SHASTA COUNTY BOARD OF SUPERVISORS

Tuesday, September 12, 2006

REGULAR MEETING

9:03 a.m.: Vice Chairman Cibula 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 Cibula
District No. 4 - Supervisor Hartman

District No. 3 - Supervisor Hawes - Absent
District No. 5 - Chairman Clarke - Absent

County Administrative Officer - Larry Lees
Assistant County Counsel - Michael Ralston
Deputy Clerk of the Board - Linda K. Mekelburg
Deputy Clerk of the Board - Elaine Grossman

INVOCATION

Invocation was given by Father Michael Boyle, St. Andrews Orthodox Church.

PLEDGE OF ALLEGIANCE

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

CONSENT CALENDAR

By motion made, seconded (Hartman/Kehoe), and unanimously carried, the Board of Supervisors took the following actions, which were listed on the Consent Calendar:

Approved and authorized the Chairman to sign the County Claims List totaling $1,948.00 requiring special board action. (Auditor-Controller)

Approved the minutes of the meeting held on September 5, 2006, as submitted. (Clerk of the Board)

Authorized the Sheriff to accept a grant and approved and authorized the Chairman to sign an agreement with the California Department of Alcoholic Beverage Control in the amount of $18,704 to continue the Minor Decoy Program for the period August 1, 2006 through May 31, 2008; and authorized the Auditor-Controller to pay claims for expenses related to the project. (Sheriff)

REGULAR CALENDAR

BOARD MATTERS

PROCLAMATION: CONSTITUTION DAY AND CONSTITUTION WEEK

At the recommendation of Major Pierson B. Reading Chapter of the Daughters of the American Revolution representative Marcene Bolton and by motion made, seconded (Kehoe/Hartman), and unanimously carried, the Board of Supervisors adopted a proclamation which designates September 17, 2006 as Constitution Day and September 17-23, 2006 as Constitution Week in Shasta County. Dorothy Robbins read a poem written in 1987 in honor of the 200th anniversary of the signing of the Constitution.

PROCLAMATION: SHASTA COUNTY EMPLOYEE RECOGNITION WEEK

At the recommendation of Assistant Director of Support Services Marty Bishop and by motion made, seconded (Kehoe/Hartman), and unanimously carried, the Board of Supervisors adopted a proclamation which designates September 17-23, 2006 as Shasta County Employee Recognition Week. By motion, made, seconded (Hartman/Kehoe), and unanimously carried, the Board of Supervisors authorized the Director of Support Services to sign claims related to expenses for the Shasta County employee recognition luncheon picnics in Redding and Burney; and directed the Auditor-Controller to make payments based upon these claims.

GENERAL GOVERNMENT

ADMINISTRATIVE OFFICE/BOARD OF SUPERVISORS

LEGISLATIVE UPDATE/SUPERVISORS' REPORTS

County Administrative Officer (CAO) Larry Lees presented an update on specific legislation of importance to Shasta County, noting that a request has been made for two more judges in the Shasta County Superior Court, and some funding may be made available for this purpose. A letter will be sent from the Administrative Office confirming Shasta County's participation in the effort.

Supervisor Kehoe noted that he recently attended a Mental Health Board workshop in Fall River Mills.

Supervisors reported on issues of countywide interest.

PUBLIC WORKS

AGREEMENT: MEYERS EARTHWORK, INC.
FALL RIVER MILLS AIRPORT CONSTRUCTION PHASE II
AGREEMENT: MEAD AND HUNT, INC.
AIRPORT CONSULTING SERVICES

Public Works Director Pat Minturn presented the staff report and recommended approval of the agreements. In response to a question by Supervisor Kehoe, Mr. Minturn explained that although Meyers Earthwork, Inc. did not submit the lowest total bid amount, their base bid was lower than the base bid of the other bidder, J.F. Shea Construction, Inc. Additionally, Meyer Earthwork, Inc.'s base bid was lower than the engineer's estimated base project cost. Only when the alternative bid was included did J.F. Shea have a lower total bid than Meyers Earthwork.

