STATE OF CALIFORNIA, COUNTY OF SIERRA
BOARD OF SUPERVISORS
MINUTES
REGULAR MEETING

Lee Adams, Chair, District 1
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The Sierra County Board of Supervisors met in regular session commencing at 9:00 a.m. on February 2, 2016 in the Board of Supervisors' Chambers, Courthouse, Downieville, CA. This meeting was recorded for posting on the Board of Supervisors' website at www.sierracounty.ca.gov.

PLEDGE OF ALLEGIANCE: Led by Supervisor Roen

ROLL CALL

Present: Lee Adams, Supervisor, Chair, District #1
Peter W. Huebner, Supervisor, Vice-Chair, District #2
Paul Roen, Supervisor, District #3
Jim Beard, Supervisor, District #4
Scott A. Schlefstein, Supervisor, District #5

Staff: Heather Foster, County Clerk-Recorder
Jim Curtis, County Counsel
Van Maddox, Auditor/Treasurer Tax-Collector
Tim Beals, Director of Planning and Transportation
Darden Bynum, Director of Health and Human Services
Laura Marshall, Assessor/IS Manager/Solid Waste Fee Administrator
Jeff Bosworth, Chief Probation Officer

APPROVAL OF CONSENT ITEMS

The Board moved to approve the Consent Agenda.

APPROVED. Motion: Huebner/Roen/Unanimous Roll Call Vote: 5/0

10. CONSENT AGENDA

10.A. Approval/authorization to purchase 12 bulletproof vests and 8 outer carriers. (SHERIFF)

10.B. Amendment to Professional Services Agreement 97-068 with Bastian Engineering to increase compensation for Fiscal Year 2016. (PUBLIC WORKS)

APPROVED, Agreement 2016-011

10.C. Software license agreement between the County of Sierra and Democracy Live for online accessible sample ballot and voter guide access, and Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) electronic ballot delivery. (ELECTIONS)

APPROVED, Agreement 2016-012

APPROVAL OF REGULAR AGENDA

REGULAR AGENDA

At the request of Supervisor Roen, Correspondence Item 11.A. was moved to the Regular Agenda as Item 7.C.

11.A. Letter from Irene Davidson, Carson District Ranger, inviting the Sierra County Board of Supervisors to the Carson Ranger District second annual county partnership meeting to be held on February 18, 2016, to discuss projects and events occurring within Sierra County.

The Board moved to approve the Regular Agenda as amended.

APPROVED as amended. Motion: Huebner/Roen/Unanimous Roll Call Vote: 5/0

2. PUBLIC COMMENT OPPORTUNITY

At 9:05 a.m. Chair Adams opened the public comment opportunity.

Mr. Bill Bate, Calpine expressed concerns that no action has been taken on the general plan and zoning code development, noting it has been four years since the Board

hired a private consultant to take care of this. Mr. Bate further indicated he would like answers with respect to if there is a plan to get this in motion, where the budget stands, and if they will see a draft soon.

The Director of Planning recognized Ms. Miriam Dines for her 25 years of service with the County.

At 9:10 a.m. Chair Adams closed the public comment opportunity with no further persons addressing the Board.

3. COMMITTEE REPORTS & ANNOUNCEMENTS

RCRC January 20, 2016 Board meeting highlights. (CHAIR ADAMS)

Supervisor Huebner reported on the NoRTEC meeting he attended in Anderson and the discussion regarding funding available for veteran services for Sierra County, noting he will pursue this with Tracy Holt.

Supervisor Roen reported on the Veteran Services Ad Hoc Committee meeting noting the Committee requested Mr. LaPlante to present a revised contract and work plan that encompasses the entire county to the Board at the next meeting.

Supervisor Schlefstein reported on the Community Corrections Partnership and the Mental Health Advisory Board meetings.

4. DEPARTMENT MANAGERS' REPORTS & ANNOUNCEMENTS

The Chief Probation Officer reported that he has been elected President of the California Probation, Parole and Corrections Association.

The Director of Health and Human Service reported that he intends on coming before the Board soon for a request to enter into a lease with the City of Loyalton for space at the old First Five/Museum building and he has offered the position of Assistant Director of Behavioral Health to someone. The Director further requested the reconvening of the Health and Social Services Committee to help guide ongoing challenges and decisions that face the Department of Health and Human Services.

