

# **SAN BENITO COUNTY PLANNING COMMISSION**

## **November 18, 2009**

### **MINUTES**

PRESENT: Bettencourt, Culler, DeVries, Machado, Scattini

STAFF: Director of Planning (DoP) Art Henriques; Assistant Director of Planning (ADoP) Byron Turner; Senior Planner (SP) Lissette Knight; Associate Planner (AP) Michael Kelly; Housing Programs Coordinator (HPC) C J Valenzuela; Assistant County Counsel (ACC) Barbara Thompson, (PWE) Public Works Engineer Art Bliss; and Clerk Trish Maderis.

Chair Bettencourt called the regular meeting of the San Benito County Planning Commission to order at 6:01 PM as he led the pledge of allegiance to the flag.

#### ***DEPARTMENT REPORT***

DOP Henriques reported on the following topics from recent and upcoming Board of Supervisor meetings:

- Certificate of Recognition presented to Janet Somavia after retiring from the Planning & Building Department on November 1, 2009
- Approval of contract with Keep It Simple to overhaul and upgrade County's IT system
- Special Board meeting to be held on 12-16-09 focused high priority land use items in addition to some items on 12-15-09
- Board's adoption of Hillside Resolution & Ordinance on November 10, 2009

Chair Bettencourt questioned actions by the Board. ACC Thompson explained some actions could not be made by the Board if the Commission had not considered those options.

**NOTE:** Commissioner DeVries arrived at 6:02 PM

#### ***PUBLIC COMMENT***

Chair Bettencourt opened the opportunity for public comment.

Rani Douglas, 34220 Panoche Rd. Paicines addressed the Commission providing information about a new website created by Panoche Valley residents and those concerned with the Solargen project planned there. ([www.savepanochevalley.com](http://www.savepanochevalley.com))

## **CONSENT AGENDA**

- These items will be considered as a whole without discussion unless a particular item is requested by a member of the Commission, Staff or the public to be removed from the Consent Agenda. Approval of a consent item means approval of the recommended action as specified in the Staff Report.
  - If any member of the public wishes to comment on a Consent Agenda Item please fill out a speaker card present it to the Clerk prior to consideration of the Consent Agenda and request the item be removed and considered separately.
1. Acknowledge Public Hearing Notice
  2. Acknowledge Certificate of Posting
  3. Minutes of November 4, 2009

Commissioner Machado moved for approval, Commissioner DeVries offered a second to the motion which passed 4-0-1, Commissioner Culler abstained as he was absent on November 4, 2009.

## **CONTINUED CONSENT AGENDA**

4. **Minutes of October 21, 2009** (*continued from 11-4-09 for quorum*)

Commissioner Machado moved for approval, Commissioner Culler offered a second to the motion which passed 3-0-2, Commissioners DeVries and Scattini abstained as they were absent on October 21, 2009.

## **PUBLIC HEARING**

5. **NOTICE IS HEREBY GIVEN** that the San Benito County Planning Commission will hold a public hearing to consider RESOLUTION NO. 2009-12 ~ AMENDMENTS TO ORDINANCE NO. 594 - **WATER CONSERVATION ORDINANCE**. APPLICANT: San Benito County. LOCATION: County-wide. REQUEST: Recommendation regarding amendment of Ordinance No. 594. A Resolution Of The San Benito County Planning Commission, Recommending The Board Of Supervisors' Adoption Of An Ordinance Amending Ordinance No. 594 (San Benito County Code, Title 15, Chapter 15.05, Article IV [Water Conservation], Sections 15.05.225 Through 15.05.230) By Incorporating Water Efficient Landscaping Requirements As Required By Assembly Bill 1881. ENVIRONMENTAL EVALUATION: Categorically Exempt.  
**Planner: Lissette Knight** ([lknight@planning.co.san-benito.ca.us](mailto:lknight@planning.co.san-benito.ca.us))

SP Knight addressed the Commission advising that the newly mandated Ordinance was an on-going process and the State version would take effect on January 1, 2010. SP Knight added the State Ordinance should only be in effect a short period. SP Knight advised staff has meet with the City of Hollister, Sunnyslope Water District and the County Water District and were working on coordination of the Ordinances. SP Knight also advised that the County was waiting for a letter from Department of Water Resources (DWR) on the County's proposed plan. SP Knight added staff would return to the Commission with an Ordinance developed for San Benito County.

