

BOARD OF SUPERVISORS

JUNE 12, 2007

The Lassen County Board of Supervisors convenes in Regular Session at 9:05 a.m. Chairman Dahle asks for public comment and no comments are received. Deputy Clerk of the Board Susan Osgood announces the Closed Session items: 1) Conference with Legal Counsel: Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: Citizens for a Healthy Rural Environment, Richard & Mary Morgan vs. Lassen County, Lassen County Board of Supervisors; Larry and Lise Wosick. Superior Case #36349. 2) Conference with Legal Counsel: Significant exposure to litigation pursuant to Subdivision (b) of Government Code section 54956.9: (1 case). 3) Claims: Claim of Robert D. Roadifer presented May 7, 2007. The Board recesses to Closed Session at 9:05 a.m.

Present in the Closed Session are Supervisors Brian Dahle, Bob Pyle, Lloyd Keefer and Jack Hanson; County Counsel Craig Settlemire, County Administrative Officer John Ketelsen, County Personnel Director/Risk Manager Ron Vossler, Community Development Director Conrad Montgomery and Deputy Clerk of the Board Osgood. Community Development Director Conrad Montgomery departs Closed Session at 9:28 a.m. Supervisor Chapman enters at 9:29 a.m. Closed Session is recessed at 9:53 a.m.

The Lassen County Board of Supervisors reconvenes in Regular Session on Tuesday, June 12, 2007, at 9:56 a.m. Present are Supervisors Brian Dahle, Robert Pyle, Jim Chapman, Lloyd Keefer and Jack Hanson; County Counsel Craig Settlemire, County Administrative Officer John Ketelsen, County Personnel Director/Risk Manager Ron Vossler, and Deputy Clerk of the Board Susan Osgood. Following the flag salute, the invocation is offered by Supervisor Dahle.

ANNOUNCEMENT OF ITEMS DISCUSSED IN CLOSED SESSION

Deputy Clerk of the Board announces the Closed Session dealt with discussion on

1) Conference with Legal Counsel: Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: Citizens for a Healthy Rural Environment, Richard & Mary Morgan vs. Lassen County, Lassen County Board of Supervisors; Larry and Lise Wosick. Superior Case #36349 – No reportable action taken. 2) Conference with Legal Counsel: Significant exposure to litigation pursuant to Subdivision (b) of Government Code section 54956.9: (1 case) – No reportable action taken. 3) Claims: Claim of Robert D. Roadifer presented May 7, 2007 – Claim rejected.

AGENDA APPROVAL, ADDITIONS AND/OR DELETIONS

Supervisor Chapman requests the meeting be adjourned in memory of Jean Foster.

It is moved by Supervisor Keefer, seconded by Supervisor Hanson and carried to approve the agenda with the noted change.

PUBLIC COMMENT

- 1) Lise Wosick updates the Board on the Honey Lake Motocross Park situation and states she submitted a letter to the Board the previous week. She informs the Board that she and her husband Larry have finalized their proposal for the payment (to Lassen County) and they have a meeting with Treasurer Richard Egan on Tuesday, June 19. She thanks the Board for their insight in putting Mr. Egan in charge of this; he's been a pleasure to work with. The Wosicks also have a meeting scheduled with their Attorney John Kenny today.
- 2) Sheriff Steve Warren presents information on an agenda item that he will soon be bringing to the Board. Nineteen North State Sheriffs have applied for and are receiving money from the Governor's Office of Emergency Services (OES) for California Multi-Jurisdictional Methamphetamine Enforcement Team, with Siskiyou, Plumas, Modoc and Trinity Counties. Lassen County should be getting \$210,000 from OES, at no cost to the County, for the purpose of getting methamphetamine off the streets of Lassen County. Sheriff Warren will be working with CAO Ketelsen on the agenda item; some adjustments will be made to budgets and to allocating staff members.
- 3) Lassen County Chamber of Commerce Vice President John Larrivee thanks the Board for their financial support for the Entrepreneur's half day conference held on May 23 to promote economic development in Lassen County called Economic Gardening. The conference was funded in part by Lassen County, the City of Susanville and by the Northern Rural Training and Employment Consortium (NoRTEC). It was a joint effort by the Lassen County Chamber of Commerce and the Alliance for Workforce Development to promote new businesses rather than relocate existing businesses. A direct mailing was sent to every Lassen County household and 49 people attended. Supervisor Hanson states it was an excellent presentation and appreciates everyone's participation.
- 4) Emergency Services Chief Chip Jackson reports the County has taken delivery of the Interoperable Communications vehicle. He invites the Board to take a tour of it. The County Fire Warden will house it at a California Department of Forestry and Fire Protection (CDF) garage and Susan River Fire Department will house the County's HazMat vehicle at their new station at Johnstonville.
- 5) Poet Laureate Violet Stout reads her poem titled "Old Glory".
- 6) Resident Gioia (Joy) Lee states she has offered the Sheriff to "investigate some things that have been happening here in Lassen County". States it is a very corrupt community. She names several County employees and states they are incorrigible; they should be ashamed of themselves for using their positions to further their own financial gain at the cost of taxpayers. Ms. Lee states "it is time to act to take care of this health hazard. You know what we're talking about here; I don't know if the public does." She further states "the water and our children are our greatest natural resources" and she is "tired of them being preyed upon by a certain few." It has gone to the State level now and it's going to the federal level next. She states "it is time to clean up the mess... you have the power – use it."

