

2012 – 2013 GRAND JURY FINAL REPORT

AD-HOC GP 2012-2013-001 General Plan Committee Report: *“Timeliness of General Plan Update for the Peoples Protection”*

Board of Supervisor’s Response

County Administrative Officer’s Response

County Planning Director’s Response



TRINITY COUNTY

TRINITY COUNTY GRAND JURY

P.O. Box 2308
Weaverville, CA 96093

Date: April 4, 2013

TO: Judge Elizabeth Johnson, Presiding Judge
Trinity County Superior Court

FROM: Pat Frost, Foreperson
Trinity County Grand Jury

Pat Frost 4-9-13

**SUBJECT: AD-HOC GP 2012/2013-001 General Plan Committee Report titled
Timeliness of General Plan Updates for the Peoples Protection**

Enclosed for your review is a copy of the subject report that was prepared by the Civil Grand Jury's AD-HOC General Plan Committee.

After you have completed your review, please initial and forward copies of the report to the appropriate parties indicated in the "Responses Required" section. For ease in correlating the Responses to the Findings, we are requesting that this cover Transmittal be attached to the Report when it is distributed and that all responses quote the Report number and Report title as shown above. Additionally we ask that respondents provide electronic copies of their responses to streamline the production of the 2012-13 Final Report.

Thank you for your timely review. If you have any questions, please contact me at 739-3160.

Enclosure: AD-HOC GP 2012/2013-001

**TRINITY COUNTY GRAND JURY
2012-2013**

**AD-HOC General Plan Committee
GP 2012/2013-001
Final Report**

**Timeliness of General Plan Updates
for The People's Protection**

Approved April 4, 2013

**Pat Frost
Foreperson**

**TRINITY COUNTY GRAND JURY
AD-HOC General Plan Committee
GP 2012/2013-001**

Summary

The purpose of a general plan is to provide the local population with the ability to define the needs of its own development. With some of the general plan elements not updated for forty (40) years, Trinity County has fallen short in its obligation to provide its citizens the protection of a current plan as required by law. There have been multiple causes for this problem, not the least of which is the current state of the economy which has led to reductions in county services and produced little growth. So too is the polarized political state which pits individual property rights against environmental goals. Emergency measures taken during the last year salvaged the availability of housing grants. However, much remains to put Trinity County back on a footing of sound development and growth.

Background

Considerable consternation occurred when the Trinity Journal published the story that the housing element of the general plan had been rejected by the state office of Housing and Community Development. The article went on to say that many grants available to the county would no longer come our way until this deficiency had been dealt with. As the current grand jury was being formed, the news was released that a grant to pay for the cost of developing an updated general plan had been turned down by the County Board of Supervisors. There appeared to be considerable debate on both sides of the issue as to the advisability of accepting such a grant. In an effort to investigate the difficulty behind this seemingly fundamental governmental mandate an ad-hoc committee of the grand jury was formed.

Method of Investigation

The committee:

1. Researched California and Trinity County General Plan information available on the internet and from the Planning Department.
2. Researched relevant laws and special legislation.
3. Interviewed local participants in the General Plan procedure.

Discussion

California has long endured the requirement that local cities and counties adhere to specific planning for improvement beginning with the first Subdivision Map Act of 1907. By 1917, cities had been authorized to create planning commissions and an initial zoning law had been enacted. In 1927, the term master plan (general plan) came into use and in 1929 it became a mandatory requirement for all cities and counties. Updating of the law has been continuous and the present regulations reside in Government Code §65000 et seq. Today, there are seven (7) required elements which comprise the general plan. They are “land use”, “circulation”, “housing”, “conservation”, “open-space”, “noise”, and “safety”. Of these, only the housing element is required by law to be regularly updated at 5 year intervals. However, since 1971, the state legislature has made it clear that all elements must maintain internal consistency.

At the commencement of this grand jury inquiry, the update status of the Trinity County General Plan was as follows:

Land Use – 1988	Open-space – 1973
Circulation – 2002	Noise – 2003
Housing – 2004	Safety – 2002
Conservation – 1973	

It is patently obvious this mandate of county government is not being adequately performed. It cannot be said that it is from lack of trying. In 2007 an effort was launched by the Board of Supervisors to update the entire general plan. A fifteen (15) member advisory committee (GPAC) and Project Director were appointed. It was anticipated that the project would take thirty-six (36) months and cost \$500,000.

