

CARRE BROWN
1st District
Supervisor

JOHN MCCOWEN
2nd District
Supervisor
Vice-Chair

TOM WOODHOUSE
3rd District
Supervisor

DAN GJERDE
4th District
Supervisor
Chair

DAN HAMBURG
5th District
Supervisor



CARMEL J. ANGELO
Chief Executive Officer/
Clerk of the Board

KATHARINE L. ELLIOTT
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MENDOCINO COUNTY BOARD OF SUPERVISORS

ACTION MINUTES –September 20, 2016

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF MENDOCINO - STATE OF CALIFORNIA
FAIR STATEMENT OF PROCEEDINGS
(PURSUANT TO CALIFORNIA GOVERNMENT CODE §25150)**

AGENDA ITEM NO. 1 – OPEN SESSION (PLEDGE OF ALLEGIANCE AND ROLL CALL 9:02 A.M.)

Present: Supervisor Carre Brown, Supervisor John McCowen, Chair Dan Gjerde, and Supervisor Dan Hamburg. Supervisor Woodhouse absent by pre-arrangement.

Staff Present: Ms. Carmel J. Angelo, Chief Executive Officer; Ms. Katharine L. Elliott, County Counsel and Ms. Nicole French, Deputy Clerk of the Board.

The Pledge of Allegiance was led by: Ms. Bekkie Emery.

AGENDA ITEM NO. 3 – PUBLIC EXPRESSION

Presenter/s: Ms. Tarney Sheldon and Mr. Thomas Allman.

AGENDA ITEM NO. 4 – APPROVAL OF CONSENT CALENDAR

Presenter/s: Chair Gjerde.

Public Comment: Mr. Stephen Johnson.

Board Action: Upon motion by Supervisor McCowen, seconded by Supervisor Brown, and carried unanimously (4/1, with Supervisor Woodhouse absent), IT IS ORDERED THAT CONSENT ITEMS 4(a) – 4(k); are approved as follows:

4A) DENIAL OF CLAIM FROM MENDOCINO REDWOOD COMPANY, LLC FOR A REFUND OF PROPERTY TAXES - SPONSOR: COUNTY COUNSEL

Rejected;

4B) APPROVAL OF RECOMMENDED APPOINTMENTS/REAPPOINTMENTS - SPONSOR: EXECUTIVE OFFICE

Approved;

Ms. Stella (Salo) Wells, Mendocino Little River Cemetery District, Trustee; Mr. Jim Ronco, Assessment Appeals Board, Member; and Mr. Richard Selzer, Assessment Appeals Board, Alternate Member.

4C) JUNE 21, 2016 REGULAR BOARD MEETING - SPONSOR: EXECUTIVE OFFICE

Approved; and Chair is authorized to sign same;

4D) JULY 12, 2016 REGULAR BOARD MEETING - SPONSOR: EXECUTIVE OFFICE

Approved; and Chair is authorized to sign same;

4E) REAFFIRMATION OF A DECLARATION OF EMERGENCY PURSUANT TO MCC SEC. 2.32.040 AND PUBLIC CONTRACT CODE SECTION 22050 DUE TO DAMAGE TO A COUNTY OWNED FACILITY LOCATED AT 737 S. STATE ST., UKIAH CAUSED BY FLOODING - SPONSOR: EXECUTIVE OFFICE

Approved;

4F) APPROVAL OF LETTER OF SUPPORT FOR ASSEMBLY BILL X 1 26 (FRAZIER) AND SENATE BILL X 1 1 (BEALL) - TRANSPORTATION FUNDING PACKAGE - SPONSOR: EXECUTIVE OFFICE

Approved; and Chair is authorized to sign same;

4G) ACCEPTANCE OF REPORT ON JANUARY 2016 HOMELESS POINT IN TIME COUNT BY HEALTH AND HUMAN SERVICES AGENCY, ADULT AND AGING SERVICES - SPONSOR: HEALTH AND HUMAN SERVICES AGENCY

