

MONO COUNTY PLANNING COMMISSION

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MEETING MINUTES

February 15, 2018
(Adopted March 22, 2018)

COMMISSIONERS: Scott Bush, Roberta Lagomarsini, Chris I. Lizza, Mary Pipersky, Dan Roberts (teleconference)

STAFF: Gerry Le Francois, principal planner (videoconference); Wendy Sugimura, interim CDD director; Michael Draper, planning analyst; Walt Lehmann, public works; Christy Milovich, assistant county counsel; CD Ritter, commission secretary

GUESTS: Sheriff Ingrid Braun, Eric Edgerton, Michael Schwartz, D'Linda Briggs, Jephraim Gundzik

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE: Vice-Chair Scott Bush called the meeting to order at 10: a.m. in the board chambers at the county courthouse in Bridgeport, and attendees recited the pledge of allegiance to the flag.

3. MEETING MINUTES

MOTION: Adopt minutes of January 18, 2018, as submitted. (*Pipersky/Lizza. Ayes: 4. Abstain due to absence: Lagomarsini.*)

4. ELECTION OF CHAIR & VICE-CHAIR: Scott Bush nominated for chair (Pipersky/Roberts. Ayes: 4.). Pipersky nominated for vice-chair (Bush/Lizza. Ayes: 4.).

5. PUBLIC HEARINGS: No items

6. WORKSHOP

A. TWO-PERMIT SYSTEM FOR APPROVALS SPECIFIC TO PROPERTY OWNER: Wendy Sugimura: STR goes with owner, not land. Cannabis same model. Permit approved under General Plan: Use Permits go with land. Other issues related to political and social impacts fall outside land use requirements. Propose separate section in Mono Code, approval process will live there. Proposed two step-process: Use Permit to PC, secondary approval specific to operations of that use, approval under Mono Code, separate approval body to approve. BOS determines who approves second permit or assigns hearing officer. When applicant applies, first property owner would have two-step approval process. If owner sells, Use Permit still exists but operations permit would be subject to public hearing. Provide public comment on new approval, both need discretionary permits. BOS not weighed in yet.

Bush: Not meet June Lake criteria. If STR approved, why deny to next owner? June Lake wanted permit tied to owner, not property.

Sugimura: CAC thought sufficient. Main concern: if property owner changed, would like opportunity to discuss at public hearing. Educate property owner it's a really big deal. Responsibility of owner operating facility. Email on double jeopardy if highly contentious. Second approval body. Combine public hearings as much as possible, process concurrently.

Bush: Illegal to end Use Permit.

Milovich: If permit cap exists, no other individual could obtain Use Permit. Introducing operations permit, different standards.

Conditions of Use Permit apply to new owner? Milovich: Remain same, operations permit applies to new person.

Bush: Store is accepted as store. Milovich: Use permit, if person B shows up criminal. Bush: Businesses different. If Use Permit runs with it, then judging person. Milovich: Option to run as STR whether exercised. Subject to operations permit.

DISTRICT #1
COMMISSIONER
Mary Pipersky

DISTRICT #2
COMMISSIONER
Roberta Lagomarsini

DISTRICT #3
COMMISSIONER
Daniel Roberts

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Chris I. Lizza

Lagomarsini: Encourage someone to buy property, make STR, sell to someone who wants to do it.
Milovich: Only operations permit. Bush: How stop new owner? Milovich: History background checks, criminal activity. Sugimura: Or existing owner committed violations, unwilling to respect regulations. Not limited to personal or social nature. Store itself is land use.

What would be relevant on new owner? Kangaroo court hearing. How start process again?

Pipersky: Operations permit, making sure OK. Sugimura: Use Permit could end if use is discontinued for two years, land owner violates conditions, or property sells.

Milovich: Use Permit runs with land, by law. Bush: Why second person go through process? Sugimura: Subject to public input, review conditions, impress importance of following rules. Make land use outright permitted use subject to code section. Every property owner in the LUD has right to that use.

Lizza: Operations permits for other uses? Sugimura: Yes. Special events, adult-oriented business.

Pipersky: Alternative way would allow all property to either grow or manufacture cannabis, or STR. Need second step to actually do it.

Sugimura: Reasonable opposition under land use terms (e.g., traffic impacts). Operations permit maybe allowed 10 people, but cul-de-sac, etc. not favorable.

Possible for every land use? Sugimura: Operations permit to conduct activity. Permitting outright in LUD, CEQA issues.

Cannabis operations and STRs? Sugimura: STRs apply to types I and II in residential LUDs (Ch. 25). Commercial STR OK with DR. Already listed as appropriate uses in LUD, that's what they're for.