Chair Adams suggested the Director provide a list of actions to the next meeting agenda so the Board can refer the requests to committee.

Supervisor Schlefstein reported there is a meeting at 6 p.m. at the Golden West with Plumas-Sierra Rural Electric regarding internet services.

The Director of Planning reported that he has delayed publishing information on the Loyalton Mobilehome Park due to receiving new correspondence, so this will most likely be on the next meeting. The Director also reported that he was advised by Caltrans that the

Caltrans Commission is slicing the funding for STIP projects so projects are being delayed up to 2 to 3 years for funding for delivery of projects.

5. FOREST SERVICE UPDATE

Yuba District Ranger Karen Hayden reported on various matters going on in the district including piling burning on Lavezzola Road; camping along the Highway 49 Corridor; the Mexican Mine Trail project; the non-motorized mountain bike trail connecting Forest City with Downieville; a project at Cal Ida which will connect other motorized trails; the Yuba Project; and increased fees for cabin owners.

The Director of Planning questioned if there is a way to make sure the cabins are not removed.

Chair Adams indicated this is tricky as the cabin is owned by a private owner and the land is owned by the federal government.

Ranger Hayden continued to report on the Green Sticker State OHV funding planning grant to consider opportunities to put in a motorized trail across the Sierra County Land Trust's land located by Packer Saddle in order to separate the motorized and non-motorized trails for safety reasons and the Sierra Buttes Trail Stewardship applying for an operating and maintenance grant on OHV trails.

Chair Adams requested Ranger Hayden provide the Board any information on the proposed grants prior to submitting them to the state.

Ranger Hayden further explained that these are grant proposals that are in for review by the state to determine whether they will go to the approval/competition phase.

Chair Adams clarified that he would like to have this information ahead of time so the Board can weigh in and hopefully support the application before it goes to the state.

Ranger Hayden further explained that the Sierra County Land Trust is applying for a grant and the Forest Service has written a letter in support of their grant.

Discussion ensued pertaining to the Tahoe Nation Forest Cooperative Law Enforcement agreements and additional personnel updates in the district.

Chair Adams referred to Assembly Bill 628 which was a pilot project that allowed for mixed use in Inyo County which ends this year, noting there is going to be an effort to extend the bill and to add Mono and Sierra Counties so he would like to discuss this with Ranger Hayden as the Forest Service will be a big partner in this.

7. PROBATION - Jeff Bosworth

7.A. Resolution approving agreement between Sentinel Offender Services, LLC and the Sierra County Probation Department to provide alcohol testing services and equipment.

Following a brief overview on the testing services and equipment by the Chief Probation Officer, the Board moved to adopt the resolution approving agreement between Sentinel Offender Services, LLC and the Sierra County Probation Department to provide alcohol testing services and equipment.

ADOPTED, Resolution 2016-007 and **APPROVED,** Agreement 2016-013. Motion: Schlefstein/Beard/Unanimous Roll Call Vote: 5/0

7.B. Resolution approving the annual review of Probation's electronic monitoring program rules.

Following a brief overview of the electronic monitoring program rules by the Chief Probation Officer, the Board moved to adopt the resolution approving the annual review of Probation's electronic monitoring program rules.

ADOPTED, Resolution 2016-008. Motion: Schlefstein/Huebner/Unanimous Roll Call Vote: 5/0

8. TIMED ITEMS

8.A. 10:00AM COUNTY COUNSEL SERVICES

8.A.i. Resolution adopting first amended policy on the scope of county counsel functions. (CHAIR ADAMS)

Chair Adams provided background on the item, explaining this is a resolution updating the duties of Sierra County Counsel.

The Board moved to adopt the resolution adopting first amended policy on the scope of county counsel functions.

ADOPTED, Resolution 2016-009. Motion: Roen/Schlefstein/Unanimous Roll Call Vote: 5/0

8.A.ii. Approval of proposed draft contract for county counsel services and request for proposals, and direction to issue same. (CHAIR ADAMS)

Chair Adams introduced the item, noting if this is approved the RFP would go out immediately and the deadline for proposals is March 31st.

