised that following further legal review, County Counsel is advising that the LAFCo members should not provide input during the Board meeting on this matter, as it is on their agenda for consideration. Staff responded to questions from the Board relative to the recommended fees and consideration of phasing the increases; status of establishing an Administrative Use Permit fee for the process created with the agritourism policy – Kris Schenk advised that they will need to come back with a separate action for this fee. Kris Schenk further advised that staff of the affected departments will need to review whether there are additional costs involved with other services for the Building Code changes that become effective on January 1, 2011. He advised that the fee study report was distributed to the County departments and to their clients; and he noted that State law calls for a period of sixty days minimum to implement new fees following adoption.

Dr. Mosher, Health Officer, advised that the suggestion to consider phasing in the fee increases does have a budget impact as they budgeted for the full increase for this fiscal year; and he provided input on the Solid Waste Inspection Program.

Steve Dahlem, County Counsel, responded to a question from the Board relative to the hearing process to consider phasing in the fee increases.

Allen Toschi, Public Works Director, provided input on the recommendations for the Public Works Department, including the Solid Waste Inspection Program services provided by the Health Department for the landfill.

Rick Benson, County Administrative Officer, stated he would like to see the fees implemented as quickly as possible as there are overall budget implications. Staff responded to questions from the Board relative to the alcohol fee for bar inspections by the Health Department; and relative to the status of the current grant for the Solid Waste Inspection Program.

The public portion of the hearing was opened and input was provided by the following:

Kris Casto, speaking as an individual, asked what is included in the overhead costs, and she suggested that those costs could be held in abeyance, resulting in an increase of just the direct costs at this time. She feels the fees for the General Plan should not be implemented at this time, that this is a part of the County's operation. She agrees with having a sliding scale for the areas where large fee increases are recommended; and she urged the Board to be gentle with the increases. She also questioned the time and materials fees and asked how that is working now. Chair Cann referred to the proposed surcharge for the General Plan implementation and advised that the Board will have a discussion on this issue. Kris Casto continued and stated she agrees with having a fee for appeals to the Board of Supervisors.

Kris Schenk responded to the question relative to the time and materials fee; and he agreed with the suggestion that the affected departments meet and come back with recommendations on phasing the fee increases. Rick Benson asked for direction from the Board as to whether it is the goal to fully recover all costs for the services. Chair Cann advised that the Board will want to know the ramifications of these actions. Kris Schenk and Allen Toschi responded to questions from the Board as to their budget status for this fiscal year – Kris Schenk advised that they increased revenues by \$5,000 for the fee increases; and Allen Toschi advised that they did not budget an increase in revenues for the fee increases. Allen Toschi responded to questions from the Board relative to his comments on the solid waste tipping fees. Supervisor Bibby asked that the departments come back with examples of the impact of the fee increases for things like construction of a new home. Rick Benson advised that he would meet with the

affected department heads and bring back information on their thoughts and what the impacts would be with the fee increases, and with information on the phasing option. Chair Cann requested that the new fees, such as the General Plan implementation, be separated out for consideration. Warren Cheney responded to a question from the County Administrative Officer as to whether any of the proposed fees are impacted by the recent passage of Proposition 26, and he advised that he will need to further review this matter.

Kris Casto suggested that the staff review implementing a business license tax for the County.

The public portion of the hearing was closed. Chair Cann noted the business license tax is a current discussion with the Economic Development Corporation. He further advised that staff will come back with information as discussed and a new hearing will be scheduled. This hearing was closed.

- 16 **LOCAL AGENCY FORMATION COMMISSION (LAFCo) Meeting (to Follow Board of Supervisors Meeting)
(See Separate Agenda)**

Consent Agenda

- CA-101 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park; Res. 10-520
- CA-102 **Administration**
Recommend the Rejection of Claim No. C10-21 Filed by Danny L. Brown for \$60,300 and Authorize the Board of Supervisors Chair to Sign the Notice of Rejection; Res. 10-521
- CA-103 **Administration**
Review and Approve Letter of Support for the Efforts of the Mariposa County High School Band to Raise Funds for the Proposed Trip to New York City to Participate in Veterans Day Activities; Res. 10-522
- CA-104 **County Counsel**
Authorize County Counsel to Sign Substitution of Attorney Forms Substituting the New Firm of Fagalde, Albertoni, Flores LLP in Place of Allen, Fagalde, Albertoni and Flores, LLP in the Matter of Guinn v. County of Mariposa and Brooks v. County of Mariposa; Res. 10-523
- CA-105 **County Counsel**
Approve First Amendment to Agreement with Bartlett Petroleum to Install a Groundwater Municipal Supply Well and Right of Entry to Provide more Specificity and to Extend the Term of Agreement to Provide Additional Time for Bartlett to Install the Well, and Authorize the Board of Supervisors Chair to Sign the Amendment; Res. 10-524
- CA-106 **Human Services**
Approve the Second Amendment to the Three-Year Agreement with Panational, Inc., to Provide Translation/Interpretation Services for Mariposa County Behavioral Health in

the Not to Exceed Amount of \$18,000, and Authorize the Board of Supervisors Chair to Sign the Amendment; Approve Budget Action Transferring Funds within the Behavioral Health Budget to Cover the Higher-than-Anticipated Expenditures for Services (\$18,000); Res. 10-525

- CA-107 **Human Services**
Approve an Agreement with Mariposa Safe Families to Carry out the Activities of the Friday Night Live, Club Live, and Substance Abuse Prevention Programs, and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-526
- CA-108 **Human Services**
Approve an Agreement with Mariposa Safe Families to Carry out the Activities of the Friday Night Live Mentoring Program, and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-527
- CA-109 **Community Services**
Approve California Department of Veterans Affairs Subvention and Medi-Cal Certificates of Compliance for FY 2010-2011; Res. 10-528
- CA-110 **Health**
Accept the Resignation of Brian Muller as Sheriff's Department Alternate from the Emergency Medical Care Committee
- CA-111 **Health**
Appoint Joel Bibby as Sheriff's Department Representative and Move Doug Binnewies from the Representative Position to the Sheriff's Department Alternate Position on the Emergency Medical Care Committee
- CA-112 **Public Works**
Approve the Filing of a Notice of Determination for a California Environmental Quality Act (CEQA) Mitigated Negative Declaration for the Construction of the Lake Don Pedro Fire Station, and Authorize the Public Works Director to Sign the Notice of Determination; Res. 10-529
- CA-113 **Public Works**
Approve the Program Agreement for the Woodland Drive Project Overlay, Project No. HPLUL 5940 (069), and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-530
- CA-114 **Sheriff**
Approve an Agreement with the City of Fresno for the Mariposa Op Area Public Safety Inter-Operable Communications (PSIC) Technology Project, to Implement a Regional Inter-Operability Mutual Aid Radio System to be used as a Radio Platform for Command and Control and Operations During an Incident that could Include a Multi-Disciplinary / Multi-Jurisdictional Response; and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-531

The Board recessed at 3:12 p.m. and continued the meeting to Monday, November 22, 2010, at 9:00 a.m. for the continued public workshop to consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS



SUMMARY OF PROCEEDINGS

November 22, 2010

(Continued from 11-16-10)

Folder Time Description

9:03 a.m. Meeting continued from November 16, 2010, was called to order at the Mariposa County Government Center.

Pledge of Allegiance

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Planning

CONTINUED PUBLIC WORKSHOP to Consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan. The Purpose of the Continued Workshop is to Consider the Information Prepared by Staff Regarding the Issues of Concern Identified and Discussed at the Workshop Conducted on August 14, 2010. Staff has Prepared a Matrix with Optional Actions the Board may Consider Regarding each of these Issues. An Opportunity will be Provided for Further Public Comments on the Plan Focusing on the Options in the Matrix. Questions and Discussion will Occur. Direction to Staff May be Given as a Result of the Workshop (Continued from October 26, 2010)

BOARD ACTION: Kris Schenk/Planning Director; Sarah Williams/Deputy Planning Director; and Andy Hauge/Hauge-Brueck Associates were present. Chair Cann advised that with the exception of a few items, the Board has concluded review of Issue Nos. 1 through 7 and 9; and he advised that amended maps are available for the public that reflect the decisions that were made at the November 15th workshop and some that need to be made. Kris Schenk suggested that the Board start with the second part of Issue No. 4, review Issue Nos. 8 and 10; and then continue with the remaining Issues.

Andy Hauge reviewed the conclusions reached at the November 15th workshop:

- Issue No. 4/minimum parcel size for residential land use in the planning area and direction was given that the General Plan language be utilized - the minimum density is 5-acres and the minimum parcel size is 2.5-acres, and relative to the criteria for clustering. Also the Board selected the parcels to be designated Commercial and future Commercial. He advised that the Board still needs to look at the minimum parcel size for residential use within the "interim community center."
- Issue No. 5/commercial land use – size – parcels were selected to be in the Commercial land use designation and for future expansion; and he advised that there is a map available showing the parcels.
- Issue No. 6/clustering – this was dealt with in Issue No. 4 with the selection of using the General Plan provisions.
- Issue No. 7/hillside/ridgetop and knoll standards – direction was given to use the text from the General Plan, Section 5.3.02.
- Issue No. 9/potential increased setbacks for residential development adjacent to Agriculture/Working Landscape land use – language was adopted to develop policies for increased setbacks for residential development adjacent to Agriculture/Working Landscape land use, with the addition that this does not preclude residential development on legally existing parcels.

- Issue No. 11/role of Planning Advisory Committee (PAC) – direction was given relative to agricultural issues, but still need to look at other roles in the Plan.
- Issue No. 17/increasing parcel sizes approaching agricultural uses – text was deleted from the Plan to eliminate the policies and the General Plan was referred to with direction given to staff to come back with a new goal relative to having a larger parcel size, 5-acre minimum, where there is clustering adjacent to Agriculture/Working Landscape land use.
- Issue No. 18/second dwelling units – direction was given to look at establishing a countywide policy.
- Issue Nos. 36/corrections and clarifications for maximum dwelling units in the Residential Land Use and 37/corrections and clarifications for maximum dwelling units in the Agriculture/Working Landscape Land Use – direction was given to use the new recommended text.

Supervisor Turpin referred to the map that was provided showing the parcels that have terrain that exceeds a 15-percent slope. Andy Hauge advised that there are only two parcels that have an average slope that exceeds a 15-percent slope and they are located in the Agriculture/Working Landscape land use. Supervisor Bibby asked whether this map would be used when projects are proposed to determine the slope. Andy Hauge and Sarah Williams advised that this would depend on how the ordinance is drafted and that the Board could choose to look at each parcel in a more macro basis. Supervisor Turpin asked for clarification of whether “average” slope would be used. Andy Hauge noted the General Plan does not use this term and the Board direction was to use the General Plan language. Discussion was held. Sarah Williams advised that options are whether to use “average” slope of the entire parcel, or the General Plan language which was directed at the last workshop.

The following issues were reviewed:

Issue No. 4: Minimum Parcel Size in the Planning Area (2.5 acres v. 5 acres in the current “interim community center” area) – Andy Hauge advised that the remaining item in the issue is the parcel size for residential use in the “interim community center” and relative to the use of “grandfather” versus “non-conforming.” Supervisor Bibby clarified that the size of the parcel would be non-conforming if it is under 5-acres, but the use would be conforming.

Input from the public was provided by the following:

Rick Uebner stated he has been a County resident for close to 40 years and is a member of the PAC and he commented on the reasons he was willing to serve. He referred to his recent letter to the Board expressing concern with the Board’s actions on the Plan; and he questioned why the communities are being asked to draft local plans if the Board is going to follow the General Plan. He is concerned with the change of the 5-acre minimum to 5-acre average density and with 9,000 square foot lots and the impacts.

Rita Kidd, Catheys Valley, referred to the discussion at the previous workshop concerning the “interim community center” land and stated she feels it is critical to understand that there is no town planning area (TPA) – that went away in 2003. There was not an “interim community center” until late in the process when some members of the Board wanted to be sure that nothing happened to those 2.5-acre parcels in the core area, and she feels that the number of acres involved in that core area boundary needs to be clarified. The PAC did not deal with residential land singularly in Catheys Valley and they did not see an “interim community center.” She feels that this is an important framework for understanding the PAC’s decisions. She also noted that the greenhouse gas analysis in the environmental impact report (EIR) only dealt

with 2.5-acre parcels. Residential use is the only entitlement until and unless a Community Plan is adopted. Anything else will mean that the EIR is inadequate. With every decision being made, it results in a greater cost, and she feels that the Board needs to decide whether to move forward with changes or with what the PAC recommended and let the developers come forward with a plan. She noted the Fortners have had conceptual proposals and she does not feel that their water study proved that there is adequate water as it drew down the neighbors' wells.

Steve Fortner referred to his plan and the taxes he pays and his hope to create a development that will be of economic benefit. He referred to the planning process and the disappearance of the TPA zone. He feels that Title 17 needs to be updated; and he supports option 2 under the EIR – build out under existing zoning.

Philomene Schultz stated she supports the General Plan language for the 5-acre average density. She noted that she and her husband purchased their ranch in 1984 and she is not a developer. She did develop another parcel that was purchased for that purpose and she advised of problems with the PAC on their proposal. She referred to Curt Hibpshman's letter relative to the PAC's treatment of her. She is a strong believer in property rights, and she feels the PAC was formed without input from the community and that the members were hand selected by anti-growth people. She feels that the members thought they were acting in good faith. She is concerned with the costs for this process and she does not want her ranch tied to this Plan for the future of her children. She asked for support of the General Plan and for protection of property rights.

Steve Saunders stated he agrees with Philomene Schultz and he disagrees with Rick Uebner that they are here because of financial gain. He advised that they are here because of financial loss – what they will lose with this Plan. He referred to Fortners' efforts to come up with a plan for the community and he feels that the Board needs to look at legally existing parcels in the "interim community center" that are smaller and that water and septic systems should be addressed with the shared idea, and that this should include the Mountain Home land use as well. He advised that he was just in a meeting in Monterey County where they were addressing water issues and they were requested to consolidate their water and sewer services.

Tim Miller, Miller Planning of Sonora, stated he does not feel that the Board needs to create solutions for problems that do not exist. He referred to the 15-percent slope issue that was discussed at the last workshop and now they find out that only two parcels are affected; and he suggested that the issue of the minimum parcel size in the TPA is the same kind of issue. He cited reasons why he does not believe that full build-out will occur, and he feels that all of the issues will be dealt with when a project is proposed. He asked why create a situation where existing parcels will become non-conforming in size. He noted that it has already been determined that the EIR is inadequate. He supports option 4b – minimum parcel size of 2.5-acres and advised of a proposal for his client to develop 114-acres. He responded to a question from Supervisor Cann relative to development layout and maximum build-out.

Debbie Lester, Catheys Valley, asked the Board to not allow 9,000 square-foot lots with community water and septic as she does not feel that the existing systems in the County are self-supporting. She noted that when wells were drilled, they drew down the water level and it did not come back up.

Lou Ann Sakaki, Catheys Valley, referred to her attendance at a hearing where yellow packets of paper (Response to Catheys Valley Community Plan "Not this Plan") were distributed and the issue relative to the availability of water and the credibility of the study was questioned; and she stated this makes her think we are ready to dive and do not know the depth of the pool. She questioned whether people should be allowed to do things that they made plans for and invested in, even if it may hurt the neighbors. She hopes they can enjoy their property when there are too many

wells and septic too close together. She does not want chlorinated water as occurred when she was living in Merced.

Mark Harris, Yosemite Falls Well Drilling, asked who lives in Catheys Valley that does not have water. He noted the water table is different in Merced than here. He has worked with Steve Fortner and he fills out the well reports. He feels that if wells are drilled correctly, it is difficult to pull down a neighboring well in the Sierras, unless it is surface water. He referred to the issue with leach systems and advised that the Health Department staff has told him that water purifies itself in six to eight feet down. He asked Supervisor Bibby about the size of her residential parcel and whether she is aware of contamination problems with wells. She advised that her parcel is 3.3-acres and that she is aware of two situations with contaminated wells. Mark Harris noted that there are different types of contamination.

Supervisor Turpin asked that Dave Conway/Health Department provide information to the Board on how they are dealing with the General Plan concerning wells for subdivisions and commercial development, and the amount of land that it takes for a septic system.

Don Starchman, Starchman & Bryant Law Offices, stated they have not advocated the 9,000 square-foot lots. They have no problem with the 2.5-acre density. He feels that there needs to be discussion of community water and sewer systems in the “interim community center” in terms of density. He noted that Ponderosa Basin has a community water system that has been working independently; and he feels that there is a lot of misinformation on these issues. He noted that the consultant the Fortners used for their water study is qualified and has worked for MPUD, PacificUS, and for Madera County; and he does not feel that the wells were drawn down as suggested. He advised that Steve Fortner has offered to share the study information with the PAC and they did not give him time on the agenda. He referred to the costs for greenhouse emissions, and he feels the positives have not been looked at with having a community system – such as protection of ground water, having a system that would be monitored by the Health Department, protecting the wetlands and the environment. He feels that developers should have the option to do a properly planned development with community systems. He noted that community systems would avoid the changes being made by the State for individual systems and failures of those systems; and noted the impacts of the 2011 building code changes that require a water fire sprinkler system. Dave Lawson told him that a community water system can help with the sprinkler system requirements and with the ISO ratings. He advised that the Health Department and CalFire have not been brought into this process, and he feels we should be looking at good, long-term planning.

Anita Starchman Bryant, Starchman & Bryant Law Offices, stated she is representing the F.E. & M. Engineering Employees Defined Plan and the Eugene and Dolores Fortner Family Trust. She addressed issues raised relative to the TPA with the 2003 resolution and the adoption of the General Plan and the parcel size in the “interim community center.” She noted that the alternative of the EIR for CVCP was for build-out under the existing zoning and the General Plan EIR analyzed 2.5-acre parcel size. She referred to the second dwelling unit issue and asked the Board to think about how many people actually build that second residence; and she referred to a case study where the developer was not required to consider the second residence in the environmental review because it was too speculative.

Lou Ann Sakaki stated she feels the well expert should be accredited and hired by a neutral party. She clarified her previous comments relative to the way Merced County treats its water; and she agrees there is a difference between the valley and mountain water.

Steve Saunders commented on shared water being beneficial for everyone and he noted it is a resource for firefighters.

Joe Simon, member of the PAC, stated he never told anyone to keep quiet and to sit down at a PAC meeting. He feels that most of the people here today never attended the meetings. He questioned where the water will come from for developers to develop to the density they want. He referred to his experience with wells in the area and difficulty in obtaining water; and he referred to the information he distributed on November 15th relative to the Colorado River drying up. He feels the developers will leave the local taxpayers to pick up the tab for failing water systems, like occurred in Don Pedro and Coulterville.

Rita Kidd noted the Vallecito water study was available on line and she did a spread sheet of the water draw down of the wells and the recovery status; and she feels that there is some interconnectivity of ground water in Catheys Valley. She advised that she and her husband have drilled eleven wells and still have low gallon per minute water. She advised of water impacts they felt from a neighbor watering a pasture. She does not feel that this is a small issue in Catheys Valley and she has discussed water issues with Schmidt and the potential of doing a study in Mariposa like was done in Madera, and noted the concern about finding nitrate levels – she considers Ken Schmidt to be exceptional in his work. She referred to her discussion with Roger Bales concerning recharge and rainfall – the water study used 22-inches of rainfall for Catheys Valley and she feels it should have been based on 16-inches. She advised that Mr. Fortner was not able to drill to get enough water for the first phase of their planned development.

Gordon Bielinski advised that water was a concern when they purchased their property and they drilled three wells, but had to go deep to find the water. He feels that water can be found.

Steve Fortner stated he would love to share their water study information with Rita Kidd at an appropriate time and he will provide information on their water study and air quality study with the Board. He advised that the former Planning Director, Eric Toll, would not give them time to share the information with the public. He presented a sheet on the study and advised that there is plenty of water and they get a full recharge each year. He noted that the well test that Rita Kidd referred to was done at the driest part of the season, and that it recharged in a normal rainfall year. He responded to a question from Supervisor Cann, and he advised that he has 100-acres in the old TPA.

Steve Saunders stated he does not feel that the water comes from rainfall in Catheys Valley, but from the snow pack in the mountains.

Jim Eason stated that when he worked for the State, he dealt with water issues on the Highway and he worked with the State Water Resource Board and found that it takes seven years for water in the Sierras to reach the Ocean, and that the main source of water is from the top of the Sierras.

Anita Starchman Bryant stated the new General Plan requires proving of water for any new subdivision, and Planning will not approve a subdivision unless water is proven. And, they will not grant approval if the water is contaminated. She noted that most parcels in the TPA are less than 5-acres and that about 50 parcels would become non-conforming with the 5-acre minimum parcel size. This is the community center and she feels this should be where the most density occurs. She asked that the Board approve the 2.5-acre average parcel size.

The public input portion was closed on this issue.

10:44 a.m. Recess

10:56 a.m. The Board reconvened. Dave Conway/Health Department, responded to questions from the Board and provided input on the how they apply the General Plan guidelines for new projects to meet water requirements. He advised of testing requirements; and that the State regulates anything with five or more connections to a

single water source as a public water system. He advised that generally septic systems are not required to be engineered in Catheys Valley; however, it is a site specific issue depending on the soil and percolation rates. He advised of the policy they have for the size of area needed for a septic system. He advised that there have been contaminants found in wells in the Catheys Valley area that were not poultry nitrates. He advised there are no setback requirements from neighboring property boundaries for a well, and he provided input on the changes to the annular seal requirements for a well to avoid contamination. Any source of drinking water constitutes a water hook-up. He advised that problems have not been encountered with contaminated wells in Lushmeadows where there are smaller parcels; but they have deep granitic soils. He provided input on the advantages and disadvantages of shared wells versus individual systems; and commented on his personal experience in sharing a well with three other parcels and working out maintenance and water usage issues. He feels the current regulations are adequate, but agreed that it is hard to see what will happen in the future – testing does not guarantee future compliance. Discussion was held.

(M)Bibby, (S)Aborn, to stay with the 5-acre minimum parcel size as recommended in the CVCP failed following further discussion. Supervisor Allen noted that this is different than what was done for the residential use in Mountain Home – this action would create a less dense use in the “interim community center.” Supervisor Cann clarified with Andy Hauge that currently there is a 2.5-acre minimum and the proposed action would raise it to 5-acres. Andy Hauge responded to questions relative to the number of existing parcels that would become non-conforming in size with the proposed action – there are 21 parcels that are less than 5-acres in size and there are 33 parcels that are between 2.5-acres and 5-acres in size. Supervisor Bibby clarified that they are legally non-conforming parcels in size, but are conforming in use. Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen.

Motion by Turpin to have 2.5-acre minimum density, with nothing smaller than 1-acre in size (minimum parcel size); that anything smaller than 2.5-acres would need to be served by a water or septic system; and that the second dwelling could not exceed 1200 square feet, died for lack of a second.

Motion by Allen to have the same density in the “interim community center” as in the Mountain Home (Residential) land use – 5-acre minimum density, with 2.5-acre minimum parcel size, was withdrawn for further discussion. Supervisor Bibby asked about consideration of whether or not the parcel is buildable – she wants to exclude the unbuildable area from the averaging; whether credit would be given for wetlands; and she feels we need to address the setbacks for clustering. Supervisor Turpin clarified that the size of the second dwelling could be limited; and Andy Hauge advised that the State law allows options to limit the size.

(M)Bibby, (S)Aborn, to allow 5-acre minimum parcel sizes for all of the Mountain Home (Residential) land use area whether it is in the “interim community center” or not for everything in Catheys Valley, failed by the following vote: Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen.

Motion by Turpin to have 2.5-acre minimum density in the “interim community center” and eliminate the 9,000 square foot lots that are allowed today; with the requirement that anything less than 2.5-acres is to be served by a community water system, with septic systems to be addressed individually, died for lack of a second. Andy Hauge noted that the County will need to review policies to preserve the right to build a secondary unit. Dave Conway clarified that a second house would be considered as another hook-up. Discussion was held and Dave Conway clarified that if there are four hook-ups to a shared well, the application for a 5th connection will trigger the requirement to apply for a public water supply; or another well would need to be added. Supervisor Bibby expressed concern that if multiple parcels are sharing a well and the fourth connection is for a second dwelling unit, that connection for an undeveloped parcel would trigger the public water supply requirement.

Motion by Allen to stay with what was agreed to for the rest of the Mountain Home (Residential) land use in the CVCP for the “interim community center” was withdrawn. Steve Dahlem, County Counsel, responded to questions from the Board relative to rules for the Board that allows the Chair to move or second an action and to pass the gavel. Andy Hauge and Sarah Williams responded to questions from the Board relative to the number of parcels that would be non-conforming in size with this proposed action; the number of acres in the “interim community center” – about 473-acres (504-acres less what was set aside for commercial and reserve); when the 2.5-acre parcel size was approved – it was included in the 1981 General Plan; relative to being able to divide 5-acre parcels and taking into account the easements; relative to the number of 2.5-acre parcels that are adjacent to Agriculture/Working Landscape land use; and relative to the realistic build out.

(M)Turpin, (S)Cann, who passed the gavel to Vice-Chair Allen, to select option 4(b) – 2.5-acre minimum parcel size in the “interim community center.” Discussion was held and Supervisor Turpin suggested eliminating the averaging and requiring 5-acre minimum parcels sizes adjacent to Agriculture Exclusive land use. Supervisor Cann advised that his second to the motion was for option 4(b). The motion was withdrawn by Supervisor Turpin, and the gavel was returned to Chair Cann.