There was some discussion between the Commission and Counsel regarding unfunded mandates. Chair Bettencourt asked if staff could determine the costs to the County. ACC Thompson advised research could possibly determine costs which could be imposed on projects to recover those costs. Commissioner Machado asked if the Water Districts were also required to develop an Ordinance. SP Knight explained that the mandate was for cities and counties and the various water districts would participate in both the development and implementation of the Ordinance.

Chair Bettencourt open and closed the Public Hearing as no one wished to speak on this item.

By consensus, staff was directed to return to the Commission when the Ordinance was developed and provide costs and funding mechanisms at that time.

6. **NOTICE IS HEREBY GIVEN** that the San Benito County Planning Commission will hold a public hearing to consider a resolution recommending an amendment to the **San Benito County General Plan Land Use Element**. APPLICANT: San Benito County. LOCATION: County-wide. REQUEST: A resolution recommending the Board of Supervisors' adoption of an amendment to the San Benito County Land Use Element to include goals, policies, and programs regarding alternative and renewable energy. ENVIRONMENTAL EVALUATION: Negative Declaration.  
*Planner: Byron Turner ([bturner@planning.co.san-benito.ca.us](mailto:bturner@planning.co.san-benito.ca.us))*

ADoP Turner clarified to the Commission and the public the agenda item was not related to any project and was intended to bring the General Plan current, update the Zoning Ordinance and the process was directed by the Board of Supervisors. ADoP Turner further explained the advance public noticing requirements and the actual items presented to the Commission sometimes differ. ADoP Turner also advised the topic would be presented to the Board of Supervisors on 12-1-09 as information and for discussion and later as an action item.

ADoP Turner explained the staff was recommending the circulation of a CEQA document for the added language to the General Plan, update of the language in the Zoning Ordinance and read that language into the record. ADoP Turner stated the language is intended as an alternative energy goal for San Benito County, was directed to occur prior to the General Plan Update, was not related to any location or project was an attempt to bring alternative energy current. ADoP Turner also noted these amendments were not necessary to process any applications that have been or may be submitted for alternative energy. ADoP Turner read into the record the Alternative Energy Goals developed for San Benito County.

“Alternative energy goal to encourage safe, orderly and efficient domestic and commercial alternative energy development in San Benito County consisting of wind, solar, fuel cell, hydroelectric, geothermal, biomass, or other type of renewable energy generation.”

The new policies for implementation were stated for the record as follows:

1. The County shall encourage domestic and commercial renewable energy uses to conserve fossil fuel, reduce greenhouse gas emissions, and improve air quality.
2. Identify possible sites for production of renewable energy using local renewable resources information.
3. The County should attempt to identify and remove disincentives to domestic and commercial renewable energy development.
4. The County should permit commercial renewable energy development in areas of the County where it does not pose significant environmental or public health and safety hazards.
5. Potential development should utilize existing transmission lines and corridors, when possible, to reduce impacts to agricultural, biological, recreational and other resources.

ADoP Turner added the programs that have been developed to implement these policies as contained in the staff memo.

ADoP Turner also explained the process would require CEQA and the Commission was requested to provide direction to staff to report to the Board of Supervisors which would generate an Initial Study. ADoP Turner further explained upon completion, staff would return to the Commission for consideration of the proposed amendments.

Commissioner DeVries asked if the amendment would require a negative declaration or EIR. ADoP Turner explained a Negative Declaration would be circulated and would be similar to the abattoir process previously reviewed by the Commission.

