

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

JANUARY 24, 2013

Commission Members

**P Joseph Sullivan, I
P Bob Malley, II
P Olga Martin Steele, III
P Don Deuchar, IV
P Gil Schoux, V**

Staff Members

**P Richard Coel, Director
P Emily Gonsalves, Principal Planner
P Robert Bridges, Sr. Deputy County Counsel
P Danae Bowen, Office Assistant III**

8:30 a.m. CALL TO ORDER

Pledge of Allegiance was led by Olga Martin Steele.

OATH OF OFFICE ADMINISTERED TO PLANNING COMMISSION

The Oath of Office was given to Comm. Malley, Martin Steele, Deuchar and Schoux by, Diane Fridley, Registrar of Voters

ELECTION OF CHAIR AND VICE CHAIR

Comm. Schoux moved, 2nd by Comm. Sullivan to nominate Comm. Malley as Chair to the Planning Commission. All were in favor.

Comm. Malley moved, 2nd by Comm. Sullivan to nominate Comm. Schoux as Vice Chair to the Planning Commission. All were in favor.

8:35 a.m. CITIZEN'S INPUT - None

**8:39 a.m. **Planning Commission legal orientation.
(Robert Bridges)****

Robert Bridges, Senior Deputy County Counsel, provided an overview of Planning Commission duties and reviewed: The Brown Act, Conflict of Interest, Findings of Fact, Permit Streamlining Act, Ex parte Contacts and How to Run a Fair Hearing.

9:07 a.m. **Public Hearing on consideration of a mitigated negative declaration based in Initial Study (IS 10-34). The project applicant is LAKE COUNTY SPECIAL DISTRICTS; County Service Area #2, proposing the recovery of Spring Valley Lake Reservoir. The project is located at the Spring Valley Lake Reservoir and three spoils sites where soils will be deposited within the Spring Valley subdivision. The reservoir is on property located at 3460 Spring Valley Road & 2995 Quince Way, Clearlake Oaks, APNs 062-361-03 & 062-241-02. The three spoils sites are located at 1930, 2945, 2950 & 2980 Wolf Creek Road, Clearlake Oaks, APNs 062-531-02, 062-501-01 & 04 and 062-471-01. (Peggy Barthel)**

Comm. Martin Steele disclosed her observations conducted during her site visit.

Peggy Barthel, Assistant Resource Planner provided background information.

Mark Dellinger, Lake County Special Districts Director, added that there are a number community members present today and that there is a high level of support from the community for this project.

9:12 a.m. Opened Public Hearing

No one present wished to speak.

9:12 a.m. Closed Public Hearing

Comm. Martin Steele asked Mr. Dellinger if there was any thought of using the marketable materials for other County sites/projects.

Mr. Dellinger said the way this project could succeed with achieving maximum capacity of the reservoir is to work with a local entity. He said the marketable material will stay in the county, so in an indirect way it will help the economy through a valuable natural resource.

Comm. Martin Steele moved, 2nd by Comm. Schoux, that the Planning Commission find on the basis of Initial Study IS 10-34 prepared by the Planning Division, that the Spring Valley Lake Recovery and Maintenance Project as proposed by CSA #2 will not have a significant effect on the environment and, therefore, recommend that the Board of Supervisors, on behalf of CSA #2, adopt a mitigated negative declaration for the proposed project with the findings listed in the Staff Report dated January 14, 2013.

PROPOSED MITGATED NEGATIVE DECLARATION 5 Ayes 0 Noes

9:18 a.m. Planning Commission Legal Orientation continued.

Robert Bridges, Sr. Deputy County Counsel, continued with legal orientation to the Planning Commission on the California Environmental Quality Act (CEQA).

Richard Coel, Community Development Director, Emily Gonsalves, Principal Planner and Kevin Ingram, Senior Planner reviewed the process for Initial Studies and Mitigated Negative Declarations and supporting documentation that is reviewed for the analysis for the initial study and mitigation measures.

9:55 a.m. Break

10:04 a.m. Back to Order

10:04 a.m. Public Hearing on consideration of a General Plan Conformity Report (GPC 11-09) and mitigated negative declaration based on Initial Study (IS 11-11). The project applicant is LAKE COUNTY PUBLIC WORKS proposing the addition of a center turn lane, construction of Class II bicycle lanes, underground utility lines, and improvement of utility lines, and improvement of utility infrastructure on South Main Street and Soda Bay Road, Lakeport. The project area is south of Lakeport and consists of a 0.5-mile segment of South Main Street, between the Lakeport city limits and the State Route (SR) 175 extension, and a 0.75-mile segment of Soda Bay Road extending south from (SR) 175 to approximately 0.1 mile west of Manning Creek. (Kevin Ingram)

Comm. Schoux stated that he drives by this site everyday. Comm. Sullivan added that he was present at a recent community action committee meeting where this topic had come up and spoke to Mr. Ingram and members of the Area Planning Council (APC) about the project.