(M)Turpin, (S)Allen, direction was given to use the 2.5-acre minimum option for the “interim community center” with direction that future subdivisions that adjoin Agriculture/Working Landscape land use must have a minimum of 5-acre parcels. Discussion was held. Sarah Williams reviewed the map and how this direction would be implemented, and she advised that this would not affect parcels adjacent to the Highway. Supervisor Bibby expressed concern with the work of the PAC on this issue and their considerations. Ayes: Turpin, Cann, Allen; Noes: Aborn, Bibby. Rick Benson clarified that the parcels in the blue area on the map could be divided down to 2.5-acres. Sarah Williams advised that this is correct as long as the original parcel is over 5-acres in size, and she noted the parcels in blue on the map are not bordering the Agriculture/Working Landscape land use.

12:33 p.m. Lunch

1:52 p.m. The Board reconvened.

Issue No. 5: Commercial land use – size (acreage), location, type (to serve residential and agricultural needs of Catheys Valley) – Kris Schenk advised that the Board still needs to review the expanded uses. Discussion was held. Supervisor Turpin noted the large percentage of acreage that is taken up by infrastructure; and he asked about including the Ballar parcel of 7.3-acres which is located on the fourth side of the intersection. Discussion was held relative to the process for selecting the parcels to be in the Commercial land use designation. Supervisor Cann advised of discussions he had with the property owner (Ballar) and her concern about not being included in the Commercial zone since property on two sides of her property fall in the Commercial zone; and discussion was held relative to access, topography, and consideration of other parcels in the area.

Input from the public was provided by the following:

Molly Combs advised of her request for the Pearce Trust parcel to be included. She noted it is not too steep, but does have some rocks.

Hubert Hiepe stated he has the trailer park next to the Oasis and has been in operation for 37 years, and the trailer park is over 40 years old, and he questioned why it was taken out of the Commercial zone as he borders Highway 140 and Hornitos Road. He advised that he has eleven families living there, and this is retirement income for him. He pays commercial equipment taxes; and he presented a petition to stop the phasing out of the mobile home park. Staff responded to questions from the Board as

to the current zoning and what is permitted – the mobile home park is in the “interim community center” for the General Plan land use and the zoning is TPA. Today the use is a grandfathered existing use and today’s standards would allow replacement of existing mobile homes; would allow a specified period of time that a unit could be replaced if left unoccupied; would not allow the density to be increased without a zoning amendment; but there could be an increase in the square footage with trailer replacement; and advised that this is different than an RV park. Hubert Hiepe responded to questions from the Board and advised that 19 spaces were developed for hook-ups when he purchased the park, but he reduced it down; and there are currently 11 hook-ups being used – ten residents signed the petition and the eleventh was ill and not home. He advised that he has four septic systems and he plans to do more improvements in the spring. He referred to comments he has heard that the park is an eyesore and he sees many places that are worse.

Discussion was held relative to the mobile home park issues that were raised. Staff responded to questions from the Board and advised that in the Mariposa TPA a mobile home park is a permitted use in the Multi-Family Zone. Hiepe’s use is high-density residential use and not commercial. If no change is made, he would have a grandfathered higher-density use. Discussion was held relative to the proposed language in the CVCP to allow for one year versus the three years allowed in the General Plan and the Planning Director’s option to extend for another year, to replace unoccupied trailers. Sarah Williams advised that the County is not made aware of when vacancies occur – it is up to the property owner to keep records and produce them if a complaint is filed. The State regulates the permitting. Supervisor Cann noted that if the number of used hook-ups was reduced more than three years ago, the permitted use is for the number he has today.

Rita Kidd reiterated an issue she raised on November 15th that the General Plan says that under types of area plans that an appropriate use in the plan area is rural commercial and is limited to 20-acres. She referenced the section on types of planning areas in the General Plan. She feels we are talking about a General Plan amendment to provide for some other level of commercial land use. Supervisor Cann asked whether there is a rural commercial designation in Title 17. Rita Kidd responded that Title 17 is not in compliance with the General Plan; and she noted that the number of land uses in the 1981 General Plan were reduced to a few with new names in 2006.

Steve Fortner stated he feels the TPA zone is like fools gold – it sounds good, but you can not do anything, He feels there is much more flexibility with Mountain Home; and he noted the density is out from around the core area.

Rita Kidd referred to her reference on the section on types of planning areas in the General Plan and noted that the pages download differently from the web – but she feels the title of the section is “types of planning areas” or “types of area plans.”

Sarah Williams clarified that the section referred to is 5.3.01b(1) types of planning areas and the second bullet is entitled “community planning areas.” Discussion was held relative to the definition of rural commercial and the 20-acre maximum – Andy Hauge stated he believes this was developed for those areas outside of TPAs.

Debbie Lester stated she feels they are a community and not a town and they do not need a large commercial area. They go to Mariposa for town shopping; and she questioned where it will stop if parcels are added to the Commercial land use designation. She advised that the PAC wanted the commercial development to be on one side of the Highway for safety – so traffic was not crossing back and forth.

Anita Starchman Bryant referred to the definition of community planning area in the General Plan – page 5-28, and stated she feels the 20-acre issue is for rural economic where it is separate from community planning areas. She referred to the “live and work” concept on the same parcel; i.e., a residence above a shop. She asked if the County is going to stop tourists from stopping at a business and stated she feels the

Commercial land use designation is unclear. She noted that more uses were just added to Title 17 for Neighborhood Commercial. She suggested that the General Plan language be used if you have commercial area; and that Title 17 language be used for Zone 1 and 2 Commercial. She advised that she does not represent Mr. Hiepe, but referred to the section in the CVCP that deals with nonconformities and she feels that the one-year time period with no allowance for a variance to replace an unoccupied trailer is an intentional phasing out of the mobile home parks.

Bob Stark referred to the commercial parcels issue and he stated that because of infrastructure requirements, the amount of Commercial designated land that is left is limited. He feels the businesses need to be able to serve the tourists in addition to the local residents. He feels that without allowing for water systems, it will put the commercial areas of out business.

Don Starchman stated he feels we need to provide an opportunity for the businesses that out-grow their home-based industry. He feels that job creation needs to be more than just shops and tourism, but include light industry that may grow out of UC Merced.

Rita Kidd asked if Planning could advise of what the Commercial land use reference is in the General Plan, and she referred to section 5.3.03. Andy Hauge responded and advised that the Rural Economic land use is in the General Plan. The General Plan relies on community plans not TPAs to designate the commercial to be used in those areas; i.e., to establish the land use under the General Plan and that is what we are doing today.

Steve Saunders advised of a conversation he had with John Kinsey, and he said that in every other place when it comes to community planning areas, they allow for expansion to meet the particular needs of the community. He feels the intent of this Plan is to be restrictive.

Anita Starchman Bryant referred to the Mariposa County Land Use Diagram in the back of the General Plan and the yellow and red references, and she noted the red is for the CVCP.

The public input portion was closed on this issue, and discussion was held. Supervisor Bibby asked why the two Elrod parcels were placed in reserve for Commercial use if they are too rocky for development; and she expressed concern with switching the parcels without the PAC's review – she recommended staying with what was in the proposed Plan. Andy Hauge provided input on the terrain, and discussion was held.

(M)Turpin, (S)Allen, the Board directed that the Pearce Trust .75-acre parcel be added to the Commercial land use designation. Further discussion was held, and Andy Hauge advised that they will need to do calculations to see what the impact of this action is, and he doesn't feel the calculation will cost extra for this. Ayes: Aborn, Turpin, Cann, Allen; Noes: Bibby. Andy Hauge advised that the total Commercial land use designated acreage is now 25.12-acres.

3:06 p.m. Recess

3:18 p.m. Supervisor Turpin initiated discussion relative to the two parcels in the Reserve Commercial and whether they would be usable in the future and he suggested that this be evaluated. Supervisor Cann initiated discussion relative to the PAC's recommendation concerning businesses in Catheys Valley. Discussion was held relative to the commercial area and tourist services. Andy Hauge advised that there is a Neighborhood Commercial land use designation and that the Board should review the appropriate zoning for this community planning area and the others. Supervisor Bibby asked about reviewing the zoning with Title 17, and Board members expressed concern with the timeframes for this process.

Input from the public was provided by the following on **the issue concerning the type of commercial uses allowed:**

Don Starchman stated that there was no discussion about concentrating or getting all of the services located in Mariposa during the General Plan process. He noted that he does not see the Catheys Valley residents in the Mariposa town stores – they go to Merced. He feels that we need to look at what the General Plan says relative to encouraging tourism. He agrees with the Neighborhood Commercial 1 and 2 (indoors and outdoors) designations in the interim of reviewing Title 17. He feels we need to have Resort Commercial with a conditional use permit; and that there needs to be provisions for light industry.

Steve Saunders stated he has concerns relative to the commercial aspects of the CVCP, and with limiting the commercial to residents of the community – he does not feel that the few people in the community will be able to support the businesses and people in the area need a way to make some money. He feels that with the thresholds that were put on home businesses and agritourism, that the Plan does not allow a place for them to go. He was hoping to see a small farmers market, and it would make a great tourist stop. He feels the Plan is written to downsize human activity; and he feels the community should be viable and sustainable, and one can only do that if there is room to grow a little.

Steve Fortner stated he supports the Neighborhood Commercial 1 and 2 zoning, and he feels they provide enough flexibility for businesses to be created that the community can use and would like to have. He agrees with Rita Kidd with the new commercial site development that she shared that is developed to look old and fits with the community and its history.

Rita Kidd stated she does not know of anything wrong with pin-pointing a couple of zones that would be appropriate within the framework of the General Plan and the CVCP. She feels they could use a couple of businesses and she referred to the Diamond Springs development that she presented on November 15th. She does not want a bunch of detached little buildings that do not reflect the quality or character of the community; and she does not want a strip mall area. She feels we need to look at how we work with property owners in Catheys Valley, and she referred to a development that was proposed for Mariposa and the willingness of the developer to sit down and talk with the surrounding land owners. She feels the PAC is an extended arm of the Board of Supervisors and would like to see effort put forth by this Board to support the PACs and work with developers as a team on projects. She feels we need to stay with something that is truly Neighborhood Commercial and consider issues relative to commercial on a countywide basis for the long-term. She responded to a question from the Board relative to the Plan's 5,000 square-foot commercial building size restriction; and stated she feels that there needs to be some clarity on what is permitted; and she noted that at the time she and Tony objected to the 5,000 square-foot restriction. She feels the Board could require a design that is cohesive with the character of Catheys Valley. She would like to see a bakery in the area.

Anita Starchman Bryant stated the businesses would not be viable if you can't bring people in. She asked if a restaurant recently went out of business and questioned whether Catheys Valley could support a bakery. She feels that both, tourists and locals, are needed to support the businesses. Language in the Plan concerns her relative to businesses that require tourists. She responded to a question from the Board and advised that she agrees with the Neighborhood 1 and 2 land use designation; and she urged designation of Resort Commercial with a Conditional Use Permit (CUP).

Rita Kidd clarified that Neighborhood 1 and 2 is what is okay with her; along with Resort Commercial with a CUP.

Debbie Lester advised that there are two restaurants open in Catheys Valley, and that at one time The Oaks had provisions for tour buses. She supports not being

sprawled and with keeping things orderly and with the rural and scenic character. She does not want to be like Oakhurst.

Steve Fortner stated he would like the ability to sell everything “Mariposa” – have everything made, grown, or manufactured in the County for the tourists.

The public comment was closed for this issue, and discussion was held.

(M)Allen, (S)Turpin, direction was given to incorporate Neighborhood Commercial 1 (indoor) and Neighborhood Commercial 2 (indoor and outdoor) zoning designations in the commercial land use for the CVCP. Supervisor Turpin suggested that Resort Commercial be added with the requirement of a CUP, and discussion was held relative to this issue and the agritourism permit levels. Supervisor Bibby clarified that this could be modified in the Title 17 update process. Ayes: Unanimous.

Chair Cann asked about the status of dealing with the Resort Commercial issue. Kris Schenk commented on the “live/work” concept for community commercial. Sarah Williams advised that staff reviewed this issue, and there are provisions in the Mariposa Town Plan, but it has community sewer and water; and provided input relative to establishing a relationship between density and the text for “live/work.” The Board concurred with having staff bring back information on this.

Issue No. 8: Non-conforming (grandfathered) policies/text (compare to General Plan policies) – Chair Cann advised that the Board had consensus to accept the General Plan definitions and the vernacular for non-conforming. Supervisor Turpin stated he feels that the mobile home park space vacancy issue of up to one year needs to be addressed, and discussion was held.

Input from the public was provided by the following on this issue:

Rita Kidd commented on the PACs discussion and advised that they did not want to see abandoned buildings or uses that were visible for long periods of time; plus, that creates its own hazards and problems. She suggested that Issue Nos. 36 and 37 dealt with this.

Don Starchman stated he does not believe the General Plan says anything about 36 months and that is important. He commented on probate timeframes, especially outside of this area they can go 36-months. He feels we need to have something more flexible. The only problem he was aware of with this issue was with the opening of Sal’s Restaurant. He feels the one-year timeframe is punitive in nature and is not good planning or what the Board members were elected to do as Supervisors.

Bob Stark stated he agrees that there should be at least a three year period for the mobile home park. He is concerned with the wording that the Planning Director “may” extend the timeframe.

Anita Starchman Bryant referred to Issue Nos. 36 and 37; and she stated she agrees with matching the CVCP with the General Plan language.

The public comment was closed for this issue. Sarah Williams commented on the differences between the CVCP and the General Plan on this issue – there is more specificity relative to mobile home parks in the CVCP and there are differences in the timeframes. Discussion was held relative to this issue, including allowances for expansion. Sarah Williams advised that “and” is missing in section E(2) in the second bullet in the matrix.

The public portion for comment on this issue was reopened, and input was provided by the following:

Don Starchman stated he feels that if the General Plan language is used, there should be specific adoption or reference to the Title 17 language; and that the CVCP language should be deleted, for residential and commercial uses.

Hubert Hiepe stated he has older mobile homes that he wants to replace with newer and larger homes, and he asked if this is allowed.

Steve Saunders asked if had a legally non-conforming parcel in the Mountain Home land use designation with a barn, how does the fifty-percent expansion

restriction in the CVCP affect him. Sarah Williams responded relative to the expansion issue and advised that the residence could be expanded and another barn added as long as it is an allowable land use in that zone; and she cited the Tap Room as an example of a legally established non-conforming use which would have limited expansion potential. Steve Saunders expressed concern with the input that Rita Kidd provided concerning the section on non-conforming policies.

Rita Kidd clarified that the difference between the General Plan and zoning language is two dwellings are allowed on any parcel larger than 160-acres in Agriculture Exclusive; and only one is allowed on parcels that are less than 160-acres. She stated she feels that we need to be sure that we are clear on this and the issue of non-conforming use and non-conforming parcel size. Sarah Williams advised of the recommended text for Issue No. 37 concerning this matter, and of the change in 2006 of two single family residences for every 160-acre increment.

Don Starchman stated he feels a statement should be used that Agriculture Exclusive is subject to the provisions of the General Plan.

Rita Kidd stated she understands what Bill Abbott recommended relative to not rewriting language, but just referencing it; and she commented on the guidelines from the Office of Planning and Research. However, she feels that people should not have to look at two or three documents to see what they can do with their land. She urged that the language be kept in a single document to avoid confusion. She referred to the zoning ordinance and stated that those areas that are out of compliance do not apply – they were negated with the adoption of the General Plan. She noted that community plans can be more restrictive and have different terminology. She feels that the Supreme Court has been clear that the tail (zoning ordinance) does not wag the dog (General Plan).

The public comment portion for this issue was closed, and discussion was held. On motion by Turpin, direction was given to use option 8(c) – remove the CVCP section regarding nonconformities. Supervisor Cann asked about including the changes recommended in Issue Nos. 36 and 37. Andy Hauge advised that the language relative to intensity/density and uses have to be included in the Plan pursuant to State law even though it is duplicate language. Supervisor Turpin included the recommended language in Issue Nos. 36 and 37 in the motion. The motion was seconded by Supervisor Allen. Supervisor Cann noted that Issue No. 36 refers to 5-acre minimum parcel size and that needs to be modified pursuant to the Board's previous direction. Andy Hauge suggested that this motion be limited to Issue No. 37, and that staff will provide updated text for another motion on Issue No. 36. Supervisor Aborn initiated discussion relative to the issue of allowing three years versus one-year for the mobile homes to be unoccupied; and it was noted that Title 17 would need to be changed. The motion was restated by the maker, agreeable with the second, to use option 8(c) - remove the CVCP section regarding nonconformities; and with including the changes recommended in **Issue No. 37**. Staff responded to questions from the Board relative to the differences between non-conforming and grandfathered – Sarah Williams advised that the General Plan is a little more flexible than the CVCP relative to the number of years (three years versus one year and option for one-year extension), and with the mobile home spaces being vacant. Ayes: Unanimous.

Andy Hauge referred to **Issue No. 36**, and he suggested that staff modify the language pursuant to the Board's previous direction and they will come back with the updated language.

5:11 p.m. Recess

5:24 p.m. The Board reconvened.

Issue No. 9: Potential increased setbacks for residential development adjacent to agriculture/working landscape land use – Supervisor Turpin initiated discussion relative to requiring a 5-acre parcel size minimum on land adjacent to agricultural land versus the smaller parcels that would be allowed with the averaging with any new subdivision; and this would eliminate the need to draft an ordinance for increased setbacks as previously discussed. He feels that the ability to design a project should be left to the developer. Supervisors Bibby and Aborn expressed concerns.

Input from the public on this issue was provided by the following:

Rita Kidd advised that in the late 1970's the Board dealt with a subdivision by District Attorney Gimblin with residential parcels adjacent to Agriculture Exclusive land on Old Highway, and there was a decision to have 10-acre minimum parcel sizes with restrictions (versus the 5-acres being proposed today). She feels that the challenges are greater today. She referred to three minor subdivisions that occurred on Old Highway with the division of a 150-acre parcel into three 50-acre parcels, that were not arms length transactions, and she feels that using the averaging, that many more parcels would have been created; and is concerned with design control for these types of situations. She offered to give the Board members a tour of the subdivided area. She responded to a question from the Board and stated she feels there should be a 10-acre minimum parcel size adjacent to agriculture land, and she feels it should be deed restricted to never be divided again.

Discussion was held. Supervisor Bibby stated she feels that clustering should trigger extra setbacks to agricultural land.

Don Starchman stated that as an old math teacher, he finds it interesting that Rita Kidd could get 75 parcels from the 150-acre subdivision that she referred to – he can only come up with 35 parcels, and less with the averaging. He stated the General Plan does not have specific setbacks between those parcels and he does not feel that we need to be adding something here. He feels that common sense is the answer.

Steve Fortner stated he is okay with Supervisor Turpin's suggestion, and he feels it is clean and definable and will not cost a lot of staff and consultant time and more public hearings to come up with an ordinance. With the right-to-farm ordinance, he feels that whoever buys those 5-acre parcels adjacent to agricultural uses cannot complain.

Steve Saunders stated he does not want consideration of 5-acre parcel buffers to override good planning. He feels that density/averaging is to make best use of the terrain and topography – he suggested that this could be a goal versus a policy. If it is a policy, he feels that it is down-sizing and taking away people's use of their land.

Bob Stark asked if we are trying to design setbacks to protect the agricultural land or the other way around. He noted that a 2,000 pound bull does not care how far the setback is if he wants to go through the fence.

The public comment was closed on this issue, and discussion was held. (M)Turpin, (S)Allen, to direct that within the Mountain Home (Residential) land use designation in Catheys Valley, that potential projects that are proposed up against Agriculture Exclusive land use have 5-acre minimum parcel size to mitigate the setbacks for residential development. Discussion was held. Supervisor Bibby asked about the status of getting credit for undevelopable land with the clustering process. Supervisor Turpin clarified his motion to direct that the 5-acre minimum is for parcels adjacent to Agriculture Exclusive versus coming up with a policy of varying parcel sizes and setbacks. Supervisor Aborn asked staff if they are comfortable with implementing this policy. Andy Hauge advised of his understanding of the motion as clarified by Supervisor Turpin. Supervisor Bibby asked if it would be better to wait and review this issue with the clustering and Title 17. Andy Hauge advised that staff has not heard that the goal of looking at subdivision arrangement is removed. Ayes: Aborn, Turpin, Cann, Allen; Noes: Bibby.

Issue No. 10: Air quality standards (greenhouse gas regulations; AB 32 and SB 97) – Chair Cann deferred this issue to later in the process.

Supervisor Turpin initiated discussion relative to the Board's previous action on **Issue No. 9**, and the elimination of the varying residential setback requirements for parcels that are created adjacent to Agriculture Exclusive land. Supervisor Cann stated that the way the Plan was written, you can have 2.5-acre parcels adjacent to Agriculture Land, with a goal of having larger parcels. With this motion adopted by the Board, you can not have 2.5-acre parcels, the size must be a minimum of 5-acres, but there is still a goal to have larger parcels. Staff will not have to create more regulations for internal setbacks. Andy Hauge asked for clarification of whether Supervisor Turpin is asking to take away the goal of larger parcels. Chair Cann noted that Issue No. 9 just deals with setbacks and not parcel size; and he stated he feels the stated goal of having larger parcels abutting Agriculture Land remains. None of the parcels will be less than 5-acres.

Issue No. 11: Role of the Planning Advisory Committee (PAC), especially relative to recommendations on agricultural and resource issues/projects – Chair Cann

noted the previous direction by the Board to eliminate the role of the PAC for Agriculture Exclusive land. Andy Hauge advised of the recommendation to take out language under each recommended implementation measure relative to the PACs review and just have one section that refers back to the resolution that created the PAC for each of the plans. Kris Schenk clarified that this would be a PAC like exists for other areas and they will make recommendations to the Board and Planning will refer items to them, excepting agricultural projects which will be referred to the Agricultural Advisory Committee. Discussion was held. Chair Cann asked if the 2003 resolution for the PAC would need to be changed, and Sarah Williams advised of the three charges for the PAC: the Plan; implementation measures; and to provide recommendations to the Planning Commission and other bodies on planning related matters and on other matters requested by the Board. Chair Cann asked about the last sentence in the CVCP that states the responsibilities identified in the Plan represent an expansion of the typical responsibilities of a PAC in Mariposa County.

Input from the public on this issue was provided by the following:

Anita Starchman Bryant referred to the last sentence issue raised by Chair Cann and noted that the inclusion of the review of building permits by the PAC is different from other areas, and she feels the PACs authority should remain as exists in the resolution.

Rita Kidd stated she feels it is incredibly unfortunate that so many people are vocal on this issue without knowledge of the General Plan and the history and impacts. She feels there was a vendetta that characterizes the PAC in a way that is not appropriate or accurate. She read from the Ordinance that establishes the PACs for individual communities and noted that there are 15 individually designated planning areas. She feels it is an abomination for citizens to have to go through what the Catheys Valley PAC has gone through; and she feels that decisions should be made relative to the processes for future advisory committees.

Steve Fortner commented on the history of the original Ordinance for the TPA committee for the first 80 meetings and stated he feels it was contentious, but there was due process. Then they had a plan and a committee that did not match the organization that created them; and when he pointed this out to former Planning Director Toll, the Ordinance was amended.

Chair Cann stated that looking at the role of a PAC going forward, he does not have a problem with a local advisory committee reviewing anything dealing with discretionary review. But he is concerned with the committee's make-up and membership.

Bob Stark stated he feels the Catheys Valley PAC should be dissolved. He read from the March 17, 1996, minutes relative to direction to the committee to consider what they do not want to see on property in the future, and that there be no individual desires or opinions in the process – that would be discussed at future meetings. He feels that the committee was directed on what to talk about and that they voted on items without taking public input and without the public being present. He does not mind having a committee, but feels it should be a cross-section of the community.

Steve Saunders stated he feels it is unfair to characterize that the people sitting on one side of the room have done something wrong – they have read a document that they feel is overreaching; and he thanked the Board for this process to address the issues. He questioned what kind of authority the PAC would have had if the Board had not taken action to revise their role. He asked at what level the PAC gets involved in a discretionary project, and what qualifications they have. He supports option 11(c) – remove all text from the Plan which identifies PAC responsibilities.

Debbie Lester commented on the role of the Catheys Valley PAC and noted that they have roles and responsibilities that are defined in the General Plan.

The public comment was closed on this issue, and discussion was held. Chair Cann advised that this issue has nothing to do with anyone's perception of how or what the PAC did; and this issue has no reflection on the performance of the PAC – we are moving forward. Discussion was held. Supervisor Bibby asked for clarification of the sentence in section 5.1.02.A(5) that development accessory to the primary use that is found to be inappropriate use to character issues shall be reviewed by the PAC prior to issuance of a building permit. Kris Schenk stated he is not sure what was intended to be reviewed by the PAC with this language. Supervisor Allen stated he agrees with the need to have and use PACs; and he feels that everyone wants the best for the community, and the Board is trying to work out the issues. Chair Cann noted the PAC is advisory and clarified that developers can move forward and submit projects. Sarah Williams clarified that resolution does not change the lead agency, involvement of the PAC is to get local input before decisions are made. Following further discussion, Sarah Williams cited an example (not located in a community area) of a kennel use – it is not a business use so it does not fit into the rural home industry or rural home enterprise. The question that has been raised is when that use exceeds the residential use, i.e., the number of dogs. She feels that this is the sort of discretionary land use issue that might be referred to the PAC under this section. She noted that this particular situation is a private use as a hobby.

Following discussion and recommendation by Andy Hauge that the Plan acknowledge that there is a PAC that has responsibilities, (M)Bibby, (S)Allen, direction was given to remove “all” from the title in option 11(c) so that it reads: “Remove text from plan which identifies PAC responsibilities”/Ayes: Unanimous.

