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**DRAFT MINUTES OF MEETING
EAST COUNTY BOARD OF ZONING ADJUSTMENTS
July 24, 2025**

REGULAR MEETING: 1:30 p.m.

A. CALL TO ORDER Chair Eddy called the meeting to order at **1:30 p.m.**

**B. ROLL CALL
MEMBERS**

PRESENT (3) Chair Eddy, Vice-Chair Souza, Member Imhof
ABSENT (0)

STAFF PRESENT Damien Curry, Edward Labayog, Michael Peters, William Chin, Marcella Speech, Godfrey Udensi

IT Staff: Robert Tolentino
County Counsel: Aaron Foxworthy

C. PLEDGE OF ALLEGIANCE Chair Eddy led and all stood for the Pledge of Allegiance.

D. OPEN FORUM - None

E. FIELD TRIP REPORT - None

F. NEIGHBORHOOD PRESERVATION AND ZONING ORDINANCE ABATEMENT

- 1. 9782 Flynn Road S, Livermore CA 94550, unincorporated area of Alameda County, designated Assessor's Parcel Number: APN# 99B-5650-02-02, COD2024-00671**

Hearing to reconsider the June 26, 2025, decision of the East County Board of Zoning Adjustments for imposition of retroactive fines of \$1,000 per day for violation of Alameda County Zoning Ordinance 17.66 (importing of soil without an Administrative Conditional Use Permit (ACUP) and/or a Conditional Use Permit (CUP) on the parcel). The imposed retroactive fines amount to approximately \$387,000.00 from the date of the first violation.

Code Enforcement (CE) Officer: Michael Peters

16500 Grant Line Road, Mountain House CA 94550, unincorporated area of Alameda County, designated Assessor's Parcel Number: APN# 99B-7750-03-06, COD2024-01078

Hearing to reconsider the June 26, 2025, decision of the East County Board of Zoning Adjustments for imposition of retroactive fines of \$1,000 per day for violation of Alameda County Zoning Ordinance 17.66 (importing of soil without an Administrative Conditional Use Permit (ACUP) and/or a Conditional Use Permit (CUP) on the parcel). The imposed retroactive fines amount to approximately \$288,000.00 from the date of the first violation.

CE Officer: Michael Peters

Damien Curry, Senior Planner, introduced the first item, concerning a reconsideration of the East Board of Zoning Adjustments' June 26, 2025 decision to impose a \$1,000 per day fine on the property at 9782 Fynn Road, Livermore, located in unincorporated Alameda County. Edward Labayog, CE

Manager, and Michael Peters, CE Officer, presented a report on the matter. Before proceeding, Aaron Foxworthy, County Counsel, raised a point of order, noting that under Robert's Rules of Order, a motion was required by a member who had previously voted on the motion to reopen the public hearing. A **motion** to reopen the public hearing was made by Vice-Chair Souza and seconded by Member Imhof and **passed**, 3/0.

Edward Labayog asked the Board to reconsider its June 26, 2025, decision imposing retroactive \$1,000-per-day fines on two properties, 9782 Flynn Road and 16500 Grant Line Road, for unpermitted soil dumping. While the Board had previously declared the sites public nuisances and approved abatement, Labayog raised concerns about the fairness and legality of retroactive fines, noting that property owners were never formally notified such penalties were being considered. He emphasized that Code Enforcement originally recommended fines only if abatement orders were ignored and clarified that only Staff, not the Board, has the authority to impose administrative fines.

Board members discussed the fines' origin and legal basis. Vice-Chair Souza defended the Board's June 2025 decision, stating that property owners were sufficiently notified of violations and the applicable ordinances. County Counsel Aaron Foxworthy acknowledged valid due process concerns but noted a strong paper trail could support the Board's position. He suggested a compromise that allows Staff to apply the fines in a legally defensible manner.

Staff updated the Board on current administrative fines totaling over \$50,000 for each property. It was confirmed that abatement notices had been delayed pending this hearing, but that both property owners were notified of the violations and hearings and had failed to respond. The Board clarified that this hearing was only to reconsider the retroactive fines, not the abatement orders.

Chair Eddy opened the floor for public comment on this item.

Paul Fagliano (4435 First St., #341, 94551) expressed concern about ongoing illegal dumping affecting his water supply and long-term family ranching livelihood, emphasizing that stopping the activity and ensuring cleanup are more critical than fines. He questioned why Staff would raise legal concerns about due process when the property owner had clearly been notified of violations but continued to ignore them.

Sheila Fagliano (11995 S. Flynn Rd, 94550) emphasized that the fines are necessary to fund cleanup and road repairs, especially if the property owner abandons the site. She has concerns about safety, environmental impact, and the scale of illegal dumping, offering to assist county efforts with documentation and support.

Karen Sweet (12233 Flynn Rd N) raised concerns about public safety and increased truck traffic both during and potentially after abatement. She also questioned the property owner's long-term intentions, citing his development background and lack of water access, and asked for clearer guidance on how residents can support enforcement efforts.

Michelle Sweet (12221 Flynn Rd, 94550) expressed concern over the safety risks posed by heavy truck traffic and contaminated soil, especially for local children who have been seen playing in debris. She questioned whether environmental agencies like Fish and Game have been involved and emphasized that current fines may be insufficient to deter ongoing violations, offering to help document further infractions.

