

MONO COUNTY PLANNING COMMISSION

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SPECIAL MEETING MINUTES

Combined workshop of Mono Supervisors & Planning Commission
FEBRUARY 11, 2016
(Adopted March 10, 2016)

COMMISSIONERS: Scott Bush, Chris I. Lizza, Carol Ann Mitchell, Mary Pipersky, Dan Roberts

STAFF: Scott Burns, director; Courtney Weiche, associate planner; Nick Criss, compliance officer; Brent Calloway, analyst; Stacey Simon, acting county counsel; Christy Milovich, deputy county counsel; CD Ritter, commission secretary

BOS: Supervisors Tim Alpers, Fred Stump, Tim Fesko, Stacy Corless, Larry Johnston

Public: Lynda Biederman, Ian Fettes, Ralph Lockhart, Don Morton

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE: Chair Chris Lizza called to order a Special Meeting of Planning Commission in Board of Supervisors (BOS) conference room at Sierra Center Mall, Mammoth Lakes. BOS Chair Fred Stump called to order Special Meeting of BOS and led pledge of allegiance. Stump acknowledged CAO Leslie Chapman, Treasurer/Tax Collector Gerald Frank, and Transient Occupancy Tax Agent Marilyn McCurry in Bridgeport, and stated speakers may be limited to five minutes.

2. PUBLIC COMMENT: No items.

3. WORKSHOP: Mono Supervisors/Planning Commission on Transient Rental Overlay Districts (TRODs): Conduct workshop and provide any desired direction to staff. Requested good cross section of BOS and

Courtney Weiche, planning staff, presented staff report that discussed history, application activity (those adopted/withdrawn), purpose/intent, effectiveness of Chapters 25 and 26.

In 2009, then Assistant County Counsel Mark Magit proposed to CAC transient occupancy ordinance to regulate existing rentals, but not proposing any expansion. Allowed outright or Director Review with notice. Eventually to BOS, no demand, interest waned in adoption, so put on shelf.

In 2012, June Mountain announced closure, which brought up need for expanded bed base. Looked at staff on how to do that when no large project was imminent. Look at adding lodging opportunities to market only in neighborhoods that supported process. Staff drafted Ch. 25 & 26, which revived Magit's proposal, established way to pursue district (Ch. 25). In 2012, Ch. 25 adopted.

In 2013, Ch. 26 adopted to govern/regulate permits. BOS made findings that allowing transient rentals would provide community benefit, but should be regulated to minimize conflicts.

BOS recently wanted to see location of existing TRODs. First in 2013, Black property across from Double Eagle; two more annexed into existing TROD; Lundy Canyon single parcel adopted; along SR 158 along edge of June Lake village; and one parcel on Washington Street in Upper Clark Tract. Adopted two parcels at Victory Lodge. Five TRODs, with 14 parcels. Only five have active rental permits.

Applications denied or withdrawn: one at Virginia Lakes, one in Lee Vining, one at Rancheria/Twin Lakes. Two applications in June Lake for six parcels withdrew.

Concerns/issues: Trends emerged in issues/concerns. Struggle over what is a "neighborhood." Discretionary: street, community, tract? Need neighborhood support. Ord encourages districts vs single parcels. Want large neighborhoods of consistent zoning. Weiche encouraged grouping. Concern on removing long-term rentals for workforce housing. Available websites mean people expect. Hotel districts in SFR neighborhoods. Strangers, not knowing neighbors, not aware of road conditions, bear awareness for trash,

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COMMISSIONER
Mary Pipersky

DISTRICT #2
COMMISSIONER
Carol Ann Mitchell

DISTRICT #3
COMMISSIONER
Daniel Roberts

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Chris I. Lizza

fire danger. Noise impacts, parties, trespassing. Self-policing among neighbors. Parking also. Only one code officer, hard to keep up.

How are TRODs working? Controversials were denied. Time-consuming process that puts onus on applicants, not Mono. Reactive process where homeowner comes to Mono. Opponents must actively engage in public process to get comments heard. Existing permittees queried, two presented. Explained positive experience, but harder than just a home being a home. Meet all regulations.