The Clerk requested authorization to make minor adjustments to the proposed RFP as necessary.

The Board moved to approve the draft contract for county counsel services and request for proposals and authorized the Clerk to issue the documents and to make any necessary adjustments to the request for proposal as necessary.

APPROVED. Motion: Roen/Beard/Unanimous Roll Call Vote: 5/0

6. PUBLIC WORKS / TRANSPORTATION - Tim Beals

6.A. Resolution authorizing use of Title III funds in the amount of $29,163.86 to reimburse Sierra County Local Government Agencies for work done on federal lands in accordance with the provisions of the Secure Rural Schools Act.

The Board moved to adopt the resolution authorizing use of Title III funds in the amount of $29,163.86 to reimburse Sierra County Local Government Agencies for work done on federal lands in accordance with the provisions of the Secure Rural Schools Act.

ADOPTED, Resolution 2016-010. Motion: Huebner/Roen/Unanimous Roll Call Vote: 5/0

7.C. Letter from Irene Davidson, Carson District Ranger, inviting the Sierra County Board of Supervisors to the Carson Ranger District second annual county partnership meeting to be held on February 18, 2016, to discuss projects and events occurring within Sierra County. **(Correspondence Item 11.A)**

By consensus, Supervisors Huebner and Roen to attend the Carson Ranger District second annual county partnership meeting.

6.B. Discussion and direction regarding request of Sierra County Land Trust for input into a grant application to the Sierra Nevada Conservancy for ultimate development of a land management plan for the Sierra Buttes-Lakes Basin, specifically the Packer Saddle, Sardine Lake, and Volcano Lake area.

The Director of Planning provided background on the item explaining this is a request from the Sierra County Land Trust (SCLT) who is seeking funding from the Sierra Nevada Conservancy (SNC) and the SCLT is asking for assistance from the County to help with CEQA compliance.

The Director continued to explain that CEQA compliance is for public agencies and not nonprofits, so this request is a trend that he sees as these funds become available for nonprofits who qualify for these grants.

Ms. Laurie Oberholtzer, SCLT explained that she is applying for a category 2 planning grant for a forest management plan for fuel treatment work in the Lakes Basin. She would

eventually apply for a grant to do the actual work. The Sierra Nevada Conservancy allows themselves to be the lead agency, but not on planning projects and there is no one else to be the lead agency. The lead agency is jut processing the environmental analysis and mitigated declaration and she could write the County into the budget for the work. Ms. Oberholtzer added that she hopes the County would support being the lead agency for this project and would also like a letter of support. She believes this is a good project and IT would be minimal amount of work for the County.

County Counsel expressed concerns that this is volunteering the County to be a target. CEQA states the lead agency is responsible for implementing the project and this is a classic example of a state agency passing this off to another local agency. He doesn't believe it is legal and doesn't believe the County can put itself in this position.

Ms. Oberholtzer explained if the County can't be lead agency then the SCLT can't obtain the grant.

The Director continued to express concerns with the SNC not taking the lead agency role.

County Counsel continued to express concerns, noting someone should speak to the SNC and express that they should take the lead agency role.

The Director added that the County has no approval authority over the project which makes this awkward.

Discussion ensued pertaining to how to get around this issue and possibly working with the Nevada County Resource Conservation District (NCRCD) to be the lead agency as this agency's jurisdiction goes up to the Yuba Pass.

The Director indicated he believes the NCRCD is a great solution for this project.

Supervisor Roen indicated that he would also like to see the Sierra County Fire Safe and Watershed Council engage in these projects for fuels reduction.

Ms. Oberholtzer noted she will attempt to work with the NCRCD but will be back to request the Board to be the lead agency if this doesn't work. Ms. Oberholtzer added that she would still like a letter of support of the SCLT's grant application.

Supervisor Roen added that he would like to know more of what they are supporting.

By consensus, the Board directed continuing this item to the next agenda along with a letter of support and directed staff to work with the Nevada County Resource Conservation District to be the lead agency for this project.

Mr. Richard Featherman, Goodyears Bar expressed concerns with having inmates removing trees improperly on Lavezzola Road. He is also in support of this process so it is done properly.