Chair Cann advised that it is the Board's objective to try to reach conclusion of the remaining matrix issues on December 9th. He asked the Clerk of the Board to work on scheduling an additional day if needed.

Chair Cann continued the workshop to Thursday, December 9, 2010, at 9:00 a.m.

6:50 p.m. Chair Cann adjourned the meeting.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

November 23, 2010



Folder Time Description

9:06 a.m. Meeting Called to Order at the Mariposa County Government Center

Pledge of Allegiance

Chair Cann called for a moment of silence in recognition of our troops spread out across the world protecting us; and recognizing the Thanksgiving holiday this week.

Introductions – none

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.
BOARD ACTION: (M)Aborn, (S)Bibby, all items were approved/Ayes: Unanimous.

- 2 **Chair Cann**
Resolution and Tile Plaque Recognizing Mary Atkinson, Upon her Retirement as Assessment/Recording Clerk II, Assessor/Recorder’s Office (Assessor/Recorder)
BOARD ACTION: (M)Allen, (S)Bibby, Res. 10-534 was adopted and presented to Mary Atkinson, along with the tile plaque/Ayes: Unanimous.

- 3 Public Presentation: For Items within the Jurisdiction of the Board and not on Today’s Agenda (Speakers Limited to Five Minutes)
Eleanor Keuning referred to the recent power outage and concern with her elderly neighbor, and she asked whether anyone in the County does welfare checks. She referred to the Friendly Visitor Program and suggested that the Board get a presentation on this program. She referred to the change at the Senior Center with serving the Thanksgiving meal on Wednesday, and she noted the Ministerial Association is also having their service on Wednesday at noon this year.
Lester Bridges, President of the Chamber of Commerce, advised of the Merry Mountain Christmas Parade and events scheduled for December 4th. He advised that the Chamber is taking nominations for the businessman, businesswoman, business, and volunteer of the year.
Doug Binnewies, Sheriff, advised of the Toys for Tots and Shop with a Cop program, and support by the Deputies and the Deputy Sheriffs’ Association. He wished everyone a happy Thanksgiving.

Eleanor Keuning expressed concern with her efforts to obtain correct and timely information from PG&E during the last power outage – their recording has an incorrect update time. Chair Cann advised that he would get PG&E contact information for her.

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Board Information

Supervisor Bibby noted that with the upcoming holidays that we should enjoy our families and what we have; she thanked the community, with special thanks to County staff and their families for their work.

Supervisor Turpin wished everyone a fulfilled Thanksgiving holiday season; and he thanked the Road crews for keeping the roads accessible during inclement weather. He commented on the status of the Williamson Act program. He attended the fire station planning meeting on Friday, the work day at Station 26 on Saturday, and the Board's workshop on the Catheys Valley Community Plan on Monday.

Supervisor Allen commented on the plastic bag disposal issues, and he urged everyone to use reusable bags. He continues to work on the Wawona Specific Plan. On Thursday he received information from Dr. Mosher relative to participating in a statewide drill simulating a bomb IED, and he commended all of the agencies and departments that were involved. He noted the Thanksgiving dinner will be served at the Senior Center on Wednesday at noon; and he thanked Lester Bridges for the announcement that his Church is offering Thanksgiving meals. He wished everyone a happy and safe Thanksgiving. He noted that he has received positive calls relative to the PWD road crews for their snow plowing. He referred to Eleanor Keuning's input and advised that families have responsibility to take care of the seniors; and if there is no family member, then Adult Protective Services can help.

Supervisor Aborn noted that Monday was a snow day for the schools. He commented on the importance of transportation issues to the County with High Speed Rail and Amtrak. He attended the Board meeting for the workshop on the Catheys Valley Community Plan on Monday. He wished everyone a happy Thanksgiving.

Supervisor Cann noted the need to keep the plastic bags out of the composter at the landfill; and he advised of efforts for single source recycling. He met with representatives of the Grand Jury on Wednesday relative to disclosure paperwork that they are required to file. He advised that the lawsuit against the County from the former owner of Coyote Springs Ranch over the County's partial refusal to accept large, free-standing restrooms that were not permitted was heard and argued and dismissed per the County's request last Friday. He advised that the workshop on the Catheys Valley Plan was held on Monday and the Board will meet again on December 9th on this Plan. He is meeting on Wednesday with an architect and citizens relative to making the downtown crosswalks safer. He advised that November 30th is a fifth Tuesday, so there will not be a Board meeting – however, he has a lot of other meetings – one is with Yosemite Park Services relative to using the Stroming Road building that will be vacated by Human Services. He wished everyone a happy Thanksgiving.

9:48 a.m. Board Convened as

LOCAL TRANSPORTATION COMMISSION

(Chair – Commissioner Lyle Turpin, Vice-Chair – Commissioner Brad Aborn)

5

Public Presentation: For Items within the Jurisdiction of the Local Transportation Commission and not on Today's Agenda (Speakers Limited to Five Minutes) – none.

6

Public Works

Approve an Agreement with Fehr & Peers Transportation Consultants to Prepare the Bicycle Transportation Plan/Pedestrian Transportation Plan, and Authorize the Local Transportation Commission Chair to Sign the Agreement

COMMISSION ACTION: Discussion was held with Barbara Carrier. Commissioner Aborn asked about incorporating equestrian use with the trails in the plan. Commissioner Turpin asked whether the pedestrian/equestrian trails in Don Pedro would be included. Barbara Carrier advised that she will review these issues. (M)Bibby, (S)Aborn, LTC Res. 10-23 was adopted approving the agreement as recommended/Ayes: Unanimous.

9:55 a.m. Reconvened as
BOARD OF SUPERVISORS

7

Planning

Waive the Second Reading and Adopt an Ordinance Amending Title 17, County Code Pursuant to Zoning Amendment No. 2009-87 (Agritourism and Agri-Nature Tourism Amendments to County Code) Including Amending Chapter 17.40, Agriculture Exclusive Zone; Amending Chapter 17.108, Supplementary Standards; Amending Chapter 17.148, Definitions; and Adding a New Chapter 17.114, Administrative Use Permits. Proponent: Mariposa County. Amendments to Chapter 17.40 Apply to Properties in the Agriculture Exclusive (AE) Zone. Amendments to Chapters 17.108 and 17.148 and the New Chapter 17.114 Potentially Apply to Properties County-Wide

BOARD ACTION: Board members thanked Kris Schenk and staff for working on this policy. Discussion was held and Kris Schenk advised that there will be follow-up to include the rest of the land use designations and the process for the Administrative Use Permit. Supervisor Allen advised that the Public Assemblage Permit process is being reviewed and a report will be brought back to the Board. (M)Turpin, who read the title of the Ordinance into the record, (S)Allen, the second reading was waived and Ordinance No. 1074 was adopted/Ayes: Unanimous.

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Consider Items Removed from the Consent Agenda – none

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Administration

CLOSED SESSION: Liability Claims; Claimant Name: Estate of Ryan Christopher Broderick, by and through its Successors in Interest, Christopher Broderick & Lisa Broderick; Christopher Broderick; Lisa Broderick; Claim Number: C10-23; Name of Agency Sued: County of Mariposa

BOARD ACTION: Rick Benson, County Administrative Officer, withdrew this closed session.

9

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos;

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Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos; and

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County Counsel

CLOSED SESSION: Conference with Legal Counsel: Existing Litigation: County of Mariposa v. Wayne Scholkowfky; Mariposa County Superior Court Case No. 8890

BOARD ACTION: (M)Bibby, (S)Allen, these closed sessions were held/Ayes: Unanimous.

11

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs' Association (DSA); Name of County Designated Representative: Richard C. Bolanos; and

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Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff's Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos

BOARD ACTION: Supervisor Bibby excused herself from the meeting at 10:07 a.m. for action on these matters and for the portion of closed session on these matters due to a potential conflict of interest as her husband is a member of SMA and because of potential compaction issues. (M)Turpin, (S)Aborn, these closed sessions were held/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby. Chair Cann advised that the Board would reconvene in open session at 2:00 p.m.

10:15 a.m. The Board convened in closed session; recessed at 10:38 a.m.; and reconvened in closed session at 11:04 a.m.

12:01 p.m. Lunch

2:04 p.m. The Board reconvened in open session.

Report from Closed Session:

Chair Cann advised that information was received and direction given on all of the closed session matters.

15

Planning

PUBLIC HEARING to Consider Appeal No. 2010-82, an Appeal of the Planning Director's Determination Regarding a Portion of Certificate of Compliance Application No. 2009-037 for Six (6) Certificates of Compliance. Property Owners and Appellants: Hornitos Land Company LLC/Steve Sloan. Project Site is APN 011-080-010; Located at the end of Bauer Street in the Town of Hornitos

BOARD ACTION: Chair Cann reviewed the hearing process. Kris Schenk introduced the appeal. Sarah Williams, Deputy Planning Director, was present. Damon Golubics, Senior Planner, presented the staff report; including review of the processing of the Certificates of Compliance for this applicant; advising that the Hornitos Land Company has appealed the Director's decision regarding two triangular pieces of land that staff does not feel should be legal parcels; staff found that the two lots in question (lots 90-1/4 and 90-7/8) have always been conveyed together with lot 92; and he advised of correspondence received from George and Linda Meyer expressing concern, petitions with signatures by residents of Hornitos urging denial of the appeal, and a letter received from MERG expressing concerns. He advised of options available to the Board for action, including the possibility of merger of the lots with lot 92.

Appellants Presentation:

Anita Starchman Bryant, Starchman & Bryant Law Offices, advised that she is representing the property owner/appellant – Hornitos Land Company. She addressed the staff report relative to the two parcels in question (90-1/4 and 90-7/8) always being conveyed together with lot number 92; and she advised that lot 92 was granted out in 1871 and it was separately conveyed out. Later in 1899, lots 90-1/4 and 90-7/8 were granted out. So the three have been conveyed in legal documents as three parcels described as 90-1/4, 90-7/8 and 92 since that conveyance in 1899, but they have not always been conveyed together. She referred to the option staff provided that the Board

can make a determination to merge 90-1/4 and 90-7/8 with 92; and she advised that the Board cannot require that – that would be an involuntary merger and the County does not have that ordinance in place. The Board can provide that as an option if it finds that they were not legally created; but these parcels are legally created. She asked that all testimony today be restricted to the issues of the appeal; that she would like to reserve the right in rebuttal to call experts, Don Starchman and Rick Lobaugh/Inter-County Title Company President, in response to comments made by the opponents to the appeal; and she would like to reserve the right to reopen the public hearing should any new information be brought up by staff or questions or testimony be brought up by the Board that have not been addressed. She reviewed her written presentation that she gave to the Board, including deed information for lots 90-1/4 (which is about 1/4-acre) and 90-7/8 (which is about .68-acre); what a Certificate of Compliance is and noted that she has not seen a finding from staff that the parcels were created illegally; criteria for determining parcel legality based on the deed; facts and case law concerning the creation of the parcels by deed versus a map and noted that these are two non-contiguous parcels that are separately described and created by 1899 deed; reviewed their objections to the Planning Director's determination; and summarized her conclusions and stated she feels the Certificates of Compliance should be issued immediately. She responded to questions from the Board relative to the ownership of parcels 090 and 100 to the left of the subject property and advised that it is under separate ownership; and relative to the location of the Meyer property and advised that she does not know.

Speakers in Support of the Appellant:

Rick Lobaugh stated he insured the title to the subject property when it was purchased by Hornitos Land Company. He addressed the issues raised in the letter from MERG relative to the title, and relative to being able to research when the property was granted by the Trustees of Hornitos – ownership was granted in fee title. He feels the title to the lots is good for Hornitos Land Company.

Speakers in Opposition to the Appellant: None

The public portion of the hearing was closed for the Board to commence with deliberations.

The public portion of the hearing was reopened, and input was provided by the following:

Don Starchman, Starchman & Bryant Law Offices, noted that the document used to transfer ownership was an "Indenture" and that the Courthouse was granted by an "Indenture" – and this should not affect the title. He referred to the merger option that was mentioned and stated he does not feel that is an option. He referred to issues raised in the Meyer letter relative to the history of the property and the possibility that survey errors were being corrected; and he advised that these parcels were deeded separately and are separate legal parcels and he does not feel that there is any discretion involved in this. He commented on merger of parcels in subdivisions.

The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to parcel 93 and the difference in title in relation to 90-1/4 and 90-7/8; relative to the concept of ministerial responsibility and staff's finding that there is no deed for these parcels; relative to deed and indenture documents and whether there are differences since the language is similar; relative to accepting an indenture for the Courthouse; relative to the status of other land that was divided and stayed with one owner; relative to the separate conveyance of the two lots in question; whether action on 90-1/4 and 90-7/8 would affect adjoining property; clarification that issuance of a Certificate of Compliance does not insure that each piece of property is developable; whether there have been other situations like this in the Hornitos; relative to the topography – whether drainage goes through lot 90-7/8; relative to the history of the lots and the suggestion of lot line adjustments and whether there is anything else in the maps that were presented in the

staff report where other pieces of land in this situation were given parcel numbers; what documents would have been acceptable to Planning; whether there was new information contained in the appellant's presentation that was not provided to Planning for making its determination; whether subsequent lot line adjustment(s) can be applied for if the Certificates of Compliance are issued; as to how lots 90-5/8, 90-1/2 and 90-3/8 are described; and whether the appellant owns all three parcels – 90-1/4, 90-7/8 and 92.

Rick Lobaugh responded to questions from the Board relative to the Title Company's research and recognition of the indenture in the title search as being similar to a deed, and he advised that he considers the indenture to be the same as a deed as the same words are used in the documents. He insured the parcels separately. The "Indenture" is just the heading of the document. He responded to questions as to whether he has seen two parcels listed on the same deed in the past, and advised that this occurs when people buy two parcels in a subdivision, but it does not merge the parcels – they are still two separate parcels. He responded to a question as to what would happen if the Board questions the validity of the documents – he feels this is a good, valid transfer deed.

Anita Starchman Bryant noted that the deed used to transfer lot 93 was the exact same form that was used for lots 90-1/4 and 90-7/8; and she presented the Board with a copy of the 1971 indenture and read its language. She referred to the fractions used in numbering the lots and does not feel that should make a difference in this matter. She asked if staff would have issued Certificates of Compliance if there were separate deeds for 90-1/4 and 90-7/8. She noted that these are two separate parcels that do not touch each other, and she suggested that perhaps they were put together in the document to save recording costs. She noted that lot 93 contains drainage area and that was not considered by staff when they issued the Certificate of Compliance and that there are smaller lots than these. She does not feel that the chain of title matters because these lots were never merged. There is no discretion to consider future developability, and her client's plans for the parcels has nothing to do with the law today – this is not a discretionary decision, it is a ministerial act. She responded to a question from the Board relative to the number 90 used in the parcels and advised that it was not applicable to this appeal and she has not reviewed that.

Following discussion, (M)Allen, (S)Turpin, Res. 10-543 was adopted granting Appeal No. 2010-82, and reversing the Planning Director's determination that there is not sufficient evidence to support unconditional Certificates of Compliance for lots 90-1/4 and 90-7/8. Supervisors Bibby and Aborn commented on the maps and the history of the configuration of the parcels. Ayes: Turpin, Cann, Allen; Noes: Aborn, Bibby. Sarah Williams asked about preparing a document to formalize this action – it is to be scheduled for the Consent Agenda. The hearing was closed.

Consent Agenda

- CA-101 **Administration**
Approval of Summary of Proceedings of November 15, 2010, Regular Meeting
(Continued from November 9, 2010)
- CA-102 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140
Enroute to Yosemite National Park; Res. 10-535

- CA-103 **Administration**
 Recommend the Rejection of Claim No. C10-23 Filed by the Estate of Ryan Christopher Broderick, by and through its Successors in Interest, Christopher Broderick & Lisa Broderick; Christopher Broderick; Lisa Broderick for an Undetermined Amount and Authorize the Board of Supervisors Chair to Sign the Notice of Rejection; Res. 10-536
- CA-104 **Sheriff**
 Approve an Interim Rental Agreement with 35-A District Agricultural Association for use of the Fairgrounds Facilities for the Annual Cops for Kids and Food Give Away Program, and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-537
- CA-105 **Planning**
 Adopt a Resolution of Intention to Initiate an Amendment to Title 17, Zoning, Chapter 17.40 the Agriculture Exclusive (AE) Zone, to Make Bed and Breakfasts and Transient Rental Establishments with a Permanent On-Site Manager a Permitted Use in the AE Zone; Res. 10-538
- CA-106 **Planning**
 Accept the Resignations of Bill Tucker, Representative of the American Indian Community of Mariposa County and Alternate Member Charlotte Barrett White, Representative of the Northern Mariposa County History Center from the Historic Sites and Records Preservation Commission, and Approve the Removal of Maria Jimenez as an Alternate Member Representing the Butterfly Garden Club Per Section 2.90.020.C of County Code
- CA-107 **Probation**
 Authorize the Probation Department to Collect an Additional 10% Restitution Fine Administrative Fee Allowed by Code and Correct Previously Approved Fees; Res. 10-539
- CA-108 **Human Services**
 Approve a Five Year Agreement with Pitney Bowes for Postage Machine, and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-540
- CA-109 **Public Works**
 Approve Budget Action Transferring Funds from the Land, Improvements Fund to the Midpines Park Improvements Fund, (\$5,224) and Increase Revenue and Appropriations in the Midpines Park Improvements Fund (\$15,000) with Funding from Yosemite Area Regional Transportation System (YARTS) for the Midpines Park Project (4/5ths Vote Required); Res. 10-541
- CA-110 **Public Works**
 Authorize County Counsel and the Public Works Director to Sign the Federal Fiscal Year 2011 Certifications and Assurances for Federal Transit Administration Assistance (FTA); Res. 10-542

Adjourn

Chair Cann adjourned the meeting at 3:47 p.m. in memory of Floyd Fike and Billy Ray Corn.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSACOUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS

December 7, 2010



Folder Time Description

9:07 a.m. Meeting Called to Order at the Mariposa County Government Center

Pledge of Allegiance

Chair Cann called for a moment of silence in honor of those who served in World War II and in remembrance of this being Pearl Harbor Day.

Introductions – none

1

Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)

NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.

BOARD ACTION: Supervisor Bibby asked for clarification on item 104 that the General Fund was paid back; she noted that corrections were provided for the Summary of Proceedings for November 22nd in item 101; and she clarified that item 113 is just to approve the format of the resolution and that a correction was made - Steve Dahlem, County Counsel, concurred. Allen Toschi, Public Works Director, and Rick Benson, County Administrative Officer, referred to item 104 and advised that the General Fund was paid back. (M)Bibby, (S)Turpin, all items were approved, with the noted corrections/Ayes: Unanimous.

2

Chair Cann

Approve and Present a Certificate of Appreciation and Congratulations to Dawn Afman, Mariposa District Conservationist with the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS)

BOARD ACTION: Input from the public was provided by the following:

Glenn Franklin, Chair of the Mariposa County Resource Conservation District, commended Dawn Afman for her work in the County.

Malia Hildebrandt, District Conservationist for Merced County Natural Resources Conservation Services, stated she was present on behalf of Curtis Tarver/Assistant State Conservationist for Field Operations, and she presented Dawn Afman with a clock for her services.

Kris Randal, Master Gardener Coordinator, thanked Dawn Afman for her support of their garden project at the Fairgrounds; and she noted that they received an award for the garden that Dawn nominated them for.

(M)Turpin, (S)Aborn, the Certificate was approved and presented to Dawn Afman/Ayes: Unanimous.

3

Public Presentation: For Items within the Jurisdiction of the Board and not on Today's Agenda (Speakers Limited to Five Minutes)

Beth Savage advised that the California State Licensing Board has reopened their case against the contractor that worked on their driveway. She advised that the State Inspector felt that he was "stonewalled" by the County in his efforts to get paperwork and information on the permit; and that he is available to speak to the press or the public. She advised that she plans to come to the Board meeting every Tuesday to hold the Board accountable.

Vaden Savage referred to the issues with their driveway and decisions made by the Board, and he stated he feels that the building process continues with a lack of accountability and follow-up. He feels that we need to stand up for what is right.

Theresa Castaldi, Coyote Springs Ranch, referred to the statement by Chair Cann at the November 23rd meeting concerning dismissal of their lawsuit against the County; and she stated she does not feel that the statement was correct – she stated the case was not heard and it was dismissed because the person from Chase Bank/Florida was not present to verify his signature; and that it was not a lawsuit, it was a writ to require the County to give them their permit. She requested that the correct information be disseminated.

Lester Bridges, President of the Chamber of Commerce, commented on the busy weekend with the first lighted Merry Mountain Christmas parade. He reminded everyone that the Chamber is taking nominations for the businessman, businesswoman, business, and volunteer of the year. Their Christmas party is scheduled for December 10th, and he thanked the Board for its support.

4

Board Information

Supervisor Bibby advised that she and Supervisor Cann attended a meeting with the downtown merchants and discussed issues including franchise, signage, parking, and mobile vendors. She attended the Mental Health Governing Board meeting and they are trying to get the word out about available services. She complimented the Chamber of Commerce on the lighted parade, and extended a special thanks to the merchants for staying open late, and to all of the volunteers that assisted with the event. She advised that she received complaints about speeding through town and has requested CHP to watch. She noted the High School has been contacted to remind the students of skateboarding laws and to have courtesy in the crosswalks.

Supervisor Turpin advised that he attended the Sierra Nevada Conservancy oversight committee meeting in Columbia on November 30th; the Sierra Nevada Conservancy meeting in Mariposa on December 3rd; and the fire station planning meeting on December 3rd. He plans to attend a meeting in Don Pedro on Thursday evening relative to the new fire station that is being planned. He plans to attend the Resource Conservation and Development meeting in Catheys Valley on Friday and they will discuss the possibility of have a mobile service for USDA inspections of processing meat on-site at the ranches. He advised that CalTrans will be in Mariposa on Wednesday to present environmental documents on the Ferguson Rockslide. He advised that they held their tree lighting ceremony in North County using solar lights. He advised the Greeley Hill Community Club Christmas breakfast was held on Sunday. He noted that December 7th is a tremendous day in our history.

Supervisor Allen noted more seniors attended the Thanksgiving dinner on Wednesday at the Senior Center this year than last when it was held on Thursday; and he thanked Lester Bridges for his Church hosting Thanksgiving dinner on Thursday. He attended the Area 12 Agency on Aging meeting in Sonora and advised that cuts are being made in the ombudsman program. He advised that he and his wife opened their house for the Friends of the Library Home Tour fundraising event. He attended the Merry Mountain Christmas parade. After this Board meeting, he is going to San Mateo to speak to the newly elected Sheriffs on relationships with the Board of Supervisors.

Supervisor Aborn advised that he was a judge for the Merry Mountain Christmas parade. He advised that he is still looking at the speed bump/hump issues. The El Portal Town Planning Advisory Committee is meeting this evening. He urged citizens to contact CHP or the Sheriff's Department to report problems with speeders. He referred to his inspection work with Downey Savings and Loan; and advised that he has visited the Savage's and he commented on the situation with their driveway and the work that was done. He reflected on December 7th being the day of infamy.

Supervisor Cann referred to the requested clarification relative to Coyote Springs Ranch; and he advised that the case was in front of the Judge and was dismissed. He referred to the input provided by the Savages and stated he will personally speak with the Contractors Licensing Board because there are two sides to every story. He advised that the investigator came to the County without an appointment when County Counsel was attending the workshop at the Board meeting on the Catheys Valley Community Plan; that County Counsel called the investigator the next day and then the following week; and when they spoke, he advised the investigator that there is no problem with having a meeting and obtaining the requested paperwork, but that County Counsel wants to be present because this is a contentious issue. He noted the lighted Merry Mountain Christmas parade was a neat event. He met last week with the Tourism visioning group and discussion was held relative to a sports center and a small meeting space center. He attended the Mariposa Downtown Merchants meeting on Thursday. He advised that he and Supervisor Bibby met with the owners of land for the Parking District on Monday. He plans to attend the Mariposa Forum meeting on Wednesday at the Library. He noted the continued Catheys Valley Community Plan workshop is scheduled for Thursday.

10:02 a.m. Board Convened as

LOCAL TRANSPORTATION COMMISSION

(Chair – Commissioner Lyle Turpin, Vice-Chair – Commissioner Brad Aborn)

5 Public Presentation: For Items within the Jurisdiction of the Local Transportation Commission and not on Today's Agenda (Speakers Limited to Five Minutes) – none

6 **Public Works**

Appoint Terri Haworth, Community Services Director, to the Social Service Transportation Advisory Council (SSTAC) as the Local Consolidated Transportation Service Agency Member for a Term Expiring December 7, 2013

COMMISSION ACTION: Following discussion, (M)Bibby, (S)Cann, Terri Haworth was appointed to the Council/Ayes: Unanimous.

10:05 a.m. Reconvened as

BOARD OF SUPERVISORS

7 Consider Items Removed from the Consent Agenda – none

8 **Administration**

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos;

9 **Administration**

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos;

10 **Administration**

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs' Association (DSA); Name of County Designated Representative: Richard C. Bolanos; and

11

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff's Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos

BOARD ACTION: Rick Benson withdrew these closed sessions.

12

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: California United Homecare Workers (CUHW) for In-Home Supportive Services (IHSS) Providers; Name of County Designated Representative: Richard Benson (for Mary Hodson)

BOARD ACTION: (M)Bibby, (S)Allen, the closed session was held/Ayes: Unanimous. Chair Cann advised that the Board would reconvene in open session at 2:00 p.m.