By motion made, seconded (Hartman/Kehoe), and unanimously carried, the Board of Supervisors took the following actions for the Fall River Mills Airport Expansion Construction Project: Awarded to the low bidder, Meyers Earthwork, Inc., the contract for construction on the Fall River Mills Airport Construction Phase II in the amount of $2,479,147; and approved and authorized the Chairman to sign an amendment to the agreement with Mead and Hunt, Inc. for airport consulting services in the amount of $130,000 (increasing the total compensation to $1,227,000) and extending the term from September 25, 2006 to September 25, 2011.

CLOSED SESSION ANNOUNCEMENT

Vice Chairman Cibula announced that the Closed Session had been pulled at the request of the department.

9:39 a.m.: The Board of Supervisors recessed.

1:30 p.m.: The Board of Supervisors reconvened with Supervisors Cibula, Hartman, and Kehoe, CAO Larry Lees, Assistant County Counsel Michael Ralston, and Deputy Clerks of the Board Linda Mekelburg and Elaine Grossman present.

AFTERNOON CALENDAR

SCHEDULED HEARINGS

RESOURCE MANAGEMENT - PLANNING DIVISION

Vice Chairman Cibula announced that there were requests for continuances on both appeals, and on advice of counsel, any issues of continuance would be addressed before any public hearings begin. Senior Planner Bill Walker explained that, in both cases, the applicant has requested a continuance.

REQUEST FOR CONTINUANCE:
ZONE AMENDMENT NO. 05-011 AND
APPEAL OF TRACT MAP NO. 1910
SUTTER BROWN, INC.
SHINGLETOWN AREA

Sutter Brown, Inc. representative Mike Stetner explained that they recently received additional information from the County Planning Division and were requesting a continuance in order to prepare a response. Appellant Paul Baars stated he was not opposed to a continuance at this time but would like the opportunity to present comments for the record. Vice Chairman noted that the public hearing would be opened for comment as it had been legally noticed for this date. By motion made, seconded (Kehoe/Hartman), and unanimously carried, the Board of Supervisors continued the appeal of Tract Map No. 1910 and the consideration of approval of Zone Amendment No. 05-011, Sutter Brown, Inc. (Shingletown area) to a later date. (The motion to set a date was made after public testimony was received later in the meeting.)

REQUEST FOR CONTINUANCE:
APPEAL OF USE PERMIT NO. 05-012
DAMON STUTES
IGO AREA

Applicant/appellant's attorney Bart Fleharty explained that his client's request for a continuance was based on lack of notice to either him or to applicant representative Bill Hobbs of the August 10, 2006 Planning Commission meeting and the unavailability of persons to attend this Board of Supervisors meeting. Area property owners' attorney Jeff Swanson noted that

although his clients have no objection to a continuance, they are prepared to present their case. In response to a question from Supervisor Kehoe, Senior Planner Bill Walker clarified that the Planning Division's records indicate that a copy of both the legal notice and the staff report for the August 2006 Planning Commission meeting were mailed to Mr. Hobbs. In response to a question from Supervisor Cibula, Assistant County Counsel Michael Ralston recommended that the matter be continued to a later date to avoid any court challenges based on lack of due process.

Supervisor Hartman made a motion to continue the matter to a later date; however, the motion died for lack of a second.

In response to a question from Supervisor Cibula, Mr. Ralston explained that should the Board of Supervisors proceed with the public hearing, the history of this project would indicate there is a probability that court action would result. Director of Resource Management Russ Mull noted that he did not see any significant procedural defect in the matter which would prevent going forward.

Supervisor Kehoe made a motion to proceed with the matter. Supervisor Cibula seconded the motion. The motion failed by the following vote:

AYES: Supervisors Kehoe and Cibula
NOES: Supervisor Hartman

Mr. Ralston explained that all action taken by the Board of Supervisors must be passed by a majority of the Members, not just a majority of the quorum, so a unanimous vote is required when only three Members are present. However, in this instance, the matter was agendized, and the motion to continue died for lack of a second; therefore, the matter can proceed as agendized in its place on the regular calendar.