Kelly Abreu suggested that Code Enforcement Staff should proceed with all necessary due process steps before issuing fines and report back once proper procedures are completed. He emphasized that the Board can then decide how to proceed, but Staff should focus on ensuring compliance first, even if it takes more time.

Vice-Chair Souza emphasized the urgency of the situation, citing long-standing, egregious violations and calling for retroactive fines as the only effective deterrent available. She noted that the abatement process may take years and believes the fines should be enforced now, urging Staff to act decisively. Derek Eddy raised questions about the origin and legal limits of the \$1,000 per day fine, to which Edward Labayog clarified that the ordinance allows fines up to that amount per day or per truckload. Board members debated the legality and procedural authority of imposing retroactive fines, ultimately agreeing they can recommend such actions but cannot impose them directly.

Member Imhof expressed frustration with the lack of immediate enforcement, suggesting the sheriff block access to the property, but Staff clarified that such actions require further legal process, such as an injunction. Edward Labayog assured the Board that all appropriate agencies, Fish and Wildlife, Zone 7, CHP, and the District Attorney, have been notified, and Staff are actively ramping up enforcement within legal bounds. The Board agreed to recommend moving forward with retroactive fines and continuing the abatement process, while recognizing limitations on immediate action due to legal procedures.

Vice-Chair Souza inquired about the possibility of initiating the abatement process immediately, with retroactive fines accruing from the start of the violation if the property owner fails to comply within 30 days. Aaron Foxworthy advised caution due to ongoing concerns about due process, suggesting that Staff proceed using a legally sound approach to retroactive fines while separating the abatement process. Vice-Chair Souza then made a **motion** to accept Staff's recommendation, direct immediate notification to the violator to begin abatement, and request that Staff find a due-process-compliant way to apply daily fines retroactively to the start of the violation. Frank Imhof seconded the motion, emphasizing that "as soon as possible" should be replaced with "immediately." The Board clarified that fines should be assessed per day (not per truck), with the understanding that Staff will determine how far back they can legally apply them. The motion passed unanimously, 3/0.

G. ALCOHOLIC BEVERAGE SALE REGULATION ADMINISTRATIVE HEARING - None

H. APPROVAL OF MINUTES - June 26, 2025

Motion from Vice-Chair Souza to approve June 26, 2025, minutes with the following corrections:

- Page 1, second paragraph from the bottom: Jason ~~Reeee~~ Preece.
- Page 2, second paragraph: **Paul ~~Gianno~~ Fagliano** (Neighbor, 11995 South ~~Glen~~ Flynn Road).

Member Imhof seconded the motion. Motion **passed**, 3/0.

I. CONSENT CALENDAR - None

J. REGULAR CALENDAR

1. **PLN2025-00073, CONDITIONAL USE PERMIT, WENTE VINEYARDS:** Conditional Use Permit (CUP) to allow for the continued operation of the Wente Summer Concert Series, tasting room and

other events at Wente Vineyards. The parcel is designated under the East County Area Plan as “LPA” Large Parcel Agriculture and Zoning District of “A-CA” Agricultural, Cultivated Agriculture Combining District. The parcel is located at 5050 Arroyo Rd, Livermore, CA 94550, east side, 1.6 miles, southeast of Wetmore Road, in the unincorporated Livermore area of Alameda County with the Assessor’s Parcel Number, APN: 099 060000109 and APN:099 060000110. This project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), and State and County CEQA Guidelines, under Section 15301 – Class 1, Existing Facilities.

Staff Planner: William Chin, Action Item

William Chin, Staff Planner, presented a Staff report regarding the Wente Winery’s Conditional Use Permit for continuing their Wednesday Concert Series, tasting room operations, and other winery-related events at 5050 Royal Road, Livermore. The property is located within the agricultural zoning district and the cultivated agriculture combining district overlay, consistent with the East County area plan’s large parcel agricultural land use designation. Chin reviewed the site layout, including the existing buildings, parking areas, and the proposed stage location. The winery’s operation has been permitted since the mid-1980s, with no changes proposed to the current operations. For 2025, concerts are scheduled with attendance ranging from 500 to 1,300 people, along with approximately 15 additional non-concert events.

The use complies with zoning and land use plans, including the East County area plan and the South Livermore area plan, which encourages visitor-serving uses like winery events. The Board of Supervisors recently promoted additional visitor-serving uses in the region. Staff confirmed that the winery complies with all applicable health, safety, building, and fire regulations. The permit is recommended for approval. The Conditional Use Permit would be valid for 10 years before renewal is required.

Chair Eddy opened the floor for public comment. **Karl Wente**, representing the winery, thanked Staff and the Board and offered to answer any questions. Public comment was closed for this item, and **Motion** from Member Imhof to approve the Conditional Use Permit and was seconded by Vice-Chair Souza, and **passed**, 3/0.

2. Elections – Chair and Vice-Chair

Motion from Chair Eddy to nominate Vice-Chair Souza as Chair. Member Imhof seconded, and the motion **passed**, 3/0.

Another **motion** from Chair Eddy to nominate Member Imhof as Vice-Chair. Vice-Chair Souza seconded, and the motion **passed**, 3/0.

K. STAFF COMMENTS & CORRESPONDENCE – None

L. BOARD ANNOUNCEMENTS, COMMENTS & REPORTS – None

M. ADJOURNMENT – The meeting was adjourned at 2:47 p.m.