10:55 a.m. Recess and Lunch

2:03 p.m. The Board reconvened in open session.

Report from Closed Session:

Chair Cann announced that information was received and direction given to staff as a result of the closed session.

13

Planning

PUBLIC HEARING to Adopt a Resolution Approving Land Conservation Act Application No. 2010-104 with Findings and Conditions, Approving the Creation of a New Agricultural Preserve and Approving Execution of a New Land Conservation (Williamson) Act Contract with Charles Michael and Mary Kathrine Copeland for a 240 Acre Parcel Located at 3456 Brooks Road (Formerly 3388 Woodland Drive) in Mariposa; APN 014-380-021

BOARD ACTION: Kris Schenk introduced the item, and he advised that the Department has been receiving Notices of Non-renewals of Land Conservation Act contracts. Alvaro Arias, Associate Planner, presented the staff report, and he advised of correspondence that was received. Staff responded to questions from the Board as to whether any response was received from the Department of Conservation; relative to the applicant meeting the Contract requirements; relative to property tax impacts; and relative to the information the Board members received on the Notices of Non-renewals in September. Becky Crafts, Assessor, responded to questions from the Board relative to the property tax revenue impacts for this application and for the non-renewals that have been submitted.

The public portion of the hearing was opened and input was provided by the following:

Ruth Catalan stated she feels there should be a moratorium on issuing any new Contracts until the State provides full subvention funding for the program; and she expressed concern with enforcement of the Contract provisions. She does not have a problem with the Contracts for people who make their living from the land, but is concerned with people that enter into a contract to get a reduction in property taxes; and is concerned when people change their land use designation to agriculture.

The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to questions from the Board relative to this application being in compliance with current policy and advised that it is; that if the program is

offered to one, it is available to all to meet the requirements; clarification that today's action includes a Notice of Exemption; the length of time the current property owners have owned this property; relative to the status of the questionnaire the County sent to all Contract holders and the evaluation process and timeframes; relative to the status of the code compliance staffing – Kris Schenk advised that the position was not budgeted, but Planning will work with the Assessor's staff to review the returned questionnaires and come back to the Board if necessary when the workload is determined; and whether fees are being increased for processing Contract applications – Kris Schenk said he will review. Supervisor Bibby asked that if anyone is aware of a violation of a Contract to please report it so that an investigation can be conducted; and requested that if Contract holders refuse to return the questionnaire, that a Notice of Non-renewal be filed, if necessary. Supervisor Allen requested that the Board receive a report on the number of questionnaires that are sent out and returned. Supervisor Cann requested that if the questionnaires are not returned that they be resent by certified, return-receipt mail. Becky Crafts noted that the questionnaire the Agricultural Commissioner sends out is different than what they sent; and she noted that this process will result in cancellation of some of the Contracts and she feels that the property tax adjustments for those situations will offset new Contracts. She further advised that they sent out about 167 questionnaires.

(M)Bibby, (S)Allen, Res. 10-555 was adopted approving LCA No. 2010-104 with findings and condition as recommended; and finding that this is CEQA exempt/Ayes: Unanimous. The hearing was closed.

14

Planning

PUBLIC HEARING to Consider the Adoption of a Resolution Approving Lot Line Adjustment No. 2009-122, Land Conservation Act (LCA) Contract Modification No. 2009-134, and Land Conservation Act Contract Modification No. 2010-031; Hornitos Ranch, LTD (Parcel A and B of Lot Line Adjustment (LLA) and Land Conservation Act Contract Modification No. 2009-134), and Greg and Robert Ichord (Parcel C of Lot Line Adjustment and Land Conservation Act Contract Modification No. 2010-031), Applicant: Walter Lewis, Agent.

The Lot Line Adjustment Project Adjusts the Boundary Between 3 Parcels, APN 011-260-015 (5.04 Acres Existing/7.99 Acres Proposed), APN 011-260-016 (159.31 Acres Existing/164.29 Acres Proposed), and APN 011-260-001 (1450+ Acres Existing/1442+ Acres Proposed). Since All Parcels are in Williamson Act (Land Conservation Act) Contracts, the Project Includes LCA Modification No. 2009-134 and LCA Modification No. 2010-031 to Modify Portions of the Existing Contracts (Contracts No. 18 and No. 82-2) to Coincide with the LLA

BOARD ACTION: Alvaro Arias presented the staff report and advised that the LLA adjusts the boundary between three parcels. Staff responded to a question from the Board and advised that there is no application on file for non-renewal for the affected parcels.

The public portion of the hearing was opened and there was no input. The public portion of the hearing was closed and the Board commenced with deliberations. Walt Lewis, agent for Virginia Scott, responded to a question from the Board relative to the history of parcel "A" and advised that it was part of the toll road that Fremont built. He advised the lot line adjustments are to correct old survey errors; and that they are trying to divide the land for the four children.

(M)Bibby, (S)Allen, Res. 10-556 was adopted approving Lot Line Adjustment No. 2009-122, Land Conservation Act Contract Modification No. 2009-134, and Land Conservation Act Contract Modification No. 2010-031 for Hornitos Ranch, LTD with the recommended findings and processing conditions; and finding that the project is exempt from the provisions of CEQA/Ayes: Unanimous. The hearing was closed.

Consent Agenda

- CA-101 **Administration**
Approval of Summary of Proceedings of November 16, 2010, Regular Meeting;
Approval of Summary of Proceedings of November 22, 2010, Continued Meeting
- CA-102 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140
Enroute to Yosemite National Park; Res. 10-544
- CA-103 **Administration**
Receive the List of Contracts Entered into by the County of Administrative Officer
Pursuant to Ordinance 3.08 for the Months of July, September, and October 2010
- CA-104 **Public Works**
Authorize Budget Action Transferring \$111,013 from the Don Pedro Wastewater
Treatment Plant Capital Improvement Fund to the Don Pedro Utility Capital Fund
(4/5ths Vote Required); Res. 10-545
- CA-105 **Public Works**
Authorize the Public Works Director to Waive the Encroachment Fee for the Annual
Master Gardener Events on June 4, 2011, and September 24 & 25, 2011, held in
Cooperation with the Cooperative Extension/Farm Advisor; and to Refund the \$120
Encroachment Fee for the Event held on October 16, 2010; Res. 10-546
- CA-106 **Public Works**
Approve an Agreement with Thunder Ridge Company for Snow Removal Services for
the Fish Camp Area and Authorize the Board of Supervisors Chair to Sign the
Agreement; Res. 10-547
- CA-107 **Public Works**
Adopt a Mitigated Negative Declaration for Site Plan Review No. 2010-123,
Bridgeport Fire Station; Adopt a Mitigation Monitoring Program, and Authorize the
Director of Public Works to File a Notice of Determination; Res. 10-548
- CA-108 **Public Works**
Approve an Agreement with Ray Walker for an Unimproved Ground Space Lease at
the Mariposa/Yosemite Airport and Authorize the Public Works Director to Sign the
Agreement; Res. 10-549
- CA-109 **Agricultural Commission**
Approve Sudden Oak Death (SOD) Program Agreement No. 10-0624 for the Period FY
2010/2011 with California Department of Food and Agriculture (CDFA) and Authorize
the Board of Supervisors Chair to Sign the Agreement; Res. 10-550
- CA-110 **Library**
Approve Memorandum of Understanding (MOU) with Merced County for Literacy
Support and Authorize the Board of Supervisors Chair to Sign the MOU; Res. 10-551

- CA-111 **Sheriff**
Approve Budget Action Increasing Revenue and Appropriations in the Boating Safety Budget by Accepting Unallocated Funding from the Department of Boating and Waterways (\$6,002) (4/5ths Vote Required); Res. 10-552
- CA-112 **Human Services**
Appoint Angelina Brouillette as a Community Member-at-Large, to First 5 of Mariposa County for a Term Expiring December 7, 2013
- CA-113 **Planning**
Approve Format of Resolution Granting Appeal No. 2010-82, Overturning the Planning Director's Determination Regarding a Portion of Certificate of Compliance Application No. 2009-037 for Six (6) Certificates of Compliance. Property Owners and Appellants: Hornitos Land Company LLC/Steve Sloan. Project Site is APN 011-080-010; Located East of Bear Valley Road in the Town of Hornitos; Res. 10-553
- CA-114 **Chair Cann**
Adopt a Resolution in Support of Legislation Which Would Remove the Sunset Date for Vehicle License Fee Funding of the State Local Safety and Protection Account and Authorize the Board of Supervisors Chair to Sign Letters to Local Legislators Supporting Said Legislation; Res. 10-554

The Board recessed at 2:42 p.m. in memory of Lisa Marie Ball-Casner, Howard Wright, Margaret Dunn, and Patrick Thistle; and continued the meeting to Thursday, December 9, 2010, at 9:00 a.m. for the continued public workshop to consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSACOUNTY BOARD OF SUPERVISORS



SUMMARY OF PROCEEDINGS
December 9, 2010
(Meeting Continued from 12-7-10)

Folder Time Description

9:06 a.m. Meeting continued from December 7, 2010, was called to order at the Mariposa County Government Center.

Pledge of Allegiance

24

Planning

CONTINUED PUBLIC WORKSHOP to Consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan. The Purpose of the Continued Workshop is to Consider the Information Prepared by Staff Regarding the Issues of Concern Identified and Discussed at the Workshop Conducted on August 14, 2010. Staff has Prepared a Matrix with Optional Actions the Board may Consider Regarding each of these Issues. An Opportunity will be Provided for Further Public Comments on the Plan Focusing on the Options in the Matrix. Questions and Discussion will Occur. Direction to Staff May be Given as a Result of the Workshop (Continued from November 22., 2010)

BOARD ACTION: Kris Schenk/Planning Director; Sarah Williams/Deputy Planning Director; and Andy Hauge/Hauge-Brueck Associates were present. Chair Cann referred to the schedule and advised that the Board does not plan to meet past 5:30 p.m. today, and can reconvene on Monday, December 13, 2010, if necessary. Kris Schenk commented on the timeframes for coming back with the revised Plan (with changes as directed by the Board), and advised that they will have a better idea at the conclusion of this process when they know what changes need to be made – he suggested that it will probably be in February 2011.

Supervisor Turpin referred to Issue No. 10/air quality standards (greenhouse gas regulations; AB 32 and SB 97), and he requested that the Board review the remaining issues and come back to this one, and that the Building Director provide input.

Kris Schenk referred to Issue No. 12/“to do” list for Planning staff and chronology for development of required implementation plans and programs for Catheys Valley and for General Plan; and he noted that the agricultural related policies will be handled with the General Plan’s implementation measures. Andy Hauge advised that there are two remaining items in this issue: to update the zoning text to implement the CVCP; and to process the Design Review Guidelines. Discussion was held relative to the process and timeframes for completing the implementation measures for the CVCP, the General Plan and review of Title 17.

Discussion was held relative to the action taken for Neighborhood Commercial 1 and 2; clarification that the ridgeline policies apply to existing and future parcels and relative to the preparation of the design review criteria that is listed in the appendix – the criteria is to be prepared after the Plan is adopted; relative to section 7-4/compact car spaces not being counted toward meeting the parking requirements – Sarah Williams advised that the Planning Advisory Committee (PAC) felt that the majority of the residents in Catheys Valley drive large pickup trucks and that parking should be designed accordingly; and relative to updating the Residential land use language pursuant to direction given by the Board.

Input from the public was provided by the following:

Don Starchman, Starchman & Bryant Law Offices, referred to the zoning issue and stated he feels that the map needs to be reviewed. He feels assurances were given in the past that people will not be down-zoned, and he noted the colors on the map have changed affecting specific parcels. He feels that there needs to be findings and reasons and notification given before changes can occur. He stated he would be happy to review the specific cases with Planning. He stated he does not feel that the Board and the public are prepared to discuss the Design Review Guidelines today. However, he feels that Rita Kidd brought up a good issue about the 5,000 square-foot building requirements – he feels that this invites projects that will not be done creatively and aesthetically pleasing; he feels it is inviting strip mall type-design; and he feels there needs to be some flexibility. He noted the population and building intensity language is in the text (section B.4 Population Density and Building Intensity) and he feels it needs to be addressed.

Rita Kidd referred to the discussion of whether this is additional workload for staff and waiting for Title 17 to be updated; and she referred to the exercise she walked through at the last meeting relative to Rural Economic Commercial. When she asked the question about how the General Plan specifies what commercial can be where, the answer was it is to be defined within the area plans. She advised that she has reviewed this and discussed it with their land use counsel, and it is felt that this is not just an issue of implementation of Title 17 – that the General Plan is not complete until area plans are written. It is the area plans, when they define their diverse needs with regards to commercial that will dictate Title 17. She feels that this County can not approve a commercial enterprise or a resort commercial enterprise within any interim community center (ICC) that is designated in the County's General Plan without a Conditional Use Permit. There is no permitted commercial in those ICCs today. She counted 7 or 8 out of the 16, and Catheys Valley is only one of those; and she stated this means that we have impacted for four years the ability of enterprises that might want to open commercial businesses in this County by not moving ahead with these community plans. So for a handful of potential developers in Catheys Valley, we have entered a political climate that has depleted the County's ability to improve and increase its economy and to provide jobs. She feels that has to be understood and if it is not understood, that it might take an extra workshop between this Board, staff and the outside land use counsel. She was surprised because three of our area plans have rural economic lands in them, so the idea that rural economic was only for areas outside of community plans didn't make much sense. So she went back to the EIR and the EIR did not study the impact of any commercial or industrial development in this entire County. She referred to the responses to comments in the General Plan where it alludes to commercial and industrial within the area plans, but it does not discuss the extensiveness of them; and she asked how the EIR could have evaluated that; and she found that the response was that it didn't. For those areas that were within existing TPAs that have been adopted, it did; and for those areas that have ICCs, once the area plan is completed and the level of commercial and industrial in those areas plans is done, new environmental reviews will have to be completed. She feels that we are at a very serious stage, politically, economically, and legally on this issue. She agrees with what Steve Fortner said at the last meeting that there has been an effective moratorium on all commercial development in the planning areas. She presented a letter from the Friends of Community Planning that was prepared before the November 15th meeting – it goes through all 37 items and provides their position. She doesn't feel that anything in issue 12 was additional workload for staff. The workload that was described in the General Plan and mandated by the General Plan or State law, is in fact, concurrent workload. She presented a letter from Rita and Tony Kidd and advised that it doesn't represent anyone other than themselves – this letter talks about the process and contains a summary of every set of minutes that is available in hard copy from 1994 to 2009.

This shows the amount of public input and how the PAC dealt widely and openly with that public input, and the people who spoke and what they said at the various stages of the process. She noted that some of the most vocal people are not listed in those minutes as having made public comment.

Steve Saunders referred to issue 12 and the design review guidelines implementation measure, and he stated he does not know the extent to which the PAC would be qualified to give design review recommendations and he does not feel that it would be in the best interest of the community. He would like more professional people, planning and public review in this process. He referred to the appendix for design review of new structures and additions to existing structures, etc., and he expressed concern with the language (page 7-1). Andy Hauge clarified his comments relative to the design review guidelines and clarifying that language. Steve Saunders referred to the CVCP, page 5-13, section B.3/consistent zoning districts and stated he does not have a good explanation of what this means. He feels that the language is a problem throughout the Plan, and it is difficult to determine what is really being said. He stated he feels that the rural home businesses and AE businesses all have an aspect of being commercial. Then there is a part with thresholds that a certain amount of activity pushes you from that site to another site that is designated strictly commercial, and that was his point with having too little commercial space designated in the ICC earlier – he feels that this could result in people being pushed out. He agrees with being a ranch community and rustic design and is fine with that for the commercial area. He would like the language to be clear in the Plan. He referred to Rita Kidd's reference to Board Resolution No. 03-438, and duties of the PAC; and he feels that a lot of this process has had the cart before the horse. He feels a lot of anxiety could have been avoided if there had been zoning and design review along with implementation regulations or policy document.

Jim Fortner stated he agrees with Rita Kidd that the CVCP has to be adopted before anything can be done in the community; and he feels that this has hurt the economy of the local area and of the County. He understands the concerns that have been expressed, but suggested that the CVCP embrace the design review guidelines in the General Plan. He further suggested that for any specific project going forward, that it have specific guidelines that would be reviewed. He referred to their Vallecito Plan and feels they have those guidelines and advised that they are okay with going through a public process and receiving community input.

The public portion was closed on this issue and discussion was held. Staff responded to questions from the Board and agreed that the General Plan applies until and unless it is specifically changed by a more intense requirement. Andy Hauge advised that the General Plan has design guidelines within the Rural Economic land use designation and this designation does not exist in the CVCP. So in this case, the text in Appendix B of the CVCP provides that guidance. Supervisor Bibby asked for the locations in the County that are designated as Rural Economic, and discussion was held relative to the locations – Woodland, Squirrels Nest (formerly Exit Realty), Bug Hostel, Ocean Sierra, Lushmeadows, Woodland Store, Hazel Green, and Black Oak Market. Sarah Williams responded to Mr. Saunders' request for clarification of the language in section B.3/consistent zoning district; and she advised that each land use has to list the purpose and extent of uses and consistent zoning districts. She referred to the overall land use map and noted that there are far fewer colors on that land use map than we have zoning districts. They have identified all of the zoning districts that would be consistent with that particular land use, and it is very typical that, even in the Agriculture/Working Landscape that there are a multiple of zones that are found to be consistent; and in the Residential Land Use there are multiple zones that are found to be consistent with that particular land use. So if an applicant wanted to amend just the zoning that applied to their property, staff would look at the land use and determine whether or not that desired zone is consistent with the General Plan land use; and then

they would look at the site characteristics to determine whether or not that zone was appropriate. Supervisor Cann referred to the question raised about parcels that were changing from one zone to another and that the combination of Title 17 and the General Plan have a fairly specific and arduous process that is required for that to happen; and he asked for information on what is being done with this Plan where those lines change. Sarah Williams noted that there was a lot of discussion in the General Plan process about parcels that had split zoning and split General Plan classifications, and she recalls that there was a decision that if a parcel was over 40-acres in size, it could actually in the General Plan process have two land use designations – this could be of benefit to the property owner. In Catheys Valley, there were some parcels that had split zoning and the PAC looked at those parcels, and there were some parcels that were non-conforming relative to size – so there are a few parcels that went from either split AE/Mountain Home to all Residential land use and one went from AE to all Residential. Staff could review the map and identify each individual parcel for discussion. She further noted that just because a parcel has a Residential classification, and if it has split zoning, doesn't mean that it changes the zoning automatically. An applicant would still need to request a zone change if it wanted to subdivide the whole of the property to perhaps five-acre parcels. Chair Cann stated that the Board is essentially looking to give staff direction to move forward with the zoning corrections and to clarify text with regard to what is covered by design review guidelines; and the second item will be subject to Planning coming back with workload information and planning – but we are not prohibiting that any specific design action happen, we just have a goal of acting on the General Plan and we can make those priorities known during the workload review. Kris Schenk clarified that they will show this as a short-term goal. Supervisor Turpin clarified on the second bullet that the design review is only addressing the commercial area. Supervisor Bibby noted that it would include commercial, institutional, and ridgeline – wherever design review guidelines pertain. Kris Schenk stated they understand the direction applies to existing parcels on a very defined number of properties and it would also apply as noted by Supervisor Bibby; and he referred to the map that was distributed earlier showing areas in excess of 15-percent slope. Andy Hauge advised that when you look at ridgelines for those parcels with slopes over the 15-percent, you will look at the guidelines that are in the General Plan – but those are not the same review guidelines that are contained in Appendix B or dealing with commercial, it is two sets of design review standards – one for commercial, institutional, and one for ridgelines pursuant to the General Plan.

(M)Bibby, (S)Aborn, to proceed with the first two items of issue 12 in the short-term planning range, and with staff to provide information on the costs and timeframes. (The first two items are: 1) prepare Catheys Valley Zoning Text, including Catheys Valley Residential Zone, Rural Commercial Zone, and site development standards; and 2) prepare and process Design Review Guidelines for Community Plan for processing and adoption (ordinance).) Discussion was held. Andy Hauge clarified the project review and design review – the ridgelines will be treated pursuant to the General Plan, but existing parcels in Catheys Valley will be included and that will come under discussion in the CVCP, but not in the design review guidelines. Supervisor Bibby clarified that design review includes any design review policy that you want implemented with a review of the actual grade of the specific project and not just based on the map. The purpose of the map was for reference. Andy Hauge responded. Ayes: Unanimous.

10:34 a.m. Recess

10:54 a.m. Issue No. 13: Policies and implementation measures to preclude formation of a community sewer or community water system (what about a “shared” system – 2 parcels) – Discussion was held relative to the language in the

CVCP that precludes community sewer and water systems and whether there should be options for shared systems. Sarah Williams advised that discussion needs to be held on this issue with the minimum parcel size for Commercial land use and given the direction taken at the last meeting. Chair Cann and Supervisor Bibby asked that the input from the public include reasons and their preference.

Input from the public was provided by the following:

Steve Saunders asked why have a prohibition on community systems.

Tracy Guenthart, member of the PAC, urged that the language be left the way it is presented with no community or shared systems allowed. She cited problems that have occurred with shared systems, especially when a parcel changes ownership, and her personal experience with a well going dry – she feels that each parcel should have its own water and sewer system.

Debbie Lester stated she is in favor of each parcel having its own system, and she feels that any existing shared systems could be grandfathered in. She does not feel that there are enough Sheriff's deputies to cover the disputes that could occur with shared systems. She does not feel that anyone would be in favor of metering and that is what would result from a shared system. She responded to a question from the Board concerning the possibility of shared systems for commercial use, and she advised that she does not know how that use would be sorted out – she is looking at residential use.

Steve Saunders stated he could see a prohibition for any new parcels that are created, but he is concerned with the legally existing parcels that may not have enough room for individual systems. He feels it is reasonable to put a meter on each house/connection.

Rita Kidd stated she feels the issue of the 5,000 square-foot building maximum needs to be addressed. She feels that it would take a General Plan amendment to change the text; she noted the greenhouse EIR did not study community water/sewer systems; and she feels the intent of the Board was to limit the costs for this Plan and they have been increased significantly and this would create additional costs. She presented a spread sheet she created from Ken Schmidt's water study of the Fortner property and the neighboring area, and she advised that she obtained the study from the internet in early 2000. She expressed concern and asked that due consideration be given to the impacts on the neighboring properties, and she feels that those impacts need to be minimized by considering parcel size and shared systems. She suggested that Ms. McLaughlin present the demonstration that she has given to the schools relative to water to the Board. She referred to her personal experiences with impacts to her water when the neighbors watered their pasture for three days. She responded to a question from the Board relative to consideration of shared systems, and she advised that she feels the water availability situation is different in Catheys Valley than in other areas of the County. She feels that if she runs out of water, and if she can work out an agreement with a neighbor, that should be allowed – but that is different than pre-planning for a shared system.

Philomene Shultz stated she has a working cattle ranch in Catheys Valley and she has never had a water problem, and she noted she uses a solar system for a well for her livestock. Another part of her land is beyond what is served by electricity, so she uses a windmill, and she has had no problems with water. She feels that they have property rights and that should include water rights, and that shared systems would be a solution for those with a lack of water. She supports option "c" – remove the limitations on shared water and sewer systems.

Caroline Wenger Korn stated her family has lived on their property for 100-years with a minimum amount of water – they own less land now, and the County has already issued permits for water for two additional parcels in the area that will probably affect her water strata. She feels the State law would allow her to try and reach agreement with the neighbors if they take her water, or she would have an option to sue. She feels this is a property rights issue, and this is a serious concern for her and for

her neighbors in the Catheys Valley area. She advised of her discussion with Steve Fortner relative to the varying availability of water in Catheys Valley.

Mark Harris, Yosemite Falls Well Drilling, suggested that if Ms. Korn had a deeper well, she would probably have adequate water. He feels community water systems will stop contamination and take less water out of the ground, and he feels that this option should not be prohibited. Plus, he noted a community system can reduce costs for people over individual systems. He agrees that Rita Kidd probably has a water issue, but stated the neighboring areas are doing okay. He noted that financing sometimes requires an individual system. He feels that everyone could have water, but agreed that it is more difficult to find water in some of the areas. He further noted that they do not know if the old wells were properly installed with seals, and that may be a factor with the water impacts and contamination problems. He referred to a recent well he drilled for the County and pump tests. He stated he does not feel that it is a bad idea to drill one well for every four lots, and the water could be metered like is done in Montana de Paz.

Anita Starchman Bryant, Starchman & Bryant Law Offices, stated she is representing the F.E. & M. Engineering Employees Defined Plan and the Eugene and Dolores Fortner Family Trust. She stated she feels that you can have as many connections as you want, but when you go over four connections, you become regulated by the State for water quality. She questioned if the entire Catheys Valley area is going to be penalized for a few – she feels that this should be a case-by-case decision as projects are brought forward. She still does not understand how it is environmentally better to have multiple leach fields and wells when you can do a shared system and State oversight of the water quality when you have five or more connections. She asked what will happen to the small parcels when their well or septic fails. She advised that she asked Attorney Petrulakis' firm to help with the issue of not allowing a community system, and she feels that the County should be wary of not following the State's standards and the County should not ban shared uses. It appears to them that this preclusion is a disguised building moratorium. She referred to the existing water storage tank (owned by Fortners) and requested that the prohibition be removed as she feels the County may inadvertently be running afoul of State law – she feels this system should be grandfathered.

