

MONO COUNTY PLANNING COMMISSION

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MINUTES

December 15, 2016
(Adopted February 16, 2017)

COMMISSIONERS: Scott Bush, Roberta Lagomarsini, Chris I. Lizza, Mary Pipersky, Dan Roberts.

STAFF: Scott Burns, director; Paul McFarland, assistant planner; Nick Criss, compliance officer; Wendy Sugimura, associate analyst; Christy Milovich, assistant county counsel; CD Ritter, commission secretary

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE: Chair Chris Lizza called the meeting to order at 10:08 a.m. in the board chambers at the county courthouse in Bridgeport, and attendees recited the pledge of allegiance to the flag.

2. PUBLIC COMMENT: No items

3. MEETING MINUTES

MOTION: Adopt minutes of Nov. 17, 2016, as amended

4. ACTION ITEM: Adopt changes to Planning Commission Rules & Regulations recommended Nov. 17, 2016. Codes reflect quorum issue: applicant can request full commission.

5. PUBLIC HEARING

10:10 A.M.

A. GENERAL PLAN AMENDMENT 16-02: Revise General Plan Land Use Element Chapter 25 concerning transient rentals. Highlights of the recommended changes include: establish a process to permit transient rentals in residential areas if specific proposals are compatible with applicable area plans, extend noticing requirements for public hearings to 30 days, define Type I rentals as owner-occupied properties and set Use Permit Process for approval, define Type II rentals as vacant properties with off-site management and set a General Plan Amendment process for approval, require Vacation Home Rental Permits (Ch. 26) for both Type I and Type II rentals, eliminate solicitation of multi-parcel applications or setup of districts, focus on standard for approval as lack of reasonable opposition by neighbors directly affected rather than neighborhood support, and clarify "neighbor." In accordance with the California Environmental Quality Act, an addendum to the existing General Plan EIR is being utilized.

Nick Criss recalled contentious applications in Clark Tract, BOS stated Ch. 25 not working well, held joint workshop Feb. 11, 2016. Set up moratorium and recommended staff and Planning Commission work out details. Three separate workshops were held. Ch. 25 separated Type I (owner-occupied with Use Permit) from Type II (vacant, file GPA), required vacation home rental permits for both, discouraged multi-parcel applications. Focus is now on opposition rather than support. Presented to BOS July 12, recommended 30-day notice, waived appeal fees for Type I, directed to RPACs. CDD staff presented revised Ch. 25 to RPACs, recommended move ahead.

June Lake CAC wanted local area plan to determine where rentals would/would not be allowed. At Oct. 4 BOS Supervisor Larry Johnston suggested proposal for June Lake, mapping neighborhoods, eliminating some due to access or geographic limitations. Remaining neighborhoods could take vote with 80% approval to allow rentals. BOS recommended combining Johnston's proposal with staff ideas, and CAC was OK with it. Letters, emails from June Lake, some in support, some in opposition. Today recommending moving ahead with no short-term rentals in June Lake till area plan is revised. Rest of Mono could move forward. Ch. 25 refers to "short-term rentals" instead of TRODs (Transient Rental Overlay Districts).

DISTRICT #1
COMMISSIONER
Mary Pipersky

DISTRICT #2
COMMISSIONER
Roberta Lagomarsini

DISTRICT #3
COMMISSIONER
Daniel Roberts

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Chris I. Lizza

How would 80% be ascertained? Sugimura stated decision has been deferred. Once degree of common ground/conflict is known, it would help inform good decision-making. Have conversation/analysis first. Bush suggested when get there, send out to be returned by property owners. Lizza reminded that specifics are subject to area plan revisions. Pipersky considered approving I & II except for June Lake. Criss cited ordinance that says no June Lake till area plan is done. Pipersky stated Supervisor Johnston may be brought in later on separate track. Bush wanted to move rest of county along, let June Lake be separate.

OPEN PUBLIC COMMENT: Pat Hoefer, Clark Tract, objected to I and II nomenclature. Sees no difference. Could have III with arbitrary delineation. Certain assumptions ignored entirety of difference. Gets down to renters, where no difference exists. Instructions to renters would still violate local SFR (Single-Family Residential) [standards]. Same safety issues, still could violate parking, trespass, party, etc. Violations upset owners, but renters would be gone. Matters to neighbors impacted. Why I and II?

Bush contrasted owner on site vs. management company, LA owner. Be careful. Why not ban in-laws? Have some faith they'll control.