Nick Criss, lone code compliance officer, acknowledged current illegal market all over county. Monitoring 12 illegals renting, four at Crowley Lake, June Lake static. Enforcement actions closed down nine rentals that are no longer advertising, or sold property could not afford. Three administrative citations, one awaiting appeal to Superior Court. Illegal rentals account for all complaints. Sends notice if sees online, not need complaint. Time and resource consuming for compliance. People lie, hide, so hard to gather evidence. Legal rentals: Ch. 26 requires vacation rental permit. Health/safety, sign/notification, trash/solid waste removal, and rental agreement. Parking on site at all times. Occupancy limited to two/bedroom, not exceed 10. Snow removal standards. Enforcement set apart from administration, which is typically \$100/day, \$500 thereafter. On rentals, \$1,000 first night, \$2,000 second offense for illegal or legal. Fines fall to owner. Continued violation means revocation of permit. Problem is not going away, demand is increasing. Current staffing can't force illegals out of existence. Strictly from enforcement, legal rentals are tightly regulated, easy to enforce. Legals take guess work out of enforcement. Another layer of local management oversight.

Weiche mentioned alternatives such as tweaking Ch. 25 & 26, or adding required minimum infrastructure (e.g., Mono-maintained road, snow removal). TROD just establishes district, goes to vacation rental permit with Conditional Use Permit (CUP), potentially mitigate. Some jurisdictions in similar situations: allowing short-term (vacation) with over-counter permit. Substantial annual fee; limit number by defined size; or just CUP, hearing at Planning Commission. Highest level = General Plan Amendment, to BOS. Some outright prohibit, but distinguish between owner-occupied vs. non. Allow home sharing, rent bedroom or guest house or second unit, owner on premises.

Moving forward: Amend Ch. 25 and/or 26; status quo; research alternatives; or repeal Ch. 25 altogether. Still have existing TRODs, so need Ch. 26

PLANNING COMMISSION:

Commissioner Pipersky: Difference between district and vacation rental. **Weiche:** Establish district, apply vacation rental within TROD. **Pipersky:** Have Ch. 25 apply only to existing TRODs.

Commissioner Bush: Never hear from existing lodging industry. No feedback at all. **Weiche:** Jeff Ronci at Whispering Pines had concerns. No strong advocacy group saying taking away beds. No specific phone calls.

Commissioner Roberts: Ronci was noncommittal, learning toward opposition. Not sure impacts on lodging. Sent detailed letter to BOS.

Commissioner Bush: How repeal Ch. 25? **Weiche:** No list of options. Wanted to hear from PC/BOS.

Commissioner Pipersky: Concept got big push when June Mountain closed. Rusty Gregory said not enough beds. Know occupancy rates? Statement or fact? **Weiche:** Not have data, but big push about not enough beds. With no Rodeo Grounds project, how respond to that issue. Summer has higher occupancy.

Supervisor Johnston: Recalled inventory of available/rentable rooms at June Lake. Exists somewhere, maybe needs update. Valuable information on beds in June Lake. **Weiche:** Mountain always said not enough. Based on what? **Commissioner Bush:** If had more beds, they would come.

Commissioner Mitchell: Alternatives to Ch. 25 & 26? **Weiche:** Combination, lots of tourism-driven communities with same economic climate (vacant second homes, better to use more throughout year). Even New Orleans. Creative approaches coming out.

Commissioner Roberts: Aware that June Lake reaches 100% occupancy only at peak times.

Commissioner Lizza: Quality is the issue, not quantity. The Mountain wants a more substantial class of people.

BOARD OF SUPERVISORS:

Supervisor Fesko: Ability to repeal, get rid of existing. TRODs? **Simon:** TRODs are in nature of land use designation, change to reduce uses for available parcels. Happened infrequently: downzoned, previous

uses eliminated. Commercial in Mono City turned residential. Consequences: Investments to comply, over time phasing out.

Supervisor Fesko: Hotel rooms vs homes with multiple bedrooms. Rancheria application had vocal opponents, neighbors. Motels wondered why add more beds, affect them. People want house where all people together, not separate rooms.

Supervisor Corless: Burden on applicant to reach out. Role to CAC in application process? **Weiche:** RPACs/CAC not have role in private projects. Impact more on chapters, policies. Weiche brings up proposals at CAC meetings, not ask for direction on project.

Supervisor Corless: Problem of illegal rental at Crowley Lake. Do violation notices tell how to come into compliance? **Criss** stated most people call him, discuss. No formal applications from Crowley Lake. **Corless:** Do land use designations outside TRODs that allow short-term rentals need vacation rental permit? **Criss:** Only for TRODs. Others require Director Review or CUP that can be conditioned for that property. Different permit.