Recess 10:12 a.m. – 10:20 a.m.

TITLE III ALLOCATION

Assistant to CAO Julie Morgan introduces Jan Heid who is representing Lassen Lands and Trails Trust (LLTT). Supervisor Chapman disqualifies himself from hearing this agenda item and sits in the audience. Ms. Heid presents a request for continued funding of the Children's Nature Camps and introduces Jill Poulsen of the U.S. Forest Service who will be an aide at the camp again this summer.

It is moved by Supervisor Pyle, seconded by Supervisor Keefer and carried, with Supervisor Chapman disqualifying himself, to allocate Title III funding as requested for two 2007 Children's Nature Camps from the Lassen Land and Trails Trust totaling \$8,165.

FAIR ADVISORY BOARD - VACANCY

It is moved by Supervisor Chapman, seconded by Supervisor Hanson and carried unanimously to appoint Todd A. Eid to fill a vacancy on Lassen County Fair Advisory Board - District 4.

STONES-BENGARD COMMUNITY SERVICES DISTRICT - VACANCIES

It is moved by Supervisor Keefer, seconded by Supervisor Hanson and carried unanimously to appoint Larry J. English to fill a vacancy on the Stones-Bengard Community Services District.

CONSENT CALENDAR

Agenda Items G1 - Minutes and G2 – Herlong Utilities, Inc. are removed for separate discussion.

It is moved by Supervisor Hanson, seconded by Supervisor Keefer, and carried to take the noted action on the following Consent Calendar items:

AUDITOR ITEM – CONTRACT

Approve contract with Bartig, Basler & Ray to perform the annual county audits and capital asset audit for the period ending June 30, 2007. The cost of services will be \$75,000 and \$18,500 respectively.

HEALTH & SOCIAL SERVICES ITEM - MENTAL HEALTH DIVISION

Approve State Department of Mental Health Agreement for the Mental Health Services Act (MHSA) Integrated Three Year Program and Expenditure Plan (#06-76436-000) and authorize the CAO to execute contract documents.

PUBLIC WORKS DEPARTMENT ITEMS

ROAD

1) Approve the amendment to existing contract with Pacific Hydrologic Incorporated for Location and Design Hydraulic Study for the Hackstaff Road 7C-12 bridge replacement project and authorize Director of Transportation to sign.

2) Adopt Resolution No. 07-025 approving Amended Exhibit A - Traffic Signal and Lighting Agreement for cost-sharing of State Highway Electrical Facilities in the County of Lassen, and authorize the Director of Public Works to sign the agreement.

TRANSPORTATION

Authorize the Chairman to sign 2006/2007 Optional RSTP Federal Exchange and State Match Program. Agreement No. X07-5907(048) with the California Department of Transportation (Caltrans).

SHERIFF'S DEPARTMENT ITEM - DONATION

Authorize acceptance of the Susanville Indian Rancheria donation of \$5,000 to the Lassen County Narcotics Task Force.

PRISON TRIAL COSTS REIMBURSEMENT ITEMS - REPORTS

Receive and file Recaps of CCC Prison Trials Cost Reimbursement Billing and High Desert State Prison Trial Costs Billing for the months of July 2006 through May 2007.