Approved;

4H) AUTHORIZATION OF THE ISSUANCE OF COASTAL DEVELOPMENT MINOR USE PERMIT, U_2015 0014 (STARR), FOR A SINGLE UNIT RENTAL IN THE TOWN OF MENDOCINO - SPONSOR: PLANNING AND BUILDING SERVICES

Approved;

- 4I) APPROVAL OF AGREEMENT WITH B.I. INCORPORATED IN THE AMOUNT OF \$70,000 TO PROVIDE DAY REPORTING CENTER SERVICES IN FORT BRAGG; AND AUTHORIZATION FOR THE CHIEF PROBATION OFFICER TO SIGN ANY FUTURE AMENDMENTS TO THE AGREEMENT THAT DO NOT INCREASE THE ANNUAL MAXIMUM AMOUNT - SPONSOR: PROBATION**

Approved; and Chair is authorized to sign same;

Enactment No: Agreement 16-083

- 4J) ADOPTION OF RESOLUTION APPROVING MENDOCINO COUNTY DEPARTMENT OF TRANSPORTATION AGREEMENT NUMBER 140119, FIXED BASE OPERATOR LEASE AGREEMENT AND AIRPORT PERMIT BETWEEN COUNTY OF MENDOCINO AND AIR GALORE (LITTLE RIVER AIRPORT) - SPONSOR: TRANSPORTATION**

Adopted; and Chair is authorized to sign same;

Enactment No: Resolution 16-122, Agreement 16-084

- 4K) ADOPTION OF RESOLUTION APPROVING AMENDMENT NUMBER 6 TO BOARD OF SUPERVISORS AGREEMENT NUMBER 12 006/DEPARTMENT OF TRANSPORTATION AGREEMENT NUMBER 110103, FOR ADDITIONAL DESIGN AND PERMITTING RELATED TO RIGHT OF WAY ACQUISITION WITH DRAKE HAGLAN AND ASSOCIATES, FOR A TOTAL AMOUNT OF \$20,770, FOR THE DESIGN OF THE FORSYTHE CREEK BRIDGE REPLACEMENT ON REEVES CANYON ROAD, COUNTY ROAD 219 (REDWOOD VALLEY AREA) - SPONSOR: TRANSPORTATION**

Adopted; and Chair is authorized to sign same;

Enactment No: Resolution 16-123, Agreement 12-006-A6

- 6D) INTERVIEW, DISCUSSION, AND POSSIBLE APPOINTMENT OF MR. LEE KRAEMER AND MR. LENORD SWOPE TO THE MENDOCINO COUNTY ASSESSMENT APPEALS BOARD - SPONSOR: BOARD OF SUPERVISORS**

Presenter: Ms. Carmel J. Angelo, Chief Executive Officer.

Public Comment: Mr. Lee Kramer and Mr. Lenord Swope.

Board Action: Upon motion by Supervisor Brown, seconded by Supervisor Hamburg, IT IS ORDERED that the Board of Supervisors appoints Mr. Lee Kraemer to a Member position and Mr. Lenord Swope to an Alternate Member position on the Assessment Appeals Board. The motion carried by the following vote:

Aye: 4 - Supervisor Brown, Supervisor McCowen, Chair Gjerde, and Supervisor Hamburg.

Absent: 1 - Supervisor Woodhouse.

6C) DISCUSSION AND POSSIBLE ACTION INCLUDING ADOPTION OF A POLICY FOR THE FORMATION AND GOVERNANCE OF MUNICIPAL ADVISORY COUNCILS (MAC) - SPONSOR: GENERAL GOVERNMENT COMMITTEE

Presenter: Mr. Christopher Shaver, Deputy Chief Executive Officer.

Public Comment: None.

