

**ALAMEDA COUNTY AGRICULTURAL ADVISORY COMMITTEE**

**APPROVED MINUTES**

**Tuesday, January 25, 2011**

**7:00 p.m. – 9:30 p.m.**

**Alameda County Public Works Building**

**Gleason Rd, Dublin**

<u>Committee Members Present</u>	<u>Committee Member Absent</u>	<u>Ex-Officio</u>
Darrel Sweet	Colleen Lenihan	Scott Paulsen
Millie Kimbro	Phil Wente	Elke Rank
Mike Gatzman	Joe Ferreira	
Karen Sweet	Chuck Ott	
Dolores Bengston		
Clayton Koopmann		
Chuck Moore		<u>Staff</u>
Carla Schultheis		Liz McElligott
Sheila Barry		Maria Palmeri
Kent Reeves		

1. The meeting was **called to order** at 7:05 pm by Darrel Sweet.
2. **Approval of minutes** – Approval of the minutes for September 28, 2010. Member Karen Sweet moved to approve the minutes as submitted. Member Bengston seconded. Minutes were approved as submitted.
3. **Public Comment** – None
4. **Discussion of Effects of Changes to the State Fire Code on Agriculture – Bonnie Terra, County Fire Marshall**  
She stated that she was asked to come to the meeting tonight to address concerns in regards to the fire code that were adopted at the beginning of this year. The code changes did not affect any one entity more than another. The State minimum code were adopted by the County with some minor modifications. The significant changes are related to the building code requirements, for example the residential building code, requires residential fire sprinklers for any new one or two family home. This is a huge change, but the fire code has not changed, the building codes have changed. Smoke detectors need to be wired to the electrical system in the house and Carbon Monoxide detectors have to be installed in an existing home if there is work done over \$1,000 and requires a building permit, the property owner needs to install a detector.

Mike Gatzman asked about agricultural buildings or barns and if they also need to follow the same requirements. Bonnie explained the various uses for agricultural buildings. If the building is bigger than 5,000 square foot then they will need fire sprinklers. It depends on the square footage. Mike said what about rebuilt? Bonnie said no unless one is taking over 50% of the building. Darrel said in Alameda County we do not need a building permit. The 5,000 threshold has been in effect for a long time. Darrel mentioned that fire sprinklers are installed to save people, but in a barn what are you saving? She explained the various types of sprinklers and how they save the structure. Darrel asked if out in an area where there is no water, can one have a tank and have it filled. She said yes, the Fire Department can calculate how much water you need for the area. The Fire Department also works with landowners to have vegetation management by having the animals on the property take care of the vegetation. The Fire Department just wants to make sure the community is safe. Mike Gatzman asked what if one is raising a metal building that does not contain any combustible material. Bonnie said it all depends on the use for the building. If one is going to have events where maybe there will be bleacher seating, then it becomes a public event. She said that it is very important to let the Fire Department know exactly what you are doing, otherwise if one leaves it up to the Fire Department, the staff has to assume the worst. There is no flexibility on how the Fire Department enforces the code, and there can't be subjective interpretation. The Fire Department will go by how you describe the project. Currently in the Fire Department the worst case scenario would be a 14 day turnaround for permits, if there is a resubmit we are trying to get them out in 7days. The Fire Department is trying to work with everyone to make things as easy as possible and make everyone safe. Bonnie gave everyone her phone number and e-mail address if anyone wants to contact her with additional questions or concerns.

Larry Gosselin asked if there is a process to appeal a Fire Department decision. She said all decisions can be appealed to the Fire Chief and then to the Board of Supervisors. She said the local authorities do not have much say in the state codes. There could be amendments but it is a long process. Mr. Gosselin asked about the board process for fire ordinances. Bonnie said they have the same procedure as any other ordinance, the Clerk of the Board does the noticing/publishing in the newspaper.