Hoefer described problematic incident. Type I owner can't control long-term. Bush noted some people violate rules; that's why there's jail. Hoefer did not want to distinguish between I and II. Long-term OK for Clark Tract. Bush asked how it would be different if family drove stuck car? Have somebody to talk to. Lagomarsini thought it sounded like a bad owner.

Ann Tozier confirmed CAC is actively working on area plan update, wanted moratorium to continue till done. Get word out to all owners in June Lake. Wants way for neighborhoods to eliminate possibility of renters so not have to continue to come to meetings, keep going through this over and over. If neighborhoods exclude new applications, what about existing rentals. What if countywide wants I and II?

Lizza: Support current proposal where area plans can prohibit or allow?

Sugimura explained Tozier is on subcommittee for work plan on June Lake policy development. Need for certainty was expressed. No answer yet, but was clearly emphasized.

Ross Biederman reported enthusiastic support for Supervisor Johnston's proposal. Exclude June Lake. [Issue] is different, distinct at June Lake. Rescind I/II, no functional difference. Ability to vet on parking, road conditions. Difference in awareness, education. Unlike guests, short-term renter has no clue. Consider very few June Lake homes qualify as owner-occupied. Make so much profit, fine is not an issue. Should not reward for such behavior. Definition of neighbor has nothing to do with geography or proximity. Should be person who knows/cares about people in area. Example of two seats away with no say. Only immediate neighbor has any say. Sometimes one or two access routes are directly affected. Easy to form theoretical idea of what's appropriate, but more difficult to live with practicality of issues. Stick with definition of neighbor. Keep wording as support, not opposition – undue burden. If owner feels threatened, should count heavily. Appreciated moratorium for more thoughtful consideration and analysis of data and outcomes. Literature from other communities shows net outcome. ADA is not incorporated into thinking. Carpinteria residents have sued city for unlevel playing field. Hotels are at disadvantage.

Ralph Lockhart, Double Eagle owner, disagreed with friends in room. In workshops, summary materials showed concerns about rentals, but support also was expressed. Verified existing districts have not had a single complaint in six areas established. Problem is illegal rentals, not existing districts. Mono gets no TOT revenue. Create legal way, produce revenue for county. Having rental districts is disadvantage to hotel owner. If done properly, rentals can increase property value. Bears enter vacant places. What legislation ever passes with 80% threshold? Essentially says nobody can do short-term rentals. Presented support letters to continue short-term rentals. Do not eliminate existing districts. Significant expense to create, no complaints. Rusty Gregory said hot beds are essential to June Lake economy. County services were in jeopardy (paramedics) unless capture revenue. Gale & Fettes disapproved. Defer to overall definition of neighbor. Concern about area plan in small rural county, June Lake is diverse. To have one size fits all doesn't recognize differences in area. Yes, ballot measure in Mammoth Lakes was difficult and contentious. June Lake hovers around a tiny ski area and lakes. Use good judgment, respect concerns of neighbors. Focus on illegals.

Criss noted that building official researched ADA. More than 10 people/dwelling go to commercial standards. ADA was considered.

Tozier claimed decision for area plan is not one size fits all. Get whole community involved, let areas decide. **CLOSE PUBLIC COMMENT.**

DISCUSSION: Questions of staff:

Will TRODs be brought into compliance? Burns stated new proposal still uses Ch. 26. No conversion problem.

Remove word "district" or keep? Burns cited same boundaries. Changing name but Ch. 26 continues to apply.

Lagomarsini asked about I and II. Pipersky thought if owner was on site, it would be managed differently, efficiently, fewer problems. Bush compared teacher in classroom vs. down hallway.

Lagomarsini noted owner is there all time, but a problem house. How would that make a difference?

Pipersky: Ugly, why pay money?

Bush saw discussion as re-litigating stuff spent time on. Johnston wanted to treat all as Use Permit, not GPA. I/II is compromise. Nobody on site to regulate. If good families have bad actor, don't just eliminate families. Set up so not punish 80% of people for what 20% want. Let June Lake figure it out. Rest of county is not complaining, so why delay?

REOPEN HEARING: Definition of on site: Same driveway? Across street? Management five minutes down road?

Lizza thought owner living there would be more responsive.

Pipersky noted European model of owner on site, more effort to have quiet, rural renter, as property is at stake. Consider how housing market changes.

Bush thought enforcement would be the same.

Roberts: Other jurisdictions found ministerial process if owner.

Criss: Whole point of Ch. 26: parking, etc. address. Enforcement can assess fines, revoke eventually.

Bush noted car in driveway could be towed.