Kevin Ingram, Senior Planner, provided background information.

10:15 a.m. Opened Public Hearing

No one present wished to speak.

10:15 a.m. Closed Public Hearing

Comm. Schoux moved, 2nd by Comm. Martin Steele that the Planning Commission find that on the basis of the Initial Study No. 11-11 prepared by LSA Associates, Inc. on behalf of the Lake County Department of Public Works and the mitigation measures which have been added to the project in the form of the Mitigation Monitoring and Reporting Program for the South Main Street and Soda Bay Road Widening and Bike Lane Project, as applied for by the Lake County Department of Public Works, will not have a significant effect on the environment and, therefore, a mitigated negative declaration shall be issued with the findings listed in the staff report dated January 10, 2013.

MITIGATED NEGATIVE DECLARATION 5 Ayes 0 Noes

Comm. Schoux moved, 2nd by Comm. Martin Steele that the Planning Commission find that the mitigation Monitoring and Reporting Program for the South Main Street and Soda Bay Road Widening and Bike Lane Project proposed by the Lake County Department of Public Works, will mitigate the significant environmental impacts from this project, and that the Planning commission has reviewed and considered the Mitigated Negative Declaration which was adopted for this project and the Mitigation and Monitoring and Reporting Program be granted subject to the findings listed in the staff report dated January 10, 2013.

APPROVAL OF MITIGATION MONITORING AND REPORTING PROGRAM 5 Ayes 0 Noes

Comm. Schoux moved, 2nd by Comm. Martin Steele that the Planning Commission report that the South Main Street and Soda Bay Road Widening and Bike Lanes Project, for the South Lakeport area, as proposed by the Lake County Department of Public Works is in conformity with the Lake County General Plan with the findings listed in the Staff Report dated January 10, 2013.

GENERAL PLAN CONFORMITY 5 Ayes 0 Noes

10:18 a.m. Public Hearing on consideration of a Use Permit Extension (UPX 12-02). The project applicant is BOTTLE ROCK POWER, LLC proposing a use permit time extension for existing geothermal steam field use permit (UP 85-27), as amended. The project is located at 7525, 7385 & 7500 High Valley Road, Cobb and further described as APN 013-002-03, 04 & 05. (Will Evans)

Comm. Sullivan disclosed he previously was a board member for the Middletown Area Town Hall (MATH). He said two years ago, residents of High Valley Road asked MATH to support their efforts to have the County to look into some problems they were having there. He said that MATH prepared a letter, which he signed and was sent to the County Board of Supervisors.

Will Evans, Assistant Resource Planner, provided background information.

10:25 a.m. Opened Public Hearing

Randall Fung, resident on High Valley Road, submitted written comments/letter to the Planning Commission.

10:30 a.m. Break to copy and read letter submitted.

10:40 a.m. Back to Order

Mr. Fung stated that he and his wife were not notified by mail about this hearing and learned about it third hand. He said that the following property owners were not notified by mail: Fletchers, Pinches, Jensens, Bennetts, Ostrandors, Turners, Jadikers, Fungs, Patricks, Gullianis and others. He said they all live on Lower High Valley Road adjacent to the Bottle Rock Property, which is within the specified 300 to 700 foot rule. He said because the property owners who are directly affected by this use permit were not legally notified by mail, this hearing cannot legally proceed.

Robert Bridges, Sr. Deputy County Counsel, said he was informed that staff has done the 700 foot legal noticing of the parcel that the field is on and it was published in the newspaper.

Richard Coel, Community Development Director, said that staff noticed property owners within the vicinity of this project, 700 feet from the property boundaries of the existing operations and not the future expansion area that is under a different permit.

Mr. Fung said you can interpret it any way you want, but the gist of any public hearing is to give people who are affected directly adequate time to address their concerns. He said the Planning Department sent the notice to certain people close to the plant, but not the people who are directly involved/affected, which only seems fair to legal notice them.

Comm. Malley said in referencing back to previous issues, he felt that the way it was handled was the legal way to do it, but he questioned if it should have included the folks that have addressed this issue in the past. He said he remembers people requesting to be contacted for further use permit discussions regarding Bottle Rock Power. He said he was confused as to why this was not sent to folks who were obviously involved in it.