This effort was abandoned in less than two years owing to a failure of the advisory committee to agree. Disagreement within the Board of Supervisors as well as contraction within the Planning Department due to the county’s financial difficulty also played a part. The attempt by the county to “pencil” an updated housing element did not pass muster at the state and resulted in its rejection. Heroic efforts on the part on a newly hired one-man Planning Department managed to negotiate acceptable terms with the California State Housing and Community Development focusing only on those deficiencies noted by the state. This was done, however, without new community involvement, which roused ire in some segments of the population.

In a staff report dated September 18, 2012, the Planning Department noted:

“Staff recognizes that many of the policies provided may not be viewed as palatable on the local level in that decision makers may want to maintain oversight of some specific types of development. However, we caution that a) much of the language is mandated by existing State law, and b) the State may not be too receptive to significant local deviation from State policy standards. While staff acknowledges that recent cooperative effort by the State is much appreciated, the State’s Housing Law remains focused on urban realities.”

Although the Board of Supervisors unanimously approved this modified Housing element, it was not without considerable division within the Board and the community at large. Final certification was achieved on December 4, 2012; however, the housing element is only valid until 2014 when it must be renewed again to maintain the 5-year update requirement. The current status of the Trinity County General Plan thus is one (1) element in specification but due for update next year, and six (6) elements which have not been updated in a range of ten (10) to forty (40) years.

Interviews conducted with a number of individuals closely associated with the general plan reveal a striking array of dissonance concerning the process and objective. A very vocal, if not large, segment of the county population does not trust any aspect of state and federal government. The term “sustainable community” has become politically sensitive, as it sometimes is interpreted as “planned community development with green-belts”, considered by many to be inappropriate for heavily forested counties. Information adding to the general confusion regarding this issue can be found on the internet at the Department of Fish and Wildlife site <http://dfg.ca.gov/habcon/connectivity/>. Regardless of any judgment of validity, their fears are real and deserve addressing. In general, the general population is ignorant about the general plan. Where lack of information exists, politics steps in. It would likely be very fruitful for the county to exert more effort at public education about the needs and benefits of a good general plan.

Whether or not to accept a grant to conduct general plan updates is an issue of contention. Whether or not the acceptance of terms dictated by state law constitutes an abdication of constitutional rights is in debate. Even whether or not the county should accept federal housing grants is up for question. It seems the county will be dependent on grant moneys in order to meet the general plan requirements as only a small portion of new construction permits are reserved for general plan updates. It is very important that any strings attached to grant moneys are acceptable to the general public, and that these strings are published up front

at the beginning. The county cannot afford to accept grants which require items in the general plan which are unacceptable to a large segment of the public, as acceptance by the granting agency may not be forthcoming if the plan is to meet county approval. In such a case, the county would be out of pocket for more than it can afford.

Findings and Recommendations

Finding 1:

The 2007 effort to update all tardy elements, though laudable, appears to have been an overreach considering the outcome.

Recommendation 1:

Updating one element a year (ensuring the housing element gets renewal every 5 years) seems the more prudent approach while maintaining reasonable internal consistency.

Finding 2:

Public access to and the awareness of the general plan is considerably restricted.

Recommendation 2:

The general plan should be available in its entirety on line and at all public libraries.

Finding 3:

Advisory committees seem to invite dissent based on the interest or agenda of the various personnel who volunteer to participate.

Recommendation 3:

Use any general population committee as a sounding board rather than a decision making body.

Finding 4:

The role of the Planning Commission in a general plan was variously described by interviewees indicating a lack of consensus.

Recommendation 4:

Clarify the role of the Planning Commission with regard to the general plan and specifically charge them with the responsibility to coordinate public input meetings within their districts.

Finding 5:

Only “new construction” fees prescribe a set aside portion of the fee to be reserved for general plan update expenses.

Recommendation 5:

All fees collected by the planning department should include a set aside portion to pay for general plan update expenses.

Finding 6:

A segment of the community BELIEVES STRONGLY that any plan that meets state or federal law cannot be in the best interest of the local citizens of Trinity County.

