

**SHASTA COUNTY BOARD OF SUPERVISORS**

Tuesday, September 9, 2014

**REGULAR MEETING**

9:01 a.m.: Chairman Baugh called the Regular Session of the Board of Supervisors to order on the above date with the following present:

- District No. 1 - Supervisor Kehoe
- District No. 2 - Supervisor Moty
- District No. 3 - Supervisor Giacomini
- District No. 4 - Supervisor Schappell
- District No. 5 - Supervisor Baugh

- County Executive Officer - Larry Lees
- County Counsel - Rubin E. Cruse, Jr.
- Chief Deputy Clerk of the Board - Glenda Tracy
- Administrative Board Clerk - Linda Mekelburg

**INVOCATION**

Invocation was given by Pastor Paul Shrum, Grace Fellowship Foursquare Gospel Church.

**PLEDGE OF ALLEGIANCE**

Pledge of Allegiance to the Flag was led by Supervisor Moty.

**REGULAR CALENDAR**

**BOARD MATTERS**

**SEPTEMBER 2014 EMPLOYEE OF THE MONTH**  
**TYPIST CLERK III DEBBIE WATENPAUGH**  
**RESOLUTION NO. 2014-089**

At the recommendation of Health and Human Services Agency Branch Director of Business and Support Services Katy Eckert and by motion made, seconded (Moty/Giacomini), and unanimously carried, the Board of Supervisors adopted Resolution No. 2014-089, which recognizes Typist Clerk III Debbie Watenpaugh as Shasta County's September 2014 Employee of the Month.

(See Resolution Book No. 55)

**PUBLIC COMMENT PERIOD - OPEN TIME**

Steve Morgan stated Assembly Bill 32 will cause the cost of gasoline and diesel fuels to increase greatly and requested the Board of Supervisors send a letter to Senator Ted Gaines, Senator Jim Nielsen, and Assembly Member Dahle opposing the Bill. Chairman Baugh referred the matter to County Executive Officer (CEO) Larry Lees, who said that a letter will be placed on the agenda for the next meeting.

County Service Area (CSA) No. 6-Jones Valley Water ratepayer Steve Boyd stated ratepayers in CSAs are suffering water loss and facing rate increases.

Mountain Gate resident Tom Wallis requested Shasta County work with Mountain Gate Community Services District (CSD) to develop methods for water to be provided to ratepayers in the area.

Shasta CSD Board Member Jan Hanks thanked Supervisor Moty and Public Works Director Pat Minturn for assisting in their project with Caltrans to install an Americans with Disabilities Act (ADA) compliant sidewalk.

Dolores Lucero alleged that illegal activity has occurred in local government.

CSA No. 6-Jones Valley Community Advisory Board member Roy Vincent said he is attempting to obtain a copy of the bid for repairs to be done to the Silverthorn Estates. Chairman Baugh referred the matter to staff.

**CONSENT CALENDAR**

By motion made, seconded (Moty/Schappell), and carried, the Board of Supervisors took the following actions, which were listed on the Consent Calendar, as amended (Supervisors Kehoe and Schappell voted no on the ordinance which approves Zone Amendment No. 09-006, Main; and Supervisor Kehoe recused on the agreement with Gifford Construction, Inc., as they are currently performing work for him):

Adopted a proclamation which designates September 2014 as Childhood Cancer Awareness Month in Shasta County. (Board Matters)

Approved the minutes of the meetings held on August 19 and 26, 2014, as submitted. (Clerk of the Board)

Enacted Ordinance No. SCC 2014-05, which amends Shasta County Code Chapter 3.16.120, *Transient Occupancy Tax, Actions to Collect*, as introduced August 19, 2014. (Clerk of the Board)

(See County Code Ordinance Book)

Enacted Ordinance No. 378-2028, which approves Zone Amendment No. 09-006, Main (Henderson Road/Wilshire Drive, Redding area), as introduced August 26, 2014. (Clerk of the Board)

(See Zoning Ordinance Book)