9. CLOSED SESSION

9.A. Closed session pursuant to Government Code 54956.9(d)(2), to review a threat of litigation by Don Russell regarding Sheriffs' office failure to provide records in response to his request.

The Board met in closed session from 10:39 a.m. to 11:15 a.m.

8.B. 11:00AM MARIJUANA CULTIVATION ORDINANCE REVISIONS

Discussion regarding proposed revisions to Sierra County Ordinance No. 1055 regarding cultivation of medicinal marijuana and adoption of an urgency ordinance amending Sections 8.01.030 and 8.01.040 of the Sierra County Code and adding Section 8.01.045 pertaining to marijuana cultivation and related activities. (CHAIR ADAMS)

Chair Adams provided background on the item and briefly reviewed the Board of Supervisors Rules and Procedures and suggested the Board invoke the three minute rule per person and not limit the number of speakers. Chair Adams further reviewed the new legislation as it pertains to the cultivation of marijuana and introduced RCRC's Senior Legislative Advocate Mr. Paul Smith.

Mr. Smith presented a PowerPoint to the Board on RCRC's adopted legislative policy on medicinal marijuana and the 2015 medical marijuana legislative package.

Chair Adams referred to the 2018 deadline and questioned when the square footage requirement goes into effect.

Mr. Smith indicated he doesn't know at this time. Mr. Smith added that it will probably be concurrent with the licensing scheme but it is still unclear.

Chair Adams also asked if the 100 square feet includes the canopy.

Mr. Smith indicated that he believes the 100 square feet is on the premise and the 100 square feet is the trigger for CDFA to issue a permit; you can go below this by ordinance, but if you go above this then the personal grow will require a permit from CDFA. Also, if it the personal grow gets too large both the county and state will see it as a commercial grow and will invoke traditional licensure.

Discussion ensued pertaining to the proposed Parker Initiative and what constitutes a residence; what defines a caregiver; and with respect to the 6 plant limitation being a ceiling, so if someone goes over the 6 plants they would be subject to licensing.

In response to Mr. Chuck McCaughan's inquiry, Mr. Smith clarified the Parker Initiative confers the ability for any individual to grow up to 6 plants indoors on their personal residence and it has to be in an enclosed structure.

This item was continued to later in the meeting.

8.C. 1:00PM SOLID WASTE APPEAL - Wayne DeLisle

Appeal of Solid Waste Assessment Fees for 2014/2015 filed by Mr. Wayne DeLisle for APN 006-130-024-0 Pike City Road and 006-130-025-0 Pike Short Cut Road.

County Counsel introduced the item, explaining it is incumbent that both the appellant and the Solid Waste Fee Administrator cover the essence of the complaint/positions.

Mr. Wayne DeLisle, appellant explained that everything he needs to state has been given to the Board in writing.

The Clerk entered the following exhibit from the Appellant into the record:

Exhibit A – Document outlining Mr. DeLisle's argument regarding his Solid Waste Fee Appeals – 22 pages

The Solid Waste Fee Administrator explained that this appeal involves two parcels, one located at Pike City Road improved with a single family residence and the second is located at 132 Pike Short Cut Road improved with a manufactured home on a foundation.

The Solid Waste Fee Administrator entered the following exhibits into the record:

Exhibit 1 – Portion of Sierra County Code Section 8.05.025 – Adjustments to Solid Waste Fees – 1 page

Exhibit 2 – Court of Appeal Case No. A12263 – David Paland vs. Brooktrails Township Community Service District Board of Directors – 16 pages

Exhibit 3 – Portion of Sierra County Code, Chapter 8.04 – Solid Waste Services – 3 pages

Exhibit 4 – Portion of Sierra County Code, Section 8.04.040 – Collection Services – 1 page

Exhibit 5 – Sierra County Resolution No. 2014-052 pertaining to solid waste fees for the 2014/2015 fiscal year – 8 pages

Exhibit 6 – Sierra County Resolution 2014-078 certifying the results of the Proposition 218 proceedings regarding county solid waste fees – 2 pages

Exhibit 7 – Annual Residential Waste generation for January-December 2013 – 4 pages

Following brief review of the exhibits, the Fee Administrator explained that her job is to review the property to determine if the fee that has been assessed has been correctly imposed and based on the exhibits she has presented to the Board she believes her decision was correct in applying these fees to Mr. DeLisle's parcels.