MISCELLANEOUS CORRESPONDENCE ITEMS

Receive and file the following correspondence:

- a. PSA 2 Area Agency on Aging Executive Board Conference Call Meeting Public Notice and agenda for June 4, 2007.
- b. Lassen County Planning Commission meeting agenda for June 6, 2007.
- c. Local Agency Formation Commission (LAFCO) of Lassen County meeting agenda for June 11, 2007.
- d. Application for Alcoholic Beverage License: Eagle Lake RV Park, 687-125 Palmetto Way, Spaulding Tract, Susanville.
- e. Susanville City Council meeting agenda for June 6, 2007.
- f. Lassen County Technical Advisory Committee meeting agenda for June 13, 2007.

COUNTY CLERK - MINUTES

It is moved by Supervisor Chapman, seconded by Supervisor Hanson and carried to approve minutes of April 24, 2007 and May 15, 2007.

It is moved by Supervisor Keefer, seconded by Supervisor Pyle and carried, with Supervisor Dahle abstaining, to approve minutes of May 8, 2007

COUNTY CLERK - REGISTRAR OF VOTERS – HERLONG UTILITIES PETITION

Herlong Utilities General Manager Pat Williams reports that a petition has been filed with the County Clerk's office to transition from a utility cooperative to a public utility district. States they are in that process to help them become self sufficient in Herlong providing water and wastewater services in that community.

It is moved by Supervisor Keefer, seconded by Supervisor Hanson and carried to receive and file the Certification of Sufficiency – Results of the examination of the Herlong Utilities, Inc. Petition for Reorganization entitled: Herlong Utilities, Inc. Proposes to Become a Public Utilities District (PUD) in Herlong, California, Lassen County.

COUNTY CLERK - REGISTRAR OF VOTERS – VOTER MODERNIZATION BOARD FUNDING AWARD

County Clerk Julie Bustamante presents a request to increase the 2006/2007 Election Budget by \$37,328 for Phase III of the Voter Modernization Board (VMB) Funding Award to be used for payment towards additional voting equipment and supplies required for compliance with the Help America Vote Act (HAVA). The remaining balance of the VMB money available to Lassen County is \$20,632. If the equipment is purchased before the end of this fiscal year, HAVA 301 money will pay the balance of \$16,696.03.

It is moved by Supervisor Chapman, seconded by Supervisor Pyle and carried unanimously on a roll call vote to increase the 2006/2007 Elections Department budget by \$37,328 to include revenue (#100-0392-2006200 State-Other); and expenditures #100-0392-3006200 Fixed Assets-Equipment by \$37,328 for Phase III VMB Funding Award, for payment towards additional voting equipment and supplies required for Help America Vote Act (HAVA) compliance.

ADMINISTRATIVE SERVICES - PERSONNEL DIVISION

Personnel Director Ron Vossler presents request for establishment of a new position outside of the Information Services Division for Health and Social Services.

It is moved by Supervisor Keefer, seconded by Supervisor Hanson and carried unanimously to approve the establishment of the position of Software Support Specialist I/II, Range 17/19, H&SS, and approve the Software Support Specialist I/II, UPEC, Range 17/19 job description.

PUBLIC HEARING – COMMUNITY DEVELOPMENT - PLANNING DIVISION

The Public Hearing is opened at 10:33 a.m. to consider the appeal filed by McCain Associates of the Planning Commission's disapproval of Lot Line Adjustment #2007-007. Community Development Director Conrad Montgomery presents information on this lot line adjustment which will create more lots than what was originally allowed for within this particular subdivision. States he believes it is not in keeping with the Subdivision Map Act and has recommended that it be denied. The Planning Commission concurs with our findings in this matter. County Counsel Settlemire clarifies that it doesn't actually create more lots but it involves more lots than the four parcel limitation for a lot line adjustment when you consider it in connection with a lot line adjustment that was concluded towards the end of last year. One of those parcels is involved in this lot line adjustment as well. The total involved in the lot line adjustment process between the two is seven and the Subdivision Map Act exempts lot line adjustments provided that not more than four are involved.

No one speaks in opposition to the matter.

Everd McCain speaks in favor of the appeal. He asks if the Supervisors Board packets contained a copy of his appeal letter dated May 5, 2007, and states the Public packet did not contain that letter. He states this concerns him very much because the letter

outlines the specific basis for his appeal. He proceeds to read the letter dated May 5, 2007. (NOTE: Mr. McCain's letter dated May 5, 2007, is attached to and part of these minutes.) Supervisor Pyle states that Mr. McCain had mailed the letter to the Supervisors. Mr. McCain states that a letter of approval dated April 17, 2007 that his clients received from the Community Development Department was also omitted from the packets. He does not read the letter but distributes copies to the Board Members, staff and Deputy Clerk; states it repeats the conditions of the approval. He states he wants to make sure the Board is getting all the information, not just what the department wants them to see. He believes the fact that they received a formal written notice that the lot line adjustment was approved is extremely important legally and hopes County Counsel was aware of the notice dated April 17.