For Opportunity Center participants to provide janitorial and grounds maintenance services at the United States Department of Agriculture Forest Service (U.S. Forest Service) Service Center and janitorial services at the Shasta Lake Ranger Station and Radio Depot, for Agreement #AG-9A28-P-13-015 with the U.S. Forest Service, ratified the County Executive Officer's (CEO) signature on Modification No. 0001 to extend services from October 1, 2013 through December 31, 2013, ratified the CEO's signature on Modification No. 0002 to notify Shasta County of the interruption of services due to the federal government's lapse of appropriations effective October 1, 2013, ratified the CEO's signature on Modification No. 0003 in the amount of \$24,667.72 to fund services for the period November 1, 2013 through December 31, 2013, ratified the Administrative Fiscal Chief's (AFC) signature on Modification No. 0004 to correct fund codes effective December 17, 2013, ratified the AFC's signature on Modification No. 0005 in the amount of \$24,667.72 to extend and fund services for the period January 1, 2014 through February 28, 2014, approved and authorized the Chairman to sign retroactive Modification No. 0006 (effective March 26, 2014) in the amount of \$24,667.72 to extend services for the period March 1, 2014 through April 30, 2014, and approved and authorized the Chairman to sign retroactive Modification No. 0007 (effective May 1, 2014) in the amount of \$12,333.86 to extend services for the period May 1, 2014 through May 31, 2014; and adopted Resolution No. 2014-090, which approves and authorizes the Chairman to sign a retroactive renewal agreement (#AG-9A28-C-14-0021) and other necessary documents with the U.S. Forest Service in an amount not to exceed \$112,628.52 for the initial term of June 1, 2014 through May 31, 2015, with four optional one-year renewals (for a total amount not to exceed \$568,161.24), and approves and authorizes the Health and Human Services Agency (HHS) Director or Branch Director to sign amendments (including retroactive and revenue increase) and other necessary documents that do not result in a substantial or functional change to the original agreement, including those necessary for payment. (HHS-Regional Services-Opportunity Center)

(See Resolution Book No. 55)

Adopted Resolution No. 2014-091, which authorizes the Chief Probation Officer and the Assistant Chief Probation Officer to make purchases of goods and services through June 30, 2015, except for capital assets, in an amount not to exceed \$5,000 per purchase, within existing budget authority, and when necessary to respond quickly to address adult offenders' needs and maintain public safety. (Probation)

(See Resolution Book No. 55)

Approved and authorized the Chairman to sign an amendment to the agreement with the Redding Area Bus Authority (RABA) retaining the annual estimated amount of \$120,000 to operate the Burney Express and extending the term through September 25, 2015. (Public Works)

Awarded to the low bidder, Eddie Axner Construction, Inc., on a lump-sum basis, the contract for the Demolish Shasta County Animal Control Facility Project in the amount of \$66,042. (Public Works)

Approved and authorized the Public Works Director to sign a Notice of Completion for the Dry Creek Road Widening Project and record it within 15 days of actual completion of the work. (Public Works)

Approved and authorized the Public Works Director to sign a Notice of Completion for the Domestic Hot Water System Upgrades Project for the Shasta County Jail and record it within 15 days of actual completion of the work. (Public Works)

Waived a minor bid irregularity on the subcontractor list form submitted by Gifford Construction, Inc.; and awarded to the low bidder, Gifford Construction, Inc., on a lump-sum basis, the contract for construction on the Department of Mental Health, Lobby Renovation Project in the amount of \$519,000. (Public Works)

**REGULAR CALENDAR, CONTINUED**

**GENERAL GOVERNMENT**

**ADMINISTRATIVE OFFICE/BOARD OF SUPERVISORS**

**LEGISLATIVE UPDATE/SUPERVISORS' REPORTS**

County Executive Officer (CEO) Larry Lees had no legislative update.

Supervisors Baugh and Kehoe recently attended the Local Agency Formation Commission (LAFCO) meeting.