- 5. Proposed revisions to the County Williamson Act Program** – Liz gave an update on the proposed revisions, Uniform Rule 1 thru 5. She said at the last meeting there were some concerns and County Counsel has responded to the concerns. The main issue was equestrian use. The original Department of Conservation position in 2006 was that horses were not an ag use. A committee was formed at the state level and again looked at the inclusion of equestrian uses for commercial ag uses. This new policy allows breeding and training of horses as ag uses, specifically says boarding and riding stables could be considered compatible uses if in the same property as an agricultural use but can't be considered ag use on their own. They can't be on their own to be considered an ag use. The Planning Department revised its policy to include the Department of Conservation definitions. Uniform Rule 1 includes commercial breeding and training of horses as an ag use M the definition of commercial agriculture, and Uniform Rule 2 allows boarding stables and riding academies as a compatible, recreational use. Millie asked about the definition of commercial training and breeding. Liz read the description on page 4 of Uniform Rule 1. Millie said that as described if one is a breeder and trainer of horses one has to own all the horses and the property. This description has been a big sticking point for the last ten years. The effect of this description is to not allow this activity. In all practicality it never happens that way and surely staff knows that, so staff has put that in so as not to allow the training and breeding of horses as an agricultural use. Having only horses that one owns never happens. Millie said at one point there was a survey but we keep talking about the same thing over and over again. Liz said she does not see anything about ownership in the state rules. Millie said she has been mentioning this over the last ten years. Mike Gatzman said the state policy does not specify breeding and training together or is it and/or. The state policy says that one has to produce and sell the horse as an agricultural commodity, i.e. cattle.

Liz said since the last meeting she called Brian Leahy at the Department of Conservation and asked him if the County could make all equestrian facilities as ag uses and he very strongly recommended that the County create recreation contracts and allow boarding facilities and riding academies as recreational uses under recreational contracts. Uniform rule 4 already does that, what can happen is that for at least for some of the facilities that are already in existence under Williamson Act contract and currently do not qualify to be under an agricultural contract, this might allow them to transfer to a recreational use and allow them to stay under the same contract. The Chair said the Williamson Act contract only affects the land not the buildings, the evaluation is only done on the land. Liz said at the last meeting the definition of recreational use under Uniform Rule 4, does not allow having ag use under the recreational use. The idea is to keep recreational only for that use. County staff could work on having a policy that allows recreational use in combination with an ag use. The key is that under the recreational contract the property would have to be open to the public, as a boarding stable would operate. Brian Leahy recommended this method.

Sheila asked if one has ag land can it have recreational use. Liz said the property owner is limited to 10 percent of the property or ten acres. The Chair said that it is important to remember that the remainder of the property can still remain under the Williamson Act Contract. Liz said under the recreational contract the property owner needs to have a management plan. The Chair said that if the property is not under a Williamson Act contract then none of this applies. Liz said that the Department of Conservation audit pointed out that the County did not specify the different types of contracts and by having these new definitions the County will be fulfilling the state's requirement. Discussion ensued on next steps. The Chair suggested two weeks for review and comment on the information.

Mike Gatzman asked if someone has a 200 acre cattle operation and seven acres for a boarding facility, which is a pretty common practice, then what happens. The Chair said that this issue has been discussed and the seven acres has to be taken out of the contract, and one can still have the remainder under the contract. He said it is just like when building a home, one has a two acre envelope and the remainder is still under the contract. Millie Kimbro said she does not want to have the County defining the equine activities whether for WA or anything else and that should be her concern only, not the state's. She would like to see the definition changed, the ownership issue needs to be changed so the horse industry can function. The Chair said the Department of Conservation has definite rules for Williamson Act contracts. Millie said that she is referring to the County's definition. The Chair said that if one has an operation that does not qualify under the contract then it should not be in the contract. Liz explained that there are two different ways to have boarding facilities and riding academies under a contract. Uniform Rule 2 clearly says

that they are compatible uses, and Uniform Rule 4 says that they can be allowed under recreational contracts. Larry Gosselin stated that the way it is written it has significant conflict with the horse industry. The Chair said that if it is incompatible then it should not be in the Williamson Act Contract. Larry Gosselin said that it is compatible and the rules should allow to be under the contract. These rules should read as to allow this commercial and agricultural industry to be viable in Alameda County. Liz said that Measure D requires that boarding facilities to be within a 2 acre envelope. Larry Gosselin said that is incorrect. The Chair suggested that the committee turn in the written rules to the State because the committee can't discuss legal issues that are beyond the knowledge of anyone in the committee. The Chair asked for a suggestion on the next step.

Mike Gatzman said he would like to have time to read Larry Gosselin's comments. He said he would like to make sure that the whole committee is satisfied with the draft. The Chair said that these are complicated legal issues and the subcommittee can't resolve these issues. Karen Sweet cautioned that Brian Leahy is most likely not going to be at the Department of Conservation much longer under the new administration. The Chair said that the new administration is not looking favorably at Williamson Act contracts. Discussion ensued on having a special meeting. Dolores Bengston suggested to have a subcommittee formed to review and approve the revisions prior to the next meeting. Millie Kimbro said she would like to see a subcommittee look at the revisions and that her issue is the ownership but there might be some other issues. The Chair said the only issue up in the air is the ownership and suggested that someone make a motion to have a special meeting. Mike Gatzman moved to have a special meeting on February 22, 2011 with a single subject agenda. Larry Gosselin seconded.