Chair Bettencourt opened the Public Hearing clarifying this agenda item was not project related.

Valentin Lopez, 3015 Eastern Ave., Sacramento (916-481-5785) addressed the Commission advising he was the Tribal Chairperson with the Amah Mutsum Tribal Band. Mr. Lopez stated his concerns were with the protection of lands, water and native remains sites. Mr. Lopez also requested a full EIR, consultation and participation in the process. Mr. Lopez added that the tribe looks ahead for the next 7 generations.

Paul Rovella, 1690 Monte Vista, Hollister, Attorney for Lombardo & Gilles, Hollister advised there were several Federal & State policies that the Commission needed to keep aware of.

Kim Williams, 32615 Panoche Rd., requested the Commission reject the amendments and stated this process was politically and project driven.

Shani Kleinhaus, Santa Clara Co. Audubon Society (650-424-1703) requested the Commission require a CEQA analysis.

Janet Brians, 747 Shore Rd, Hollister requested that the information be posted on the County's website and more information be available to the public.

Jeannette Langstaff, 1631 Tiburon Drive, Hollister stated it was unclear what the process was and requested a copy of what the State had directed. Ms. Langstaff also stated there may be a need for a hired monitor.

Chair Bettencourt closed the public hearing. ADoP Turner requested direction from the Commission to report to the Board and advised once the CEQA document for both amendments was completed, staff would return to the Commission for an action.

Commissioner DeVries asked what Ordinance this amendment would change. ADoP Turner advised the Zoning Ordinance would be clarified in the utilities language. The General Plan Amendment and Zoning Ordinance would be done together.

Commissioner Machado clarified the application process would not change, only the language in the General Plan and Zoning Ordinance. DoP Henriques concurred that any application submitted would have to be considered under their specific request.

By consensus, the Planning Commission directed staff to prepare the environmental documents together and provide updates to the Commission as they occur.

- 7. NOTICE IS HEREBY GIVEN** that the San Benito County Planning Commission will hold a public hearing to consider a resolution recommending an amendment and update to the **San Benito County Housing Element**. APPLICANT: San Benito County. LOCATION: County-wide. REQUEST: A resolution of the San Benito County Planning Commission recommending the Board of Supervisors' adoption of an amendment of the San Benito County Housing Element. ENVIRONMENTAL EVALUATION: Negative Declaration. *Planner: Michael Kelly ([mkelly@planning.co.san-benito.ca.us](mailto:mkelly@planning.co.san-benito.ca.us))*

DoP Henriques provided an overview of the agenda item and was assisted by AP Kelly with power point slides. (copy contained in permanent record) DoP Henriques explained and elaborated on each slide providing information pertaining to the Housing Element certification.

Chair Bettencourt complimented AP Kelly and HPC Valenzuela for their work on the document. After some discussion, Chair Bettencourt opened the Public Hearing. After a lengthy discussion, AP Kelly provided a handout to the Commission submitted by Clemi Jones on behalf of the Lico family requesting inclusion of their property in the Housing Element for consideration of re-zoning. (copy contained in permanent record)

Clemi Jones, Carmel, CA addressed the Commission asked that property belonging to Lico/Greco be included in the inventory of lands considered in the Housing Element. ADoP Turner advised the City of Hollister supports adding this land as it was in their future planning area.

Geary Coats, Carmel, CA representing the Lompa family advised the Commission the sites only needed to be identified to accommodate affordable housing to the State for certification. Mr. Coats also complimented staff for the document.

Paul Rovella, Hollister requested the percentages be removed from the General Plan/Housing Element document.

Jeannette Langstaff, Hollister requested information on the State deadline.