Supervisor Moty recently attend a Shasta Regional Transportation Agency (SRTA) meeting, a Sacramento River Conservation Area Forum meeting, a Northern Sacramento Valley Integrated Regional Water Management Governing Board meeting, and a California State Association of Counties (CSAC) meeting.

Supervisor Giacomini recently attended a Sierra-Sacramento Valley Emergency Medical Services Board meeting.

Supervisors reported on issues of countywide interest.

**SCHEDULED HEARINGS**

**GENERAL GOVERNMENT**

**ADMINISTRATIVE OFFICE**

**AB 1265 (NIELSEN) LOCAL GOVERNMENT: WILLIAMSON ACT  
CONVERSION OF WILLIAMSON ACT CONTRACTS  
RESOLUTION NO. 2014-092**

This was the time set to conduct a public hearing regarding the implementation, pursuant to Government Code section 16142(e), of the provisions authorized in Assembly Bill 1265 (Nielsen), *Local Government Williamson Act* (AB 1265) and outlined in Government Code sections 51244(b) and 51244.3. Administrative Analyst Megan Dorney presented the report and recommended approval of the request. The Notice of Public Hearing and Affidavit of Publication are on file with the Clerk of the Board.

The public hearing was opened, at which time no one spoke for or against the project, and the public hearing was closed.

By motion made, seconded (Kehoe/Giacomini), and unanimously carried, the Board of Supervisors adopted Resolution No. 2014-092, which finds that the subvention payment the County received from the State of California for Fiscal Year 2013-14 pursuant to the Open Space Subvention Act was less than one-half of the County's actual foregone general fund property tax revenue that resulted from Williamson Act contracts, and states the Board of Supervisors' decision to implement Government Code sections 51244(b) and 51244.3 effective January 1, 2015; directed staff to notify all Williamson Act contracted landowners of the following: the final decision of the Board of Supervisors after the conclusion of the public hearing on whether to implement the AB 1265 provisions, and the landowner's right to prevent the reduction in the term of his or her contract due to the implementation of the AB 1265 provisions by serving notice of non-renewal; and directed the County Administrative Office,

Assessor-Recorder, Auditor-Controller, Tax Collector, and Director of Resource Management to take all necessary steps to implement AB 1265.

(See Resolution Book No. 55)

9:51 a.m.: The Board of Supervisors recessed.

10:04 a.m.: The Board of Supervisors reconvened.

## **RESOURCE MANAGEMENT**

### **PLANNING DIVISION**

#### **ZONE AMENDMENT NO. 11-002**

#### **SEVEN HILLS LAND AND CATTLE COMPANY, INC.**

#### **SHINGLETOWN AREA**

#### **RESOLUTION NO. 2014-094**

#### **ORDINANCE NO. 378-2029**

This was the time set to conduct a public hearing regarding Zone Amendment No. 11-002, Seven Hills Land and Cattle Company, LLC, which would rezone approximately 67 acres in the Shingletown area from an Exclusive Agricultural (EA) District to a Commercial Recreation (CR) District, and/or other appropriate district. The Notice of Public Hearing and Affidavit of Publication are on file with the Clerk of the Board.

The following documents were received by the Clerk of the Board prior to the hearing to be offered into the record:

1. Addendum to Biological Opinion for Zone Amendment 11-002, by Carl Weidert,
2. Correspondence from Diaz Associates,
3. Correspondence from Carolyn Christian, and
4. Correspondence from Shute Mihaly & Weinberger, LLP.

Supervisor Kehoe noted that the Board of Supervisors had also received correspondence from Beth Livezy.

Senior Planner Lisa Lozier presented information regarding Zone Amendment No. 11-002. Ms. Lozier explained that the current zone is Exclusive Agricultural (EA), and the applicant has requested is to rezone approximately 67 acres to Commercial Recreation (CR).

A Conception Development Plan has been proposed, which would require the owner to obtain a use permit in the future for developments. Biological impacts were identified and studied, and mitigation measures are included in the proposal. Due to the location of the bells and the size of the property, an acoustical analysis has been provided, and the sound of the bells is within appropriate levels.