Mr. McCain states this matter is both a legal question and a policy question. In opposition to County Counsel's opinion, he quotes information from an article in www.californiasurveyors.org by Mike Durkee, ESQ. stating that 1) "there is nothing explicitly in the new law that prohibits multiple Lot Line Adjustment applications." And 2) another significant quote in that article is "In short whether an owner may adjust the lines of five or more existing parcels by filing a series of discreet applications for four or fewer parcels is often contingent on the local Map Act ordinance." He states that since Lassen County's local Map Act ordinance does not speak to when multiple applications may be filed in Lassen County, Lot Line Adjustment #2007-07 is perfectly legal. Feels it is unfortunate that the Board has to sit and try to act like a court of law.

Mr. McCain feels there were many procedural errors that occurred regarding this matter. He states the Community Development Department (CDD) tried to administratively refuse to process the application. When Mr. McCain appealed that administrative decision, CDD did not refer his appeal to the Planning Commission or obtain a written opinion from County Counsel as requested. The appeal was granted by CDD processing the project and scheduling it for a Technical Advisory Committee (TAC) meeting. CDD still did not provide any evidence of County Counsel's opinion. TAC members were never provided with the benefit of any written opinion from County Counsel. County Counsel's written opinion was provided after Mr. McCain presented the appeal of the TAC decision by the Department but he did not respond to the procedural issues raised in regard to the Department's appeal.

Mr. McCain disagrees that the Lot Line Adjustment would constitute a violation or circumvention of the intent of the Subdivision Map Act exemption. He further states if the County wants to address the legal question of serial Lot Line Adjustments in Lassen County, the Board of Supervisors should adopt an ordinance that clearly says so. He suggests if County Counsel believes the Lot Line Adjustment is illegal he should file a request for an Attorney General's opinion; does not feel the County taxpayers should take the burden of doing that. If the appeal is denied, Mr. McCain's client will file a writ of mandamus and the County will have to spend tens of thousands of dollars of taxpayer dollars in defense plus attorney's fees if Mr. McCain's client wins. This is an argument over state law and it should be up to the state to enforce and interpret their laws.

County Counsel Settlemire states he thought he had the letter Mr. McCain asked about but he does not. Since he has not reviewed in detail the 13 points raised in the appeal letter, he suggests this matter be continued.

Supervisor Chapman feels it is a serious issue and does not know how the Board can make a fair deliberation when they only have part of the information.

The Supervisors and Mr. McCain agree to continue the public hearing until June 19, 2007 postpone this item for one week and bring complete information; all missing information will be presented.

PUBLIC WORKS – ANIMAL CONTROL

Deputy Public Works Director for Facilities Peter Heimbigner presents a request to approve a Memorandum of Understanding between Lassen County, the California Correctional Center (CCC) and the Lassen Humane Society to jointly develop and maintain a program to socialize shelter dogs and get them ready for adoption.

The program will start with 5 dogs, and hopes to grow to 10, with CCC firehouse inmates responsible for the dogs 24 hours a day/7 days a week. Lassen County is providing the animals and will test and screen them before they are given to the Humane Society. The Humane Society will be providing all the materials, training documentation, training services, the kennels and any other food, etc. needed to keep the program operational. CCC will provide the facility and the manpower, both inmate and staff, to work with the animals. The inmates have been screened and selected and kennels are ready.

CAO Ketelsen introduces Acting Assistant Warden of CCC Ron Barnes and Facility Captain Steve Peck. Mr. Barnes states this should be a win - win situation for the City and the County. It has been his experience that when inmates are given the opportunity to care for some kind of animal or have a little bit of responsibility they do an outstanding job. Warden Prosper is in full support of the idea and the concept.

Lassen Humane Society President Mary Morphis states they are very excited about the program – it has been outstanding throughout the country where inmates in the prisons have done this and to quote Captain Peck this is giving the dogs another “leash on life”. Mr. Heimbigner thanks all the parties involved; it is an added benefit to the County.