Karen Sweet talked about the next administration cuts related to Williamson Act contracts. Liz stated that the County receives a small amount of subvention funds from the state. The County is committed to keep the current contracts and see them to their duration no matter what the next administration chooses to do. Mike Gatzman asked about SB863. Liz said the County is not pursuing it.

**6. Update on EACCS process – responses to AAC comments -** Liz gave a report. She said the public comment draft has been discussed. The main concern was that a Certified Rangeland Manager should be hired to review the document. County Counsel reviewed the material and did not feel that it was necessary to hire a Certified Rangeland Manager. The finished draft is now available on line. This new document will be taken to the Planning Commission and then to the Board of Supervisors for acceptance. This is not a formal approval but the County will recommend that County agencies use this document when reviewing applications, but this is a voluntary process.

**7. Update on County activities related to Windfarms –** No report, continued to next meeting.

**8. Subcommittee Updates**

i. Equine – Millie Kimbro – None

**9. Other Updates**

**a. Alameda County Agriculture Department** – Scott Paulsen gave an update on the Agriculture Detection Canine Team. Alameda County is one of 8 counties in California to be selected for this Canine Detection program. The dog looks for unmarked packages that contain agricultural products. Staff takes the dog to the terminals, FedEx, and United Parcel around 4:00 a.m. and the dog walks on the belt looking for the packages that are not properly marked. The Governor's budget is a tough one this year and the Governor is asking for recommendations with less reliance on general fund.

**b. Alameda County Conservation Partnership** – Kent Reeves announced Terry Huff's retirement. There will be a retirement dinner at Cattlemens on February 11, 2011 starting at 5:00 p.m. There are some NRCS and Farm Bill programs on the website if anyone is interested. The deadline for application is February 22, 2011. There are additional funding opportunities for organic producers. On April 28 there will be a fundraiser for Educational Programs in Alameda County, the money will be used for range camps and for stipends paid for conservation projects.

**c. Eastern Alameda County Conservation Strategy (EACCS)** – None

**d. PLCS update** – Sheila Barry announced Charles Crohare's resignation as Chair.

- e. **Potential Measure D Revision** – Chuck Moore stated that Supervisor Miley has initiated talks with local people in Castro Valley to work on revisions to Measure D specifically Horse Ranchers. Horse Ranchers have different needs than Cattle Ranchers. There is a provision in Measure D that the Supervisors can make some changes. It is kind of a gray area and hopefully some changes can be made.

Liz stated that the Sierra Club did not agree with the changes. Supervisor Miley wants to bring Measure D amendments to the Board of Transportation and Planning Subcommittee meeting on February 10 to see if there is interest in moving forward with the amendments as technical modifications instead of having it go thru a ballot process. County Counsel is working on some language in order to justify the changes. They are also looking into having transferable development credits, where one person who is not interested in developing can have their credits transferred to someone else.

- f. **Agriculture and Equine Definitions** – None
- g. **Review of the South Livermore Valley Area Plan** – Liz gave an update.
- h. **County Community Climate Action Plan Process** – Liz said the County is still going thru a public process. There has been quite a bit of opposition from the development community. It has tentatively been scheduled to go before the Board of Supervisors on March 8, 2011. The main issue for the development community are the fees and costs related to using green material for new homes.
- f. **ROSA** – None
- g. **Historic Preservation Ordinance Update** – Liz said they are looking at having a facilitator to work with the historic preservation committee.

**10. Administrative**

- a. Proposed Agenda items for Future Meetings
  - i. County Developments
- b. Potential Speakers at future Meetings (from 1/23/07 memo to AAC & 10/23/07 discussion)
  - i. Agricultural Legislation – Dennis Bray
  - ii. Streamwise – Zone 7 staff
  - iii. UC Berkeley study regarding private and public lands relationships
  - iv. Partnership for Land Conservation and Stewardship presentation – Karen Sweet
  - v. EACCS – Jones & Stokes
  - vi. Alameda County Public Works Agency

- 11. Adjournment** – The meeting was adjourned at 9 :20 pm.