Board Action: Upon motion by Supervisor Brown, seconded by Supervisor Hamburg, IT IS ORDERED that the Board of Supervisors adopts the policy for the formation and governance of MACs. The motion carried by the following vote:

Aye: 3 - Supervisor Brown, Chair Gjerde, and Supervisor Hamburg.

No: 1 - Supervisor McCowen.

Absent: 1 - Supervisor Woodhouse.

6F) DISCUSSION AND POSSIBLE ACTION REGARDING A MENDOCINO COUNTY FUNDING CONTRIBUTION TO THE US GEOLOGICAL SURVEY (USGS) HYDROLOGIC CHARACTERIZATION AND A COUPLED WATERSHED AND GROUNDWATER FLOW MODEL OF THE RUSSIAN RIVER WATERSHED - SPONSOR: SUPERVISOR BROWN

Presenter/s: Supervisor Brown; Ms. Sarah Dukett, Administrative Analyst, Executive Office; Mr. Alan Flora, Assistant Chief Executive Officer.

Public Comment: None.

Board Action: Upon motion by Supervisor McCowen, seconded by Supervisor Brown, IT IS ORDERED that the Board of Supervisors approves a Mendocino County funding contribution of \$100,000 over four years to the US Geological Survey (USGS) Hydrologic Characterization and a Coupled Watershed and Groundwater Flow Model of the Russian River Watershed. The motion carried by the following vote:

Aye: 4 - Supervisor Brown, Supervisor McCowen, Chair Gjerde, and Supervisor Hamburg.

Absent: 1 - Supervisor Woodhouse.

5D) DISCUSSION AND POSSIBLE ACTION REGARDING TRAINING REVIEW OF THE INCIDENT COMMAND SYSTEM AND OVERVIEW OF THE G 402 COURSE: INCIDENT COMMAND SYSTEM TRAINING FOR EXECUTIVE/SENIOR OFFICIALS - SPONSOR: EXECUTIVE OFFICE AND SHERIFF-CORONER

Presenter/s: Ms. Carmel J. Angelo, Chief Executive Officer and Mr. Rick Ehlert, Program Specialist, Office Of Emergency Services.

Public Comment: None.

Board Action: No action taken.

THE BOARD OF SUPERVISORS JOINTLY CONVENED AS THE AIR QUALITY MANAGEMENT DISTRICT FOR ITEM 7(A)

- 7A) DISCUSSION AND POSSIBLE ACTION INCLUDING APPROVAL OF REQUEST TO CONTINUE THE DISTRICT'S CONTRACT WITH MS. TERRY GROSS FOR SEPARATE LEGAL REPRESENTATION FOR THE AIR QUALITY MANAGEMENT DISTRICT PURSUANT TO GOVERNMENT CODE SECTION 7522.56 REQUIREMENTS FOR RETIREES OF PUBLIC EMPLOYERS PARTICIPATING IN A PUBLIC RETIREMENT SYSTEM - SPONSOR: AIR QUALITY MANAGEMENT DISTRICT**

Presenter: Mr. Bob Scaglione, Air Pollution Control Officer, Air Quality Management District.

Public Comment: None.

Board Action: Upon motion by Supervisor McCowen, seconded by Supervisor Brown, IT IS ORDERED that the Board of Supervisors Approve the Air Quality Management District's request to continue the District's contract with Ms. Terry Gross for separate legal representation following her retirement from public service as required by Government Code, Section 7522.56. The motion carried by the following vote:

Aye: 4 - Supervisor Brown, Supervisor McCowen, Chair Gjerde, and Supervisor Hamburg.

Absent: 1 - Supervisor Woodhouse.

ADJOURNED TO CLOSED SESSION: 10:39 A.M.