It is moved by Supervisor Hanson, seconded by Supervisor Keefer and carried unanimously to approve the Memorandum of Understanding between the California Correctional Center, Lassen Humane Society and County of Lassen to cooperatively develop and manage a program called Pups on Parole, to enhance the adoptability of Lassen County Animal Shelter dogs; and authorize the CAO and Public Works Director to sign.

ADMINISTRATIVE SERVICES - PERSONNEL DIVISION

It is moved by Supervisor Keefer, seconded by Supervisor Hanson and carried unanimously, to adopt Resolution No. 07-026 to include the member contributions paid by the employer on behalf of the Lassen County Peace Officers Association as additional compensation for all members of the Lassen County Peace Officers Association.

Personnel Director Ron Vossler presents a request for reclassification for a merit system position in the Health and Social Services Department for an Information Systems Technician. The County does not control the job description but does control the pay for a merit system employee. Supervisor Chapman requests that when merit

system positions are brought to the Board, Personnel document the date of Lassen County's review of the job description. Director of Community Social Services & Lassen W.O.R.K.S. Melody Brawley states that the State has a new person attending the CA Welfare Directors Association meetings on a regular basis and she will have responsibility for oversight of merit systems and issues, such as out-of-date job descriptions, can be presented to her.

It is moved by Supervisor Hanson, seconded by Supervisor Keefer and carried unanimously, to reclassify the position of Information Systems Technician, UPEC, H&SS, from Range 17 to Range 19, using the 2002 job description that has been reviewed in 2007 by the Personnel Department.

SIERRA PACIFIC POWER COMPANY

Sierra Pacific Industries Land Development Manager Gary Blanc and Catlin Properties, Inc. Vice President Paul O'Sullivan present a power point presentation on the Susanville River Walk project which is 265 acres of the former mill site owned by Sierra Pacific Industries (SPI). SPI started in the development business about six years ago after acquiring various unneeded properties along with property they actually wanted. They have partnered with Catlin Properties in the development business and have done a similar project in Amador County, also on a former mill site. SPI has contracted with Geomatrix, an environmental firm. Environmental studies and evaluations are ongoing. There are some areas that will need to be dealt with. They are in the process of getting the site cleaned up from an environmental standpoint.

Mr. Blanc states that one group has offered to run the Co-Gen Plant for up to five years, then a year to year lease; this could help the economy and should not interfere with the project. Other people have shown interest in purchasing the Co-Gen facility and moving it.

Paul O'Sullivan states Catlin Properties is a regional based retail, office, industrial developer based in Sacramento with offices in Chicago, Denver and Sacramento. The Amador County project being developed is a 200 acre site which they've been working on for four years. It comprises about 200,000 square feet of retail office development and a 50,000 square foot office building for Amador County's Health and Human Services has just been started. The Susanville River Walk project is approximately 260 acres with a mill pond, which is a significant challenge. The site sits within the sphere of influence of the City of Susanville; it is bounded on three sides by the city, about 30% has been developed and 70% raw land. He states the key issue is a small pocket of land which is in the County that makes annexation challenging.

Mr. O'Sullivan states the proposal is to redevelop the site with approximately 54 acres of retail, 34 acres of new office, 46 acres of mixed-use, 78 acres of housing and 30 acres of parkways and pathways along the river and open areas. The pond would be very difficult if not impossible to build upon. The project shows a green park pathway, maybe natural or maybe somewhat manicured which gives access to the river which is currently a significantly under-utilized asset in the community. The proposal would provide new opportunities for housing and obviously to improve the river and access to the river, and offer additional retail opportunities.

After preliminary discussions with the City and the County, the next stage is to create a specific plan that would include City, County and public input. The project is probably on a 20 year time frame. Some key issues are: the process, annexation, tax sharing agreement, specific plan, development agreement and timeline. These matters are open for discussion. Further discussion is held. Supervisor Chapman states he appreciates the project and the presentation. Supervisor Hanson thanks SPI and the Emmerson Family for a quality project for the community.

HEALTH & SOCIAL SERVICES - PUBLIC HEALTH / FAIR

Public Health Fiscal Officer Corrine Reed presents a request from Public Health in collaboration with the Lassen County Fairgrounds to purchase a generator for Jensen Hall at the Fairgrounds. Public Health has been working with Office of Emergency Services (OES) Director Chip Jackson and Fair Manager Jim Wolcott in an effort to have a central location in the event of an emergency-type event or if mass inoculations are needed. Jensen Hall has been selected as the site because it is well known to the community and easy to find. (Supervisor Hanson is absent 11:54 – 11:55 a.m.) One competitive bid for a generator was received from AMPS Electric in the amount of \$35,890.53. Public Health has set aside bioterrorism emergency preparedness money in the amount of \$35,000 and the Fairgrounds have additional available funds totaling \$890.53.