Jim Fortner suggested that this is not the forum to argue whether there is enough ground water. He noted the water tank has always been a lightning rod for the entire Plan. The tank was installed to have a community water system and can be used to meet the new sprinkler requirements. He referred to the wildfire that threatened Mariposa and noted that individual wells are reliant on electricity; however, the water tank could be used to supply water in the event of a wildfire in the area. He feels that community systems should be allowed for the health and safety of the community.

Don Starchman, Starchman & Bryant Law Offices, stated he feels the issue is purely health and safety, and this is the number one reason for County government to exist and function. He noted that there is no restriction like this anywhere else in the County, and there is nothing in this document that any effort was made to look at the effect if the water tank is closed, such as ISO ratings for insurance. He stated he doesn't think that CalFire or the County Fire Department was invited to provide input on this. He feels the water tank would not only protect the Fortner property, but the property of everyone in the area. He feels that the Health Department prefers to have a public system, and there is no testing for private wells. He feels that if a well runs dry or becomes contaminated, there should be an option to share water. He feels that the water tank system should be allowed to be used – he feels this whole Plan is to stop the Fortner project, and he feels that they should be able to come forward and present a project and it does not mean that it will be approved. Otherwise, this Plan would constitute a "taking" of the investment by the Fortners. He noted he has drawn up agreements for shared wells and he has not had any problems. He noted that people in

the Foresta area were allowed to rebuild after the fire only because shared systems were allowed. Jim Fortner responded to a question from the Board relative to the status of the use of the Fortner water tank, and he advised that it is to provide water to a commercial building. Don Starchman noted that the tank was fully permitted and has been made available to the Fire Department. He further noted that they have waited for the General Plan to be adopted, and then the CVCP, so there is still not an approved project for the Fortners. Supervisor Bibby asked staff whether CalFire was precluded from commenting on the Plan, and commented on input she had received relative to water availability at the station and with CalFire. Don Starchman questioned whether the County would want a water tank on each parcel versus allowing the use of the existing tank.

Jim Fortner further responded to the questions from Supervisor Bibby, and he advised that the water tank does not serve the commercial building that Karl Baumann built. His father was working in cooperation with Mr. Baumann and built the tank, but they did not need it. Mr. Fortner saw that this was going to be a requirement for development and built the tank.

Tim Miller, Miller Planning and Design of Sonora, stated he feels that we need to look at the Plan and the policies in the Plan which will set the use and parcel size, and it does not make sense to preclude a service option. If the shared systems are prohibited, you will not be able to evaluate this possibility with a project. He noted he is working on a project and this is not part of the design; however, if it is approved as an option, they may reconsider.

Tracy Guenthart asked for clarification of Don Starchman's statement that the water tank was installed legally with a permit. She noted that former Planning Director Toll said the tank went in under the table at a PAC meeting. Chair Cann advised that the clarification could be provided, but that the tank is not a part of setting policy for this area.

Rita Kidd asked that the appeal be rejected that was made that there was an investment in that tank and relative to the ability to put it to use; i.e., the tank has to be invisible on both sides. She feels that we need to discuss and decide if we are going to throw a provision out of the Plan for a developer. When someone comes in with a development project, they need to come in with specifics. She referred to the Diablo Canyon Fire and of her discussion with CalFire – they were running their water tenders and they could not get pressure from the hydrants. She does not feel that there is anything to prevent the water system from being used on the Fortner property if this is a viable system, and he can share that system with others without it becoming a public water supply. After listening to Mr. Harris, she feels that we need to update our water and pump standards. She noted that Fresno County recently came up with new standards and she will share this information with the Board. Chair Cann clarified his statement relative to the water tank being invisible, and he stated he feels that the policy needs to be made on good land use/management practices.

Bob Stark asked what size of water tank will be needed for commercial use; and he noted the plastic water tanks will not survive a fire. He feels the tank that is there should be considered.

Joe Simon stated he feels that we will have a water war because there isn't enough water. He referred to information he previously provided on the Colorado River water level going down. He referred to his personal experiences with the old concrete watering troughs and wells going dry, and problems neighbors are experiencing with water and wells going dry – they have to drill deeper. Chair Cann asked whether it is better to drill more wells or to drill deeper and share.

Philomene Schultz advised that she adjoins property with Joe Simon and she does not have a problem with water. She suggested that maybe it is not the water, but the well driller, and she said she is willing to share water with Joe Simon.

Rita Kidd referred to her discussion with Ken Schmidt relative to shared systems versus individual wells. When he did the study in Eastern Madera County, he developed a different perspective of shared systems – “if you want development and you have no other options that may be that is the only option you have.” That is a policy decision versus the old conventional wisdom of a shared system.

Anita Starchman Bryant referred to Rita Kidd’s comments, and she stated we are not talking about allowing for intense development – the type of development and parcel size has already been determined. She agrees with Mr. Miller’s comments that options should be available to serve those defined land uses. She agrees with Rita Kidd that this is a provision for the whole area, and we should not throw out the community systems for those who do not have water. It would be good to be able to use the existing tank. She read a statement from Timothy Bennett of Jones Helsley PC, and she provided a copy, saying that if the ordinance is passed banning shared systems, it will take away an important planning tool.

Rita Kidd noted Neighborhood Commercial permits 2 1/2-acre parcels, but with a water or sewer system – 1-acre parcels are allowed; and with water and sewer systems – 9,000 square-foot parcels are allowed, and that has never been studied.

Don Starchman asked for clarification of the 9,000 square-foot lot size allowance. Sarah Williams responded with information contained in County Code section 17.76 relative to minimum parcel sizes for Neighborhood Commercial Zone. Don Starchman noted that there is no mention of a 9,000 square-foot lot size. He stated he does not feel that we should try to force a well and septic system on 1 or 2 1/2-acre parcels. We should have options and allow for well-thought out projects to be reviewed by the community and by the County. He does not believe that these restrictions would be held up by the courts. There is no testimony or evidence that there is any need or requirement for this policy. He feels that this needs to be left out, that we need to leave options open for good planning. Sarah Williams noted that the TPA zone allows for 9,000 square-foot lots.

The public portion was closed on this issue and discussion was held. Supervisor Turpin asked whether there is a structure for a private water association. Sarah Williams responded that there are not many locations in the County that allow development of smaller parcels with development of a community system. In the town of Mariposa, there is a requirement to connect to MPUD. However, there is a provision in the General Plan that gives the opportunity for an option. Supervisor Turpin clarified that there is nothing in the documents that would prevent a private association. Supervisor Bibby noted that this language has been in the Plan and nothing has come up before that this is inconsistent with State regulations. Kris Schenk advised that they will review to see if there are any legal issues with the language. Supervisor Bibby commented on the issues that have been raised relative to water availability and noted that the Plan can be amended in the future and that there would be an opportunity to create an emergency variance process to address existing residences for providing water. Andy Hauge referred to the health and safety issues that were raised and noted that this Plan only talks about the future/new subdivisions, there is nothing to prohibit existing parcels from getting water. Supervisor Bibby suggested that consideration be given to going back to the 5-acre minimum parcel size to allow parcels to be self-sustaining. Supervisor Cann provided input and stated he does not feel that 100 individual septic systems are better than one treatment plant, and the same for wells. He feels the real issue is prohibiting density and that should be done by parcel size. Andy Hauge responded to his question, and advised that he is not aware of any other plan in the State that prohibits community or shared systems. He further responded that under the CEQA process, CalFire and State departments are provided notice and given an opportunity to comment on the Plan, and that no comments were received. Supervisor Bibby asked about impacts to the EIR if the language is changed, and she referred to the petitions and survey of the people in Catheys Valley and noted that they

did not want to join a community water or sewer system. Andy Hauge responded that a decision has been made that the EIR will need to be recirculated – the issue is with the density and needing more specificity. Supervisor Cann clarified that if community systems were allowed, there is nothing that would force existing houses to become a part of those system(s).

Motion by Turpin to remove the limitation on shared water and sewer systems based on information in the General Plan and the information received from Health Department staff at the last workshop session, died for lack of a second.

(M)Bibby, (S)Aborn, to proceed with no change to the text in the draft Plan, failed by the following vote: Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen.

Further discussion was held. Staff responded to questions relative to allowing emergency variances for existing uses; and relative to distinguishing between standards for new subdivisions and existing parcels.

(M)Turpin, (S)Allen, direction was given to proceed with what is permitted today – up to four connections in Residential Land Use, existing or new parcels; that no community systems be allowed; and that the Commercial Land Use be dealt with separately/Ayes: Turpin, Cann, Allen; Noes: Aborn, Bibby. (This matter was further considered after lunch.)

1:05 p.m. Lunch

2:25 p.m. Chair Cann asked for clarification of the last motion and whether waste water systems were included. Supervisor Turpin stated his motion was intended that there be no community water or sewer systems and he referenced Commercial Land Use. County Counsel suggested that the Board reach a consensus of the motion. Discussion was held. Sarah Williams questioned whether the motion included new or existing parcels or both; and advised that the text in the General Plan for sewage disposal systems in the Residential Land Use is different than the proposed text in the CVCP. Discussion was held. Supervisor Aborn asked whether a septic could be shared, and staff advised that it could as long as it is engineered properly. Sarah Williams clarified that the General Plan's allowance is for new parcels and it is silent on existing parcels. Supervisor Turpin stated he feels that the language in the CVCP needs to be compatible with the General Plan for septic; and he stated his motion was for water systems. Sarah Williams stated she feels that clear action was taken concerning shared water in the Residential Land Use; but action needs to be taken on waste water and the Commercial Land Use.

Chair Cann called for input from the public on the community waste water system issue, and the following people spoke:

Jim Fortner stated he does not understand the concern with having community waste water disposal as there are benefits such as being able to recycle the waste water for landscaping. He further noted that it takes a number/size of development to make it affordable to have a community system. He stated this is not being forced on existing residents, but is a concept for new development.

Steve Saunders stated he was at the waste disposal system for the KOA Campground in Midpines, and he noted the recycled use of the water in the landscaping. He does not want to see the systems precluded because we might know of something better in the future. He feels it is reasonable that smaller parcels adjoining each other should be able to have a shared system.

Fred Friedland stated he still has a problem with seeing a town being built with the discussion of shared systems, and he is concerned with the costs to the people. He feels that things can be changed in the future, but that the existing language should remain for now. He feels that Catheys Valley should be kept rural, and noted that we have a town in Mariposa.

Debbie Lester suggested going back to the original language of 5-acre lots and this would not be a problem as there would be adequate space for individual water and septic.

The public comment was closed on this issue, and discussion was held. Staff responded to a question from the Board as to whether septic issues have been a concern since the adoption of the General Plan; and staff advised that most of what is processed is in the Mountain Home Land Use for residential with 5-acre minimum parcel sizes. Staff advised there was a situation where a system failed and an easement was granted for the septic to be placed on an adjoining parcel.

(M)Bibby, (S)Aborn, to go back to 5-acre minimum parcel size, failed by the following vote: Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen.

Motion by Turpin to use the language in the General Plan for waste water system in the CVCP for Residential Land Use for new subdivision and for existing parcels, was withdrawn for further discussion.

Sarah Williams noted that the General Plan text refers to community sewage disposal, and discussion was held relative to using "shared" versus "community." Discussion was also held whether restrictions should apply to existing parcels and/or new subdivisions, and whether it is an individual or a community system that will not be allowed.

(M)Bibby, (S)Aborn, direction was given to make no change to the text in the CVCP relative to waste water. Supervisor Allen clarified that this is for new subdivisions only. Supervisor Cann clarified that existing parcels would fall back to the General Plan language, and Sarah Williams advised that the text in section 5.3.02 may need to be adjusted to reflect this and to be consistent. Supervisor Bibby restated the motion that waste water has to be on site for existing and future parcels, and this was agreeable with the second to the motion. Andy Hauge responded to a question from the Board as to what the intent of the PAC was and relative to the inconsistent language, and he advised that at some point direction was given to use language from the General Plan and it was not consistent with the CVCP and the text is there in error. Supervisor Cann stated he felt this motion would not allow an existing parcel that has a system failure to go off-site for a replacement. Supervisor Allen stated he is okay with the language for new subdivisions, but disagrees with applying it to existing parcels. Discussion was held. Supervisor Bibby modified the motion to state that it is for future development, and is silent on existing parcels which is consistent with the General Plan and this will only apply for special circumstances; and this modification to the motion was agreeable with the second to the motion. Ayes: Aborn, Turpin, Bibby, Allen; Noes: Cann, as he does not feel that this is good environmental decision making.

Discussion was held as to whether shared water or waste water systems should be allowed in the Commercial Land Use designation. Andy Hauge responded to questions from the Board relative to the maximum building intensity, and he advised that 33-percent of the parcel can be covered with a maximum single building size of 5,000-square feet. He further responded that "coverage" as defined in the General Plan constitutes the building and roof coverage area. Discussion was held relative to minimum parcel size.

Input from the public was provided by the following:

Don Starchman stated he does not feel that good planning should have the 5,000-square foot building size limitation, or he feels that we will have a series of smaller or two-story buildings spread out on a project. He would like to see the size increased to 10,000-square feet and he feels the economy will control this. He feels we need to have access to the water tank, and if the Board does not like the term "community" that perhaps "shared" could be used. He feels the water tank will be needed to meet the pressurized sprinkler system requirements, and he noted the tank does not depend on electricity. He referred to the parcel size issue and using the

Neighborhood Commercial 1 and 2 language; and he is okay with 2-1/2-acres if it is a stand alone system. He feels the LeDuc 7+/- acre parcel split that occurred previously used a “community” system.

Rita Kidd stated if she had a 2-1/2 acre parcel with 33-percent coverage, it would allow for a building of about 39,300-square feet. If a 26-acre Commercial Land Use parcel was divided into 2-1/2 acre parcels, you could have ten parcels and she calculated the amount of square footage of building space that would be allowed. She feels the Board needs to determine what kind of intensity it wants; and she asked that the Board stay with the 5-acre parcel size, with a minimum of 2-1/2 acres.

Jim Fortner commented about a large development going in on a 26-acre parcel, and he feels the point is that the commercial area is for expansion room for rural residential businesses that grow. The idea should be to have smaller parcels so an owner-operator can purchase land and build their own business. He asked that parcels be kept at the 1-acre minimum size.

Don Starchman noted that there are setback, parking area and driveway requirements that have to be met, and the economy will control a lot of this as well as physical constraints of the parcel. He agrees with allowing smaller parcels so someone can afford to buy them and have a “mom and pop” operation and live above the store.

Steve Saunders referred to the commercial building area, and he stated he feels that anyone taking a risk of building will want a viable and sustainable project and will not overbuild. He commented on the roof coverage issues.

Tracy Guenthart urged the Board to use the text in the CVCP for commercial.

Linda Dinnel referred to the commercial use issues and stated she does not want to see a lot of change – she wants to see a village concept with off-site parking. She feels that light industry is okay with off-site parking, and those uses would bring jobs. She does not want to see a lot of blacktop, but would like to see cobblestone. She feels that people should be able to submit plans for review and work out the details – it is difficult to visualize everything now. She feels that the Light Racing business has been a good example. She feels there should be nice landscaping along the road.

The public comment was closed on this issue, and discussion was held. Andy Hauge responded to questions from the Board relative to the acreage for commercial uses and noted that the Plan started out with a minimum parcel size of 5-acres.

(M)Bibby, (S)Aborn, to stay with the language in the CVCP, with 5-acre minimum parcel size, with 33-percent lot coverage, and with 5,000-square foot maximum single building size, failed by the following vote after further discussion: Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen. Supervisor Allen noted that with this motion only one parcel selected to be in the Commercial Land Use designation would be conforming in size. Supervisor Bibby noted the parcels would be conforming in use, and she feels it is important that a town not be created in Catheys Valley if we want Mariposa town to survive.

Further discussion was held relative to the lot size issues.

(M)Bibby, (S)Aborn, to go with 5-acre average, with clustering of 2-1/2-acre minimum parcel size, with on-site septic and water and with not allowing any community systems, with keeping the existing language of 5,000-square foot maximum single building size and 33-percent lot coverage, failed by the following vote after further discussion: Ayes: Aborn, Bibby; Noes: Turpin, Cann, Allen. Andy Hauge responded to questions from the Board relative to being able to use the water tank, and he advised that the land owner could use the tank on his property, but he does not know if the water is potable.

(M)Allen, (S)Bibby, for the Commercial Land Use designation, the Board directed that 2-1/2-acre minimum parcel size be allowed; with on-site septic and water, but allowing up to four to share water; with the 5,000-square foot building language as contained in the CVCP; and with the 33-percent lot coverage language as contained in

the CVCP. Supervisor Turpin initiated discussion relative to allowing variances for the footprint of the 5,000-square foot building size. Andy Hauge clarified that there is a height limitation of 35-feet, two habitable floors and a roof. Supervisor Turpin clarified that the water is to be on-site, so he does not feel that allows for using the tank. Ayes: Aborn, Bibby, Cann, Allen; Noes: Turpin.

Supervisor Cann initiated discussion relative to being able to use the water tank if it meets code requirements versus requiring another system to be built. Sarah Williams commented it is possible to process a variance for a Zoning standard, but not for General Plan policy. She suggested that if there is interest in addressing this issue, that it should be considered at this time. Staff responded to questions from the Board and advised that a building permit was issued for the water tank, and that at this time the Board is silent on sharing water between commercial and residential uses.

Jim Fortner responded to questions from the Board relative to the approval process for the water tank. He referred to the permit and advised that the approval by the Planning Department was for commercial, industrial, multi-family dwelling site plan; and further down it says “possible water district usage.” Supervisor Bibby asked for clarification of the note at the top of the permit, and he advised that it says “This permit is not related to possible approval of water district for” – so it didn’t approve a water district. Supervisor Bibby stated she feels use would have to be reviewed, and he advised that it has not been before LAFCo for approval. He advised that the State would not approve their LAFCo application because they didn’t have a designated usage for the property, and that is because this Board would not approve their usage – and that is where they have been since 1996.

Supervisor Bibby suggested that staff come back with recommended language about how shared water between residential and commercial uses would work. Discussion was held. She noted the Board has not reviewed this particular tank and that the top of the permit states that it is not approved for potable water at this time; and she does not know if it would meet today’s standards. Supervisor Cann noted that the tank would have to go through all of the required certifications to be used; and the action taken today precludes an applicant from coming back and asking for use of the tank – and he would like to see the ability for sharing the tank with the commercial parcel, subject to the four connection limitation. Supervisor Bibby expressed concern about what would happen if the properties changed ownership. Andy Hauge responded to questions relative to sharing four connections, and whether it would matter if it is residential or commercial, and he is not sure if that includes agriculture; and relative to sharing the use of the water storage tank. He advised that staff could come back with the CVCP update with language that water can be shared between the residential and commercial uses, define what “on-site” water means better and what it means with on-site storage. He noted that this type of situation with the water tank could occur anywhere and consideration should be given beyond just Catheys Valley. Supervisor Bibby asked for recommendations and alternatives relative to this particular tank. Andy Hauge advised that staff needs direction whether to consider this tank only or the overall policy issue in the CVCP. He also advised that with the new Building Code sprinkler system requirements, we will see more regulations for storage tanks. Supervisor Aborn asked about the status of implementation of the new Building Code, and Supervisor Cann advised that the State Fire Marshall rejected all appeals and the changes are effective in January 2011. It was agreed that staff would bring back language as discussed relative to sharing water, both on residential and commercial, and with further defining on-site water and storage.

4:37 p.m. Recess

4:50 p.m. Motion by Turpin that if the landowner owns residential and commercial property, that there be an allowance to serve four hook-ups with water, died for lack of a second. Further discussion was held.

Issue No. 14: Language of zoning ordinance text to implement plan policies –

Andy Hauge advised that from the standpoint of land use designation, the Plan has been shaped. He feels the Board needs to look at two zones: 1) Community Residential 2 ½-acre parcels, and 2) Community Commercial within the ICC. The Board set standards with the Neighborhood Commercial and looked at Residential Land Use and others. The Institutional Land Use and Agriculture Exclusive stays the same. The Mountain Home Land Use stays the same except with the addition of language about the 5-acres adjoining Agriculture Exclusive land. He advised that staff will need to go back and check for zones with compatible uses. He recommended the “no change” option.

Input from the public was provided by the following on this issue:

Rita Kidd recommended that the Board not talk about a Catheys Valley zoning ordinance. She noted there is a lot of work around Title 17 to do, and that we need an ordinance in place to implement the CVCP. She feels the community plans need to be done and the Board could work on Title 17 with greater efficiency.

The public input portion was closed on this issue.

(M)Bibby, (S)Allen, the Board concurred with option “a” – no change/Ayes: Unanimous.

Issue No. 15: Requirement for “design review” for new and commercial and institutional development (Architectural design, site grading, landscaping, site design) –

Andy Hauge advised that discussion was held earlier relative to implementation and he feels the Board should review the text and policies.

Input from the public was provided by the following on this issue:

Steve Saunders referred to discussion that all references in the Plan would be deleted, especially for commercial and institutional development.

The public portion was closed on this issue.

(M)Bibby, (S)Allen, the Board concurred with option “a” – no change to text in the draft Plan/Ayes: Unanimous.

Issue No. 16: Outside storage/storage issues – Andy Hauge advised of options and existing language in the Plan.

Input from the public was provided by the following on this issue:

Ken Wagner stated he does not see any reason for people in Catheys Valley to have restrictions on storage containers when they can be used in the rest of the County. He noted there are already numerous storage containers existing in Catheys Valley, and the alternative is to go build a shed and that may not be as burglar-resistant. He responded to questions from the Board relative to using mobile homes and recreational vehicles for storage, and he stated he has an issue with old dilapidated mobile homes that are being used for storage. He feels that if they are in the right place and cared for, it could be okay; otherwise, he can understand having a restriction. He is mostly concerned with truck trailers and shipping containers. He further responded that he is okay with the language in the General Plan.

Steve Saunders stated he likes the options in the General Plan language with screening.

The public portion was closed on this issue and discussion was held. Supervisor Aborn noted that he uses the space between two shipping containers for a hay storage building.

(M)Turpin, (S)Aborn, the Board concurred with using the language in the General Plan for outside storage/storage issues. Supervisor Cann referred to Attorney

Abbott's discussion relative to referencing language and having a full document. Supervisor Bibby stated she feels this action will require enforcement of the screening requirements, and discussion was held relative to the need to consider enforcement staff. Ayes: Unanimous.

Issue No. 17: Increasing parcel sizes approaching agricultural uses – Andy Hauge advised that this issue was already dealt with.

Issue No. 18: Second dwelling units – Andy Hauge advised that the Board previously chose option “b” – include text to clarify that secondary residences are allowed in the Catheys Valley Planning Area; and that further consideration would be given to the size of the secondary residences. He suggested that the Board may want staff to address the size as a part of the Title 17 update.

Input from the public was provided by the following on this issue:

Rita Kidd stated she feels the “shared” water system should be considered with the State mandate of allowing second homes; and she asked how does this fly with the State law.

Steve Saunders referred to input provided by Dave Conway/Health Department that if there is a minor land division with four parcels that shared a well – that if three of the parcels had a house, and if someone wanted to add a secondary dwelling, they may need to have a separate system to serve the house and secondary dwelling.

Rita Kidd stated she feels that some of this issue with the secondary dwellings grows out of Issues 36 and 37 and they were corrected, so she feels this is done.

Tracy Guenthart commented on shared systems and that each situation would need an agreement between the individuals involved.

The public portion was closed on this issue.

(M)Turpin, (S)Aborn, the Board concurred with option “a” – no change to the text of the Plan. Further discussion was held. Supervisor Bibby asked about giving direction to staff at this time relative to the size of the secondary dwellings. Supervisor Turpin stated he feels this should be looked at with Title 17. Ayes: Aborn, Turpin, Cann, Allen; Noes: Bibby.

Chair Cann initiated discussion relative to the workshop process from here. Supervisor Turpin advised that he provided a copy of the proposed implementation measures for the Air Quality Standards/greenhouse gas regulations to the Building Director, and he will meet with Planning on Friday, to have information for the Board on Monday as to which items are also being required with the new Building Code regulations.

The Board recessed at 5:34 p.m. and continued the meeting to Monday, December 13, 2010, at 9:00 a.m. for the continued public workshop to consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS



SUMMARY OF PROCEEDINGS December 13, 2010 (Meeting Continued from 12-9-10)

Folder Time Description

9:05 a.m. Meeting continued from December 9, 2010, was called to order at the Mariposa County Government Center.

Pledge of Allegiance

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Planning

CONTINUED PUBLIC WORKSHOP to Consider General Plan Amendment No. 2008-63, the Catheys Valley Community Plan. The Purpose of the Continued Workshop is to Consider the Information Prepared by Staff Regarding the Issues of Concern Identified and Discussed at the Workshop Conducted on August 14, 2010. Staff has Prepared a Matrix with Optional Actions the Board may Consider Regarding each of these Issues. An Opportunity will be Provided for Further Public Comments on the Plan Focusing on the Options in the Matrix. Questions and Discussion will Occur. Direction to Staff May be Given as a Result of the Workshop (Continued from December 9, 2010)

BOARD ACTION: Kris Schenk/Planning Director; Sarah Williams/Deputy Planning Director; and Andy Hauge/Hauge-Brueck Associates were present. Kris Schenk recommended that the Board start with Issue No. 19 and continue with the remaining technical items, and then come back to Issue No. 10/greenhouse gas.

Chair Cann advised that he received a request from a member of the public to speak before the Board reviews the issues; and input was provided by the following:

Rick Uebner advised he joined the PAC to help the citizens with maintaining the rural character of community, and he is concerned with actions taken by the Board to make changes to the CVCP that was presented by the PAC. He appreciates Supervisors Bibby and Aborn for their support. He feels the PAC's work has been scuttled by the Board. He feels that the Committee members have worked in good faith and feels the Board has conceded to loud and vocal demands of a few. He announced that he is resigning as a member of the PAC as of this date. He is concerned with the impacts the decisions will have on the community.