Tozier cited workforce housing issue.

Bush indicated foreclosed home affects property values, can't be made illegal. Could prevent.

Biederman read formal research on Sedona, Atlanta, Santa Barbara, and Carpinteria. Home prices went up, then stabilized. Unaffordable to lower-income individuals, so in essence would eliminate work force. If no employees, no town. **CLOSE PUBLIC HEARING.**

DISCUSSION: Roberts saw it as a question of balance. Reasonable decisions are needed despite less-than-reasonable opinions on both sides of issue. June Lake has neighborhoods not conducive to a lot of traffic. Johnston came to CAC for years as planner, has background with June Lake community. Shared concern with steep requirement of 80% approval. Thought process was on right track. Let CAC determine its outcome.

Pipersky opined that when zoning, promises are made by government so people can make plans, know what neighborhoods will be like. Important to make possible for neighborhoods to see if suitable for STR. Should be high bar, but lots of opportunities to have a say. Can 12 people say what 1,200 people can do? Should have owners on property, too many potential starter homes taken out with rentals, so eliminate II, all be the same. If live in LA and want to rent, buy a condo. Eliminate June Lake for now, rest of county in residential area owner has to be present on property.

Lagomarsini was intrigued by eliminating II. Ch. 25 reflects what most communities in county are doing. Concerned about notice requirement, definition of neighbor.

Bush appreciated staff/communities working so hard. Guaranteed to have what you purchased only when you purchase. Need a process not governed by three or four people, certain types only. Thinking about rest of county, where no problems exist. June Lake should not say what rest of Mono can do, and vice versa. Antelope Valley is only part of county that opted out of dark skies. June Lake will fix, and he would support it when it's fixed.

Lizza asked how to take advantage of excess capacity without negative effect on workforce housing. Take each application on case-by-case basis. Best solution is for each community to come up with guidelines. Types I/II very important. I: owner is host. II: owner more of hotelier. Potential for abuse in II. Limit number of days property can be rented for II. Reduces potential for property to be purchased by investors who never live there, commercial opportunity – purchased by investor not young local family. Eliminate area plan condition to I, let it be anywhere without community chiming in.

If Type II limits days, why have it? Bush indicated BOS looked at plight of homeowner with two households. If could rent, would not foreclose. Limiting number of days eliminates investors. Let area limit total numbers allowed to avoid sprawl. Limit number, see how it works. Allow for areas to evolve or have dirt roads, adobe houses. Definition of neighbors: In proximity, but still not be neighbors.

Pipersky saw no evidence June Lake needs more beds, as Gregory stated. If could show going into foreclosure, OK to rent.

Bush originally opposed whole idea "sold" to Planning Commission. Property rights to look at, if it helps them, do it.

Pipersky saw it as either a home owner or a business. Time limit is not necessary. Not help people fill up excess capacity. No proof need more beds in June Lake or Mammoth Lakes. Illegal usage is issue.

Bush thought if it's done anyway, might as well collect tax.

Roberts noted in some neighborhoods, it's not an issue. Could buy solely to rent out.

Criss contended time limit is impossible, but make legal ones without problems into problems. If want to limit something, maybe number of houses rather than time frames. Illegal rentals are lucrative. People can claim renters are just "friends."

Lizza saw it as a risk property owner takes, could lose the right.

Roberts noted Ch. 26 requirement to report, pay tax.

Bush noted if limit number, code could enforce. Do not take away from people who have it. Need some rules that make sense.

Criss noted ski town study showed money's there, people try to do it. Puts enforcement back to square one. Could book place solid in some areas.

Lizza noted people don't rent every day of year. Deterrent to commercial property if limit is 120 days.

MOTION: PC approve R16-02, eliminating distinction of I vs II. Motion failed.

MOTION: PC approve R16-02, make sure BOS understands having only one type of rental. Motion failed.

Lizza found the draft too messy, old wording, typos. He did ~~not~~ want dissuasion of property investors for rentals. Sugimura explained outreach was under that language, so retain till adoption and change to short-term rentals. Burns explained staff recommendation that the term TROD has a negative cloud, hence new label STR. Make conforming changes for BOS. Roberts supported time limits.

MOTION: Recommend that BOS adopt General Plan Amendment 16-02 that revises General Plan Land Use Element Ch. 25 concerning transient rentals, rename Ch. 25 as "Short-Term Rentals," accept addendum to General Plan EIR, find that proposed amendment is consistent with the county General Plan and applicable area plans, and exclude June Lake till its area plan revision is concluded. (Bush/Lagomarsini. Ayes: 3. Noes: 2.)