Chair Adams referred to Mr. DeLisle's appeal wherein he checked the box indicating the property qualifies as a single family residence, but he also states that he doesn't use the property as a single family residence.

The Fee Administrator referred to Exhibit 3, noting there is no definition within "single family residential" that indicates occupancy and she doesn't have the means to determine when someone is at their property. They don't look at occupancy as a requirement in applying the fee. If the County were to red tag the property she would remove the fee as the fee only applies to structures able to have human habitation.

Chair Adams further referred to Mr. DeLisle's statement that the solid waste system is not immediately available for use by the subject property.

The Fee Administrator responded that these properties are located in Pike and there is a transfer station located in Alleghany which is open during the regular operating hours the County has imposed.

Chair Adams further questioned if this appellant has as much access to the transfer station as anyone else.

The Fee Administrator responded that is correct.

Chair Adams further questioned the last check box on Mr. DeLisle's appeal and determining the fee based on an average.

The Fee Administrator indicated they have been calculating the fee this way since Proposition 218 went into effect. Prior to her being the Solid Waste Fee Administrator they only did a sample of 12% of properties and now they look at a 100% of properties to calculate the fees.

Mr. DeLisle questioned what the Paland case was in reference to.

The Fee Administer responded that it was in reference to a water connection. Mr. Paland had a connection to the water agencies system to his house, but he did not have the water turned on so the issue was that the water wasn't immediately available to him and he didn't feel he had to pay the water fees associated with the connection.

Mr. DeLisle explained that Mr. Paland had the water turned off and the billing process ceased until the water was turned back on. The water agency wanted to collect those fees so they passed an ordinance to charge a minimum fee to have the water connected to the meter and available for Mr. Paland's use. Mr. Paland protested this but took no action, therefore any challenge he made to this issue he had no standing; he hadn't completed the administrative process. Mr. DeLisle continued to explain that if you read this case closely, you will find that the court said the water flowing through the pipe was subject to all of Article 13D, Section 6.

Mr. DeLisle continued to review in detail the five elements under Article 13D, Section 6(b) and how it related to the Paland case. Mr. DeLisle concluded his comments noting he has argued over and over about the Board and the Fee Administrator thumbing their nose at Article 13D, Section 6(b)(3) as he is told there is an "or" between subsection (b)(3) and (b)(4), but there is no "or". Subsection (b) states that no fee shall be exacted until all five of the following are complied with; we don't get to pick and choose, but we do in Sierra County.

Mr. DeLisle further questioned if the Fee Administrator took this under consideration?

The Fee Administrator noted she didn't write the ordinance, rather she is assigned to administer the fee the County has adopted.

Mr. DeLisle referred to the statement on the appeal form with respect to the term "immediately available", noting he has never received an answer as to whether there is proof or evidence that it exists.

The Fee Administrator clarified that she has answered the question of her duties of the Solid Waste Fee Administrator.

County Counsel further reviewed section 8.05.010 (b) of the Sierra County Code pertaining to the solid waste fee being imposed upon owners of property based on the estimated use of the solid waste system by the property or the immediate availability of the solid waste system for use by the property and the term "immediate availability" being interpreted consistent with the court ruling in Paland v. Brooktrails Township Community Services Dist. Bd. of Directors, 176 Cal.App.4th 158.

Mr. DeLisle continued to explain there is another recent case that goes through with a magnifying glass the essence of the five requirements under Section 6(b) and defines the service to the parcel to be tangible, not something that is possibly prospected into the future as this is actually prohibited in Subdivision 4. Mr. DeLisle added that there was a mechanism within the system to challenge the fee on a parcel basis relative to the service provided to that specific parcel.

Chair Adams questioned why Mr. DeLisle believes the County's fee isn't tangible.

Mr. DeLisle responded because the County is charging the same fee to someone who generates two cans of garbage per week as someone who generates six cans per week.

Brief discussion ensued pertaining to the five requirements under Proposition 218 and the County being able to proportionally charge the fee.

Mr. DeLisle continued to refer to the material he provided to the Board, explaining that the exaction for the service cannot exceed the proportional cost of providing the service to the parcel. It isn't equitable when you cherry pick a few people out of a group and create and illusion that they are actually representative of everyone in the group.