Timothy Bennett expressed concern with the Board's workshop process which has resulted in changes in votes on items that were already considered.

Steve Saunders commented on the process for the CVCP and expressed concern that a disputed boundary size is in the Plan. He feels this should be called a planning study area if this boundary remains. He provided input on the process and stated he feels that property rights are being taken away and that is why the citizens are here. He thanked the Board for this process, and he feels the only issue left is the ICC.

Tim Miller, Miller Planning of Sonora, stated he shares the concerns about how the meetings were noticed and how the matrix items are being discussed. He referred to the discussions on rural character and differences in the number of lots that can be created with the different parcel size options and the projected population for Catheys Valley – he feels that there would be a ten percent increase in population over a 20-year planning horizon with the 2 ½-acre parcels. He feels the real issue is that people do not want development; however, people have rights and are entitled to

moderate development. He encouraged the Board to stay with its decisions; and if they are going to be revisited, they should be properly noticed. He stated he will leave a letter with the Clerk of the Board if an issue comes up.

Rita Kidd referred to an email she sent to the Board members and stated she feels it was forwarded to attorneys and developers, and she expressed concern that information that is submitted is shared. She expressed dismay at Rick Uebner's comments – she did not know that he was going to resign. She feels the issue is that there are people in this for the money and those who are not; and she feels that those who spoke loudest and hardest are in this for money. She feels that people are concerned with the long-term limited resources of Catheys Valley, including water – they have very shallow soils and unpredictable water. She advised of her conversation with Attorney Anita Starchman Bryant concerning information that was distributed, and she is very concerned with what the Board members are doing for Catheys Valley.

Chair Cann advised that this is an open comment period, and he clarified that he called for this time because Rick Uebner asked for time to provide input concerning the PAC.

Anita Starchman Bryant referred to Rita Kidd's contact when she prepared a letter of what the proposed CVCP would do to the people's property rights. She advised of a June 9, 2010, letter documenting their concerns and advised that they have not misrepresented anything. She expressed concern with the letter she received from Rita Kidd and feels it threatened her to not distribute their concerns and she does not appreciate that. She advised that she did not receive any emails from the Board members, nor did Don Starchman. She responded to questions from the Board relative to the letter that was referenced; and she advised that there was a letter prepared by herself and members of the community, that was signed by members of the community, in early spring.

Supervisor Bibby stated this is a workshop and not a public hearing, and this process is open to interaction. Chair Cann advised that this has been noticed as a workshop and that a hearing will be scheduled in the future once the revised Environmental Impact Report (EIR) has been circulated.

Mark Harris, Yosemite Falls Well Drilling, referred to the discussion and action taken on December 9th to only be able to drill one well for each lot. It was clarified that the action was to allow drilling one well that could be shared with up to four connections, or you could drill as many wells as wanted – but you could not drill and share for commercial. He clarified that individual septic systems are being required. He referred to the Fortner's water tank and the process they went through to install the tank, asked if anyone is aware of the well and septic problems in Mt. Bullion and stated he feels these problems will occur in other areas; and he stated he feels they should have the opportunity to have community systems. He referred to Rita Kidd's comments about people being here for the money, and he stated "money" is not a dirty word and there is nothing wrong with that.

Steve Fortner stated he does not understand how the Board can not allow for State community water systems and he questioned if that is lawful. He feels that Health and CalFire should comment on these issues, especially with the fire sprinkler requirements for 2011 and the impacts. He feels this is a poor county and there is nothing wrong with trying to create jobs and diversifying the economy. He feels that to say that they can't use their water tank now is a clear case of inverse condemnation as they followed all processes.

Tim Bennett referred to the issue of this being a workshop and stated he feels it is a public hearing because policy decisions are being made; and he asked County Counsel to comment on the Brown Act.

Rita Kidd stated she feels that we continue to have confusion over what entitlements exist in a Town Planning Area (TPA) zone; and she feels one would have to question the ability to evaluate an investment of capital for a use that has no permit

and has issues of discretionary review. She noted there is no permitted commercial use in a TPA zone until and unless a planning area plan is completed. She feels that people who are for the Catheys Valley Plan are very much for appropriate development – they are not for “no growth.” She commented further on the process. She responded to a question from the Board, and clarified that there is a TPA zone, but there is no TPA as a plan was never adopted for Catheys Valley.

Steve Fortner advised they submitted a General Plan Amendment in the form of a specific plan, and he commented on their processes. He advised that they were never proposing anything outrageous – those were rumors.

Anita Starchman Bryant provided input on the TPA zoning issues that were raised and clarification on needing a Conditional Use Permit (CUP).

Supervisor Bibby expressed regret of losing good Committee members like Rick Uebner; and stated that as we go through this process, she feels it would be beneficial to salvage what we can of the Plan. She noted this process has been through three different Planning Directors and three different Supervisors for the District and a number of Planning Commissioners. She referred to the original intent for reviewing the Plan and concerns relative to costs for the process, and now she feels the Board has rewritten the Plan. She encouraged the Board to look at the original draft Plan, which had already had numerous reviews.

The Board reviewed the following issues:

Issue No. 19: Corrections and clarifications of maximum building intensity for Residential Land Use – Kris Schenk and Andy Hauge reviewed the recommended modification to the text to be consistent with the language in the General Plan.

Discussion was held. It was further noted that section A(4) concerning maximum building intensity will need to be modified to reflect the actions taken by the Board.

Input from the public on this issue was provided by the following:

Rita Kidd asked Andy Hauge to review the letter from the Friends of Community Planning relative to this issue. She feels that these are defined as different types of issues in the General Plan and asked that those terms be used in the same concept as described in the General Plan.

Steve Saunders clarified that “build out” is the total of all buildings.

Steve Fortner stated they are okay with following the language in the General Plan.

The public portion was closed on this issue.

(M)Turpin, (S)Allen, direction was given to staff to make the language compatible with what is in the General Plan. Andy Hauge responded to a question from the Board relative to the PAC’s decision on this. Ayes: Unanimous.

Issue No. 20: Corrections and clarifications of community sewage system – Andy Hauge advised of previous action that resolved this issue by deleting community systems.

Supervisor Turpin expressed concern that the door not be shut to prevent consideration of sharing a system between two landowners. Andy Hauge advised that the ability is there to share water, but not for a community system or to share a septic – but if there is a failing septic system, there are options. He responded to a question from the Board and advised that he is not aware of any other plans that prohibit community systems. Supervisor Bibby reiterated her previous concerns relative to impacts with 2 ½-acre parcels and smaller; and she asked for clarification from staff of what is involved in the process. Sarah Williams responded that when reviewing residential subdivisions, they review each parcel and characteristics that are necessary to develop that site for residential purposes.

Input from the public was provided by the following on this issue:

Don Starchman referred to page 5-41 of the General Plan and the water and sewer requirements. He stated he does not feel that the State has a number four requirement, it is just a change in the degree of testing and monitoring that is required and he feels that is better than individual systems. He feels the CVCP contradicts the General Plan, and there should be findings as to why this is unique as opposed to the rest of the County.

Steve Saunders stated he feels environmental concerns are created when community water and sewer systems are not allowed. He feels that this will be revisited with AB 32, and that there should be options for having these systems.

Philomene Schultz agreed with Steve Saunders that we should not prohibit things. She feels that we have excellent Planning staff and General Plan. She feels these things were put in the CVCP to prohibit development and there are other ways to do that. She feels that whenever there is an issue, the language in the General Plan should be used. She noted the General Plan did not mandate a community plan, but said the community could develop one; and she is concerned with the process over the last fifteen years.

Rita Kidd stated she feels that we seem to still be at a place in the process where the wording in the General Plan that uses the mandatory term “will” and states that by filing the CVCP study area map in Volume 2, that the County is making a commitment that it will adopt a plan for Catheys Valley. Chair Cann provided a reminder of the issue being discussed at this time. Rita Kidd stated she felt that this misconstrued idea needed to be corrected. With regard to sewer, she stated there is a provision in the General Plan that the County will look to areas that already have existing infrastructure for that type of development that needs community water and sewer. She referred to SB 97/climate change/greenhouse gas legislation and noted its first example of a greenhouse gas EIR is based on the creation of a waste water treatment plant. It also directs that you not only evaluate the direct impacts of that, but also the indirect impacts – some of which may be growth inducing. Supervisor Cann stated he feels this also pushes toward the maximum use of recycled water, which is relatively impossible without a community system. He stated that conflict will have to be grappled with when AB 32 is applied to a proposed development. Rita Kidd stated she doesn’t feel that we know what we will have to do yet. She referred to a discussion she recently had with people that built in Mariposa Pines, and noted that they have an incredible system for recycling water on an individual parcel – so it doesn’t mean that it can’t be done without a waste water treatment plant.

Tim Bennett, speaking to the science, stated he feels that allowing for consolidating waste water systems clearly is a valuable asset for County staff in designing and implementing it when someone wants to build. It can allow then the opportunity to direct waste water away from ground water and other natural resources. Not all tracts of land are suitable for individual septic systems. He feels that County staff can talk about the soils of Catheys Valley and that sometimes there is too much rock. He does not feel that we should take away the County’s opportunity to plan and locate drain fields on land that has permeable soils.

Mark Harris referred to Rita Kidd’s comments concerning the system in Mariposa Pines, and he advised that they have a community water system and it works well. Chair Cann clarified that Rita Kidd referred to a personal recycling system that was developed. Mark Harris asked if the County would put money up if a system was installed in Catheys Valley and failed. Supervisor Bibby commented that the County would have to make a decision if a cease and desist order was issued by the State Water Board; and cited Yosemite West and Don Pedro as examples. Supervisor Cann noted that the intent would be to set a system up independently and without any County responsibility; and he noted that there is a pay-back process for the Yosemite West costs. Discussion was held.

The public portion was closed on this issue and discussion was held. Andy Hauge suggested that the Board ratify the decision made on December 9th to have on-site septic for new subdivision.

(M)Bibby, (S)Allen, the Board concurred with staying with the on-site septic requirements. Further discussion was held. Supervisor Cann stated he feels that community systems are the scientific preferred alternative and they would be better than individual systems. Supervisor Turpin expressed concern with prohibiting and not being able to consider a community system. Ayes: Aborn, Bibby, Allen; Noes: Turpin, Cann.

10:28 a.m. Recess

10:44 a.m. Issue No. 21: Corrections and clarification of doubling or tripling of the ADT requiring a CUP – Andy Hauge recommended that the language in the General Plan be used.

Input from the public was provided by the following on this issue:

Steve Fortner asked if one of his four children moved back in with him whether it would require a CUP. He feels that this is more restrictive and is planning against development.

Anita Starchman Bryant stated she agrees with the Friends of Community Planning with using the General Plan language.

The public portion was closed on this issue and discussion was held. Supervisor Bibby referred to the other policies for home-based businesses; and she questioned whether a formal action should be taken or just concurrence of the Board. Chair Cann advised that when he asked that question, the Board has been consistently asked to take action on each issue.

(M)Bibby, (S)Allen, direction was given to use the language in the General Plan. The Board agreed with continuing with the process of offering motions on each issue. Ayes: Unanimous.

Issue No. 22: Corrections and clarification of Site Development Standards – requirement for frontage road – Andy Hauge provided input on the history of this issue in Catheys Valley, and he noted that Hornitos Road, south of the Highway, acts as a frontage road. He referred to the location of the parcels that were designated for commercial use, and he recommended that the language be removed that refers to “three or more adjoining commercial lots...” that would require a frontage road with one access serving the parcels. Supervisor Bibby referred to the changes in the parcels that were designated for commercial use, and she asked whether there are any other impacts that would be triggered and whether there is the potential of development off of Highway 140. Andy Hauge responded that the parcels are arranged to not have access from Highway 140.

Input from the public was provided by the following on this issue:

Rita Kidd stated she feels there should be some provisions for policy for parcel development from roadways that collect – that they still need to maintain off-highway access.

Debbie Lester commented on serious accidents that have occurred in Catheys Valley, and that there are left-turn lanes in both directions in Highway 140. She wants development to be safe for the community.

The public portion was closed on this issue and discussion was held.

(M)Turpin, (S)Allen, direction was given for the language to be eliminated on page 5-14 of the CVCP under Parking and Access in the last paragraph relative to the frontage road requirement. The motion was amended, agreeable with the maker and second to clarify that it is lines 21-23 that are being deleted/Ayes: Unanimous.

Issue No. 23: Corrections and clarifications relative to the timber reference in the Agriculture/Working Landscape land use – Andy Hauge advised that no timber has been identified in the Plan, so he recommends that this item be removed. There was no public input on this issue. (M)Allen, (S)Aborn, direction was given to remove the last five words of line 4 – “and the harvest of timber.” Andy Hauge responded to a question from the Board relative to the Agriculture/Working Landscape land use and removing all agricultural issues from the CVCP, and advised that they would still like to see a motion on this issue. He further advised that they will need to reference Agriculture/Working Landscape within the Community Plan since it is a land use category; and they will talk to legal counsel about this. Further discussion was held, and Andy Hauge agreed that the language should remain as exists in the General Plan. The motion was withdrawn by the maker, agreeable with the second.

Issue No. 24: Corrections and clarifications relative to design review – Sarah Williams advised of the current design review process per County Code - most is done administratively through the Planning Director. The recommendation on this issue is to modify the text to make it consistent with the existing County Code procedures. She responded to questions from the Board on how the process would work for design review on commercial development, and she advised that Resolution No. 03-438 relative to the PACs duties does not clearly state that the Committee would make recommendations.

Input from the public was provided by the following on this issue:

Don Starchman stated he feels the system can work very well when the standards are in place, and he feels it worked well with his law firm project, and they did not have to lose time with going through a committee review.

Steve Saunders asked for clarification as whether this section applies to new subdivision and to commercial. Sarah Williams advised that it would only apply to building permits for new commercial or institutional uses, or an amendment to such a use, etc. She further advised that it would not apply to subdivision, and responded to a question from the Board and advised that institutional uses are allowed outside the Commercial Land Use zones.

The public portion was closed on this issue.

(M)Bibby, (S)Aborn, direction was given to leave the text as recommended in the CVCP. Further discussion was held. Sarah Williams responded to questions from the Board relative to procedural issues, and she advised they would need a new design review code for Catheys Valley for a separate process that would involve the Planning Commission. She advised that they use Title 17 for design review in Coulterville and Mariposa. Discussion was held relative to the definition of “significant” – staff advised it would refer to items that are not clearly compliant with the standards and they would be referred to the Committee. It was further noted that there is an appeal process for actions taken by the Planning Director and that has been working since 1992. Supervisor Bibby withdrew her motion, agreeable with Supervisor Aborn.

Further discussion was held. Sarah Williams suggested that they could add a notice like was done for the change in lot line adjustments in an update to Title 17. Kris Schenk responded to a question from the Board relative to the possibility of some horrific development occurring without review of the PAC in the interim; and he advised that decisions would need to be made within the sideboards of the Plan and the General Plan – and there would be opportunity for review.

(M)Turpin, (S)Allen, direction was given to modify the text in the CVCP to make it consistent with the County Code procedures that are currently in place/Ayes: Unanimous.

Issue No. 25: Corrections and clarifications relative to access requirements for subdivisions – Andy Hauge advised that the recommendation is to be consistent with

the General Plan language and to add “adequate capacity.” There was no input by the public on this issue.

(M)Turpin, (S)Allen, direction was given for the language to be consistent with the General Plan, with the addition of “adequate capacity” as recommended/Ayes: Unanimous.

Issue No. 26: Corrections and clarifications relative to the forestry and resorts/golf courses reference in the Working Landscape Stewardship

– Andy Hauge advised that it is his understanding that the text in section 5.2.02 would only refer to the General Plan, and section 5.2.01 remains – this language stays because it is required to be in the Plan. He recommended that reference to forestry and to resorts/golf courses be removed from the descriptive language.

Input from the public was provided by the following:

Steve Saunders stated he feels descriptive means it is describing areas of Catheys Valley, and he believes that reference to “stewardship” should be left out as he feels it is a door that creates something that people can open later – he feels that this is overreaching and provides opportunities for the environmentalists. He is okay with the “Working Landscape” and with the General Plan language.

Philomene Schultz stated she is adamantly against any wording including “agriculture” and “stewardship” as the Committee members do not have those qualifications. She thought reference to agriculture was taken out of the CVCP. She has 100-acres on Highway 140 that she purchased for development and if people want to use it for Working Landscape, they should purchase it. She does not feel that her agricultural land needs stewardship and she asked the Board to be careful with this issue. She does not feel that agricultural land should even be in the study area, it belongs with the General Plan. She responded to a question from the Board and advised that she is okay with the language in the General Plan.

Rita Kidd noted the General Plan uses “Agriculture/Working Landscape” and addresses stewardship – it says the best stewards of the land are the owners of the land and those words are mirrored in the CVCP. She commented on information she received from the Stewards of the Range and the American Stewards of Liberty/a very conservative property rights association.

Steve Fortner stated he feels the General Plan language should be used. He does not feel that this language is necessary in the CVCP.

Philomene Schultz referred to the words being used and the interpretations, and she stated she does not agree with that philosophy. If stewardship of the land is important, she hopes they are speaking of her.

Steve Saunders commented on the definition of stewardship and he feels it should be left as owners of the land. He does not feel that they need a counsel or PAC telling them what to do. He feels that this is a limiting control policy and it is to get them in another lifestyle that they have not chosen; and he feels it is an attempt to limit the use of the land – he cited concerns that there could be restrictions for impacting wildlife habitat, vistas and viewshed that could result in limiting the use of the property. He feels there is a fundamental issue as to whether agriculture is a rural enterprise; and he asked that reference to “stewardship” be deleted in the CVCP. He does not feel that it has been defined in the General Plan.

Anita Starchman Bryant referred to the Board’s action to use the General Plan language and to remove the additional agricultural language in the Plan, and that just an introductory paragraph be left about the uniqueness of the agricultural operations in Catheys Valley. She stated she has not heard anyone say they are unhappy with the General Plan, and she recommends that we be consistent and not have contradictory language. She advised that she just read through the Agriculture Land Use classification and “stewardship” does not appear in that.

The public portion was closed on this issue and discussion was held. Andy Hauge provided input on the differences in the language between the CVCP and the General Plan. He recommended using the language in the General Plan and with adding an introductory paragraph describing Catheys Valley and its unique issues. Supervisor Cann asked about having a document that can relatively stand alone; and staff advised that they are reviewing this issue with counsel. Supervisor Bibby asked that reference be kept relative to the water concerns and staying rural.

(M)Bibby, (S)Allen, direction was given for the language to be removed, and with an introductory paragraph to be added, and with the General Plan to be referenced, as discussed/Ayes: Unanimous.

Issue No. 27: Corrections and clarifications relative to Maintain Rural Character and reference to timberlands and timber – Andy Hauge advised that the action taken on the previous issue to reference the General Plan resolves this issue.

Issue No. 28: Corrections and clarifications relative to Maintain Rural Character and reference to permit requirements for B&B – Sarah Williams advised that this issue was addressed by the action taken on Issue No. 26.

Issue No. 29: Corrections and clarifications relative to agritourism requirements and processing of County Code amendments – Sarah Williams advised that the issue with Section C Nurturing Ag Economy was addressed by the action taken on Issue No. 26. The Implementation Measure language on page 5-38 needs to be modified to be consistent with previous actions to be consistent with the General Plan.

Issue No. 30: Corrections and clarifications relative to Updated Williamson Act policies – Andy Hauge advised that direction was given to remove this language.

Issue No. 31: Corrections and clarifications relative to reference to resorts/golf courses – Andy Hauge advised that the recommendation is to remove reference to resorts and golf courses. He responded to a question from the Board and advised that this will be addressed in the introductory paragraph that was previously discussed. There was no public input. (M)Allen, (S)Aborn, direction was given to remove the references as recommended/Ayes: Unanimous.

Issue No. 32: Corrections and clarifications relative to reference to central sewer and water system – Andy Hauge advised that action has been taken relative to central sewer, and he recommended concurring with the revised definition.

Input from the public was provided by the following on this issue:

Philomene Schultz stated she feels that we discussed the sewer systems, but this issue includes water systems. She feels that people should have the opportunity to share water, and she would support keeping this in the Plan.

Rita Kidd stated they do not disagree with the change, but feels that there needs to be a definition of what a “rural subdivision” is in the Plan.

Steve Fortner stated he supports staff’s recommendation to remove this language. He does not feel that the issue with sewer and water is done.

The public portion was closed on this issue and discussion was held. Chair Cann noted that this issue is in the definition section, that decisions were made earlier in other areas. Discussion was held with Andy Hauge relative to parcels size issues, and he advised that they will need to review the language to be consistent with the rest of the Plan.

(M)Bibby, (S)Allen, direction was given to remove the language to be consistent with the rest of the CVCP; and staff is to come back with a definition of “rural subdivision.” Supervisor Turpin asked about the definition of “central” sewer

and water; and Andy Hauge advised that they will need a definition of what “shared” water is. Ayes: Unanimous.

12:05 p.m. Lunch

1:20 p.m. Issue No. 33: Corrections and clarifications that the design review requirements do not apply to residential development in Appendix B Design Guidelines – Andy Hauge advised that previous action calls for this to comply with the General Plan. Parcels over 15-percent slope require review, and “knoll” has been removed. No action is necessary. Andy Hauge responded to a question from the Board as to how parcels on the map with 14-percent slopes would be processed; and he clarified that when a project is presented, the review will be on the actuals of the parcel versus the general information provided on the map.

Issue No. 34: Corrections and clarifications relative to cut and fill limitations in the Site Development Standards – Andy Hauge provided input on this issue – he referred to pages 5-15 and 7-1 and issues with the consistency of the language. Language for commercial properties in the General Plan refers to 10-percent. He feels the Board needs to determine if it wants to minimize or avoid cuts and fills and be consistent. He recommended modifications to the language and looking at the General Plan and incorporate landform grading from the Rural Economic and minimize cuts and fills into the language in the CVCP; and make the text consistent in the CVCP. Supervisor Turpin asked about the reference to 10-percent in the General Plan and 15-percent in the CVCP. Andy Hauge advised that this was reviewed in the Residential Land Use; and this discussion is for the Commercial Land Use.

Input from the public was provided by the following on this issue:

Steve Fortner stated they are comfortable with the landform grading that was proposed in 2002.

Steve Saunders commented on the 10-percent and 15-percent difference between the General Plan and the CVCP; and he stated he is okay with this.

The public portion was closed on this issue.

(M)Turpin, (S)Allen, the Board approved the recommended language with landform grading and minimizing cuts and fills/Ayes: Unanimous.

Issue No. 35: Corrections and clarifications that design review requirements do not apply to residential development – Andy Hauge advised that direction was given previously and they need to adjust this text to conform. There was no public input. (M)Turpin, (S)Allen, direction was given to remove the language and be consistent with the General Plan for this issue – design review criteria do not apply to residential development/Ayes: Unanimous.

Issue No. 36: Corrections and clarifications relative to Residential Land use – maximum dwelling units – Andy Hauge advised that direction was given previously on this language and they will modify the text accordingly.

Issue No. 37: Corrections and clarifications relative to Ag/Working Landscape Land use – maximum dwelling units – Andy Hauge advised that direction was given previously on this language and they will modify the text accordingly.

Issue No. 10: Air quality standards (greenhouse gas regulations; AB 32 and SB 97) – Chair Cann advised that AB 32, SB 97 and SB 375 are all components of this issue; and he asked if we need to do something with the General Plan. Kris Schenk responded in the affirmative to be consistent with AB 32; and he commented on the process and effect on future projects. He suggested that the Planning staff could come

back with final language for review when the Plan comes back. Andy Hauge responded to a question from the Board as to what point you cross the threshold when doing a project; and he advised that he feels that by adopting the new Building Code, those standards will apply to most of the items. Discussion was held. Supervisor Bibby asked whether staff will go through the Plan and determine which items apply – staff agreed and advised that they will talk with air quality and legal counsel and come back with modified language. Sarah Williams responded to questions from the Board relative to the minimum parcel size in the ICC in 1990; and advised that it was down to 9,000-square feet with both a community sewer and water system – in the environmental review they are supposed to look at existing conditions on the ground in that year and not what the zoning would allow. Supervisor Turpin suggested asking the Building Director to be present for this discussion; and Sarah Williams advised that she has his information on his review of the list – most of the items are in the new Building Code. Andy Hauge advised that some of the items apply to a larger planning principle and not just individual building permits.

Input from the public was provided by the following on this issue:

Steve Saunders questioned the definition of “project” and stated he feels it is being defined as anything new. He expressed concern that someone with a home on a legally existing parcel and wanting to add a secondary dwelling would fall under the existing Building Codes – and he asked if that would trigger other things or anything to the original house.

Don Starchman asked if staff could review the input that was provided by the Building Director on each of the items, and then allow the public to comment. Chair Cann advised that public comment will be allowed again.

Chair Cann asked staff to respond to Steve Saunders’ questions. Sarah Williams advised that the new Building Code is effective January 1, 2011, and will apply to new residences; and policies in the CVCP would not apply because it is residential. If he were applying for a barn, the Building Code would apply and policies in the CVCP would not apply. She cited another example and advised that if he and Jim Fortner come in for a new commercial development on their property after January 1, 2011, both the Uniform Building Code standards and standards for the greenhouse gas, as well as policies of the CVCP would apply. If the County proposed a project at Catheys Valley Park, both would apply; and the same would apply for a church. Agricultural uses would fall under the residential category and would not be subject to the CVCP.

