

MINUTES

1. CALL TO ORDER

Chairman Frasier called the meeting to order at 7:00 p.m. Members present: Commissioner Brown, Commissioner Frasier, Commissioner Stewart, Commissioner Matthews. Members absent: Tom McKnight. Staff present: Director Richard Tippett, Senior Planner Carson Anderson, County Counsel Margaret Long, and Clerk Naomi Merwin.

2. PUBLIC COMMENT

Members of the public may address the Planning Commission concerning matters within their jurisdiction, which are not listed on the agenda and to request that a matter be agendaized for a future meeting. No action may be taken on these matters at this meeting.

Chair Frasier: Open public comment.

Clyde Crosswhite: Downriver Towing not on agenda for tonight.

Clerk Merwin: Have not received revised application.

Director Tippett: Will confer with applicant and agendaize pending application.

Kay Graves: Suggests Commission make it more intuitive to find the agendas; difficult to find intuitively. It would be nice if they were posted with the main page. Thank you.

Director Tippett: Will ask CAO as manager Board of Supervisors webpage to see if something can be done.

a) Introduce new staff

Director Tippett: Happy to introduce Carson Anderson. Carson comes from Los Angeles via UC Berkeley to help us out here in Trinity County. He has some 30 years of planning experience and historical preservation. He has been a consultant for Los Angeles County, Cities of Beverly Hills and Pasadena, L.A. Redevelopment Agency and Corp of Engineers; serving both as staff assistance and consulting in both with several local jurisdictions. Well rounded, and came with much praise from his past employers. Good to have someone that sits on both sides of the fence, in the consulting world and county and city government. Has a connection to the area through his ranch in Siskiyou County.

Planner Anderson: I have been well received by the community, so thank you all.

Chair Frasier: Closed public comment.

3. MINUTES

Upon motion by Commissioner Matthews second by Commissioner Stewart and carried unanimously the Commission approved the minutes of September 10, 2015.

OLD BUSINESS

4. PLANNING COMMISSION MEETING PROCEDURAL CLARIFICATION

County council review and provide direction on procedural clarification of motions and voting (*Commission request from September 10, 2015*).

Commissioner Frasier: Planning commission procedural clarification.

Director Tippett: Last meeting there were procedural issues that we got stuck on, including a few that I misadvised on. I discussed it with County Counsel Margaret Long and on rules and procedures. Asked her to come today to speak about the rules and set of procedures; meant to ensure that our meetings are public, open and predictable.

Counsel Long: Trinity County adopted as their parliamentary procedure the Rosenberg's Rules of Procedure; an adaptation of Robert's Rules of Order. In your agenda is the League of Cities synopsis of Rosenberg's Rules of Order, it goes into detail on how and when to make motions. I also have a one-page quick review outline for the Commission.

Basic concept of meeting is to establish the quorum, call your meeting to order, move through the agenda, and adjourn the meeting. The agenda items are where it gets complex and how you handle each agenda item. This is a good chart for the Chair to have. Under these orders, the Chair has a lot of responsibility to manage the meeting. A lot of discussion is diverted from the chair to the other members order to allow the Commission to maintain order and to maintain the authority over the body. The Chair announces agenda items and reads them into the record. Once they are read into the record staff is asked to provide reports on the item, that is the opportunity for staff to provide the back-up information, and it should be done in a presentation form, not question and answer. Then it goes back to the commission to ask staff questions, then a question and answer period. One of the pitfalls is after hearing the staff report the commission wants to pine over it, this period is simply to ask staff technical questions, the only people you should be referring to are your staff members. Once technical questions are answered the Chair will open it for public comment. This is an opportunity for public input into it; however it is not a debate. If the public asks questions, the chair can make note of the questions, and once the public is done talking can answer the questions directly or ask staff to answer them. The public comment period should not be used as a time for the Commission to ask questions. It should not be used for debate, or for a back and forth with the public.

Commissioner Stewart: Under public comment, most of the time we don't have a time limit, if we want to set a time limit how do we go about doing that?

Counsel Long: If you want to set a global time limit you can set a policy, usually it's about three minutes. If you don't currently have a policy in place, the Chair will announce at the beginning of the meeting or the beginning of an individual item that the commission will be limiting public comment. Once you limit it, you limit it for everyone.

Commissioner Stewart: Up to the chair when and what length?

Counsel Long: Yes. I recommend not going below two minutes, because the public needs to have a chance to state their opinions.

Commissioner Stewart: When a time limit is set how do we time that?

Counsel Long: You ask your staff to do that, they can do that through any mechanism.