It is moved by Supervisor Keefer, seconded by Supervisor Chapman and carried unanimously to approve AMPS Electric bid of \$35,890.53 for the purchase and installation of a generator for Jensen Hall, Lassen County Fairgrounds. The Public Health Bioterrorism funds will pay \$35,000 and \$890.53 will be paid from Fairground Capital Improvements, Fund No. 183.

COUNTY ADMINISTRATIVE OFFICE

SOLID WASTE MANAGEMENT AUTHORITY LETTER

CAO Ketelsen presents a letter written under his signature confirming Lassen Solid Waste Management Authority's authority to apply for a grant from California Integrated Waste Management Board.

It is moved by Supervisor Hanson, seconded by Supervisor Keefer and carried unanimously, to authorize the CAO to sign a letter confirming Lassen Solid Waste Management Authority's authority to apply for a grant from California Integrated Waste Management Board.

MODOC LINE

CAO Ketelsen presents a letter written under his signature offering Union Pacific a tentative commitment of \$400,000 to acquire the Modoc Line railroad right of way. It does not commit the County of Lassen or the County of Modoc to acquire the railroad right of way from Union Pacific, however, it does make the dollar amount available known to the railroad. The letter states, in terms of the offer, that it is subject to finding some agency who will be willing to take title and on condition that the environmental study does not show any obvious problems in the way of contamination. The negotiations on the actual terms and conditions need to take place once these things

fall into place. It is a very tentative offer designed to get something before the railroad to which they could respond; the appraisal was for \$805,000. The Sierra Nevada Conservancy has helped try to generate some interest in funding this and the \$400,000 represents the best effort in raising that money. This is for the Board's information; the letter has gone out.

JOINT POWERS AUTHORITY (JPA)

CAO Ketelsen states the City of Susanville has suggested June 18 as a joint meeting between various agencies to talk about the swimming pool Joint Powers Authority (JPA). The City suggests the approval of the JPA as the only agenda item. Mr. Ketelsen recollects that the meeting was to be more wide ranging to discuss all aspects of the pool including the JPA.

Mr. Ketelsen presents several options to the Board: accept invitation to the meeting; reject the invitation; suggest alternative meeting date; accept the invitation unconditionally; accept the invitation conditionally including taking a position on some issues previously discussed.

Mr. Ketelsen suggests several conditions, that the agenda include all issues concerning the pool project including: location; scope; financing options; role of agencies; make up of JPA membership; funding issues; use of geothermal; governance of JPA; limitations on County participation; use of existing facility; use of County property adjacent to former facility.

Mr. Ketelsen presents a resolution that could be agendized for the meeting of June 18 or another time. Extensive discussion is held. Mr. Ketelsen suggests the Board of Supervisors agendize their special meeting on June 18 as part of the City's meeting with a broader scope than the City is suggesting. The Board agrees to agendize a special meeting on June 18, 2007, 6:00 p.m. at Jensen Hall to include Mr. Ketelsen's proposed draft resolution.

IMPACT STUDY OF STATE PRISON

CAO Ketelsen states received communication that there is a study being conducted by the state asking what kinds of impacts the prisons have on our facilities. Someone will be here interviewing various departments. Supervisor Hanson will attend a meeting on June 18 with CAO Ketelsen and Supervisor Dahle if he can make it.

AB900 JAIL CONSTRUCTION EXECUTIVE STEERING COMMITTEE

CAO Ketelsen states he has been invited by CSAC to attend a steering committee to look into various options for expenditures of Bond Funds. The Board agrees he should attend.

WILLIAMSON ACT SUBVENTIONS

CAO Ketelsen presents a letter he sent out on behalf of the Board to all the various legislators and Governor Schwarzenegger with respect to the Williamson Act. He states he has spoken with Senator Cox stating that Lassen County feels that the subventions on the Williamson Act is a "must have" in the state budget and Senator Cox has agreed to carry that message to the Governor.

Supervisor Chapman states there is a theory that City and County land use planning policy is being gutted in favor of shifting the responsibility to the states.