In response to questions by Super Kehoe, Ms. Lozier confirmed that currently approximately five acres are currently developed with structures.

The public hearing was opened.

Seven Hills & Cattle Company (Seven Hills) Representative Einhard Diaz introduced technical specialists who would be speaking during his allocated time.

Grant Maxwell of PACE engineering stated the existing and new facilities will use approximately 2,100 gallons per day. Consumption estimate of proposed facilities are based on facilities with similar usage.

In response to questions by Supervisor Kehoe, Mr. Maxwell stated that Seven Hills uses 0.04 percent of their 25/48 water rights.

Russ Wenham of Omni Means Engineering explained he reviewed roads surrounding the project site. Analysis methodology does not work, and vehicle collisions that have occurred were not in the project study area. Mitigation measures have been addressed to aid in the traffic concerns, such as clearing and thinning out vegetation for sight realignment.

In response to questions by Supervisor Giacomini, Mr. Wenham said that less than one percent of those visiting the vineyard will not be utilizing Highway 44. Locations needing improvement between Highway 44 and the farthest proposed entrance have been identified.

In response to questions by Supervisor Moty, Mr. Wenham confirmed that the current road can safely handle the capacity of travel with the proposed project and with future potential growth.

Mr. Diaz offered to remove 0.75 acre of irrigated pasture land from operation when the boutique and spa become operational, develop a new driveway with a turnaround area on private property, and plant additional redwood trees to provide additional screening for an adjacent property owner. In addition, the project is not requesting additional wells.

In response to questions by Supervisor Moty, Mr. Diaz confirmed that the applicant must amend the zoning and obtain a use permit to add additional wells.

Inwood Task Force member Beth Livezey stated the task force opposes the proposed zone amendment and requests input from the community be considered; she also alleged that proper notice was not given to area residents. The task force requests that only the existing buildings be made legal and that future additions not be allowed.

In response to questions by Supervisor Kehoe, Rick Simon stated that notification was provided to area residents. Developments were made without proper permits, which is one issue currently being addressed.

Inwood Task Force member Peter Emmons stated a large issue is water rights usage. The current water usage is meant for agricultural uses only. Mr. Emmons said that Mr. Anselmo has violated the original stream alterations agreement with the previous landowner and dammed up Bear Creek and placed a pump and a 12-inch pipe in the creek. He recommended that the Board of Supervisors require a comprehensive Environmental Impact Report (EIR) completed.

In response to questions by Supervisor Moty, County Counsel Rubin Cruse stated the California Department of Fish and Wildlife should be contacted regarding water use violations.

In response to questions by Supervisor Kehoe, Mr. Cruse stated that if the original deed did not specify water usage, such usage would be limited to only agricultural uses. Mr. Simon concurred.

Inwood Task Force member Joseph Williams provided a cumulative overview of the vineyard's development since 2007. The proposed rezoning will have a qualitative and a quantitative impact on the residents of Inwood. The Inwood Task Force requested a comprehensive EIR to be completed. The settlement agreement and zoning proposal are distinct and should be considered and handled separately. The Inwood area residents oppose the rezoning of the property.

Inwood Task Force Member Glenn Aldridge said the Inwood residents do not want a zoning change; if one is allowed, they request an EIR be completed.

Shasta County Farm Bureau representative Shannon Wooten stated that the Bureau does not support the rezoning and the development as presented. Mr. Wooten presented a letter on behalf of the Shasta County Farm Bureau.

Inwood area resident Betty Sutter has a diversionary right on Sheridan Creek and, as a result from an agreement reached with residents, supports the rezoning.

Lois Silverbush, Karyn Lamb, and Mary Machado supported the zone amendment.

Mr. Diaz stated Mr. Anselmo has had multiple tests performed, and an EIR would not show anything that the existing tests have not already addressed.