Supervisor Alpers: Intrigued by CUP layer, but layers add difficulty. No two properties same, have unique conditions. Current TRODs revisited, initiated CUP to go with application? All June Lake economic discussions back to 1,000 beds (density, traffic issues). Why not spread out around community where services exist? Conditional CUP should have come in right then. Didn't know realities of new concept.

Simon: Weiche noticed shift in research more use permit options. One reason is specific – unique characteristics can't be addressed. Going back is a problem, but going forward could have CUP in lieu of land use designation. Address unique conditions in CUP process. Supervisor Johnston raised idea of CUP originally.

Supervisor Stump: Why didn't it happen? **Supervisor Johnston:** Alternative that not really on track by staff or Planning Commission. What's done is sort of like that.

Burns: Opening up TRODs everywhere. Isolate to certain areas only after neighborhood supports it. CUP would help regulate. Open up more of county if did CUP. Sonoma County was overwhelmed, so looked at exclusion zones where couldn't have TRODs. CEQA document consideration.

Supervisor Johnston: CUP process with no TROD involved, just come in for permit. Another layer.

Supervisor Fesko: Onus on owner to find others? **Weiche:** County not going out. Up to person who wants to rent. Matter of neighborhood support. Notification, invite to join is done by Mono, paid by owner.

OPEN PUBLIC COMMENT (5-min limit), not an action item, just workshop to gather information.

Lynda Biederman, June Lake Clark Tract, which is site of several applications. If every second home were a TROD, would not satisfy Rusty Gregory, as he wants Rodeo Grounds (project) built. Biedermans feel TROD process is betrayal of community. Neighborhoods turned into hotel zones. Clark Tract in particular was eliminated originally. If not remove SFR, at least Clark Tract (private, poorly maintained roads, dangerous). Notification process only to adjoining neighbors a concern; increase to 1,000 geographical feet. Jeff Ronci spoke at Planning Commission, and then sent letter to BOS outlining problems with renters using his spa. More lodging available on site. TRODs set neighbor v. neighbor. Housing Element requires more workforce housing. Businesses are shutting down when people could rent on Airbnb for more income.

Don Morton, June Lake Accommodations, was second TROD, four lots. Most successful rental now creates Transient Occupancy Tax (TOT). Likes TROD setup, gives everybody control, neighborhood (need definition). One size does not fit all. Lower Clark Tract would be good fit for TROD. Defining neighborhood is very important. Need more TRODs, still suitable properties available, just no applications yet. Define neighborhood by CUP. Why deny when there's no impact on others? CUP talks 300', maybe extend to 500'. Why should top of hill have a say on bottom of hill?

Ralph Lockhart, first TROD. Rented guest house for years, got complaint, had to quit. Legal ways around restrictions, however. Have 31-day rental, people only stay 8-10 days, no TOT, still same problems. TOT for TRODs is a pretty big deal. One unit generates \$12,000/yr for Mono. Property values increase, more Mono revenue. Financial hardship exists if not rent. Rusty Gregory wanted "hot beds," found 1,873 rooms. Holidays/weekends generate more revenue. Most is perception. Program worked well. Make enforcement/revocation difficult. People are doing it anyway. Criss does not find all illegals. An easier process for TRODs would avoid underground. Financial help to community. Any other way, by land use change, is costly process. Respectful of anyone with neighbors violating. Many economic benefits to community.

Ian Fettes, Clark Tract resident. June Lake is tourist town. No ranching, farming, high tech to support it. June Lake is not Mammoth. Knee-jerk reaction to short-term rentals in Mammoth who party. People come to June Lake to get away from hustle/bustle. Visitors more mature, want peace/quiet, or younger couples with one to two kids who enjoy what June Lake offers; e.g., nature to counterbalance urban environment. In his case, had six neighbors approve application, two opponents won. Lives on site, 24/7 property manager, still failed to get TROD. Has 1-BD guest house. Density notion is good idea (limit on TRODs/general area). Maybe make it seasonal. Neighborhood = area affected. If not see, drive past, not in neighborhood. Two opponents can't see his property. Negative voice convinced Planning Commission to deny. Supervisor Fesko: Rent monthly? Fettes: No obligation on safety, parking, TOT, etc. if rent 31 days. Supervisor Alpers: Market for 31? Fettes: Person doesn't have to stay 31 days, but can't rent to anyone else, so give to family or friend. Only those with contract. Alpers: Develop market for 31 days. Fettes: If someone wants lesser time, can't rent to anyone else. Have property 31 days whether use it or not. Fesko: Without TROD, can't do nightly rentals. Fettes: Typical guest = couple, one car. If monthly, spread cost for more people: four with two cars.