Staff reviewed each of the following items and noted which energy use and resource conservation standard items the Building Director indicated would be included in the 2011 Building Code:

- Buildings shall be designed to be energy efficient – this will be addressed by the 2011 Building Code. Sarah Williams advised that the Building Director suggested referencing Title 24 – this is a part of Title 24.
- Efficient lighting and lighting control systems shall be installed efficient – this will be addressed by the 2011 Building Code
- Buildings shall be sited designed to take advantage of daylight
- Use trees, landscaping and sunscreens to reduce energy use. Install light colored “cool” roofs and cool pavements. Andy Hauge responded to a question from the Board relative to the definition of “cool pavements” and advised that he feels standards will be developed over the next few years.

- Install energy efficient HVAC equipment – this will be addressed by the 2011 Building Code
- Limit hours of operation of outdoor lighting. Andy Hauge responded to a question from the Board relative to limitation of the hours and safety concerns for commercial uses; and he advised that this was a recommendation from the Attorney General – the Board will need to determine what is appropriate lighting in the approval process for a project; and he agrees that lighting will be needed for health and safety.
 - Input from the public was provided by the following on this item:
 - Don Starchman stated he feels they should be given credit for having common sense in using timers and motion detectors and focusing the lights downward; and with using energy efficient light bulbs.
 - Steve Fortner stated he feels that this is site and building specific; there is staff review and a public review process for projects.
 - Steve Saunders referred to a building project he was involved with in Monterey and their lighting issues, including the hiring of a lighting engineer for four lights. He stated law enforcement wants lighting for security.
- Use solar heating, auto covers, and efficient pumps and motors for pools and spas. Andy Hauge responded to a question from the Board as to whether all of these things would be required; and he suggested that there should be discussion about energy budgets and how buildings are sited, etc. He recommended that there be energy efficiency, but that it not be dictated how each of these things would occur. He advised that he wants to discuss these issues with air quality and counsel. He feels projects will be reviewed toward demonstrating energy efficiency. Discussion was held. Andy Hauge suggested that this item be restated to “encourage” the use of the solar heating, auto covers, and efficient pumps and motors for pools and spas. He noted that some of them may be required.
 - Input from the public was provided by the following on this item:
 - Timothy Bennett commented on confusion about what triggers greenhouse gas, and he feels these are implementation measures for staff to interpret when a project is proposed. He does not feel that it is necessary at this point to determine how every potential implementation measure will be implemented.
 - Steve Saunders feels we should conform to the minimal versus “shall” standards for AB 32; and that the list not be enumerated until we are told we have to. He referred to a discussion he had with Dennis Bunning relative to Williamson Act and allowing horses as an approved agricultural use.
 - Don Starchman stated he feels this list of items is recommended and not required. He suggested letting Andy Hauge proceed with proposals to get additional input and that the list be preceded with “the following shall be considered.”
- Install solar, wind and geothermal power systems, and solar hot water heaters. Supervisor Bibby asked that staff factor in the written

comments that have been received relative to the greenhouse gas issues. Andy Hauge advised that when staff is rewriting this section, they will make sure it is consistent with the General Plan, and identify if there are any issues, including issues with Title 17.

- Create water efficient landscapes equipment – this will be addressed by the 2011 Building Code.
- Install water efficient irrigation systems and devices – this will be addressed by the 2011 Building Code.
- Design buildings to be water efficient – this will be addressed by the 2011 Building Code.
- Restrict watering and runoff, including use of water for cleaning outdoor surfaces and vehicles. Kris Schenk advised of comments received from the Building Director that watering and runoff is addressed in the Building Code, but not the use of water for cleaning outdoor surfaces and vehicles.
- Implement low impact development practices that maintain hydrologic character of site. Andy Hauge advised that we currently have a General Plan policy relative to retaining storm water on site.
- Reuse and recycle construction and demolition waste – this will be addressed by the 2011 Building Code.
- Include mixed use in commercial development projects; promote alternatives to individual vehicle travel. Andy Hauge advised that incorporating mixed use in commercial development projects is already recommended.

Chair Cann noted that with regard to action on this issue, there has been discussion and consensus relative to a number of phrases that staff is to consider, and with getting the latest of the legal interpretation of how much latitude the County has and how much is site specific to a project and still meet the intent of the law. Andy Hauge agreed and with using the term “shall be considered” for demonstrating the reduction in emissions and air impacts. He feels that the philosophy is that these are things the Board can apply. He agreed with introductory text that the intent is to reduce greenhouse gas emissions and air impacts. He noted that we will have to demonstrate that we have achieved those things when looking at commercial buildings, institutional uses and subdivisions. Supervisor Turpin asked for clarification of “project” definition, including clarification that a residential building permit is not a project. Andy Hauge referred to the previous direction that was given to define a “project” and he recommended that the language directed for use in design review for the following three categories: commercial, institutional, and subdivisions be used. He also recommended that it be redefined as basically performance standards and listing the various techniques in order to perform that reduction of emissions and air quality issues.

Supervisor Turpin initiated discussion relative to the CVCP Implementation Measure relative to the County providing educational programs, and he recommended that we state that we will make available the programs. Supervisor Allen suggested that information could be placed on the web, perhaps a State website, with a reference note included in this Implementation Measure as to where that information could be found.

Andy Hauge recapped that the County would make available where the educational programs for residents are located, and that the website is a good way to do that. Supervisor Turpin noted that we have the information; and Supervisor Bibby noted that it is available at varying locations and it is not just tied to Catheys Valley. She noted that Catheys Valley did not create the global warming or put it in their Plan – it is something they inherited through comments and the Attorney General. Supervisor Aborn referred to Don Starchman’s comments and he agreed with “considering” but not implementing or enforcing these things at this time. He is concerned with future impacts of these items; i.e., the new requirement for residential sprinkler systems and whether that will extend beyond new construction in the future to existing structures. Supervisor Turpin asked whether we need to describe the areas that the AB 32 overlay would address. Andy Hauge advised that AB 32 applies to the entire County and everything within it – it applies statewide and there are no exemptions. In the CVCP, they will acknowledge that individual buildings and structures built within the County will comply with the Uniform Building Code. The Building Code implements many of these things that were recommended for greenhouse gas reduction. This section will specifically talk about project review of commercial, institutional and subdivisions.

Chair Cann called for final public input on AB 32, and the following people spoke:

Rita Kidd referred to Supervisor Turpin’s comments, and stated that if you have a discretionary project for agritourism in the Agricultural Exclusive zone, she feels that it would need a greenhouse gas review, and that the same kind of standards for a commercial operation or for an institutional operation would have to be applied. She feels that at the point that agritourism becomes a CUP; it’s probably considered a commercial operation.

Steve Fortner stated he feels the Board is coming close to having something they can live with. He would like to review the final language and the EIR. He noted that AB 32 is not something that we created, the Attorney General mandated it. Their attorney just pointed out it is one thing that the County has to deal with, and at the time the County was about to ram through a Negative Declaration which would be subject to challenge. They do not have any intention of suing over AB 32 – that is not one of their hot issues. The AB 32 issues that came closer to home were the clustering, minimizing the car trip miles, making live-work situations available, and being able to shop locally. He advised that they will volunteer their property for a natural gas fueling station and if the buses going to Yosemite are switched over to natural gas, he feels that will make a difference; including limiting the number of single passenger vehicles traveling to and from the Park.

Steve Saunders referred to Rita Kidd’s comments relative to agritourism uses rising to a threshold that creates commercial operations – he feels that we need language that separates agriculture and agritourism from commercial uses.

The public comment period was closed on AB 32.

Chair Cann initiated discussion relative to the process from here and scheduling the Plan to come back. Kris Schenk advised that the next step is for staff and the consultant to incorporate the direction that was given during the workshops. That will take a considerable amount of review. He hopes they will be able to bring the revised Plan back in late February, after review by legal counsel – it would not be a public hearing when the Plan comes back, but a workshop for the Board to look at the document and to take more public comment before sending it out for publication, analysis and EIR. Then the Plan will go back through the Planning Commission and finally to the Board for a public hearing to consider adoption – about 4 to 6 months. Supervisor Bibby asked if the Plan would go back to the PAC and Agricultural Advisory Committee; and staff advised that they will follow the Board’s direction. Chair Cann suggested that a tentative date of February 28, 2011, be scheduled for the

workshop with the Board to review the rewritten Plan. Chair Cann clarified with County Counsel that this workshop would conclude today, and the workshop would be noticed for when the rewritten Plan is brought back. Kris Schenk agreed with the tentative date, and noted that they will advise the Board if they are unable to be ready for the 28th. Discussion was held relative to setting aside other dates for the workshop, if needed. Supervisor Bibby asked what the process would have been if the Plan was not rewritten; and staff responded that they would still need to recirculate the document and the EIR. The Board concurred with setting aside the following Monday dates for the workshop(s): February 28, March 7, and March 14, 2011.

Supervisor Turpin asked for clarification of the study area and the options that were presented on the map. Chair Cann advised that the November 22nd map reflects the boundary.

Supervisor Bibby asked what happens when the new draft Plan comes out and more input is received and the Plan is possibly rewritten again.

Input from the public was provided by the following:

Debbie Lester asked if the revised Plan will come back to the PAC for review, and she feels that this would be appropriate. Chair Cann advised that the Board will review this request. Debbie Lester stated she feels that the focus has been lost and the costs have increased with redoing the Plan. Supervisor Bibby suggested that another Board member attend a PAC meeting and explain what has happened with the processing of this Plan; and discussion was held.

Judie Huffman, PAC member, stated she is not going to resign, she is stubborn; and if she had funds, she would hire lawyers to help their group. She feels the greenhouse gas regulations should be for the whole County and not just for Catheys Valley. She advised that she appreciates the work of Supervisor Bibby and greatly regrets that the Board has been swayed and misled. She asked if the Board will come back at the next workshop and further change what has been voted on. Chair Cann advised that it would be his intention, subject to EIR review, to take public comment; but he feels the Board has made decisions that it feels it would like to stand on. He would like to see this come to a conclusion.

Rita Kidd requested that the Board make sure that Attorney Abbott knows the process that we followed and gives his advice on the next steps for the Plan as it is now written. She feels that we had prior Boards that did not question the things that this Board has – she noted that Supervisor Turpin served on the prior Board and did not raise the questions at that time that he raised during this workshop process. Those issues were not raised in the 2008 joint workshops. She stated she feels that the provisions of this Plan were misconstrued and taken to the public and she is concerned with the resulting cost impacts. She plans to put dollar costs on this Plan and publish it so the public is aware. She advised that they encourage that the greenhouse gas regulations be for the County as a whole and not just for Catheys Valley. She noted that they were told that this was not done because it would cost too much. She feels that challenges will continue to come from developers and attorneys. She urged the Board to find a way to complete the General Plan as they have been told it may be one or two years before the State begins to question the status of implementation. Chair Cann clarified that Attorney Abbott told the Board during this process that they could not move forward on the CVCP without AB 32 compliance. Rita Kidd stated she feels it should have been done for the County first. Chair Cann agreed that he feels that needs to be the next step before any more Plans are processed. Rita Kidd reiterated her previous input that no commercial development can occur until area plans are done.

Chair Cann thanked everyone for their participation in this process; and he stated he feels that this is a better Plan now than it was to start with for all concerned.

The Board adjourned at 3:28 p.m.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS December 14, 2010



Folder Time Description

9:05 a.m. Meeting Called to Order at the Mariposa County Government Center

Chair Cann advised of the recognitions scheduled for this afternoon at 1:00 p.m.

Pledge of Allegiance

Chair Cann called for a moment of silence in honor of our troops who are defending our interests during this holiday season.

Introductions – none.

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.
BOARD ACTION: (M)Aborn, (S)Bibby, all items were approved/Ayes: Unanimous.

- 2 **Chair Cann**
Resolution and Tile Plaque Recognizing Mona Wass, Upon her Retirement as Account Clerk III, Public Works Department (Public Works)
BOARD ACTION: (M)Allen, (S)Bibby, Res. 10-557 was adopted and presented to Mona Wass, along with a tile plaque/Ayes: Unanimous.

9:13 a.m. Recess

9:27 a.m. The Board reconvened.

- 3 **Chair Cann**
Resolution and Tile Plaque Recognizing Kathy Rumfelt, Upon her Retirement as Sheriff’s Deputy (Sheriff)
BOARD ACTION: (M)Bibby, (S)Allen, Res. 10-558 was adopted and presented to Kathy Rumfelt, along with a tile plaque/Ayes: Unanimous. Sheriff Doug Binnewies presented Kathy Rumfelt with a bouquet of flowers and with her retirement badge and thanked her for her service.

9:39 a.m. Recess

9:47 a.m. The Board reconvened.

4 Public Presentation: For Items within the Jurisdiction of the Board and not on Today's Agenda (Speakers Limited to Five Minutes)

Jodie Favier, representing the family of H. J. (Jim) Favier, thanked the Board for the memorial certificate.

Mike Troxel, Mariposa CHP Commander, advised that services are scheduled for Saturday for retired CHP Officer Hank Campbell. He thanked the Sheriff's Office and Board members for their ongoing assistance; and he wished everyone a happy holiday.

Lester Bridges, President of the Chamber of Commerce, wished everyone a Merry Christmas; and he commented on the reason for this season on honoring Christ in our lives. He commented on events that are scheduled and thanked the Sheriff's Office and the CHP for their assistance with the events.

Eleanor Keuning advised she attended a play at the High School and Chorus performance, and that there is a band concert tonight. She referred to an editorial in the Fresno Bee – "Just Teach Standards." She thanked the Mt. Bullion CDC crews for trimming along Usona Road; and she suggested that the chips be used – perhaps at Darrah School. She invited everyone to the Kiwanis hayride event this Saturday and to the Symphony Concert at the High School.

Beth Savage stated she is back again relative to her driveway situation. She referred to Supervisor Cann's comments that the State Building Inspector came unannounced; and she advised of her efforts to contact the Building Department relative to the visit. She asked what steps are being taken to make sure that the Building Department is doing its job, and she commented on "immunity" claims.

Jim Wilson, Fire Chief, advised that earlier this summer the Volunteer Company in Coulterville worked with the Master Gardeners to landscape the Station. A tree was recently decorated with the solar lights for the holidays and they were stolen. He thanked Carol and D. Feroben, Daily Realty, for donating replacement solar lights for the tree.

Marvin Wells wished everyone a Merry Christmas and a happy New Year. Chair Cann thanked Marvin Wells for the good cheer he spreads at the Board meetings with various little treats and for the decorated baskets that he brought.

5 Board Information

Supervisor Aborn commented on his service as a Board member and his service in the military; and he shared a poem, entitled "High Flight" written by John Gillespie Magee. He advised that his family will remain a part of the community.

Supervisor Allen advised that he spoke in San Mateo on Wednesday to the newly elected Sheriffs in the State. He attended the Lion's Club Christmas Tree Lighting and Bon Fire Ceremony on Saturday – he noted that MPUD brought Santa in on a well lit fire truck. He plans to attend the Mountain Valley Emergency Medical Services Agency meeting in Copperopolis on Wednesday – they will consider the Stanislaus County report and hold a closed session on personnel issues.

Supervisor Turpin advised that he attended the Airport Advisory Committee meeting on Wednesday, and the CalTrans presentation on environmental documentation addressing the Ferguson Rockslide. He held a new fire station information meeting on Thursday in Don Pedro for the community with the Public Works Director, the County Administrative Officer, and the Tuolumne County Administrative Officer. He attended the Stanislaus Forest Sustainable Forest workshop on Friday in Sonora. He plans to attend the Solid Waste Task Force meeting, the Friends of the Red Cloud Library meeting, and the Don Pedro Equestrian and Pedestrian Trails meeting on Wednesday. He plans to attend the new fire station planning meeting on Friday, and a teleconference meeting with Calaveras

Mariposa Community Action Agency By-Laws Committee afterwards. He advised that the Resource Conservation District is holding a plant and tree sale on Saturday in Don Pedro. He advised that Santa arrives at the Fire Station in Coulterville on Saturday – this is the Christmas in Coulterville weekend. He appreciated hearing the good news of the donation of replacement lighting for the tree, and he noted that we need to be sure we leave the “C” in Christmas. He also noted that this is the season of giving and receiving and not taking, and that most of our firemen in the County are volunteers and he thanked them for their service.

Supervisor Bibby extended a special thanks to the Hornitos Patrons Club for hosting a community Christmas party. She wished everyone a Merry Christmas and extended special thanks to the community and the volunteers, including County staff. She attended the First 5 meeting on Monday and they are watching funding. She noted that the Human Services Director provided a memo on the suggestion that was made at the Mental Health Board meeting that there be a generator for the new facility. She noted that Mark Hendrickson commented on his work with Mariposa and the County’s response on utility issues with the Ferguson Rockslide. She attended the Foreign Trade Zone meeting and they are looking at revamping; and if businesses are interested, they should contact her. She extended a special thanks to Marvin Wells, and she wished everyone happy holidays and a Merry Christmas.

Supervisor Cann noted the Board members attended the CalTrans open house last week on alternatives for the Ferguson Rockslide. He advised the Merced River Plan is being redone for the third time, and he commented on the impacts these plans have on the County. He noted the Board met on Thursday and Monday for the Catheys Valley Community Plan workshop, and that the Board is working hard to bring this Plan to a conclusion so that other community plans can be worked on. He met with people from the State in chain of command of the Mining and Mineral Museum to support them in their final interview for a ½ million dollar Proposition 84 grant on Friday that would allow them to rebuild and update all of their displays. He noted the Museum has had a great relationship with UC Merced and they have worked with them on an experimental solar lighting project. He advised that ABC Channel 30 is doing a news story on the new Grizzle Stadium project on Friday – this project has been done mostly by volunteer effort, thanks to the Contractors Association and Dan Tucker. He plans to attend the Regional Council of Rural Counties (RCRC) meeting in Sacramento on Wednesday. He advised that there will be a senior law clinic at the Senior Center on Thursday and Friday. He provided a reminder of the ribbon cutting at the YARTS Park and Ride Facility at 11:00 a.m. and of the recognition for outgoing Supervisor Brad Aborn at 2:00 p.m. on December 21st.

6

Public Works

PUBLIC HEARING for the Formation of the Royal Oaks Estates Major Subdivision Zone of Benefit, and Possible Adoption of a Resolution

BOARD ACTION: Chair Cann reviewed the hearing and ballot process. Allen Toschi, Public Works Director, presented the staff report. Allen Toschi responded to a question from the Board and advised that he and Roger Stephens/Stephens Engineering, reviewed the questions received from the public concerning the assessments and balancing the assessments with the benefit. Mark Dvorak/Public Works, responded to a question from the Board as to the number of zones of benefit that currently exist, and he advised there are 16.

The public portion of the hearing was opened and input was provided by the following:

Speaking in Support:

Ken Jorgensen advised that he and his wife own lot number 11 on Royal Oaks Court. They support the creation of the zone of benefit because Public Works has the knowledge, experience, and the equipment to maintain the roads. His objection is to

the assessments, and he respectfully disagrees with the Public Works Director; and he referred to his letter expressing concern with the fairness of the assessments. He disagrees with the assumptions that the assessments are based on – that they all benefit from Burl equally, and that Royal Oaks Court provides no special benefit to the rest of the subdivision. He feels that Royal Oaks Court would be the first line of defense for any fire originating west of the subdivision – the statute says the benefit is to the parcel and not the owner. He offered the following alternatives: should allocate 51-cents per foot to the frontage of each parcel – he feels the roads benefit everyone.

Kathleen Bratt, with her husband, supports the zone of benefit, but they are not in favor of the assessments – the lots on Royal Oaks Court are being assessed two and one-half times the amount of the lots on Burl Drive. They feel this is unfair and should be reviewed.

Roger Stephens stated he supports the zone of benefit, and he explained how the assessments were arrived at, including review of the formation of the subdivision. He noted that Royal Oaks Court required dual access because it was too long to meet CalFire road standards. So his thinking was that everyone should participate in the cost for Burl Drive as it is a secondary access that was mandated by CalFire. He doesn't feel that the residents on Burl Drive have a reason to drive on Royal Oaks Court and Little Buck Road, so their assessments are less.

Speaking in Opposition:

Dave Tiner, owns lot number 20, stated he has been there about 20-years – before the subdivision was formed. He spent \$30,000 putting in his own road and it was obliterated with the new road for the subdivision. Now they want him to pay for this. He used to have access from Tokoyon Road and they were required to close that road and use the subdivision road. He questioned the different assessments when everyone can use the roads involved. He asked why this couldn't be a gated community. He noted they live at the end of Burl Drive and people access that road at all times and they have had problems with vandalism. They want control of the subdivision roads if the zone of benefit is approved, and he asked whether they can close the gates and use the locked gates in the back.

General Comments:

David James, owns lot number 14, stated people on Royal Oaks Court are immune from through traffic. Burl Drive will have the through traffic.

Lester Bridges stated he was the original owner of the Royal Oaks Estates, and he questioned why the property owners are being assessed different values. He advised that the assessments in the Pine Crest Estates subdivision are the same for everyone. He also noted that it is expensive to maintain roads.

Allen Toschi responded to questions from the Board relative to being able to have a gate closure as requested. He clarified that these are not County roads – the County is providing a service and he provided input on the Proposition 218 requirements for establishing assessments. Rick Benson, County Administrative Officer, explained the ballot tabulation process, and advised that the ballots are weighted – so those that are being assessed more have a higher ballot count. Chair Cann advised that this is the last opportunity to submit a ballot or to change a vote on a ballot – no new ballots or changed ballots were submitted. The public portion of the hearing was closed, and the Clerk of the Board was excused to tabulate the ballots. The hearing was continued until after the following item for the ballot tabulation to be reported.

11:07 a.m. Recess

11:14 a.m. The Board reconvened.

7

Building

Approve the Definition of “Limited-Density Owner-Built Rural Dwelling” as being a Single Story Structure not Greater than 800 Square Feet and Placed on a Minimum Size Parcel of 160 Acres

BOARD ACTION: Discussion was held with Mike Kinslow, Building Director, relative to the definition of “limited-density owner-built rural dwelling.” Chair Cann advised that he would be attending the RCRC meeting and will inquire as to what other counties are doing. Discussion was held relative to bringing this item back after additional information can be obtained.

Input from the public was provided by the following:

Eleanor Keuning mentioned an article that she had read suggesting that small structures be built on family property for elderly parents instead of putting them in an assisted living home; and stated that with the 160 acre minimum she is happy that the Board is looking into this matter.

Ruth Catalan expressed concern relative to the definition of “rural” and questioned if someone has 5-acres is this considered rural, and feels that it will be difficult to limit to a minimum of 160 acres.

Further discussion was held and the Board concurred with Mike Kinslow obtaining additional information on how other counties are handling this, and Chair Cann was requested to bring back information from the RCRC meeting.

11:45 a.m. The Board continued with the public hearing for the formation of the Royal Oaks Estates Major Subdivision Zone of Benefit. The Clerk of the Board announced the result of the tabulation of the ballots: 17 “yes” votes for 69.30 percent; and 6 “no” votes for 30.70 percent. The 23 ballots were signed and valid.

Chair Cann called for public comment:

Ken Jorgensen stated he strongly supports the zone of benefit and asked the Board to approve the formation, but he stated he does not agree with the assessments. He feels that having to pay more than they should is bad, but having the roads fall apart is worse.

George Heiss thanked staff for moving this forward.

David James thanked the Board for clarifying that there could be gates – that was their concern.

The public portion was closed. Allen Toschi advised that repairs are needed to the existing roads to bring them into good condition and cash deposits need to be posted before the zone of benefit takes effect; and the gate has to be acceptable to emergency services.

(M)Bibby, (S)Allen, Res. 10-569 was adopted forming the Royal Oaks Estates Major Subdivision Zone of Benefit as recommended/Ayes: Unanimous. The hearing was closed.

Chair Cann continued the rest of the agenda items to after the 1:00 p.m. recognition items.

11:52 a.m. Lunch

1:06 p.m. The Board reconvened.

Chair Cann advised that our State legislative representatives issued recognition for Brian Muller, Chris Ebie, Gail Neal, and Mary Williams; and they were presented with the certificates.

17

Chair Cann

Resolution and Tile Plaque Recognizing Brian Muller, Upon his Retirement as Sheriff/Coroner/Public Administrator

BOARD ACTION: (M)Bibby, (S)Allen, Res. 10-559 was adopted and presented to Brian Muller, along with the tile plaque/Ayes: Unanimous. Sheriff Doug Binnewies presented Sarah Muller with a bouquet of flowers. He presented Brian Muller with a Resolution and jacket from the California State Sheriff’s Association, a thank you gift from the Sheriff’s Department and with an American flag that flew over the Department, a Department coin and his retirement badge; and he thanked him for his service. Vice-Chair Allen recognized the presence of former Sheriff Pelk Richards. Brian Muller thanked the Department and staff and his wife for their support during his tenure with the County.

18

Chair Cann

Resolution and Tile Plaque Recognizing Chris Ebie, Upon his Retirement as County Auditor

BOARD ACTION: (M)Allen, (S)Aborn, Res. 10-560 was adopted and presented to Chris Ebie, along with the tile plaque/Ayes: Unanimous. Chris Ebie thanked the citizens of the County for voting him into office; and he thanked his staff and his wife for their support during his tenure with the County.

