

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

October 22, 2020

Commission Members

P John Hess, District I
P Everardo Chavez, District II
P Batsulwin Brown, District III
P Christina Price, District IV
P Daniel Suenram, District V

Staff Members

P Scott DeLeon, CDD Director
P Tocarra Thomas, Deputy Director
P Mark Roberts, Principal Planner
P Nicole Johnson, Deputy Cty Counsel
P Kate Lewis, Office Assistant III

REGULAR MEETING

October 22, 2020

9:02 a.m. CALL TO ORDER

Pledge of Allegiance was led by Daniel Suenram.

9:03 a.m. ACTION ON MINUTES

Comm. Hess moved, 2nd by Comm. Price to approve the Minutes from the October 8, 2020 Planning Commission Meeting.

5 Ayes, 0 No – Motion carried, approved by roll call vote.

9: 05 a.m. CITIZEN’S INPUT - NONE

Any person may speak for three minutes about any subject of concern, provided that it is within the jurisdiction of the Planning Commission, and is not already on today’s agenda or scheduled for a future public hearing. Total time allotted for Citizen’s Input shall be fifteen minutes. Speakers are requested to complete a simple form (giving name, address and subject) available in the Community Development Department office, prior to 9:00 a.m.

Agendas of public meetings and supporting documents are available for public inspection in the Lake County Courthouse, Community Development Department, Third Floor, 255 North Forbes Street, Lakeport, California

Request for Disability-Related Modification or Accommodation: A request for a disability-related modification or accommodation necessary to participate in the Planning Commission meetings should be made in writing to the Planning Commission Assistant at least 48 hours prior to the meeting.

9:06 a.m. Public hearing on the Annual Cannabis Inspections.

Katherine Schaefer, Assistant Planner, and Mike Herringshaw, Code Enforcement Officer gave a power point presentation which

provided background and information on the recent inaugural cannabis inspections as well as some future projections.

Comm. Suenram asked if staff has put eyes on the property that has not been inspected, due to the applicant having an ongoing medical emergency. He expressed his concerns that there may be growing/harvesting happening despite an alleged medical emergency. He noted the permit conditions include an inspection, which has not happened.

Mike Herringshaw, Code Enforcement, explained that the applicant has verified that he is undergoing a medical emergency. He said that staff can do a shorter form of the inspection soon so there should still be plants there if they did, in fact, grow.

Comm. Hess asked Nicole Johnson for clarification about the Brown Act and the Annual Performance Reviews.

Nicole Johnson, County Counsel, clarified the rules and said that staff will have to be careful to redact any non-public information, including personal information of the applicants.

Comm. Suenram asked what documents comprise the annual reports from the applicants.

Katherine Schaefer said they have not seen them yet. She pointed out a specific slide that explains what the annual reports are and of what they should consist. She said that they still do not have an exact structure of what they should be.

Comm. Suenram noted that the past Planning Director seemed to have an idea of how this was supposed to go, and asked Comm. Hess for his input and memory of the origins of these reports.

Comm. Hess said that he has some thoughts and opinions about this regarding the financial implications and efficiency of moving through all of this paper. He believes that the Planning Commission needed a way to understand how the applicants were doing after being granted permits. He feels that having staff go through all these reports and redacting personal information seems to be a very large burden to put on them.

Comm. Suenram said that he still thinks it is best to have someone or a couple people from within the department review the reports and then give a report on things that stand out. He said an unfortunate part of it is that it is not considered agriculture, but it really is agriculture, so it would behoove us to include someone from agriculture in these reviews to be able to spot things that a planner may not, in terms of agriculture.

Comm. Hess said that he agrees about having a relatively detailed report from the department, which outlines violations and patterns of things that can be addressed across the board.

Comm. Price said that she agrees with both Commissioners.

Comm. Hess asked Katherine Schaefer what would be the most helpful way for her to get feedback from the Commissioners.

Katherine Schaefer said that she thinks some recommendations would be to allow staff a bit more headway before they go out and

perform the inspections, as it took her entire day for three months. She said it takes an extraordinary amount of time.

Comm. Hess said that one obvious idea would be to increase the amount that an applicant pays to provide more resources to those who have to go out into the field. He also said that the Commission needs to provide staff with more guidance on how to handle locations that have multiple permits.

Comm. Price agreed that fees should be increased; permittees should have to pay per permit. She said the applicant wants to be in compliance, and they will jump through whatever hoops are necessary. She said the Commission needs to set the bar.

Comm. Hess said that he knows that there is a five year window that if a site is in compliance for five years, the amount of inspections goes down. He said that perhaps they can shorten that window to three years, which will help address the growing numbers throughout the years to help make it easier on staff.

Comm. Price said she agrees with Comm. Hess and the amount of revenue being brought in, we may need to slide the scale a little bit to increase the fees and help staff with the growing numbers. She said she feels as though the applicants would rather pay more upfront in order to be in compliance instead of waiting as long.