With no other speakers, Chair Bettencourt closed the Public Hearing. Chair Bettencourt also asked about the removal of percentages from the Element. AP Kelly explained the recommendation from the Commission would be provided to the Board and the Resolution could be amended to reflect that. DoP Henriques added that a draft resolution was available indicating that recommendation. DoP Henriques also added the Housing Element deadline was not in immediate jeopardy.

ACC Thompson added that language could be added to the Resolution which would indicate to the Board alternatives have been considered by the Commission pertaining to the percentages and in-lieu fees.

After a lengthy discussion, ACC Thompson stated this item would not have to return to the Commission unless a new CEQA document was prepared. There was also discussion regarding the properties included in the Housing Element and DoP Henriques briefly recapped the presentation and requested the Commission take action on the item. Chair Bettencourt called for a decision.

Commissioner DeVries moved to adopt the Negative Declaration, approve amended Resolution No. 2009-13 amending General Plan Amendment 09-43, amending Program 2-14 to include language “or less” for the percentages (%) and include language “or less” for in-lieu fees, inclusion of the Lico/Greco property based on public testimony during and meeting with the City of Hollister. Commissioner Scattini offered a second to the motion.

ACC Thompson clarified the motion as follows:

*“That the Board of Supervisors adopt the Negative Declaration and the recommendations to approve Resolution No. 2009-13 recommending approval of the General Plan Amendment No. 09-43 to the Board of Supervisors and the Resolution as amended and presented to the Planning Commission as compared to the Resolution in the packet and the Resolution will include Exhibit 1 and 2 which would be the Negative Declaration and General Plan Amendment No. 09-43, the Housing Element and further the recommendation of the Planning Commission is that Board of Supervisors consider amending Program 2-14 to add the words **or less** in Paragraph 1 and 2 of eliminate or reduce the in-lieu fees as determined by the Board of Supervisors and consider the property north of Enterprise Road”.*

Commissioner DeVries concurred with ACC Thompson, The motion and second passed 5-0.

Chair Bettencourt called for a brief break at 8:10 PM. The meeting reconvened at 8:21 PM with all Commissioners present.

8. **NOTICE IS HEREBY GIVEN** that the San Benito County Planning Commission will hold a public hearing to consider a resolution recommending amendment of the County's **GROWTH MANAGEMENT ORDINANCE**. **APPLICANT:** San Benito County. **LOCATION:** County-wide. **REQUEST:** Recommendation regarding amendment of Chapter 21.07 of Title 21 of the San Benito County Code. A Resolution Of The San Benito County Planning Commission, Recommending The Board Of Supervisors' Adoption Of An Ordinance Amending San Benito County Code, Title 21, Chapter 21.07, Articles I through V, Sections 21.07.001 through 21.07.230. **ENVIRONMENTAL EVALUATION:** Negative Declaration.  
*Planner: Byron Turner ([btturner@planning.co.san-benito.ca.us](mailto:btturner@planning.co.san-benito.ca.us))*

ADoP Turner presented the staff report explaining the revisions and amendment to the Ordinance. ADoP Turner provided an amended Resolution to the Commission and public for consideration and reported this item would be presented to the Board of Supervisors in December for consideration.

Chair Bettencourt asked if the Santana Ranch project would be exempt due to the changes. ADoP Turner explained it would be exempt and a development agreement was being worked on. Commissioner DeVries asked if green projects were included. ADoP Turner affirmed the question.

Chair Bettencourt opened the public hearing.

Bob Brians, 747 Shore Rd, Hollister asked if the TDC (Transfer of Development Credits) were included. DoP Henriques advised the TDC Ordinance was in process and TDC language has been included in the General Plan Update.

Richard James, EMC Planning group, 301 Lighthouse Ave., Monterey, representative for Fairview Corners requested an additional exemption to Item K which included properties located in special study land use designations.

Scott Fuller, San Juan Oaks stated the 1% doesn't work for projects in high density. Mr. Fuller stated he supported the exemptions in the amended Ordinance.