Mr. Coel explained that staff looked at this process as being a time extension only and there were not any changes in the permit conditions. He said Bottle Rock Power is in compliance with their existing permit conditions and they are submitting timely annual reports. He added that staff was requested by Bottle Rock Power to process this time extension as expeditiously as possible and under the CEQA guidelines; staff did the minimum 10 day noticing and 700 feet.

Comm. Malley said he understood the guidelines, however with the history of Bottle Rock Power, he felt for clarification to the public, since all that is being done is extending the use permit, why not send the legal notice to everyone who have had previous issues with this project as a whole application, other than just publishing it in the newspaper, so they can see that nothing is being hidden and not find out third hand. He felt the residents in the area should have been made aware of this and from past information, one letter to the Friends of Cobb Mountain would have taken care of that.

Comm. Martin Steele concurred with Comm. Malley that notifying people who have previous interest in this project would have been good practice. She said this permit does not expire until June 2013, so there would be time to continue this and take care of proper legal notification.

Comm. Sullivan concurred. He said based on the past, he felt a full disclosure for everyone is a good idea, so everyone has a chance to voice their opinions before this moves forward, so there is no indication that something has not been addressed.

Brian Harmes, Bottle Rock Power General Manager, said it is important to them to have this resolved quickly, because it is an open item for their project to move forward. He said he understands that things have to be done in a manner that is in accordance with ordinances and he is sympathetic to that. He said Bottle Rock Power relied on staffs' understanding of how notifications are made and he stated in his application that he was relying entirely on County staff for timing and notifications.

Mr. Coel suggested continuing this item to February 28, 2013 at 10:00 a.m.

Mr. Harmes said that date is acceptable.

Comm. Martin Steele asked staff about the 30 year extension recommendation and asked if there a clear provision in the permit, that if conditions change within that 30 year period, that staff could take action.

Mr. Evans pointed out condition 6 of the permit conditions, which would allow the Planning Commission to revisit the permit every three years, so it is at the discretion of the Planning Commission.

Hamilton Hess, Chairman of Friends of Cobb Mountain and resident on Bottle Rock Road, provided a handout to the Commission. He asked if there could be advance discussions before Planning Commission meetings. He said people who live there are the ones who experience the impacts and should be brought into the picture when mitigations are being discussed, which would save time and animosity in the long run. He further reviewed all the points in his letter to the Commission.

David Coleman, High Valley Road resident, commented on the staff report and said two agencies that require permitting were left out: California Energy Commission (CEC) and the Central Valley Regional Water Quality Control Board. He referenced environmental issues and said there are about four miles of grading that occurred between March of 2007 to October 2009 and wanted clarification that this grading has been mitigated to some degree. He also referred to sumps, which are 33 years old and felt they were out of compliance.

Claude Brown said that he was in support of Bottle Rock Power as a viable business entity and felt that they would work with the residents under the rules and regulations; however he was not in favor of a 30 year time limit. He said he thought the permit would not have an expiration date to simplify future financing of the project..

Barbara Flynn, Chamber Economic Development Committee, spoke to this business moving forward without unnecessary restrictions. She was in favor of this permit being extended indefinitely.

Mr. Fung addressed CEQA and the proposed categorical exemption. He said the project and successive projects of the same type in the same place will result in cumulative impacts. He said the County found no significant impacts in their final findings, but there were items within the EIR that were not mitigated, for example traffic. He said the mitigation would call for purchasing turnouts to prevent two trucks from crossing High Valley Road and this was overlooked and never mitigated. He said there are cumulative impacts that have not been taken care of.


Mr. Coel restated that the legal noticing staff provided was in accordance with regulatory requirements. He said staff is happy to circulate a supplemental notice and asked the Planning Commission for direction as to the scope and timeframe and said he assumed that all of the High Valley Road residents should be notified.

Comm. Malley stated that due to the history and the previous contentious item, he felt that everyone who was concerned last time needed to be notified. He said a notice to the Friends of Cobb Mountain would take care of a lot of that.


Mr. Coel recommended continuing this item to February 28, 2013 at 10:00 a.m. and said a supplemental notice will be sent to the Friends of Cobb Mountain and High Valley Road residents.

Comm. Malley confirmed the date and time of this continuation.

11:11 a.m ADJOURNED


Bob Malley, Chair
Lake County Planning Commission

Respectfully Submitted,

By: 
Danae Bowen
Office Assistant III