- 9A) ~~PURSUANT TO GOVERNMENT CODE SECTION 54957.6 – CONFERENCE WITH LABOR NEGOTIATOR – AGENCY NEGOTIATORS: CARMEL J. ANGELO, HEATHER COFFMAN, HEIDI DUNHAM, ALAN FLORA, CHERIE JOHNSON AND DONNA WILLIAMSON; EMPLOYEE ORGANIZATIONS – ALL ITEM WITHDRAWN~~**

- 9B) PURSUANT TO GOVERNMENT CODE SECTION 54956.9(A) - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION: JOSEPH RUBINO AND DIANE RUBINO V. CALIFORNIA COASTAL COMMISSION, MENDOCINO COUNTY; MENDOCINO LAND TRUST (REAL PARTY) - MENDOCINO COUNTY SUPERIOR COURT CASE SCUK-CVPT-16-67612**

- 9C) PURSUANT TO GOVERNMENT CODE SECTION 54957 – PUBLIC EMPLOYEE PERFORMANCE EVALUATION – AIR POLLUTION CONTROL OFFICER**

- 9D) PURSUANT TO GOVERNMENT CODE SECTION 54956.9 - CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: SIGNIFICANT EXPOSURE TO LITIGATION - ONE CASE**

RECONVENED IN OPEN SESSION: 11:37 A.M.

AGENDA ITEM NO. 9 – REPORT OUT OF CLOSED SESSION

Presenter: Chair Gjerde and Ms. Katharine L. Elliot, County Counsel.

Board Action: In respect to item 9(b), direction given to staff; in respect to item 9(c), item continued to afternoon session of the Board of Supervisors meeting; in respect to item 9(d), no action was taken.

SUPERVISOR HAMBURG RECUSED HIMSELF FROM ITEM 6(B)

SUPERVISOR HAMBURG ABSENT AT 11:39 A.M.

6B) DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FROM THE “NO ON MEASURE AF COMMITTEE” THAT THE BOARD ENDORSE A “NO” VOTE ON MEASURE AF, ALSO KNOWN AS THE “HERITAGE ACT” - SPONSOR: SUPERVISOR MCCOWEN

Presenter: Supervisor McCowen.

Public Comment: Mr. Hal Wagenet; Mr. Ron Edwards; Mr. Tim Blake; Ms. Corrine Powell; Mr. Jeff Stewart; Ms. Crystal Ray; Mr. Justin Calvino; Mr. Leif Bierer; Ms. Johanna (last name withheld); Mr. Gabriel Martin; Ms. Jeanine Coleman; Ms. Sarah Bodnar; and Mr. Dan Hamburg.

Board Directive: GENERAL CONSENSUS OF THE BOARD that this matter is continued to the afternoon session of the Board of Supervisors meeting to allow time for Supervisor McCowen to prepare the proposed motion.

ADJOURNED FOR LUNCH RECESS: 12:35 P.M.

RECONVENED IN OPEN SESSION: 1:31 P.M.

6E) DISCUSSION AND POSSIBLE ACTION REGARDING PRESENTATION FROM AIRCON ENERGY REGARDING POSSIBLE ENERGY AND SUSTAINABILITY SERVICES FOR COUNTY OWNED FACILITIES - SPONSOR: SUPERVISOR BROWN

Presenters: Supervisor Brown; Mr. Christopher Shaver, Deputy Chief Executive Officer; Mr. Jeff Wagner, Aircon Energy; Mr. Andy Roth, Aircon Energy; and Mr. Robert Harwell, Aircon Energy.

Public Comment: None.

Board Action: Upon motion by Supervisor Brown, seconded by Supervisor McCowen, IT IS ORDERED that the Board of Supervisors authorizes the Executive Office to work with Aircon Energy to develop a feasibility study. The motion carried by the following vote:

Aye: 4 - Supervisor Brown, Supervisor McCowen, Chair Gjerde, and Supervisor Hamburg.

Absent: 1 - Supervisor Woodhouse.