Mr. DeLisle further explained that Proposition 218 had effective date of July 1, 1997 and the first time this exaction was put on the ballot was several years after the Board was required to do it.

County Counsel questioned if Mr. DeLisle understands that for the 2014/2015 fiscal year that the Board did in fact perform the required protest vote.

Supervisor Beard moved approve the appeals filed by Mr. DeLisle.

Following further discussion, Chair Adams noted it seems the court decides whether this is proper or not, but operationally it seems the people of Sierra County are happy with the system. Alternatively, the County could have mandatory pickup. Again, if Mr. DeLisle believes the Board is misapplying the law he can take this further.

The motion died due to the lack of a second.

The Board made a motion of intent to deny the appeal of Solid Waste Assessment Fees for 2014/2015 filed by Mr. Wayne DeLisle for APN 006-130-024-0 Pike City Road and 006-130-025-0 Pike Short Cut Road and directed County Counsel to prepare and return with a resolution that embodies the decision of the motion of intent.

INTENT TO DENY. Motion: Huebner/Roen/Majority Roll Call Vote: 4/1 (Supervisor Beard NO)

Item 8.B. continued from earlier in the meeting.

Chair Adams summed up what the committee is attempting to do with respect to the framework for medicinal use that is fair to both sides.

Detective Mike Fisher addressed the draft ordinance and suggested including an administrative fee in order to have a penalty for not complying with the ordinance as the ordinance cannot have a criminal aspect to it due to the current case law, Kirby vs. County of Fresno . Detective Fisher further requested adding administrative penalties to the ordinance, similar to Fresno County's which is $1,000 fine per plant and $100 fine per day

once the date to abate has passed. Detective Fisher also explained that you can only cultivate what is reasonably necessary for a medical ailment, so unless they can justify 18 mature plants for their medical needs they are essentially out of compliance with state law.

The Sheriff indicated that his office received several complaints over the last year, and the difficult task is to try and find a happy medium. It is clear the County has no appetite for commercial activities so he would recommend focusing on personal grows and the public's medical needs. The Sheriff added that 72 or 18 plants per person wasn't working, and he takes responsibility for a majority of this due to staffing issues. At this point he thinks it's a concession on the legislature passing these recent bills and believes we need to act quickly so the control stays at the local level.

Comments were received from the following members of the public:

Mr. Richard Featherman, Goodyears Bar expressed concerns with the costs of growing indoors.

Ms. Alison Deliman, Pike referred to the amount of plants needed to make cannabis oil and expressed concerns with the 10 x 10 requirement being unrealistic. Ms. Deliman further referred to Plumas County having giving time to work out the details, noting she hopes the Board is willing to take the time to work this out.

Mr. Chuck McCaughan, Pike suggested putting together a citizens committee to address this issue as he doesn't believe this is an emergency anymore and would like the Board to take the time to give the folks a chance to get to know one another.

Mr. Jason Christian, Portola indicated he believes there is a difference between a situation for residence out in the woods and those in a residential neighborhood similar to Sierra Brooks. Mr. Christian added this seems to be a planning problem and the big public policy for the mountain counties is the illegal unregulated grows in the forest.

Mr. Tristan Grew, Pike read a letter on behalf of Sarah Grew expressing concerns pertaining to the Committee's recommendation to limit marijuana grows to 100 square feet per person and only allowing two patients per parcel. Mr. Grew added that he believes our leaders should be working with the community to come up with reasonable regulations that are in compliance with state law as it stands and are asking for the Board to consider a more solution focused path to a sensible well informed policy.

Mr. Tom Rowson, Sierra Brooks expressed concerns with stalling the proposed ordinance in order to have another growing season and this being a quality of life issue. Mr. Rowson added there were 11 inspections and 11 violations, and would urge the Board to vote on this as the growing season is coming up in June.

Mr. Les Strohbin, Gale's Orchard indicated he is a cannabis patient user and not an abuser, he lives deep in the woods and doesn't have an effect on anyone. Mr. Strohbin

added that he has five people on his property and they all use medical marijuana as it makes them feel better. Cannabis has done nothing but improve his and his families lives.