Comm. Suenram said that he feels that with the inspections we are still in a learning phase, which has taken a lot of time and may continue to take a lot of time over the next year or two, but he feels that at some point staff will have an expert that has all of this knowledge so that it would not be so time consuming. His hope is that the time per permit will decrease as time goes on. He would like to see applicants cover more of the cost upfront. He said that for those who are not in compliance during inspection, where another inspection is necessary, there should be some type of fine for noncompliance; which could be a tiered fine system based on the type of violation. He said it was his recollection that when Early Activation was created it was for people who were currently growing who were trying to come into compliance of a changing Ordinance that was not fully written.

Nicole Johnson explained that Early Activation Permits were not invented for the Cannabis Ordinance, in fact, they apply to any Use Permit that the County may approve; there are very strict conditions that apply to an EA permit. She said that an EA should be very narrow with non-impactful activities, and there should not be a massive amount of activity that should be viewable.

Comm. Suenram said that his issue with EA is that those people have not had their time to come before the Planning Commission and are doing things that are not permitted, such as growing outdoor in land zoning that does not allow for outdoor cultivation.

Tocarra Nicole Thomas, Deputy Director CDD, said that staff reviews an EA permit the same way as a Use Permit, and it is sent out for review from other agencies, clearly stating that it is Early Activation. EA is only for six months at a time, and it is a tool that allows permittees to get in one growing cycle while their Use Permit is being processed, which is taking longer than normal. She then discussed the process of review for the annual inspections. She said the purpose of this presentation is just to highlight the amount of time that it has taken for staff to work up to the inspections.

Comm. Hess asked Toccarra what the fee is for Early Activation.

Mark Roberts, Principal Planner, responded that the fee to get the application for EA processed for a zoning permit is \$243.80.

Comm. Suenram said that considering some of these sites are getting two harvests in one season, and there is no environmental review being done while they harvest more than once in a season.

Toccarra Nicole Thomas said that staff has planned to bring the Early Activation discussion to the Planning Commission, and at this point it may be a violation of the Brown Act to discuss it now as it was not listed on the Agenda for this meeting.

Comm. Hess said that he does not know how they could have had this discussion today without bringing up Early Activation.

Comm. Suenram said that he agrees with Comm. Hess.

Nicole Johnson said that the ambiguity of Early Activation was listed in the report that was attached to the Agenda.

Comm. Hess said that he does not see this as an opportunity to review the entire process for Early Activation.

Toccarra Nicole Thomas said that the fee change they are asking for is for the Mitigation Monitoring for the Annual Inspections.

Comm. Suenram said that if staff is sending someone out to sites with the checklist of what they are looking for, someone with minimal training could go out and do the inspections, why not use a 900 hour employee instead of a full time employee, and save the knowledgeable person to do the reviews on all the reports.

Mark Roberts said that is a possibility once someone has a general grasp of conditions and knows what they are looking for, in order to help ease the workload of conducting inspections and reviewing the reports.

Comm. Chavez said that we would need to be able to see the numbers of how many hours of preparation happens before the visits, during the visits and be able to see how much the EA growers are cultivating. We need to be able to take into account all of the time as a whole that is being utilized by staff.

Katherine Schaefer gave an overview of her process from beginning to end and the difficulties she encountered as well as the amount of time and work that went into this process. She stated that the time commitment and the numbers are a worry.

Mike Herringshaw said that the time spent in the field was much less than the preparation that took place beforehand. He said that each site visit took about 1 hour, while each project took about 4-5 hours in the office to prepare for the site visit.

Comm. Hess said that there was another area of ambiguity in the Ordinance which included multiple permits and fees; he asked if any of the Commissioners had recommendations about multiple permits and fees, in order to figure out way to generate more revenue for the department without making it too onerous for the applicants.

Comm. Price said that she feels if we can figure out what staff will need as far as increasing permit pricing, meaning if one applicant has 5 permits, they will pay the fee five times. She said whatever it will take for staff to either have more bodies doing inspections or more people doing the reviews; there is room for us to increase the permits to offset the hours being spent on this.

Nicole Johnson said that we are getting into the weeds with government fees and would caution the Commission going forward with recommending policy and fee changes. She encouraged them to stay with the topic at hand about how to generate more revenue.

Comm. Hess said he does not agree with Nicole and feels like they are not in the weeds. He said they are not trying to change policy, but are trying to find recommendations for staff and the Board of Supervisors regarding these issues.

Nicole Johnson clarified what she meant and the Commissioners agreed with her. She said that with all of these ambiguities they can keep them in mind and create a recommendation to the Board to amend the Zoning Ordinance to incorporate certain changes in language to correct some of the consistent issues that come up.