THE BOARD OF SUPERVISORS JOINTLY CONVENED AS THE AIR QUALITY MANAGEMENT DISTRICT FOR ITEM 7(B)

7B) NOTICED PUBLIC HEARING - DISCUSSION AND POSSIBLE ACTION INCLUDING ADOPTION OF RESOLUTION TO AMEND REGULATION 1, AIR POLLUTION CONTROL RULES OF THE AIR QUALITY MANAGEMENT DISTRICT TO CONFORM WITH FEDERAL REQUIREMENTS - SPONSOR: AIR QUALITY MANAGEMENT DISTRICT

Presenter/s: Mr. Bob Scaglione, Air Pollution Control Officer, Air Quality Management District.

Public Comment: None.

Board Action: Upon motion Supervisor McCowen, seconded by Supervisor Brown, IT IS ORDERED that the Board of Supervisors adopts Resolution to amend Mendocino County Quality Management District Regulation 1, Air Pollution Control Rules as written and authorizes Chair to sign same; authorizes the Air Pollution Control Officer to submit the adopted amendments to the US Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) for inclusion in the State Implementation Plan (SIP); withdraws Rule 1 221 and Rule 1 494 from the SIP or from submittal into the SIP, as applicable; and files a notice of categorical exemption pursuant to the California Environmental Quality Act (CEQA). The motion carried by the following vote:

Aye: 4 - Supervisor Brown, Supervisor McCowen, Chair Gjerde, and Supervisor Hamburg.

Absent: 1 - Supervisor Woodhouse.

Enactment No: Resolution 16-124

SUPERVISOR HAMBURG RECUSED HIMSELF FROM ITEMS 6(B) AND 6(C)

SUPERVISOR HAMBURG ABSENT AT 2:38 P.M.

6B) DISCUSSION AND POSSIBLE ACTION REGARDING A REQUEST FROM THE “NO ON MEASURE AF COMMITTEE” THAT THE BOARD ENDORSE A “NO” VOTE ON MEASURE AF, ALSO KNOWN AS THE “HERITAGE ACT” - SPONSOR: SUPERVISOR McCOWEN (CONTINUED)

Presenter: Supervisor McCowen

Public Comment: Mr. Ron Edwards

Board Action: Upon motion by Supervisor McCowen, seconded by Supervisor Brown, IT IS ORDERED that the Board of Supervisors endorses a “No” vote on Measure AF (also known as the Mendocino Heritage Act) for the following reasons:

1. Measure AF is not needed because the County is already drafting comprehensive regulations, subject to the public review process, that provide all state approved cannabis license types while balancing the needs of our local communities, the natural environment and our local economy.
2. If Measure AF passes there will be no public review process to identify or mitigate significant environmental impacts.
3. Measure AF reduces or eliminates setbacks from neighbors that have been in place since 2010.
4. Measure AF eliminates the requirement for “wildlife exclusionary fencing” and eliminates all fencing requirements unless the garden is visible from the public right of way.
5. Measure AF makes up to an acre of cannabis cultivation a principle permitted use in almost every zoning district.
6. Measure AF allows thousands of new cannabis cultivators on new cultivation sites.

The motion carried by the following vote:

Aye: 3 - Supervisor Brown, Supervisor McCowen, and Chair Gjerde.

Absent: 1 - Supervisor Woodhouse.

Recused: 1 - Supervisor Hamburg.

5C) DISCUSSION AND POSSIBLE ACTION REGARDING UPDATE ON THE DRAFT MEDICAL CANNABIS CULTIVATION ORDINANCE, DRAFT MEDICAL CANNABIS CULTIVATION SITE ZONING REGULATION AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PROJECT DESCRIPTION AND INITIAL STUDY (CONTINUED FROM SEPTEMBER 13, 2016) - SPONSOR: AGRICULTURE

Presenter/s: Mr. Andy Gustavson, Chief Planner, Planning and Building Services; Ms. Sarah Dukett, Administrative Analyst, Executive Office; and Mr. Chuck Morse, Agricultural Commissioner and Sealer of Weights and Measures.

Public Comment: None.