Once public comment is closed it is brought back to the board, the Chair can invite a motion from the body, there should be no further discussion until a motion is made. The motion is not an opportunity for debate, but additional questions can be asked of staff or follow up to questions asked of the public. Once a motion is made it has to be seconded, then the chair or staff can ask for clarification. Sometimes a motion is not clear or findings need to be made in association with the motion. Staff can ask you to clarify whether you intend to make all the findings, at this

point the person who made the motion can affirm or clarify. Once it is made and seconded, that is when the opportunity for discussion is opened. Discussion is an opportunity for you to ask questions, but primarily you can state your opinion. That is the opportunity to come forward and attempt to provide insight on why you are voting that way and/or sway your commission members. Prior to the vote, if a commissioner makes a determination they would like to have another option on the table to vote on you can make a subsequent motion, you would make it at that time the chair if you can make a subsequent motion, which would need to be seconded as well. Chair can approve up to three subsequent motions, but should deny additional subsequent motions after that, but can reserve the right if all these motions fail to bring it back to the table. You can also amend the motion, by asking the person who made the motion and seconded whether they want to amend the motion slightly, a technical change to what was put on the table. Once you have all the motions on the table, the Chair calls for a vote. Once a vote is called for you can only say yes, no or abstain; you do not have an opportunity to talk or lobby at that time. Once the vote is taken and the results are the only thing that can happen at that time is if a person who is in the majority wishes to, they can offer a motion to reconsider. If you voted in the minority you do not have the ability to do that. A motion to reconsider is then a new motion for the item; two motions really. Once you have voted on an item that item closes, you don't get to have subsequent motions after that. You can have staff bring it back to another meeting, or decide the item is dead, other than that you can't start voting again; with the exception that there are three subsequent motions and the chair decides to hold for the fourth subsequent motion. When you are calling for a vote you hear the most recent motion first and work your way back to the original motion.

When staff makes a recommendation they will include the findings that you need to make in order to have a clear and concise record and meet the legal standards. If you are making a decision against staff's recommendation and you don't have your findings already created; one of the mechanisms you can use is rather than voting against it, is to ask staff to bring back the item with findings to support that position presented. The worst thing you can do is vote on something without the right findings, because potentially it voids your action.

Certain types of motions require a supermajority, meaning 2/3 of the governing body which means four need to approve. A motion to limit debate is if one commissioner is done with the discussion they can have a motion to bring it to a vote. A motion to close nominations. A motion to reject consideration of question is if there is an agenda item that you don't want to discuss. Before it gets opened to the public you can ask to have the agenda item pulled. A motion to suspend the rules is for when you feel the Chair is not acting how you want it suspends the rules and creates a free for all. I don't recommend it, but it can be used if the other four commissioners disagree with what the chair is doing, and can be used then. The rest of the motions you need just 50% plus 1; or 3 out of 5.

Commissioner Matthews: One of the biggest challenges we face is when a member of the public is coming before us as an applicant, we close the public comments and ask technical question of staff, but then we have questions of the applicant, so we have to reopen public hearing. Then more technical questions come up, and then the public wants to comment again, and then you have a dialogue going between the commission and the public. How do you maintain order?

Counsel Long: That is a problem every board or commission has. The dialogue and debate that occurs as part of the natural way government functions; the way to control that is by following the Rules of Order. The Chair should be very clear that they are opening public comment period and closing public comment period. You try to keep it very organized. When it is a designated time for the board to speak, the board is the only one that speaks.

Commissioner Stewart: If I have a question of an applicant, I have to ask the Chair to re-open public comment? And he doesn't have to do that?

Counsel Long: Correct, he does not have to open it, but you and the other Commission members can vote to override him. These are rules of order, they should be followed, but there are always exceptions to the rules. It doesn't jeopardize the integrity of the meeting, but it does make things more chaotic. In order to keep things moving along and keep them open and transparent, it's best to follow the rules of order as closely as possible.

Commissioner Stewart: If I am making a motion that is against what staff has recommended, and I have the findings, can make that motion?

Counsel Long: Yes, you can make any motion that is associated with what is agendized. You can approve it, you may not approve it, you can approve it in part. You need to make sure you have findings, if you don't, send it back to staff.

Director Tippett: You can continue the meeting and have staff return with findings to direct the project.

Counsel Long: Another issue we see has to do with continuing items. Items be continued on a motion in two ways; to a date certain or to continue. If you continue indefinitely, in order to get it back on the agenda, staff has to present the item and has to come back to you to get approved to get on the agenda in the future. A yes vote puts it on the next meeting's agenda.

Commissioner Matthews: If there is a long list of findings can we make a motion by saying approve staff recommendation and findings as written?