Ms. Laura Donaldson, Pike indicated she just moved here eight months ago from Santa Cruz County and would like to see more time to address this issue as there are a lot of sides to this and information to be learned.

Unknown speaker, indicated that the problem is some of these people are fighting for their lives and the oil (phoenix tears) is helping them. He is asking for at least 24 plants so he can make this oil.

Mr. James Linderborg, Gale's Orchard explained that medicinal cannabis is an agriculture product and Sierra County is a right to farm County and they have the right to farm any agriculture product. Mr. Linderborg further urged the Board to lean towards commercial growing.

Ms. Becky Kinkead, Loyalton expressed the need to have rules in place and followed. Ms. Kinkead added that she believes the new proposed ordinance with the suggested amendments sounds fair.

Mr. Chuck McCaughan, Pike expressed concerns over the 10 x 10 square foot requirement.

The Director of Planning indicated he wants to reemphasize that if this ordinance is going to proceed as proposed the Board needs to address mobile deliveries if the Board intends to regulate this. Also, the definition of a residence doesn't specifically identify forms of residential uses that have been attempted in the past that are in violation of the building code, so he would ask to including park model recreational vehicles, cab over campers, etc. that have been attempted to be defined as permanent residences. He would also like the Board to consider making clear that well development requires a county permit, and diversions of surface water require proof of water rights and proof of compliance with the Regional Water Quality Control Board and Fish and Wildlife regulations.

The Director further indicated that if the intent is to separate outdoor grows through setbacks based on uses of land like churches and schools, he would also want to consider parks, community halls, or any other structure that gets rented out by the public on a continued basis.

The Assistant Director of Planning referred to definition of "premise" within the proposed ordinance and expressed concerns with this being problematic and confusing. The Assistant Director suggested ditching the term "premise" as the proposed ordinance has the definition of "legal parcel" and "parcel" and the ordinance is clear that in order to have a legal grow you have to have a legitimate residence on the parcel in which you are growing.

In response to Chair Adams' inquiry, County Counsel noted the abatement tool is the only structure provided for at this time with respect to penalties in the ordinance. The Fresno County ordinance that has been referred to does have the clauses Detective Fisher referred to. County Counsel added there should be some type of deterrent that is included and state law does allow counties to include civil penalties into an ordinance structure, however we still have to comport with principles of providing due process in terms of the hearing structure. This is a policy question for the Board and he could put this in a further draft for review in a few weeks.

Discussion ensued with the Board pertaining to adding "mobile deliveries" under Section 8.01.040 (B) to the proposed ordinance and concerns with limiting where someone can grow indoors.

Following discussion and by consensus the Board determined to strike the sentence "Cultivation shall not take place in a kitchen, bathroom, common areas, or any other space in the structure which is used as, designed or intended for human occupancy" from Section 8.01.040 (E); strike "School Evacuation Sites" from Section 8.01.040 (H)(1); with respect to Section 8.01.040 (H) to make this section specific to outdoor grows only; and setting the setback under Section 8.01.040 (F)(2) at 75 feet.

Further discussion ensued with the Board and public over concerns with the proposed ordinance taking people's rights away; whether the Board wants to impose fines; proceeds from civil penalties going into the general fund; the number of plants that should be allowed; the opportunity for anyone to place an initiative on the ballot questioning marijuana grows; and state law requiring the 10 x 10 square foot but no plant count and the county determining the plant count in order to make it easier for compliance checks.

Following discussion the Board made a motion of intent to approve the proposed ordinance with the suggested changes and to include the penalty language of $1,000 fine per plant the day you are found in violation and $100 fine per plant per day after the 10 day abatement period.

APPROVED. Motion: Roen/Huebner/Unanimous Roll Call Vote: 5/0

CLOSED SESSION STATEMENT

County Counsel reported that the Board has been briefed on the threat of litigation made by Mr. Russell. The Board has not taken any final action on this matter and there is nothing further to report.

ADJOURN

At 3:43 p.m., with no further business, Chair Adams adjourned the meeting.

February 2, 2016

LEE ADAMS, CHAIR
BOARD OF SUPERVISORS

ATTEST:

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HEATHER FOSTER
CLERK OF THE BOARD