ZONE AMENDMENT NO. 05-007
MARK HENDERSON
BIG BEND AREA

This was the time set to conduct a public hearing and consider the request to approve Zone Amendment No. 05-007, Mark Henderson, which would rezone approximately 2.99 acres in the Big Bend area from a Timber Production (TP) District to a Commercial Recreation (CR) District. Senior Planner Bill Walker presented the staff report and recommended approval of the project. The Notice of Hearing and Affidavit of Publication are on file with the Clerk of the Board.

The public hearing was opened, at which time the applicant's representative, Frank Lehman, explained that the zone amendment change will bring the existing buildings back into compliance with zoning laws, noting that the buildings were on the property before the zoning was amended to a Timber Production District.

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

By motion made, seconded (Kehoe/Hartman), and unanimously carried, the Board of Supervisors took the following actions regarding Zone Amendment No. 05-007, Mark Henderson, Big Bend area:

1. Adopted the California Environmental Quality Act (CEQA) determination of a negative declaration with a de minimis finding of significance, with the findings as specifically set forth in Planning Commission Resolution No. 2006-127;

2. Adopted the rezoning findings as specifically set forth in Planning Commission Resolution No. 2006-127; and

3. Introduced and waived the reading of an ordinance approving Zone Amendment No. 05-007 as requested.

ZONE AMENDMENT NO. 05-011 AND
APPEAL OF TRACT MAP NO. 1910
SUTTER BROWN, INC.
SHINGLETOWN AREA

This was the time set to conduct a public hearing and consider the request to approve Zone Amendment No. 05-011, Sutter Brown, Inc., which would recognize approximately 216 acres in the Shingletown area as a Limited Residential combined with a Building Site Minimum (R-L-BSM) District in conjunction with a 30-parcel land division, and consider an appeal by Paul and Kathy Evanko Baars of the Planning Commission's approval of Tract Map No. 1910. The appellants' concerns include a lack of analysis of groundwater availability and quality, lack of cumulative analysis in relation to other developments, public safety, traffic, and inadequate notice regarding the project. The Notice of Hearing and Affidavit of Publication are on file with the Clerk of the Board.

The public hearing was opened, at which time the following individuals spoke:

Appellant Paul Baars presented documentation to the Board of Supervisors which included a listing of well capacity results from area residents and a request for environmental studies before further development in the area is allowed. The area in question does not have an aquifer; water is found randomly in fissures in the rock.

Beth Livezey discussed her involvement in the Ranches of Inwood project and the similarities to this project. She requested that the deficiencies in the Notice of Hearing for the August 2006 Planning Commission meeting be addressed, a study be conducted, and the cumulative impact of developments in the Shingletown area be considered

George Eichelberger informed the Board of Supervisors of another project approved many years ago located west of the current project area where parcels were zoned at a 40-acre minimum due to the lack of available water.

Katherine Nolds explained some of the repercussion of having wells with little water, such as not being able to run water-using appliances at the same time.

Orin Ray explained that the biggest issue in the Shingletown area is not water, but fire, and people need to clear brush around their homes.

Chuck Pierce expressed his support for the project as approved by the Planning Commission.

Bill Sutter stated that Shingletown needs a well-planned development.

No one else spoke for or against the proposal, and the public hearing was continued.

By motion made, seconded (Hartman/Kehoe), and unanimously carried, the Board of Supervisors set September 26, 2006 at 1:30 p.m., or as soon thereafter as may be heard, as the date and time to continue the public hearing.

APPEAL: USE PERMIT NO. 05-012
DAMON STUTES
IGO AREA
RESOLUTION NO. 2006-137

This was the time set to conduct a public hearing and consider an appeal of the Planning Commission's denial of Use Permit No. 05-012, Damon Stutes (Igo area). The appellant has requested a use permit to build a private airstrip on the property. Appellant's concerns include lack of jurisdiction by the Planning Commission until environmental analysis is complete, lack of notice of the August 10, 2006 Planning Commission meeting, violation of the Permit Streamline Act, and violation of Planning Commission Operation of Conduct of Business by the Planning Commission. The Notice of Hearing and Affidavit of Publication are on file with the Clerk of the Board.

Senior Planner Bill Walker presented the staff report and recommended denial of the appeal based on potential interference with the Richard W. Curry West Central Landfill. In response to a question from Supervisor Cibula, Mr. Walker noted that to the best of his knowledge, due process in this matter has been followed.