What about approved STRs not under two-step process? Sugimura: Could grandfather in, convert.

Who would approve operations permit if not PC? Sugimura: BOS, separate body or hearing officer.

How is Inyo dealing with? Sugimura: Discretionary business license process. Different terminology, criteria, caps.

Why not like that setup? Sugimura: Few permits with caps. Odd to approve activity before land use compatibility. Mono proposes concurrent processing. One CEQA would cover both permits. Always start with LUD on inquiries.

Milovich: Most other jurisdictions use two-model approach: Monterey, Calaveras, Sonoma, and Santa Cruz. Commonplace for cannabis regulations. Look through Mono Code.

Bush: Buy land, don't know what can do with it. Milovich: Business model without land, taking risk. Reverse also. Developers do it all time, find out can't develop way want to. Sugimura: If under Use Permit process, no guarantee.

Lizza: Eliminate two hearings. Why not deal with Use Permit at PC? If specific issues like parking occur, add conditions to Use Permit. Sugimura: Property transfers for Use Permit, no way to require public input.

Why change requirement with ownership change? Sugimura: CAC wants public hearing for public to have a say. Formal process with hurdles in order to impress upon owner importance to community. Bush: Hearing to talk about what?

John DeCoster, June Lake. Extremely problematic to have two-tier licensing for cannabis. Expiration date, annual review could scare away investors. Not know how political landscape might change. Rules of game change at halftime. Why not just UPs? Devalues a business. If can't sell without permission, community not like hours or whatever, extra tier to change rules of game would scare investors away.

Sugimura: Not ready to bring Code forward, only discretionary process at initial application. Maybe inspections. After operations permit issued, not come back for continuing operation.

DeCoster: Expiration date? Sugimura: Not Mono, but Inyo. Proposing renewal date as check-in point like business license.

Milovich: Unless State changed its laws, Mono would have to adjust regulations. Why new conditions on renewal? State requires annual cannabis renewal, new fees. Renewal process is standard procedure.

Sugimura: CAC intent not allow STR to prevent distortion of real estate market. For cannabis, other considerations such as background checks. Lizza: Backgrounds at State level? Sugimura: Share databases? State's temp licenses have no background checks. Would fall to Mono.

DeCoster: Intentions good, but prospective business invests in furniture, fixtures, equipment. Personal guarantee tying personal aspects. OK to be compliant with laws, could revoke Use Permit. Adding a condition impacts business. Know rules, follow law, conduct business ethically. Not risk board member coming in could change things.

Bush: June Lake not like STR overall. Use Permit expires when property sells. Not change rules yearly. Possibility when someone's done, next person must sell how want to do it. DeCoster: Speaking in context of cannabis.

STR type I outside June Lake? Sugimura: STR specific to owner in Ch. 25. Applies countywide. Reiterated Type I v. Type II. Details of application different, but overall approval idea similar. Prefer one hearing but couldn't determine defensible legal way. Another option, not have run with owner, just Use Permit process. Next owner would have land use entitlement.

Cap system? Sugimura: Need both permits to operate legally. Cap is with operations permit. Get through process first. Operations permits not transferable.

Lottery system, first-come, first-served? Sugimura: Not prepared to explain process right now. Concept is first piece of approval structure.

DeCoster: Not really represent faction of June Lake desire. Wanted to expire, go away with owner. Sugimura: CAC has been apprised of permitting system, did not express discontent.

Roberts: Faction of June Lake community still very much against idea of STR at all, placated by ideas. CAC not monolithic opinion. Pipersky: Did so much to get community input, not want to let go of that. Roberts: Not giving people what they want. Lagomarsini: Can't give that due to LUD. Already issued permits that don't follow this.

Lizza: Done what we can. Worked on issue for so long, must move forward, get to BOS. Almost every month queue of people awaits permits. Rather than create new process, new bodies, take quicker path. Ch. 26 into code. Ch. 25 based on land, not personalities or other subjective criteria. Hate to switch gears.

What would like to see? *Let's move forward. Keep going down path. Not need extra hearing or extra body.* Lagomarsini: Mono can't afford time for new [entity], maybe PC hearing officer. Lizza: Operations permit expires, but not LUD. Policy issue to BOS. Each permittee exterminate use with land owner or two-hearing process. Avoid two-step-process.

Sugimura: Will convey PC recommendation to BOS.

Two-body for whole county? Sugimura: Implementation differences. Bush: Why is cannabis in this process? Sugimura: Not posed to communities but permitting model throughout CA. Provides additional layer of flexibility and analysis. With cannabis, how operating, separating products, labeling, etc. not fall into land use permit. Cannabis concept clearer, regulated at State level. STR driven by community concern.