19

Chair Cann

Resolution and Tile Plaque Recognizing Gail Neal, Upon her Retirement as Chief Probation Officer

BOARD ACTION: (M)Allen, (S)Bibby, Res. 10-561 was adopted and presented to Gail Neal, along with the tile plaque/Ayes: Unanimous. Pete Judy, Chief Probation Officer, presented Gail Neal with a plaque with the badge she wore as Chief Probation Officer, on behalf of the Department and the Courts. Gail Neal thanked her staff for their support; thanked Superior Court Judge Walton for appointing her to the position; thanked the Board for its support; and thanked her husband for his support.

Other Presentations of Recognition

Chair Cann presented the certificate from the State to Mary Williams, retired Community Services Director.

1:53 p.m. The Board recessed for a refreshment break

2:20 p.m. The Board reconvened.

8

Administration

PUBLIC HEARING to Provide Citizens an Opportunity to Comment on Activities for Submittal of a Grant Application in the Amount of \$5 Million Dollars to the Department of Housing and Community Development Block Grant Program/Disaster Recovery Initiative (DRI) for Road Repair/Reconstruction Projects; Two Bridge Replacement Projects; Update to the Safety Element in the General Plan Including Development of a Local Hazard Mitigation Plan (LHMP); Update of the Community Wildfire Protection Plans (CWPP), and Other Disaster-Related Planning Activities; Adopt a Resolution Approving the Application for Funding, Authorize the County Administrative Officer or his Designee to Enter into and Sign the Grant Agreement and Any Subsequent Amendments with the State of California

BOARD ACTION: Marilyn Lidyoff, Administration/Business Development Coordinator, presented the staff report, including information on DRI funding and program requirements. She recognized the following for their assistance with this project and for collecting income surveys for this grant: Fire Chief Jim Wilson,

Public Works Director Allen Toschi, Senior Civil Engineer Mohammad Cader, Ruth Catalan, Marilyn Saunders/EDC, and Supervisor Turpin. She reviewed the grant application projects for West Whitlock Road and Dogtown Road including two bridges, update to the Safety Element in the General Plan including development of a LHMP; update of the CWPP and other disaster related planning activities; and future projects for Bondurant Road and Schilling Road. She responded to questions from the Board relative to meeting unmet needs, whether there is a cost to the General Fund or transportation dollars, when notification will be made of the grant awards, and whether the number of houses lost has been verified. The public portion of the hearing was opened and there was no input. The public portion was closed and the Board commenced with deliberations. (M)Turpin, (S)Allen, Res. 10-570 was adopted approving the application to be submitted for funding as recommended; authorizing the County Administrative Officer to enter into and sign the grant Agreement and any subsequent amendments with the State of California; and approving the formal resolution as presented/Ayes: Unanimous. The hearing was closed.

9

Supervisor Aborn

Establish a Countywide Policy Regarding Speed Bumps and Speed Humps

BOARD ACTION: Supervisor Aborn initiated discussion relative to establishing a policy on speed bumps and humps and he noted this topic has been an issue in El Portal. Discussion was held with Allen Toschi, Public Works Director, as to how requests would be handled and as to his thoughts on this issue.

Input from the public was provided by the following:

Ruth Catalan stated she agrees with Supervisor Allen that we have enough laws to handle speeders. She feels the requests should be handled on an individual basis; but expressed concern that speed bumps or humps could impede response by fire apparatus or medical emergency services.

Further discussion was held. Allen Toschi advised that if a policy is not established, he will bring this matter to the Board if a request is received. County Counsel suggested that if the County is going to have a policy that it should be adopted by the Board; and that “entire neighborhood” should be defined. Supervisor Cann asked about the policy with cattle guards and whether there is an option for a private resident to install one on a County road; and he feels the speed needs to be kept under 30 mph if speed bumps or humps are used.

Motion by Aborn to establish a policy that speed bumps on County roads be limited to special approval by the Board, with the Board to further review this in the future, died for lack of a second.

Further discussion was held, including Proposition 218 requirements to establish a service area, consideration of using a flashing speed sign so that the motorists would be aware of how fast they are going, and with bringing back a policy with better language to define “entire neighborhood.”

(M)Bibby, (S)Turpin, the Board directed that speed bumps/humps be denied on County property until there is a policy in place/Ayes: Aborn, Turpin, Bibby; Noes: Allen; Abstained: Cann.

10

Supervisor Aborn

Appoint Tre Ford to the Midpines Planning Advisory Committee for a Term Expiring February 28, 2012

BOARD ACTION: Supervisor Aborn presented the request and discussion was held, including the appropriateness of making appointments to committees two weeks before the new Supervisor begins his term of office.

Input from the public was provided by the following:

Ruth Catalan stated she was surprised to see these items on the regular agenda versus the Consent Agenda. She feels that if Supervisor Aborn wants to make the appointments, the other Board members should respect that.

(M)Aborn, (S)Bibby, Tre Ford was appointed as requested. Supervisor Bibby asked whether the new Supervisor has the authority to change the appointment; and County Counsel advised that he would review this issue. The Board recessed at 3:46 p.m. for County Counsel to review the matter, and reconvened at 4:00 p.m. Steve Dahlem, County Counsel, advised of his review of the formation documents for this Committee – they do not provide for removal of a member. The by-laws provide for removal with two unexcused absences. Further discussion was held. Ayes: Aborn, Turpin, Bibby; Noes: Cann, Allen.

11

Supervisor Aborn

Appoint Rick Cashner, Neal Misener and Mark Chapman to the Yosemite West Community Planning Advisory Committee for Terms Expiring February 28, 2012
BOARD ACTION: Supervisor Aborn presented the request and discussion was held. Chair Cann advised of a note that Planning staff informed Supervisor-elect Stetson of these requested appointments. (M)Aborn, (S)Bibby, the appointments were approved as requested/Ayes: Aborn, Turpin, Bibby; Noes: Cann, Allen.

12

Consider Items Removed from the Consent Agenda – none.

13

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos; and

14

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos

BOARD ACTION: (M)Bibby, (S)Turpin, these closed sessions were held/Ayes: Unanimous.

15

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs' Association (DSA); Name of County Designated Representative: Richard C. Bolanos; and

16

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff's Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos

BOARD ACTION: Supervisor Bibby excused herself from the meeting at 4:20 p.m. for action on these matters and for the portion of closed session on these matters due to a potential conflict of interest as her husband is a member of SMA and because of potential compaction issues. (M)Allen, (S)Turpin, these closed sessions were held/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby.

The Board convened in closed session at 4:22 p.m.

4:55 p.m. Report from closed session:

Chair Cann announced that information was received on all of the closed session items.

Consent Agenda

- CA-101 **Administration**
Approval of Summary of Proceedings of November 23, 2010, and December 7, 2010, Regular Meetings
- CA-102 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park; Res. 10-562
- CA-103 **Administration**
Information Report of Liability Claims Rejected by the County Administrative Officer/Risk Manager for the Months of October and November 2010
- CA-104 **Administration**
Approve the Environmental Health Manager and Senior Supervising Environmental Health Specialist Job Descriptions; Res. 10-563
- CA-105 **Human Services**
Increase an Office Assistant II Position Currently Working in the WRAP Program from a 50% Position to a Full-Time Position for the Purpose of Providing Support Services for the Writing of a Justice and Mental Health Collaborative Planning Grant, and Approve Budget Action Transferring Funds from the Probation Department to Cover Probation Department Portion of the Increased Position (\$17,943), and Approve Budget Action Transferring Funds in the Probation Budget in order to Transfer Money to the WRAP Fund (\$17,943) (4/5ths Vote Required); Res. 10-564
- CA-106 **Elections**
Pass and Adopt a Resolution Approving the Statement of Votes Cast as Certified to the Secretary of State on November 29, 2010; Res. 10-565
- CA-107 **Public Works**
Approve Budget Action Transferring Funding from the Road Fund Administration Budget to Cover the Expense of an Extra-Help Office Assistant to Assist with Grant Applications \$2,276 (4/5ths Vote Required); Res. 10-566
- CA-108 **Public Works**
Authorize the Public Works Director to Allow the Mariposa County Landfill to Accept Defrosted Christmas Trees for Free from December 26, 2010 to January 3, 2011; Res. 10-567
- CA-109 **Public Works**
Approve Budget Action Increasing Revenue and Appropriations in the Public Works Roads Budget Recognizing Insurance Revenue from United Parcel Service for a Damaged Thermal Printer (\$14,000), and Transferring Funds within the Public Works Roads Budget to Cover the Additional Cost needed to Purchase a new Thermal Printer (\$1,500) (4/5ths Vote Required); Res. 10-568
- CA-110 **Fire**
Authorize the Fire Chief to Sign a Legal Transfer Agreement with the Port Authority of New York and New Jersey Transferring Ownership of a Piece of Steel from the World Trade Center in New York City, and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-568b

Chair Cann adjourned the meeting at 4:56 p.m. in memory of Robert F. Nielsen, Carolyn E. Haldeman, and Hank Campbell.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors



MARIPOSA COUNTY BOARD OF SUPERVISORS

SUMMARY OF PROCEEDINGS December 21, 2010



Folder Time Description

9:05 a.m. Meeting Called to Order at the Mariposa County Government Center

Pledge of Allegiance

Supervisor Cann called for a moment of silence in honor, while we are celebrating here today, of our troops across the world protecting our right to do this.

Introductions- None

- 1 Approval of Consent Agenda – See End of Agenda (Items designated by “CA”)
NOTE: The Consent Agenda consists of items that are generally viewed as non-controversial and routine by the department. If the Board wishes to discuss an item, it will be removed from the Consent Agenda and moved to the end of the timed agenda; or at the Chair’s discretion, may be taken in conjunction with another item scheduled by the respective department. Otherwise, the Consent Agenda items are generally approved in one single motion. This is the appropriate time for the public to advise the Chair of any comments to the Consent Agenda or request to have an item removed from the Consent Agenda.
BOARD ACTION: Supervisor Turpin pulled item 102 for further discussion. (M)Aborn, (S)Bibby, the balance of the items were approved/Ayes: Unanimous.

- 2 **Chair Cann**
Resolution Recognizing Bill Hodson, Upon his Retirement from CAL FIRE
BOARD ACTION: Board members and Rick Benson commended Bill Hodson for his services to the County. (M)Bibby, (S)Allen, Res. 10-571 was adopted and presented to Bill Hodson/Ayes: Unanimous.
Rusty Marks, Mariposa Public Utilities District (MPUD) Assistant Chief, shared a story and commented on his work with Bill Hodson and recognized Bill for his respect.
Steve Leonard, Cal Fire Battalion Chief, commented on Rusty Marks’ story regarding Bill.
Brian Muller, retired Sheriff, commended Bill on his mentoring and thanked him for everything he has done for the County.
Kevin Smith, Cal Fire Battalion Chief, shared a story, commended Bill for everything he has done and acknowledged Bill as a living legend.
Chair Cann recognized the presence of the County department heads and wished him the best in his retirement.

9:34 a.m. Recess

9:45 a.m. The Board reconvened

3

Public Presentation: For Items within the Jurisdiction of the Board and not on Today's Agenda (Speakers Limited to Five Minutes)

Eleanor Keuning presented a newspaper article regarding home break-ins reminding the public that if they contact SCOPE before going out of town SCOPE will watch their homes during their absence. She mentioned a booklet she had shared with the Board previously as a sample from upstate New York, which included services available and mentioned a program that Mariposa used to have called "The Welcome Wagon" in which realtors would provide a packet that included all of the services available in the County and suggested that she could do that.

Chris Randal with the Master Gardener program advised that October 16 they had "A Day at the Creek" to let the public see what they do; it was so successful that the Agri-nature Tourism Board requested that they assemble another "Day at the Creek" which will be on September 24 and 25, 2011. On October 23rd they participated in a workshop with the Upper Merced Watershed Council. During the month of November they interviewed applicants for training in January to become Master Gardeners. Recently in the North County the Master Gardeners planted a native plant garden at the Coulterville Fire House. The Master Gardener's training classes will be on Wednesdays, January 12th through May 4th. The first workshop of the new year for the public will be held on January 29th.

Ruth Catalan wished the Board and staff a very Merry Christmas and a Happy New Year and thanked the Board and staff for all they do for the people of the County.

Teresa Castaldi with Coyote Springs Ranch commented that tax payer's money is being spent on an outside attorney to fight Coyote Springs Ranch; she spoke of her existing building permit applications stating she paid for restroom permits two years ago and asked for her permits to be issued or they will seek other remedies. She asked if the Board is going to pay another attorney to stop her again when she applies for other permits.

Doug Binnewies, Sheriff, advised that the Shop with a Cop program went very well and they have \$10,000 worth of toys for the kids for the 22nd Annual Toy Giveaway on Saturday; he thanked Cal Fire, County Fire, and Probation for their participation and invited the Board to attend the event at the fairgrounds. He thanked Chair Cann and the Board for their service this year and wished them a Merry Christmas.

Jim Wilson, Fire Chief, introduced Don Florence, Emergency Planner, and provided his background including 28 years of experience in emergency medicine. Jim Wilson responded to questions of Chair Cann relative to the weather status for the next series of storms advising that Mariposa County will go back into a weather pattern then will stabilize, and stated that other counties are not so lucky. He responded to questions of Supervisor Aborn relative to Foresta Bridge, advising that the rivers did not reach flood stage.

Beth Savage addressed how her issue with her driveway has been handled and her concerns. She said the State Licensing Board felt stonewalled and were told that they would need to go through County Counsel to obtain public records. She asked and challenged the Board to come on record with what the State Licensing Board told them.

4

Board Information

Supervisor Bibby attended a meeting with the Human Services Department; attended the DSA (Deputy Sheriff Association) / SCOPE Christmas party and wished a special Merry Christmas to those that have to work the holiday shift. She congratulated all who had received service pins and welcomed the new Sheriff with special thanks for making a smooth transition. She commended Hank Campbell for

his service to the community. She wished everyone Happy Holidays. Relative to the recent storms, she thanked County Fire for keeping us apprised and Public Works for monitoring the roads.

Supervisor Turpin commented that the streams are running clear this morning and Lake McClure is up at least 10 feet due to the recent storms, and advised that once PG&E has completed their project on the dam they will begin to release water into the lower pools. He attended the Pedestrian Equestrian Trails Advisory Board meeting last week, the Fire Station Planning meeting last Friday, Christmas in Coulterville last Saturday where he carved 17 turkeys, a breakfast in Greeley Hill and several other activities last week. He commented that he appreciates all the energy this Board has put forth in the past year.

Supervisor Allen attended the Mountain Valley Emergency Medical Services Agency Joint Powers Authority last Wednesday, in which the Executive Director was terminated and Richard Murdock is now the Interim Director. Last Thursday he attended the Emergency Medical Care Committee and updated the Board on the medical services in Yosemite National Park. He thanked the Deputy Sheriff's Association for giving up Building A at the Fairgrounds for the Campbell funeral. He thanked the Board and staff, and wished everyone a very Merry Christmas and a Happy New Year, reminding everyone to use a designated driver.

Supervisor Aborn advised that redistricting will be finalized sometime during the summer. He wished everyone a Merry Christmas, Happy Hanukkah and Happy New Year.

Supervisor Cann attended the Regional Council of Rural Counties (RCRC) meeting and reported that 44 states have not acted on the sprinkler requirement of the National Code and advised that the State is not wavering on this. The estimates are about a \$10,000 hit on building a new house due to this requirement. Yesterday he participated in a meeting with the Superintendent of Yosemite, the past Superintendent, and Deputy Superintendent, the outgoing Congressman and the incoming Congressman. He thinks Jeff Denham will be focusing on water issues, and we want to make sure the foothills and gateway issues are paramount with him. He gave an update on the Crane Creek Bridge. He wished everyone a very real Merry Christmas and thanked the public for their comments on the Board's issues.

5

Fire

Review and Approve a New County Policy Guiding Uniform Use of County-Owned Fire Stations by Mariposa County Fire Department Volunteer Members and Volunteer Fire Company-affiliated Groups and Rescind Fire Station Use Policy Adopted June 9, 1992 by Resolution 92-290

BOARD ACTION: Jim Wilson, Fire Chief spoke of the Friday Fire Station Planning meetings and explained what the process has been to date to get to this point. Supervisor Bibby thanked Jim Wilson for his work on this issue and commented on how getting the history documented is instrumental. Discussion was held relative to input from Fire Chiefs. (M)Turpin, (S)Allen, Res. 10-575 was adopted as stated/Ayes: Unanimous.

6

Fire/Public Works

PowerPoint Presentation to Update the Board on the Progress of Fire Station Construction.

BOARD ACTION: Jim Wilson, Fire Chief, briefly explained the history of the Bridgeport, Fish Camp, Midpines and Don Pedro Fire Station projects and brought the Board up to date on the progress made. He advised that ground breaking will occur for each of the four fire stations after the first of the year and explained the future process in detail relative to bid phases I, II, and III and how this will allow local contractors access to the bid process. He presented a slide show including the

site plans, floor plans and diagrams of each fire station, and advised of the estimated completion dates in 2012. He informed the Board that Ken Pritchett prepared a plan and everything appears to be right on schedule. Chair Cann asked the Board to hold their questions until 1:30 p.m.

7

Planning

Request for Issuance of a “Letter of Public Convenience and Necessity” to the Department of Alcohol Beverage Control to Increase the Number of Off-Sale Alcohol Licenses from Twelve (12), to Thirteen (13) in Mariposa County, Census Tract 001, for the Grizzly Gas Station, Located at 5037 Highway 140

BOARD ACTION: Damon Golubics, Planner, advised that there are no issues with this item and offered to answer any questions of the Board. Damon responded to Supervisor Bibby that Alcohol Beverage Control (ABC) would not approve the application if there are any problems.

Input from the public was provided by the following:

Ruth Catalan spoke in opposition stating she sees no convenience in approving this letter and does not appreciate this item being pushed through. She feels there is an alcohol and drug problem in the County and eight locations in the town of Mariposa are enough, this will add to the problem. She advised that if this item is passed she will be in contact with ABC.

Supervisor Allen responded to Ruth’s comments advising that ultimately the decision is up to ABC and to his knowledge this type of application has not been denied in the past and he doesn’t think it’s appropriate to micromanage a business. Damon responded to Supervisor Bibby advising that Planning has not received any correspondence from other businesses. (M)Bibby, (S)Allen, Res. 10-586 was adopted approving a “Letter of Public Convenience and Necessity” to the Department of Alcohol Beverage Control/Ayes: Aborn, Bibby, Cann, Allen. Abstain: Turpin.

10:56 a.m. Recess

11:12 a.m. The Board reconvened at the YARTS Park and Ride Facility Located off Highway 49 North, by Rite Aid Pharmacy, for the Ribbon Cutting Ceremony. No County Business was conducted during the ceremony.

12:00 noon Lunch

1:36 p.m. The Board reconvened at the Board of Supervisors Chambers located at 5100 Bullion Street.

Continue Item 6. Discussion was held regarding placing the PowerPoint presentation on the County website. Jim Wilson thanked Ken Pritchett and Mohamed Cader for their work on this project. Supervisor Bibby expressed appreciation for providing an opportunity to local contractors to participate in the bid process.

8

Administration

Adopt a Resolution of Intention to Purchase Real Property Located at 5101 Bullion Street, Mariposa County (APN#s 013-125-001 and 013-125-002) and Schedule January 25, 2011, at the 9:00 a.m. meeting of the Board as the Time to Consummate the Purchase

BOARD ACTION: Rick Benson, County Administrative Officer, explained the process of this purchase and advised that an Environmental Impact Report has been completed showing the existing building has a small amount of asbestos; he

consulted with the Health Department and was advised that the amount of asbestos is so small the County will not be required to hire outside of the County to remove it. He explained that specific Courthouse funds will be used for this real estate purchase. A correction was noted changing the date on the Resolution to reflect that the Board will meet to consummate this purchase on Jan 25th at 9:00 a.m. Rick Benson responded to questions of the Board relative to funds to construct the Courthouse, is the County required to notify the State on the use of these funds, the property could be purchased from the Courthouse fund if agreeable with the presiding judge if it is ever decided to use the property for something other than a Courthouse. Rick advised that there are no plans at this time to build a new Courthouse and that this property will just be added to our inventory.

Input from the public was provided by the following:

Pat Stacy, President of the Society for the Prevention of Cruelty to Animals (SPCA) Board, recognized Juanita Moore for donating her estate to the SPCA She advised that she hasn't heard any negative comments regarding this sale and that they have notified the Attorney General as required.

Ruth Catalan, member and former President of the SPCA, thanked Pat Stacy for bringing this forward.

Supervisor Allen commented that Juanita would be ecstatic knowing her money is going to be used for the animals and because of her legal background she would be happy to have a Courthouse on her property. Supervisor Bibby thanked Pat Stacy and recognized Juanita for her kindness and dedication to the County. (M)Aborn, (S)Allen, Res. 10-577 was adopted adopting a Resolution of Intention to purchase real property located at 5101 Bullion Street, Mariposa County with correction, correction agreeable with maker/Ayes: Unanimous.

9

Supervisor Aborn

Re-Appoint Robert Kroon to the Yosemite West Community Planning Advisory Committee for a Term Expiring February 28, 2013

BOARD ACTION: Supervisor Aborn commented that Robert Kroon has been to the meetings and done a lot for the community and recommended he be reappointed. Discussion was held relative to holding the item and Aborn stated he is honoring Robert Kroon's request. Discussion was held relative to the appointment being made 2 months in advance and that provisions for removal of a member in this situation do not exist. Chair Cann advised that he can not support this item. (M)Aborn, (S)Bibby, Robert Kroon was re-appointed to the Yosemite West Community Planning Advisory Committee for a term expiring February 28, 2013/Ayes: Aborn, Bibby, Turpin. Noes: Cann, Allen.

10

Consider Items Removed from the Consent Agenda

Item 102 - Supervisor Turpin expressed concern relative to the funding of this type of agreement coming out of the General Fund stating that we need to stay within the limits of the set budget. He also expressed concern that the work may have been completed and that this should have been brought before the Board earlier and he can not support this item. Chair Cann and Steve Dahlem, County Counsel, responded to questions and provided input on options for future similar agreements. (M)Allen, (S)Aborn, Res. 10-579 was adopted approving the first amendment to an agreement with Abbott and Kindermann, LLP/Ayes: Aborn, Bibby, Cann, Allen. Abstain: Turpin.

11

Administration

CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Service Employees International Union Local 521 (SEIU); Name of County Designated Representative: Richard C. Bolanos;

12 **Administration**
CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Mariposa County Managerial and Confidential Organization (MCMCO); Name of County Designated Representative: Richard C. Bolanos;

13 **Administration**
CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Deputy Sheriffs' Association (DSA); Name of County Designated Representative: Richard C. Bolanos; and

14 **Administration**
CLOSED SESSION: Conference with County Labor Negotiator; Name of Employee Organization: Sheriff's Management Association (SMA); Name of County Designated Representative: Richard C. Bolanos
BOARD ACTION: Rick Benson withdrew these closed sessions.

15 **Chair Cann**
Presentation of Tile Plaque and Resolution to Supervisor Aborn for Four Years of Outstanding Service to Mariposa County
BOARD ACTION: (M)Bibby, (S)Turpin, Res. 10-572 was adopted and presented to Supervisor Aborn, along with the tile plaque/Ayes: Unanimous.

Other Presentations of Recognition to Supervisor Aborn
BOARD ACTION: Chair Cann advised that our State legislative representatives issued recognition for Brad Aborn; and he was presented with the certificate and Congressional Record. Supervisor John Pedrozo of Merced County thanked Brad and wished him continued success. Ruth Shane, speaking for herself and her husband, thanked Brad for bringing civility. Bob Brown, District Attorney, thanked Brad for being a strong supporter of public safety. Doug Binnewies, Sheriff, thanked Brad for his service with the US Military which carried over to public safety and wished him a Merry Christmas. Dale Dean of the Midpines Fire Station thanked him. Jim Wilson, Fire Chief, spoke for the volunteer fire fighters, thanking Brad for everything. Mike Kinslow, Building Director, thanked Brad and commented that it has been a pleasure working with him. Cathy Pierce, Farm Bureau Director, thanked Brad for his common sense. Keith Williams thanked Brad for his support for the past four years. Rita Kidd spoke for husband Tony and herself, thanking Brad for serving with real grace. Beth Savage thanked Brad for being there for her and her family. Donna Wice thanked Brad for his support with 4-H. Angelo Llamas, County of Merced, commented that Brad has been given the nickname of "Air born Aborn". Peter Schimmelfennig, Executive Director of the Chamber of Commerce, thanked Brad for his sense of balance on the Board. Supervisor Aborn commented that this is the only time he has run for an office since the 8th grade and stated it has been a true pleasure working with this Board and thanked his family.

2:20 p.m. A public reception was held for Supervisor Aborn.

Consent Agenda

CA-101 **Administration**
Resolution Continuing the Local Emergency Due to Landslides on Highway 140 Enroute to Yosemite National Park; Res. 10-573

CA-102 **County Counsel**
Approve First Amendment to Agreement with Abbott and Kindermann, LLP, Representing Mariposa County in Legal Action Filed by Theresa Castaldi

Increasing the Not to Exceed Amount to \$61,284, and Authorize the Board of Supervisors Chair to Sign the Amendment; Res. 10-579

CA-103

Human Services

Approve a Lease Agreement with Heritage House, Located at 4990 6th Street, Mariposa for Out Patient Counseling Group Program Operations, and Authorize the Board of Supervisors Chair to Sign the Agreement; Res. 10-574

Chair Cann adjourned the meeting at 2:30 p.m. in memory of Ronnie Lee Wallace and Ruth Walton.

Respectfully submitted,

MARGIE WILLIAMS
Clerk of the Board

TRACY GAUTHIER
Deputy Clerk of the Board

KEVIN CANN
Chair, Board of Supervisors