Ralph Lockhart: Another way around ordinance = 31-day rental. Gets family/friends to stay less time.
CLOSE PUBLIC COMMENT.

--- Break: 11:40 – 11:50 ---

Chair Stump called meeting back to order. Advised Pipersky needs to leave.

Commissioner Pipersky: Complicated issue. Homeowners should be able to use their property within reason, whether chickens or few extra bucks, but within certain bounds. In research, found no one in support of TRODs in her neighborhood or nearby. At very least look at intent, make sure really want to possibly change nature of quiet enjoyment of property in neighborhoods. Do that to make June Mountain and corporate owner more salable. What does neighborhood support mean, monthly housing stock impact. Big question if intent is economic opportunities for tourists. Need *more* beds or *quality* beds? Like when cars were invented, rather have horses? Big wave all over. Can't be afraid of change, make it work best as can.

ALTERNATE COMMENTS BETWEEN BOS & PC:

Supervisor Johnston: Places exist where rental of SFR should be allowed. Economic stability, if buy SFR expect SFR neighbors. Important aspect of zoning. TRODs are de facto zone change for entire county. Any SFR up for grabs to propose transient rental. That's what we've done. Your SFR neighbor could propose TROD. Changes homeowner stability. Have to defend it every single time, forever. More lucrative for transient rental to make bunch of money, easily. Unstable situation. In Mammoth Lakes leaders didn't listen, paid \$51,000 for election. On Housing Board, zero apartment vacancy. No place for service industry renters. Trend could happen other places. No workforce housing because it's not lucrative. Contended TROD experiment is over. Voted for it, but what's happened is continually pitting neighbors against each other. Someone looking to make money. In communities, identify where transient rental opportunities are OK. June Lake Area Plan says "self-contained community." Suggested halting TROD process; have zone change process to identify SFR as OK for TRODs. Want stability in neighborhoods, opportunity for transient rental too. **Commissioner Bush**: Arbitrary process, people could ask why left out, why not in? **Johnston**: Areas already zoned SFR, based on probability TROD would work there. Open to public input along way, like General Plan Amendment for the community. Do it here, but not there, by CUP for simpler process. People would know, put conditions on.

Commissioner Lizza: Different outlook. System works. No approval where not desired. Intent talks about economic stability, not social stability. Regulation regime where violators could come into fold. Gross violations, operating under fictional 30-day lease, no TOT. Revenue generation, not Planning Commission matter. Social issues are more important. Well vetted when passed, understood concerns, addressed in Ch. 26. Rehashing argument vetted in RPACs. Passed chapters after issues were well addressed. Get TROD on case-by-case basis. Not appropriate on residence better used for workforce housing. Can't remove inventory from workforce by greater income. Other red flag: Million-dollar homes sit empty most of year. If otherwise occupied, not appropriate for TROD. If empty, appropriate place to share home with visitors. Homeowner expectations: When buy home, expect same zoning forever, but nothing's forever. Whole demand is global change. Address through chapters. Debates do not need to pit neighbors. Have discussion. Only conflict is one neighborhood. Group who wants to rent, others who don't. Planning Division can't define neighborhood.

Job of policy makers. No set answer. Distinguish between room v. whole-house rentals. Seasonal rental idea good. Not understand how CUP process would work. More of violation of expectation than rezoning property or district. Allowing variance in area where use actually is prohibited, making exception. **Supervisor Johnston:** In SFR things are permitted by CUP. If allow TROD, could be allowed by CUP. Just get CUP, allow conditions to be imposed, less costly if already OK by zone change. **Lizza:** Amend SFR to allow transient rental by CUP. **Johnston:** Not all, just those OK'd. Streamline through CUP.

Supervisor Corless: Seemed to be County response to community demand. Tricky to balance tourism v. quality of life. Disconnect in Mammoth Lakes that Town leadership was not interested in balance. Demonstrating today working with communities. Existing TRODs are working, so not throw out. Expansion is problematic. Consider positive changes. Maybe minimum infrastructure requirement. Possible exclusions for TRODs. Same application/requirements in other land use designations to keep playing field even. Less onerous, less compliance outside. Possible chapter changes to address concerns. Short-term rentals happening elsewhere, so do not deny here.