Public Works Director Pat Minturn explained that the landfill receives 90 percent of the solid waste in Shasta County and is an essential element in solid waste management in Shasta County. The proposed airstrip is within one mile of the current landfill boundary. There are several concerns:

1. Birds attracted to the landfill may cause a potential danger to planes.

2. In time, the landfill boundaries will expand toward the airstrip.

3. Landfill permits must be renewed every 5 years, and in approximately 12 years, the permitting process for Phase III of the landfill will begin; the airstrip location will need to be disclosed during the permitting process.

In response to a question from Supervisor Cibula, Mr. Minturn confirmed that, in his opinion, the location of the proposed airstrip could jeopardize the ability to continue operations at the landfill.

The public hearing was opened, at which time the following individuals spoke:

Applicant/appellant's attorney Bart Fleharty requested that the Board of Supervisors reconsider and continue the matter to a time when five Members can be present and that his letters to Supervisor Cibula, along with briefs he submitted to the Board of Supervisors and all correspondence to the Planning Division, be made part of the record. Mr. Fleharty provided a history of the use permit and explained that he did not receive notice of the August 10, 2006 Planning Commission meeting. He alleged that the Planning Commission violated their *Operation of Conduct of Business* Rule 9.E. by allowing the matter to be reheard in May 2006 after acting on it in April 2006. He also alleged the Planning Division staff violated the Permit Streamline Act by not deeming the application complete within 30 days and starting the California Environmental Quality Act (CEQA) process.

Applicant/appellant's representative Bill Hobbs explained that the proposed airstrip is in a relatively remote area and would only be used a few times a month. He stated that the California Division of Aeronautics has reviewed the project and found no impact, and he noted that Federal Aviation Administration (FAA) restrictions discussed earlier do not apply to smaller airports or private airports. He requested that the matter be returned to the Planning Commission for the CEQA process to address any issues.

Area property owners' attorney Jeff Swanson addressed the following issues and urged the Board of Supervisors to deny the appeal:

1. Regarding the Permit Streamline Act, there may be a length of time, along with several continuances, before an application is deemed complete.

2. Regarding the landfill, the issue is not the FAA regulation restrictions but that there is a potential for conflict between a landfill and an airport runway; the General Plan does not allow for the approval of a permit that will conflict with a landfill.

3. The Planning Division's direction to staff in April 2006 to conduct further environmental review does not constitute a "final decision" but was advisory in nature; therefore, Rule 9.E did not apply.

4. The California Environmental Quality Act (CEQA) does not apply to projects which are denied or not approved.

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

Director of Resource Management Russ Mull presented a chronology of the project. Three letters were sent to Dr. Stutes indicating that the project was not complete and requesting more information. The Permit Streamline Act does not take effect until a project is deemed complete; this project still has not been deemed complete. Dr. Stutes was notified that the project would be denied but could be taken to the Planning Commission at Dr. Stutes' request.

Mr. Mull noted that the main issue in the project is that it is a General Plan compatibility issue; the landfill is a very valuable asset due to the inability to site new landfills, and the Planning Division notified Dr. Stutes early in the project that they would be unable to support the project. He recommended that the Board of Supervisors base their decision on consistency with the General Plan.

In response to a question from Supervisor Cibula, Mr. Mull replied that all documents that have been received by the Planning Division and by the Clerk of the Board have been made part of the public record. In response to a question from Supervisor Kehoe, Mr. Mull explained that the General Plan requires that all projects near landfills be compatible and well regulated.

By motion made, seconded (Kehoe/Hartman), and unanimously carried, the Board of Supervisors adopted Resolution No. 2006-137, which denies the appeal of Use Permit No. 05-012, Damon Stutes (Igo area), by the applicant and upheld the Planning Commission's denial of Use Permit No. 05-012, based on certain findings as specifically set forth in Planning Commission Resolution No. 2006-123.

(See Resolution Book No. 47)

3:58 p.m.: The Board of Supervisors adjourned.

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Chairman

ATTEST:

LAWRENCE G. LEES
Clerk of the Board of Supervisors

By_____
Deputy