Chair Bettencourt asked Mr. Fuller if his project would be exempt under the TDC and Development Agreement exemptions. Mr. Fuller stated his project would be exempt if the Ordinance amendments were approved by the Board.

Brian Curtis, 1851 Airway Drive, Hollister stated he agreed with the amendments but had questions regarding development agreements, allocation process and will-serve letters by certain districts. Mr. Curtis also requested clarification on high density zoning designations.

After some discussion, regarding will-serve letters and possible scenarios DoP Henriques stated Section L somewhat clarified water service availability or the Commission could further define. Commissioner DeVries stated the Commission needed a commitment from the public entities.

Mr. Curtis added that some water districts are unsure on how to handle requests when competition or allocations are involved. Commissioner Machado suggested an expiration date on will-serve letters. ADoP Turner pointed out that will-serve and high density zoning could be exempt from the allocation process if so desired.

With no further comments, Chair Bettencourt closed the Public Comment period.

Commissioner Machado requested explanation regarding the family exemptions, which ADoP Turner provided. Chair Bettencourt complimented ADoP Turner for a job well done on addressing the Commission's on-going concerns with the Ordinance.

Commissioner DeVries requested staff input on Section K, 21.07-004, special study zones. ADoP Turner advised CEQA may have to be done and more research was required. After some further discussion, Chair Bettencourt called for a decision.

Commissioner DeVries moved to adopt Resolution No. 2009-14 and Exhibit 1, recommending adoption of the Negative Declaration prepared in Ordinance format for the Growth Management Ordinance amendments to the Board of Supervisors. Commissioner Scattini offered a second to the motion. Commissioner Machado requested a roll call vote.

Clerk Maderis polled each Commissioner's vote which resulted as follows:

Commissioner DeVries	Yes
Commissioner Scattini	Yes
Chair Bettencourt	No
Commissioner Machado	Yes with notation of unclear definition of 'family member'
Commissioner Culler	Yes

DoP Henriques noted the item would be presented to the Board of Supervisors on December 16, 2009 at a Special Board Meeting.

## ***DISCUSSION ITEM***

- 9. Commercial uses within Industrial Zoning.** A discussion and Planning Commission determination on permitting limited commercial uses within an industrial zone.

SP Knight presented her report advising the item was intended to receive input and direction for projects that may be submitted to the County. SP Knight explained uses in already permitted industrial zones being used during off business hours for recreational activities. SP Knight further explained those applications would be presented to the Commission for consideration under a M District Review application.

Commissioner DeVries stated he believed it would be very beneficial to the County and could potentially generate additional revenue. Commissioner Culler stated additional noise would have to be considered depending on the activities. Commissioner Machado asked if the activities could be restricted.

Chair Bettencourt opened the item to the public.

Jim West, Granite Rock requested the recreational activities be permitted with a temporary use permit and not an MDR and he believed these activities would be temporary. SP Knight explained that the applications for additional uses within these zoning districts would be routed for comments and could potentially change occupancy capacities and other code requirements that typically were not required for temporary use permits.

ADoP Turner further explained Temporary Use Permits (TUP) were usually issued administratively for one-day or once a year events and activities such as the Granite Rock Pops and Rocks event and MDR reviews include commenting and additional conditions from other permitting departments and their requirements.

The general consensus of the Commission was to accept for consideration any applications submitted for recreational activities in existing permitted MDR locations.

#### **10. Commissioner Announcements/Reports/Discussions**

The Commission had no reports or discussions.

With no further business Chair Bettencourt called for adjournment

### ***ADJOURNMENT***

Commissioner Machado moved to adjourn, the motion was seconded by Commissioner Scattini and Chair Bettencourt adjourned to the Regular Meeting of December 2, 2009 at 9:13 PM.

***Minutes prepared by:***  
*Trish Maderis*  
*Planning Commission Clerk*

***ATTEST:***  
*Byron Turner*  
*Assistant Director of Planning*