In response to questions by Supervisor Giacomini regarding the shape and size of the area to be rezoned, Mr. Diaz stated that the Planning Department requested the boundaries be adjusted to be more clear and concise, which resulted in the proposed 67-acre footprint. The proposed 67 acres follow a natural boundary, and there are vineyards within the parcel that are still irrigated lands.

In response to questions by Supervisor Moty, Mr. Diaz stated that approximately 10 to 15 of the 67 acres cannot be developed.

In response to questions by Supervisor Moty, Mr. Simon clarified that once approved, any future requested changes to the development plan will be required to go back to the Planning Commission. If a project is proposed that is not consistent with the site plan, a use permit and zoning reconsideration will be required, with any necessary Planning Commission or Board of Supervisor meetings.

In response to questions by Supervisor Baugh, Mr. Simon confirmed that in order to add additional rooms or another building under the current proposal, a use permit would be required and a rezoning would not be necessary.

In response to questions by Supervisor Baugh, Mr. Diaz suggested that a developer's agreement be completed which would identify locations for specific uses. He also confirmed that there have been previous violations, and Mr. Anselmo is now ready to work under the rules and laws.

No one else spoke for or against the project, and the public hearing was closed.

In response to questions by Supervisor Moty, Shasta County Water Agency Chief Engineer Pat Minturn confirmed that agriculture water use is typically higher than commercial use and explained that water rights depend on water availability.

In response to questions by Supervisor Baugh, County Counsel Rubin Cruse stated the settlement agreement did not specify what the vote must be on this issue. The settlement agreement was designed to address the existing violations; the applicant has various ways to solve the issues. The settlement agreement states the Board is under no obligation to approve a rezoning request.

In response to questions by Supervisor Moty and Giacomini, Mr. Cruse stated that there is a statutory process for develop agreements that has a noticing requirement and set process.

Supervisor Moty requested a recess so County Counsel and Resource Management can discuss possible alternatives for the water and traffic issues. He suggested removing some irrigated lands from the project and establishing restrictions on the property so further expansion does not occur.

Supervisor Giacomini concurred with Supervisor Moty and requested Mr. Simon address a smaller parcel footprint smaller which excludes the agriculture land.

Supervisor Kehoe discussed a need to have the existing buildings addressed, as well as the new buildings being addressed at a later time, with an EIR conducted.

Supervisor Baugh would consider voting for a development that was more clearly defined.

Supervisor Giacomini stated that she does not believe a developer's agreement is needed.

In response to questions by Supervisor Kehoe, Mr. Lees stated he would like to recess to discuss with County Counsel and Resource Management to discuss some options to present to the Board.

1:40 p.m.: The Board of Supervisors recessed.

2:40 p.m.: The Board of Supervisors reconvened.

In response to questions by Supervisor Baugh, Mr. Cruse stated that he had reviewed the applicable law. Relevant statutes and case laws mandate that if the acreage amount is changed, it will be required to return to the Planning Commission for reconsideration as they did not previously consider that option. The Board of Supervisors has several options:

1. Make a motion for the Planning Commission to consider a reduced parcel footprint.
2. Leaving the existing buildings would not have to be reviewed by the Planning Commission; however, the Board of Supervisors meeting would need to be continued to a future date for staff to prepare the ordinance and appropriate documents. The applicant is not amenable to a reduction in number of buildings proposed.
3. The Board of Supervisors may move forward and approve the existing proposal with applicant's amendments and continue the matter to allow staff to evaluate the information.
4. Deny the project.

In response to questions by Supervisor Baugh, Mr. Cruse confirmed any modification of the zoning amendment previously considered by the Planning Commission, including a reduced parcel footprint, must be referred back to the Planning Commission for recommendation and consideration.

Leaving the existing buildings and approving the 67-acre zone amendment could be approved without further input from the Planning Commission.

Supervisor Giacomini moved, with County Counsel Cruse's clarification, that the matter be referred back to the Planning Commission for report and recommendation for the proposed area of rezone from 67 acres to a smaller amount, request an expedited Planning Commission meeting, and have the Planning Commission report back with recommendation, after which the Board of Supervisors will consider that information and the revisions that have been proposed by the applicant with any additional study done by staff in connection with the proposal and request for an expedited Planning Commission meeting.