6. WORKSHOP

A. JAIL NEEDS ASSESSMENT: Garrett Higerd noted various contributing factors. The 2009-10 assessment thought running out of 48-bed capacity, projected significant increase. Since then, significant changes in whole corrections system in California. AB 109, realignment: State prisoners were put in county jails. Length of stay longer now, creating other needs of healthcare, dental care, etc. Sentencing on drug crimes not as severe or as long. Capacity now seems adequate, but programming needs exist. Availability of bond revenue program approve by CA Legislature tailored for small-, medium-, large-scale jails. Mono is small, so proposal for project due by end February. Will BOS be ready to submit. Consultant suggested feasible alternatives.

Bush, who works at the jail, stated everyone expected to outgrow Mono's jail. Actually, State outgrew its prisons, gave prisoners to county jails. Could serve long-term stays, most about four years. Legalized weed will change jail to mini-prison, not as many, but there longer.

Higerd stated Mono is trying to comply with requirements. Most obvious way would be renovation, but revenue bonds require upgrading all that doesn't meet current code. Off the table, not cost effective. New seismic calculations. Constructed in mid-1980s, but jails get lots of use 365 days/year.

Bush noted automatic functions wear out, can't find parts. What to do with prisoners when renovating?

Higerd stated Annex building to provide services makeshift now. Family visitation. Respiratory isolation room with special ventilation system so rest of population does not get sick. Mental health, telepsychiatry, released probationers. Mono does not own land, owned by Frontier utility. Other areas on same property not as preferable. Already disturbed, same land use designation (PF), has garage on it. Alt 2: New jail facility at site of Bridgeport hospital (not since 1980s). Now used as cold storage. Demolish, larger square footage but not beds. Holistic design not add-on. Also PF. Both locations are already impacted with buildings; consistent with PF designation.
Input on alternatives...

Bush thought money from State. Higerd cited revenue bonds, \$150 million for small counties, maximum \$25 million per. Do budget analysis on issues. Operational costs: 911 dispatch in same area, with staffing efficiency. Jails are not "essential facilities." Construct as such to keep 911 dispatch.
Mono and Inyo not house juvies; they go north somewhere.

Grand Jury involved? Bush recalled two needs assessments done. Grand Jury understands needs for future.

Higerd stated proposals are due by end of February, with package of material to be included. Need BOS resolution of support on other resources, complete CEQA process (PF is good fit, already disturbed) with addendum to General Plan EIR.

Bush stated all Mammoth Lakes offenders go to Bridgeport.

Higerd noted needs assessment looked at smaller jail at Mammoth, but two separate facilities are cost-prohibitive for staffing. Make sure new facility is near existing facility. Use old jail for storage of stuff from hospital.

Bush indicated could have medical staff for community as well as jail. Higerd suggested hiring outside providers instead of transporting out.

Bush stated law requires female corrections officers for female inmates. Every corrections officer is cross trained in dispatch, so have two skills. Personnel is most expensive, especially 24/7, so dual purpose works well.

7. REPORTS

A. DIRECTOR: 1) **Jail:** PF (Public Facility) designation usually requires conditional use permit, but BOS can go forward without Planning Commission input. 2) **Building codes:** January meeting BOS. 3) **January meeting:** Will have items. 4) **Tioga Inn:** Staff & consultant have met with proponent. 5) **Weed moratorium:** Task force will be comprised of all departments involved. 45-day. 6) **Sage grouse:** Wendy and Jake are developing new webpage; 7) **Compliance Appeal:** Lizza presided as hearing officer. 8) **Staff:** Planning Analyst Michael Draper came from Inyo County; 9) **Info item:** Mono intervening in action against Center for Biological Diversity. Sugimura noted lawsuit not to list grouse. Intervention brief on behalf of USFWS; if settlement agreement is reached, need Mono at table. Local jurisdiction is involved in regulating private property, Nevada is doing scientific. 10) **GPA:** Under 90-day tribal consultation.

B. COMMISSIONERS: **Bush:** Met with Supervisor-elect John Peters, who does not intend to reinvent wheel, will reappoint Bush. **Lizza:** Is County clerk an appointed position? Burns indicated looking at interim.

8. INFORMATIONAL

A. REQUEST FOR NOTICE REGARDING CONWAY RANCH ACTIONS. *Center for Biological Diversity*

9. **ADJOURN** to January 19, 2017. Lagomarsini and Lizza will miss meeting.

Prepared by CD Ritter, commission secretary