Commissioner Bush: Just because *can* do something, doesn't mean should do it. Basic problem here is a certain amount will work. But TROD sprawl/blight would be a problem. Maybe have first 1,000 TRODs; if someone drops out, another could get in. Can't be too many more, a limit. People get afraid. If only so many... Limit by area (why him but not me because live higher on hill). Separation of areas. Haven't identified neighborhood or community; would become easy. Like build-out.

Supervisor Alpers: Original intent to end up with smaller project on rodeo grounds. Cut in half by expanding carrying capacity. NO way to anticipate all scenarios. Thought identifying areas where OK, but not on county staff. Maybe consultants. Works well in some cases where suitable. Need to get use permit system to streamline, not be in such rush to approve TRODs. Stress-test what exists now. Set up areas, make determination after appropriate input from staff, consultants, public. Not change character of communities, neighbor v. neighbor.

Commissioner Mitchell: From rural end of county, before consider repeal do more work on how to fix. Would turn whole system on end. Designate areas.

Supervisor Fesko: Searched Airbnb, three at Crowley Lake, some at June Lake. Renting house v. home sharing. Where to go from here? How stop? Find balance. Anytime an issue arises, not neighbor v neighbor – it's having debate, discussion. Still all neighbors. No TRODs in Antelope Valley, but process worked when neighbors found out and applicant withdrew. Look at bigger time frames, large notice area. What is a neighborhood? How define? Could live far away but have same name. TRODs proven to work. Divisive, but decided. June Lake = 75% unoccupied. Unoccupied want to use their place. Can't be counted in workforce housing. Maybe huge rent, not affordable. Terms not static. Lots of pieces in definitions. Housing stability: Big recession at time. Second-home communities in Mono. Don't want huge turnover. Fine with current process. Define neighborhood, better notification. Haven't seen mad rush of TROD applications, BOS could take action if it happened. Continue this experiment.

Commissioner Roberts: Those involved information of ordinance at first vetted process, lots of work into it. Before became Mammoth Lakes or national news. On leading edge. Maybe tweaks, but who's affected. Case-by-case basis to Planning Commission to hear concerns. People should bring concerns. Feel responsible. Pivot point to pass last matter to BOS, not disapprove at Planning Commission level. Thought BOS needed to hear it. "Experiment" is working. Determine where appropriate. Applicant has onerous process, garner support to begin neighborhood contact; those who are successful have no issues. Considered all that's been talked about, but thought it's actually working.

Supervisor Stump: Countywide issue, not just June Lake. If no process, see expansion of illegal activity. If totally unavailable, force underground; i.e., prohibition. Occupied home and granny unit could have simplified process. Mechanism for area opt-out. Crowley Lake residents all oppose.

SYNOPSIS:

Tweaking includes definition of neighborhood by Planning Commission; percent occupancies process issue (setting maximum); infrastructure component; identifying areas for TRODs; modifying ordinance, CDD suspended process until feedback of BOS and PC; limited compliance capability, TRODs not only issues;

housing stock component relating to General Plan, housing more critical in June Lake to Sunny Slopes (feeder communities for Mammoth Lakes).

Almost three hours, how much longer? Asked staff to work with Planning Commission.

Supervisor Fesko: Thanked everyone who showed up to participate in person or by video.

Supervisor Johnston: Underlying issue of Measure Z was no trust in decision makers to protect neighborhoods that needed protection. Sent message to listen, tackle it, do something. People looking for SFR rentals. Stay on top of it lest Mono get its own Measure Z.

Supervisor Alpers: Sooner get ahead, better off for government and constituents.

Supervisor Corless: Not processing TRODs now? **Burns:** Shared that no new applications till direction from workshop. Two applicants could come back. **Supervisor Stump:** Violate own Specific Plan if allow TRODs. **Burns:** Specific Plan can tailor area to meet needs, avoid TROD if want to. **Supervisor Johnston:** Uneasy with staff not processing. **Simon:** Temporary moratorium possible. For now, defer action. Legal mechanism is available. **Johnston:** Verifies staff action, creates momentum to get something done. **Commissioner Bush:** How affect code compliance if won't accept application? **Simon:** No right to be TROD. No legal mechanism to do it. Illegals can be prosecuted.

Supervisor Stump: Future agenda item? Yes. Thanked public and Planning Commission.

4. ADJOURN BOS and Planning Commission at 12:51 p.m. Next PC meeting March 10, 2016.

Prepared by CD Ritter, PC secretary