UNAGENDIZED BOARD REPORTS

1. Supervisor Chapman compliments Public Works staff for the new Lassen County mural in the back of the room that Joel Rathje prepared for the Sierra Nevada Conservancy meeting.
2. Supervisor Chapman makes note of Chairman Dahle's photo on the front cover of the County News.
3. Supervisor Chapman requests CAO Ketelsen bring a policy and protocol back to the Board that would allow special districts to use a link to the County's website or some type of an option to allow public access to the special districts agendas, minutes or other information.
4. Supervisor Keefer requests a proclamation be signed by the Board and presented to U.S.F.S. Eagle Lake District Ranger Bob Andrews on his retirement. Supervisor Keefer will present it on June 30 at his retirement party.
5. Supervisor Keefer requests a discussion agenda item for June 19 regarding the Secure Rural Schools and Communities Act money; he would like to get a sense of what the Board would like to do regarding Title II or Title III money.
6. Supervisor Pyle states he attended a First 5 Lassen Childrens and Family Commission meeting and Pathways has terminated all agreements for CARES and the Home Visiting Program and given 30 days notice of termination of the agreement to implement Behavioral Health Contract.
7. Supervisor Hanson reports that on Friday June 8 he attended the Lassen High School graduation; there are approximately 50 students going on to college. He states it is nice to see our future citizens improving themselves; hopefully they will all come back and be very productive.
8. Supervisor Hanson donates \$500 of his discretionary fund to support Doyle Fire Department in rebuilding a pump on one of their trucks. He states that fire protection continues to be a big issue; Chairman Dahle states this subject will be agendized after the budgets are done.
9. Supervisor Hanson states that he has been the point person on the Invenergy project which is the windmill project out in the Horse Lake Mountains in District 5. Because of the proximity to his family's property and a potential for conflict of interest, he asks that someone else to take on those responsibilities. Supervisor Keefer accepts.
10. Supervisor Dahle donates \$200 to the Lassen Land and Trails Trust to help them reimburse their planning and time they spent with the Conservancy folks.

ADJOURNMENT IN MEMORY

There being no further business, the meeting is adjourned at 12:33 p.m. in memory of Jean Foster.

CHAIRMAN OF THE BOARD OF SUPERVISORS

ATTEST:

JULIE BUSTAMANTE, CLERK OF THE BOARD



McCain Associates

CONSULTING ENGINEERS SURVEYORS

P.O. BOX 448 • (530) 254-6613

SUSANVILLE, CA 96130

Board of Supervisors
Meeting of

JUN 12 2006

May 5, 2007

Lassen County
707 Nevada St.
Susanville, CA 96130

RE: Appeal of the "Disapproval of Lot Line Adjustment Application #2007-007
Buz McCain/ B. J. Deis

Gentlemen:

On May 2, 2007, the Lassen County Planning Commission passed a Resolution "Disapproving" Lot Line Adjustment Application #2007 - 007. In accordance with County Code, I hereby appeal said action of the Planning Commission on the following grounds:

1. There is no ordinance or provision in the County Code for an appeal of a decision of the Technical Advisory Committee (TAC). There are provisions for the appeal of a decision of the Planning Commission and for an appeal of an administrative decision by a Department head, but no provision for an appeal of an approval of a Lot Line adjustment. The Department of Community Development does not have standing to appeal a decision of approval of a Lot Line Adjustment.
2. The actions of the TAC are ministerial in nature, not discretionary. If the application is in conformance with the standards and codes, it must be approved. Allowing an appeal of the ministerial act of the TAC, would be like allowing a person the right to appeal the issuance of a Building Permit.
3. The Department of Community Development is a voting member of the designated " Technical Advisory Committee" and lost the majority vote of the "Committee" regarding this Lot Line Adjustment. As such, as a member of the voting body, they can not appeal a majority decision of the body of which they are a voting member.
4. The basis of the "appeal" is not new. The Committee members received the same findings in a presented statement of the Community Development Department's opinion. The members considered the motion of the Community Development Department to deny the application. Their motion failed due to lack of a second. A motion was

then made to approve the Lot Line Adjustment that passed with a 2 to 1 vote, with the Department of Community representative voting no. There are no new issues raised by the Department's "appeal" that were not considered by the deciding body.