Recommendation 6:

You can convince them or out-shout them, but you cannot ignore them. Taking the time --to explain how the general plan is the county’s best assurance that we are protecting our own interests -- is the job of everyone in the process.

Finding 7:

State law does take a more urbanized approach to the general plan elements.

Recommendation 7:

Continue to take every advantage to lobby with other rural counties for a more nuanced set of regulations.

Finding 8:

The complexity of the law requires that consultants who have specialized in rural counties be retained when the Planning Department itself is not staffed to accomplish the task.

Recommendation 8:

Consider farming out some projects to other qualified county agencies, departments, or qualified non-profits such as DOT, RCD, Watershed Research and Training Center and HRN, thus minimizing consultant expense.

Responses Required

In accordance with the California Penal Code Section 933.05, responses are required as indicated below:

Respondent	Findings/Recommendations	Due*
Dept Head, Planning	5, 6, 7, & 8	60 days
CAO	2, 5, 6, 7, & 8	60 days
Board of Supervisors	1, 2, 3, 4, 5, 6, 7, & 8	90 days

*Number of days after filing date of this report.

Appendices**Appendix 1****California Department of Housing and Community Development
Housing Element Grants****☐ Building Equity and Growth in Neighborhoods (BEGIN) Program**

<http://www.hcd.ca.gov/fa/begin>

Program Description: The BEGIN Program is a homeownership program providing grants to local governments that reduce regulatory constraints to housing. Grants are provided for down payment assistance to low- and moderate-income first-time homebuyers.

Housing Element Criteria: Points are granted for jurisdictions with an adopted housing element found in substantial compliance with State housing element law.

☐ Home Investments Partnerships (HOME) Program (Federal)

<http://www.hcd.ca.gov/fa/home>

Program Description: The HOME Program provides grants to cities, counties, and State-certified CHDO's for housing rehabilitation, new construction, and acquisition and rehabilitation for both single family and multifamily housing projects serving lower income renters and owners.

Housing Element Criteria: Points are granted for jurisdictions with an adopted housing element found in substantial compliance with State housing element law.

□ Community Development Block Grant (CDBG) Program

<http://www.hcd.ca.gov/fa/cdbg>

General Allocation

Program Description: The CDBG/GA Program provides funds for new construction, housing acquisition, housing programs, housing rehabilitation, public services, community facilities, economic development, and public works.

Housing Element Criteria: To be eligible for funding, a jurisdiction's housing element must be adopted pursuant to Government Code Section 65585 by a date established in the NOFA/Application.

Planning and Technical Assistance

Program Description: CDBG/PTA Program provides funds for planning and feasibility studies related to CDBG-eligible activities.

Housing Element Criteria: To be eligible for funding, a jurisdiction's housing element must be adopted pursuant to Government Code Section 65585 by a date established in the NOFA/Application.

□ Infill Incentive Grant (IIG) Program

<http://www.hcd.ca.gov/fa/iig/>

Program Description: The IIG Program provides funds for infrastructure improvements necessary to facilitate new infill housing development.

Housing Element Criteria: To be eligible for funding, projects must be located in a locality which has an adopted housing element that has been found by the Department to be in substantial compliance as of the due date for applications pursuant to the NOFA.

□ Housing Related Parks (Parks) Program

<http://www.hcd.ca.gov/hpd/hrpp/>

Program Description: The Housing Related Parks Program creates incentives and rewards cities and counties with documented housing starts for newly constructed

units affordable to very low or low-income households with grant funds which can be used to create new parks or rehabilitation or improvement to existing parks.

Housing Element Criteria: To be eligible for funding Cities and counties must have an adopted housing element that the Department has found to be in substantial compliance with State housing element law by the end of the 12-month period (CY) for which application is made. In addition, jurisdictions must have submitted to the Department the annual progress report required by Section 65400 of the Government Code within the preceding 12 months.

☐ Local Housing and Trust (LHTF) Program

<http://www.hcd.ca.gov/fa/ahif/lhtf.html>

Program Description: The LHTF helps finance local housing trust funds dedicated to the creation or preservation of affordable housing. The program provides matching grants (dollar-for-dollar) to local housing trust funds that are funded on an ongoing basis from private contributions or public sources that are not otherwise restricted in use for housing programs.