Comm. Hess suggested that at the end the Commissioners give their general recommendations for Planning Staff, which could be used to help them go to the Board of Supervisors.

Scott DeLeon, CDD Director, said that it is important to recognize that today's presentation was a summary of staff's work and recognized the amount of work that went into these inspections. He mentioned the new Cannabis Division and said that with that things will start to morph and changes will begin to happen. He said staff was not looking for specific recommendations at this particular time, but instead wanted to give them a summary of what was done. He asked how they want to handle the annual reports moving forward, including this year. He said this meeting does not meet the Ordinance's requirements, so they can decide how they would like to proceed with these reviews.

Comm. Hess said that there are five Commissioners with five different lives and the last thing he would want is for the Commissioners to become a bottleneck in the review process of these reports.

Scott DeLeon said that to be frank, his preference would be that staff review the annual reports and make a presentation to the Planning Commission. If they have concerns about specific operations they can address them. His preference to have staff review them is because staff has been a part of the process from beginning to end and they are the most knowledgeable on it. He said that the Commission can follow the Ordinance and if they find issues with the way staff is doing it, the Commission can always change the delegation back to them.

Comm. Price said that the best way is to have staff review the reports and if there are sites that are in violation, staff can give the Commissioners updates on the types of violations that are being found and then they can get an idea of what is happening. She agrees that these projects have been staff's and it would be better for staff to follow them through to the end.

Comm. Hess agrees with that plan.

Comm. Suenram said that he agrees on the idea of letting staff review the reports and then come back to the Commission with a summary. The idea is to find out if changes need to be made to the Ordinance or to the way we permit these grows through the Planning Commission. He said as long as we have someone capable of reviewing them properly that is the way to go.

Comm. Hess said that consideration should be given to raising the Mitigation Monitoring fee of \$760. He said that there needs to be consideration in raising the EA fee. He said that consideration needs to be given on possibly decreasing the window of 5 years of compliance in order to have less sites on the schedule of the inspectors. He said the ambiguities in the Zoning Ordinance need to be addressed in regards to multiple permits and EA fees. He agrees that it is better to delegate these inspection reports to staff and Director DeLeon.

Comm. Suenram said that because staff is already over budget on these inspections, if it is requiring someone to go back out and revisit the site, let alone more preparation work, there should be a fine for noncompliance. He feels that a fine for noncompliance might make applicants strive to be in compliance.

10:38 am OPENED PUBLIC COMMENT

Lance Williams, Lake County Cannabis Alliance, thanked Katherine and Mike for all their hard work throughout this first round of inspections. He said that he received a lot of text messages as this meeting was going on. He brought up concerns of where the money would be coming from, considering that cultivators are already paying a significant tax. He said we have learned a lot and still have a lot of work to do, and reiterated that the cannabis cultivators do not want to be overly taxed. He said that larger farms having to pay more, there should be a cap; and those who have smaller farms should not have to pay the same tax as a larger farm. He said that people are concerned and the biggest takeaways is that cultivators do not want to be taxed too much. He said we can all come to a reasonable conclusion and he feels that's what would happen when it goes to the Board of Supervisors. He said that he hopes staff at CDD and throughout the County are being paid fairly because he has seen a lot of turnover and does not wish to start again from scratch as has happened before. He is looking forward to seeing the Cannabis Division.

10:49 am CLOSED PUBLIC COMMENT

Comm. Suenram asked for clarification that they are not making any decisions other than how to process these reports.

Nicole Johnson said that due to the meeting being digital, each Commissioner should voice yes or no for a consensus.

Comm. Suenram said that we are agreeing to allow staff to review the reports and bring the information back to the Commission.

Comm. Hess moved, 2nd by Comm. Price that the Planning Commission provide direction to and delegate the review of the annual inspection reports to the Director of CDD with staff's input, at which time staff will bring the information back to the Planning Commission for review.

5 Ayes, 0 No – Motion carried, approved by roll call vote.

10:53AM UNTIMED STAFF UPDATE

Scott DeLeon acknowledged Katherine Schaefer and Mike Herringshaw for their hard work during the inspections.

Katherine Schaefer gave her background in creating and building systems and how she is utilizing that to create this process so that it can be used efficiently going forward. She thanked Mike Herringshaw, Mark Roberts, Scott DeLeon and Toccara Thomas for their assistance with these inspections.

Scott DeLeon said that he is officially the Director of CDD and that they will be launching the newly approved Cannabis Division.

Scott DeLeon and Kate Lewis got a consensus on which date the Commissioners prefer for a Special Meeting of the Planning Commission for a General Plan of Conformity. The decision was that the Special Meeting would take place November 5, 2020.

11:01AM ADJOURNED

Daniel Suenram, Chair
Lake County Planning Commission

Respectfully Submitted,

By: _____
Kate Lewis
Planning Commission Assistant