Lizza: Staff can impose additional requirements without public input. Why need public hearing? Sugimura: Checklist, building code, can't add additional conditions. Ch 26 criteria.

DeCoster: How handle liquor licenses? Sugimura: Evaluate land use compatibility analysis, nothing to do with liquor license.

Pipersky: Impact of STRs: Not think owner's ability to use land or home for STR should be specific to land, in perpetuity. Should be tied to owner. Get rid of that? Sugimura: Practical effect of legal operation. Two permits achieve final goal. Awkward, but accomplishes desired outcome.

Bush: If person buys house with STR on land, somebody already in queue, but no Use Permit while other one exists. Unintended consequences. One has land, not permit. Person wants, but not available.

Possible to shorten time frame for STR if already been done? Two-step only way. Traffic, strangers. Cannabis should look more like liquor license.

Bush: New owner might have different plan, present to some body.

Lagomarsini: Shorten two-year time frame for STR, if BOS not want hearing, have PC do double duty.

Sugimura: Because purview of PC is land use, BOS could appoint without conflict of interest. Cap issue: Inyo requires business license first. Lottery system on cap for processing.

Lizza: First-come, first-served. Could have 12 applications, but only eight permits. Sugimura: Choose process that would work best, fairly. Bush: Make property's new owner get operations permit.

Pipersky: OK with two-step process.

Roberts: Most defensible solution, but misgivings about two-step process for STR and cannabis.

B. CANNABIS – DRAFT GENERAL PLAN LANGUAGE: Wendy Sugimura reviewed past PC discussions. Milovich working on code section, today weigh in on land use section. Issues: Buffers in June Lake to limit number of cannabis retail [sites]. Bridgeport Valley RPAC voted to recommend banning all cannabis.

Extraordinarily silent till then. Bush: Have right to ban business in area? Sugimura: Advisory body making recommendation to PC, could refer to BOS to approve.

Bush: It's a legal business, how ban? Sugimura: Local jurisdictions can ban outright at BOS level with hearing process.

DeCoster of June Lake spoke from business owner perspective. Open cannabis retail store, work 20 yr, time to retire, pass on or sell. Two-tier licensing process scary. Use Permit could grandfather in. Communities change their minds. Material financial concern.

Lizza: How did Bridgeport (BP) vote? Sugimura: 51.4% in favor. Staff's responsibility to pass along BP recommendation to PC. Showed map of BP planning area. BP had five at meeting, will draft letter. Sugimura staffed CAC discussion. Provided map with artificial number of retail [sites] based on spatial analysis. Potential seven businesses. Reality is business locates wherever it works.

Bush: Once business is there, stop park or school from building?

Sugimura: 600' buffer around schools, daycare centers existing at time. No market factor involved. Best CAC summary: nobody favored or opposed 500' buffer between retail outlets. At two CAC meetings. Policy is C and MU level of density is acceptable.

Bush: Basis for decision? Lizza: Create green-light district. Market considerations will determine where go. Sugimura: Town uses 500' buffer between retail outlets. No restriction at all is another possibility. June Lake only town where land base is available.

Roberts: Go to CAC for opinion. Probably default to no regulation as in other communities. Lizza and Lagomarsini agreed.

Michael Draper reviewed Ch. 13. Sugimura: Permittee can hire, but permittee submits. Mono has no responsibility for those materials.

DeCoster: What if Use Permit denied after got business license?

Sugimura: Standard items for Use Permit. Can get business license after Use Permit approved.

Draper: Sometime issues with Caltrans on access. Power line consideration.

Notarized? Sugimura: Fear: it was an illegal industry in shadows, protecting against. Notarizing makes sure all is up and up. Milovich: Notarizing ensures identity of person signing. Lizza: Added burden. Not required of other businesses. Sugimura: Strike notarize.

DeCoster: Fingerprinting, Live Scan. Bureaucratic overhang on this industry. Makes process difficult

Sugimura: May contract with ag commissioner, qualifications for inspectors, how conducted. Two-year pilot program with some counties to what regulate on site and how. Track and trace program not running. Mono going on state emergency regulations.

Pipersky: PC discussed proximity buffers. Delete. Edgerton suggested finding an alternative.

Sheriff Ingrid Braun: Did not want loss of life in case of robbery. Prevent shootout at OK Corral.

Jephraim Gundzik: Prohibition of firearms for operators? Can't defend self if sheriff can't get there. Fugitives, meth. Braun clarified intent was not to ban gun in own home to protect private property. Related to retail site with gun under counter. Unlikely someone at gunpoint take property. Enclosed facility.