Supervisor Moty seconded the motion.

Supervisor Schappell stated that he would like to move forward and approve the existing proposal.

In response to questions by Supervisor Kehoe, Supervisor Giacomini clarified the motion includes existing buildings, as well as proposed buildings in the Commercial Recreation District, but with the smaller parcel footprint.

Supervisor Kehoe requested the public hearing be re-opened to hear from the applicant and Mr. Williams regarding the proposed motion.

Supervisor Schappell agreed with reopening the public hearing.

Chairman Baugh reopened the public hearing.

Mr. Diaz stated that currently there are interested buyers, and by accepting the proposal, development is limited. Reduction of the area still allows for a future rezoning request.

In response to questions by Supervisor Kehoe, Mr. Diaz stated that he is opposed to the motion and does not see the need for it.

In response to questions by Supervisor Giacomini, Mr. Cruse stated that any change in the County's zoning code would require the matter to go back to the Planning Commission to be considered.

In response to questions by Supervisor Moty, Mr. Diaz requested a decision be made today, if possible.

In response to questions by Supervisor Moty, Mr. Cruse explained that if the matter is referred back to the Planning Commission, the matter could be expedited since there are no public hearing noticing requirements.

Mr. Williams stated that the Inwood Task Force does not understand the pressure to expedite this matter. The taskforce is agreeable with the proposal to approve the existing buildings but does support additional buildings and rezoning.

3:15 p.m.: Chairman Baugh passed the gavel to Vice Chairman Moty and left the chambers. Vice Chairman Moty presided.

Carl Weidert stated he has not seen if all the proposed facilities are running at the same time.

Phil Macquelin questioned whether, if the proposal is converted from an Exclusive Agriculture District to a Commercial Recreation District, it allows for the new owner to enlarge the hotel.

Erin Johnston stated the community has already felt the impact and is not in support of more buildings and zoning changes.

3:20 p.m. Supervisor Baugh returned to the chambers and presided.

No one else spoke for or against the project, and the public hearing was closed.

By motion made, seconded (Giacomini/Moty), and carried, the Board of Supervisors referred the matter back to the Planning Commission for report and recommendation for the proposed area of rezone from 67 acres to a smaller amount, request an expedited Planning Commission meeting, and have the Planning Commission report back with recommendation after which the Board of Supervisors will consider that information and the revisions that have been proposed by the applicant with any additional study done by staff in connection with the proposal, and request for an expedited Planning Commission meeting. Supervisor Schappell voted no.

**CLOSED SESSION ANNOUNCEMENT**

Chairman Baugh announced that the Board of Supervisors would recess to a Closed Session to confer with legal counsel to discuss existing litigation entitled Gibbs v. Boyd, et al., pursuant to Government Code section 54956.9, subdivision (d), paragraph (1).

3:26 p.m.: The Board of Supervisors recessed to Closed Session.

3:35 p.m.: The Board of Supervisors recessed from Closed Session and reconvened in Open Session with all Supervisors, County Executive Officer/Clerk of the Board Larry Lees, and County Counsel Rubin Cruse, Jr. present.

**REPORT OF CLOSED SESSION ACTIONS**

County Counsel Rubin Cruse, Jr. reported that the Board of Supervisors met in Closed Session to discuss existing litigation. In the matter of Robert Alan Gibbs v. Department of Fish & Wildlife Officers Boyd and Little, et al., a case involving the alleged violation of federal and state laws, the Board of Supervisors, by a 5-0 vote, gave approval to legal counsel to defend this action and authorized the County Counsel's Office to assign the defense of the County and all County employees in the case to Gary Brickwood, Esq.

No further reportable action was taken.

3:36 p.m.: The Board of Supervisors adjourned.

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Chairman

ATTEST:

LAWRENCE G. LEES  
Clerk of the Board of Supervisors

By \_\_\_\_\_  
Deputy