Board Directive: GENERAL CONSENSUS OF THE BOARD directing staff to distribute, via email, the memorandum prepared by Mr. Andy Gustavson to all interested parties.

Board Directive: GENERAL CONSENSUS OF THE BOARD directing staff to submit the updated ordinance documents to the Board of Supervisors as correspondence at the beginning of the CEQA public review period.

Board Directive: GENERAL CONSENSUS OF THE BOARD directing staff to clarify the issue of multiple growing sites on one legal parcel as contained in the draft zoning ordinance.

BOARD RECESS: 3:30 P.M. - 3:42 P.M.

SUPERVISOR HAMBURG PRESENT AT 3:42 P.M.

5E) TRANSPORTATION DIRECTOR'S REPORT - SPONSOR: TRANSPORTATION

Presenter/s: Chair Gjerde.

Board Action: No action taken.

5A) CHIEF EXECUTIVE OFFICER'S REPORT - SPONSOR: EXECUTIVE OFFICE

Presenter/s: Carmel J. Angelo, Chief Executive Officer and Mr. Steve Dunncliff, Planning and Building Services Director.

Public Comment: None.

Board Directive: BY ORDER OF THE CHAIR: Direction to staff to present an agenda item to the Board of Supervisors regarding policy related to Unfunded Accrued Actuarial Liability contribution estimates falling short of actual contribution amounts.

5B) DISCUSSION AND POSSIBLE ACTION INCLUDING REVIEW, ADOPTION, AMENDMENT, CONSIDERATION OR RATIFICATION OF LEGISLATION PURSUANT TO THE ADOPTED LEGISLATIVE PLATFORM - SPONSOR: EXECUTIVE OFFICE

Board Action: No action taken.

6A) SUPERVISORS' REPORTS REGARDING BOARD SPECIAL ASSIGNMENTS, STANDING AND AD HOC COMMITTEE MEETINGS, AND OTHER ITEMS OF GENERAL INTEREST - SPONSOR: BOARD OF SUPERVISORS

Presenter: Board of Supervisors

Public Comment: None.

Board Action: No action taken.

ADJOURNED TO CLOSED SESSION: 4:24P.M.

**9C) PURSUANT TO GOVERNMENT CODE SECTION 54957 – PUBLIC EMPLOYEE PERFORMANCE EVALUATION
– AIR POLLUTION CONTROL OFFICER**

RECONVENED IN OPEN SESSION: 4:49 P.M.

AGENDA ITEM NO. 9 – REPORT OUT OF CLOSED SESSION

Presenter: Chair Gjerde.

Board Action: In respect to item 9(c), direction was given to staff

THERE BEING NOTHING FURTHER TO COME BEFORE THE BOARD, THE MENDOCINO COUNTY BOARD OF SUPERVISORS ADJOURNED AT 4:50 P.M.

Attest: NICOLE FRENCH
Deputy Clerk of the Board

DAN GJERDE, Chair

NOTICE: PUBLISHED MINUTES OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS MEETINGS

- Effective March 1, 2009, Board of Supervisors minutes will be produced in “action only” format. As an alternative service, public access to recorded Board proceedings will be available on the Board of Supervisors’ website in indexed audio format
- LIVE WEB STREAMING OF BOARD MEETINGS is now available via the County’s YouTube Channel. If technical assistance is needed, please contact The Mendocino County Executive Office at (707) 3463-4441.
- Minutes are considered draft until adopted/approved by the Board of Supervisors
- The Board of Supervisors’ action minutes are also posted on the County of Mendocino website at: www.co.mendocino.ca.us/bos
- To request an official record of a meeting of the Mendocino County Board of Supervisors, please contact the Executive Office at (707) 463-4441
- Please reference the departmental website to obtain additional resource information for the Board of Supervisors and Clerk of the Board: www.co.mendocino.ca.us/bos

Thank you for your interest in the proceedings of the Mendocino County Board of Supervisors