5. Even if the actions of the TAC were to be considered as an action of the Planning Commission, the Department of Community Development is not an "adversely affected interested person" as used in the County Ordinances governing appeals of the Planning Commission's decisions. They are part of the deciding government body, not an external, "adversely affected person". The Planning Department is an agency, not a "person".
6. The County Ordinance Section 16.08.300 give sole authority to the "Technical Advisory Committee" (TAC) to "review and approve, conditional approve or deny applications for Lot Line Adjustments. It does not grant the Department of Community Development, or anyone else, the authority to appeal the decisions of the TAC.
7. The Planning Commission violated the Brown Act in considering this item in the following ways:
 - 1.) The item was agendized as "Appeal filed by the Department of Community Development ". The action taken should have been either to deny the appeal or grant the appeal. Instead, the Commission passed a Resolution " hereby disapproved Lot line adjustment Application #2007 - 007." The resolution is in past tense and makes no sense at all. No mention is made of the fact that the Technical Advisory Committee had already taken final action on the application and the applicant had received written notification of the approval. In other words, the action taken by the Commission was not what was agendized.
 - 2.) The Planning Commission held an improperly noticed "Closed Session" to just deal with a subsequent agenda item. The General public was not notified that the closed session was secretly, specifically scheduled to give the entire Department of Community Development staff the opportunity to present their non-legal opinions as to the effect on the Planning process, etc. to the Commissioners without the public having the opportunity to present alternate reasoning. The notice was defective because the number of distinct potential cases that would be discussed was not disclosed.
 - 3.) Almost the entire Department of Community Development, the

Director of Public Works and the Deputy County Surveyor attended the closed session. Closed sessions are for the purpose of allowing **Legal** counsel to confer with and provide **legal** advice when public discussion of the potential pending litigation would prejudice the County's legal position. They should not be held to allow the presentation of policy reasons the Commission should follow their recommended path. Excluding the applicant and the public from discussions of the public policy reasons why the LLA should be disapproved should be held in public.

8. There is no provision in the County Code for an appeal of a approval or denial of a lot line adjustment.

Section 16.080.280 of the County Code does provide for the Planning Commission to be the "appeal body for **determinations** made by the committee". Under Section 16.08.300, the only **determinations** made by the TAC have to do with "issuances of notices of violations", not approvals or denials of lot line adjustments. There are no provisions in either code section for appeals of any of the other functions of the TAC such as their recommendations regarding Tentative Maps (1), approvals of lot line adjustments (2) , or approvals of certificates of compliance (3).

The only actions of the TAC that can be appealed is when they make determinations as to the issuance of a notice of violation (4).

9. The "appeal" of the Department of Community Development was not allowed under Section 16.16.120, "Appeals of Planning Commission action" for the following legal reasons:
 - (a) The Planning Commission had not yet taken any action in this matter.
 - (b) More than ten days elapsed between the actions of the TAC and the "appeal" letter of the Department.
 - (c) The Department did not pay the \$ 159 fee for an appeal and there are no provisions for an exceptions to the fees for "in-house" appeals.
 - (d) The Department is not an " Interested person adversely affected" because they are not a "person" and they were not adversely affected. The legal definition of "Person" does not include government agencies.

10. On March 2, 2007, The Department returned our LLA application with the statement that it "can not be processed as it includes parcels previously adjusted." Having received no other contradictory correspondence, I considered the appeal of the staff decision of March 2, 2007, by my letter of March 8, 2007, as granted by the later decision of the Department of Community Development to process the application. The letter of the Department of March 2, 2007, became moot by the Departments decision to process the LLA. When the LLA was scheduled and heard and approved by the TAC on April 11, 2007, my appeal was then unnecessary because it had effectively been granted, the application was processed, and therefore, my appeal was terminated. There is **no** appeal from the owners or myself before this Commission. As you will note by the agenda, the matter before you is an "appeal filed by the Department of Community Development".
11. It is not illegal to accomplish in two Lot Line Adjustment applications, what can not be accomplished in one Lot Line Adjustment application.
12. The County is prevented from "Disapproving" a previously approved Lot line adjustment by the principal of vested rights. As of the date of the Technical Advisory Action on the application (May 2, 2007), the Lot line adjustment approval is final. The approval was later verified by letter. The property owners proceeded with meeting the conditions of approval and had expended considerable effort in completing the requirements by the time of the "disapproval" of the Lot Line adjustment by the Planning Commission.
13. The Subdivision Map Act exclusion for lot line adjustments **may** be used where one of the four parcels involved in an application was involved in a previous lot line adjustment that involved two other parcels.

Accompanying this appeal is the statutory fee of \$ 159.00

Everd A. McCain