Milovich thought maybe also apply to testing lab site. If not apply to cultivation, add language.

Bush noted schools are soft targets. Cannabis could be soft target. Shoot everybody, take their stuff.

Milovich reminded cannabis still illegal at federal level.

DeCoster noted if business gets robbed, hire security guard or continue to remain target. Braun stated armed security guard outside premise required in some areas, but not inside. Pipersky wanted to prevent gun violence when possible. Braun noted ideal owner knows who he/she's hiring. Increase comfort level.

Gundzik questioned Live Scan. Hiring 10 for three to four weeks for harvest would incur significant cost. Bush countered that Live Scan for about \$32 for CA is not that expensive.

Results time frame? Bush: Within a week.

D'Linda Briggs: Liquor stores get background checks?

Gundzik would do what he could to make sure trust employees. Not need someone to say can't get permit. Discriminatory, file complaint, legal liability? Braun can't control who is hired. Up to compliance to follow up on hiring good people so Mono has some control over who's in this business.

Briggs: Why property owner get involved? Sugimura: Cole Memo lays out set of practices to ensure operation conducted that does not allow for criminal element. Mono not making judgment on type of people conducting these businesses. Basic principles are to hire good people. Not uncommon to do Live

Scan. Discussion at State level to share info so not repeat Live Scans. Can't share Live Scans. State is discussing concerns.

Braun was not implying owners are bad people but wanted safeguards in place to avoid perception: Look how lax in Mono. Nothing to hide, nothing to fear. Not open to outside entities, undesirable element. Not opposed to lesser Live Scan for seasonal harvesters, maybe only local background check. Less burdensome.

Laundry list of disqualifying convictions? Express that more directly, maybe fairer. Milovich explained any applicant or owner must submit list of all convictions except traffic. Live Scans take time, cost money. Unlikely State require, so falls on locals.

Lizza: Live Scan for people in public safety position. Why important for cannabis?

Bush noted possibility of bringing in a lot of new people. Need idea of who's here.

Gundzik does not want to hire out-of-county people – local product, local income, local opportunity. Not expect/want people from outside.

Braun indicated not deny employment to people who made mistakes not related to narcotics industry. Don't want worst of worst selling cannabis at counter. Not something we've been doing forever. Still federally illegal, under scrutiny.

Briggs: What if employee not want background check but wants job? MMSA does not do it.

Pipersky reminded still federally illegal. Why not share expense for Live Scan? Not here to grease skids of capitalism.

Bush stated \$100 Live Scan required for law enforcement work. Owner makes decision, sheriff knows who it is. Braun indicated State has info. Sheriff might say person questionable, up to owner. Benefits to knowing who's involved in cannabis. Good business practice to know who's working there.

Sugimura indicated no hard checklists. Evaluative process, judgment applied. Ensure business operates in legitimate way.

Milovich mentioned State requires applicant list all convictions, include rehab statement. Sheriff can't tell who can/can't be hired.

Lagomarsini: Background check shared with sheriff? Bush: To authority who needs to see info. Here, back to sheriff and employer.

Braun: Whole range of criminal convictions.

Bush: Live Scan gets fingerprints, not maintained in files. Employer gets info.

Braun: Cannabis new to CA, previously illegal in State, currently at federal. Higher level of scrutiny.

Roberts: Make benefit to employer rather than potential disqualification. Sugimura will bring back reworded language next meeting.

Security systems: Why infrared? *Sees at nighttime. Reword: Cameras functional at night.*

Odor control: Sugimura stated no quantifiable threshold established. Here, try prevent impacts. Edgerton noted chemicals bond to odor, pull it out of environment. Pipersky did not feel as strongly about odor control now. Caveat: Be very careful with this. Sugimura cited nuisance as perception, hard for compliance. Odors might not be from cannabis itself. Edgerton noted large greenhouse facility in downtown Denver. Takes money.

--- Break 2:30-2:45 pm ---

Signage: Blend with landscape and buffer visuals.

C. SHORT-TERM RENTALS: DRAFT GENERAL PLAN LANGUAGE FOR COUNTYWIDE AND JUNE LAKE AREA PLAN POLICIES – Wendy Sugimura noted June Lake CAC would review extensive redline changes at its Feb. 14 meeting. She indicated the State issues a license, whereas Mono issues a permit. Type II short-term rental moratorium expires Feb. 25, will extend one year.

7. REPORTS

A. DIRECTOR

B. COMMISSIONERS

8. INFORMATIONAL: Eric Edgerton comment letter

9. ADJOURN at 3:30 pm to Special Meeting March 22, 2018

Prepared by CD Ritter, PC secretary