Housing Element Criteria: To be eligible for funding, Cities and counties must have adopted housing elements that the Department has found in compliance with State housing element law.

☐ Workforce Housing Reward (WFH) Program *(no current funding available)*

<http://www.hcd.ca.gov/fa/whrp>

Program Description: The WFH Program provides financial incentives to cities and counties that issue building permits for new housing affordable to very low- or low income households. Grant funds can be used for a wide range of capital asset projects including parks, street/infrastructure improvements, recreational facilities, housing, neighborhood improvements, public safety and community revitalization efforts.

Housing Element Criteria: To be eligible for funding, a jurisdiction must have an adopted housing element that has been found in compliance by the Department by a date established in the NOFA/Application.

Other Statewide Programs

**☐ California Debt Limit Allocation Committee of State Treasurer's Office
Single Family Home Program**

<http://www.treasurer.ca.gov/cdlac/procedures/adopted.pdf>

Program Description: Reduced interest, tax-exempt bonds to finance affordable housing projects, both rental and homeownership.

Housing Element Criteria: The proposed Single Family Home Program must be consistent with the adopted housing element for the jurisdiction in which the program is to be operated.

**☐ California Infrastructure and Economic Development Bank (I-Bank)
Infrastructure State Revolving Fund (ISRF) Program**

http://www.ibank.ca.gov/ttca/pdfs/detail/inf_bank/BoardApprovedCriteria-revised02-01-07.pdf

Program Description: The ISRF Program provides low-cost financing to public agencies for a wide variety of infrastructure projects. Eligible project categories include city streets, county highways, state highways, drainage, water supply and flood control, educational facilities, environmental mitigation measures, parks and recreational facilities, port facilities, public transit, sewage collection and treatment, solid waste collection and disposal, water treatment and distribution, defense conversion, public safety facilities, and power and communications facilities.

Housing Element Criteria: Points will be granted for jurisdictions or applicants located within a jurisdiction with a Department approved housing element.

**☐ California Housing Finance Agency
Housing Enabled by Local Partnerships (HELP) Program**

<http://www.calhfa.ca.gov/localities/help/index.htm>

Program Description: The HELP Program and the Residential Development Loan Program (RDLP) offer reduced rate loans to local government entities for locally determined affordable housing activities and priorities (acquisition, construction, rehabilitation, single-family homeownership, or preservation of multifamily and special needs units).

Housing Element Criteria: Proposals must include documented housing plans that demonstrate that the proposed housing activity described in the application has been identified as a local housing priority. Eligible documented housing plans include the housing elements, consolidated plans, redevelopment plans or other general housing plans that the locality's governing board has ratified. Applications must also include evidence that a plan has been approved.

Housing Element Criteria: The proposed Single Family Home Program must be consistent with the adopted housing element for the jurisdiction in which the program is to be operated.

California Infrastructure and Economic Development Bank (Bank)
Infrastructure State Revolving Fund (ISRF) Program
http://www.bank.ca.gov/infrastructure/index.html#revolving-fund
07/01/2015
Program Description: The ISRF Program provides low-cost financing to public agencies for a wide variety of infrastructure projects. Eligible project categories include city streets, county highways, state highways, drainage, water supply and food control, educational facilities, environmental mitigation measures, parks and recreational facilities, port facilities, public transit, sewage collection and treatment, solid waste collection and disposal, water treatment and distribution, defense construction, public safety facilities, and power and communications facilities.

Housing Element Criteria: Point will be granted for jurisdiction or applicants located within a jurisdiction with a Department approved housing element.

California Housing Finance Agency
Housing provided by Local Partnerships (HELP) Program
http://www.hfa.ca.gov/housing/elp/index.htm
Program Description: The HELP Program and the Residential Development Loan Program (RDL) offer reduced rate loans to local government entities for locally determined affordable housing activities and priorities (acquisition, construction, rehabilitation, single-family homeownership, or preservation or multifamily and special needs units).

Housing Element Criteria: Proposals must include documented housing plans that demonstrate that the proposed housing activity described in the application has been identified as a local housing priority. Eligible documented housing plans include the housing element, consolidated plans, redevelopment plans or other general housing plans that the local's governing board has adopted. Applications must also include evidence that a plan has been approved.