Counsel Long: No. A verbal summary of those findings should be made for the benefit of the public present and the public record.

Commissioner Stewart: You can't say, vote to approve the findings as written in the staff report?

Counsel Long: You can, but what staff should say is point of clarification, you want to adopt the following findings and state them. You do want that for the public record, so you can go back to your minutes.

Director Tippett: I wanted to point out on public hearing; my experience in the past is that when the Chair re-opens public hearing they limit it to the topic that caused the Chair to re-open the public hearing.

Counsel Long: Yes, it doesn't open up generally. Feel free if you have any questions to get in touch with me. I'm happy to walk you through any of these items. These are good rules for you to know going forward.

Chair Frasier: This is really helpful, and I was very glad to see the paper with our board packet. It was a lot easier to understand.

Counsel Long: The League of Cities does a very good job. It's printing of Rosenberg's Rules of Order is the standard now that all public bodies are using.

Chair Frasier: Opened public comment on parliamentary procedure.

No one came forward.

Chair Frasier: Closed public comment.

NEW BUSINESS

5. VARIANCE TO CULTIVATE 99 MARIJUANA PLANTS

P-15-17

Public Hearing: Proposed variance to cultivate 99 marijuana plants following the land and water management activities outlined in the Holistic Property Management Plan enclosed within application. APN: 018-100-10-00. Applicant: Wilken-Simon.

Chair Frasier: Read item into record, asked staff for presentation.

Director Tippett: We have an application for a variance to cultivate 99 marijuana plants on a 20 acre parcel located in an area known as Friend Valley. Applicant has permitted septic and one bedroom house on the property. It is an isolated area primarily surrounded by National Forest and a few isolated private parcels located around it. It is designated resource under the general plan and zoned unclassified. Often you'll have pockets of private land surrounded by National Forest land. We had a request for variance, and I provided the code relevant to this situation. I am going to paraphrase how I made the findings for recommendation to deny. The Board of Supervisors has designated marijuana as causing a significant public nuisance. That is an important finding that the Board made because unlike other applications, the Board has said they don't want it allowed anywhere in the county because it is a significant nuisance, except under very specific circumstances. By the Board saying it's a nuisance it prevents granting a variance everywhere except as outlined in the ordinance. One of the first tenets of a variance is that if you grant it, you have to grant it in every similar circumstance. The more appropriate thing over time is to request the Board consider allowing different types of grows depending on particular situations, such as property surrounded by National Forest. If something of that nature was approved by the Board that would give me another set of rules to consider granting requests.

Code requires a public hearing and that is why it is before you tonight. I didn't want to say no as we do need to allow them to have a voice and speak about it. We did not do the full analysis on it, so if you do decide to move in a different direction we would need to bring this back to you with supporting findings.

Commissioner Matthews: When I started on the Commission they had just finished extensive hearings on aggregate grows and then we went into personal grows. There were two very different discussions and roles that were discussed. My understanding is the Board did not consider the aggregate grow ordinance.

Director Tippett: Correct, the Board did not take any action.

Commissioner Matthews: So are the 99 plants considered a personal grow?

Director Tippett: I wouldn't say this is necessarily a personal grow. When they say this is the rule, it's the rule that applies to the county. It is the only rule I can go to provide guidance when making a recommendation.

Chair Frasier: How would we grant a variance? Before, we've granted variances for something that is allowable in a zone district; there's no zoning where 99 plants is legal in the county. How can we grant a variance, we would be making a new law is the way I read it.

Director Tippett: It would be tough to come up with the findings. And I'll defer to Margaret on that if there is something different. Essentially you need to develop findings; maybe your findings are that we believe in this particular situation a variance should be granted. Because the Board said this was a nuisance it would most likely be something that would go to the Board to make sure that they are in agreement with the Planning Commission. They could modify the ordinance and then it wouldn't be a variance it would be something that is allowed and we could move forward with that. It would be very hard to make findings because of the phrase that it is declared a nuisance everywhere in the county; that is a very all encompassing statement.

Chair Frasier: Any more questions for staff?

Chair Frasier: Opened public comment.

Paul Gallegos: Attorney on behalf of the applicant, Mr. Joel Wilken-Simon. I would like to make comments on his behalf. I have also invited Holly Hall who was the expert who examined the property and prepared the application for the applicant. She is prepared to answer any questions regarding any environmental impacts or actual nuisances that may or may not be created by the applicant. First and foremost I am familiar with the Trinity County ordinance.

I know that the Board can pass ordinances that regulate marijuana based on land use law. Their regulation, however, must be reasonable to the harm that they seek to ameliorate or prevent. Their endeavor is not to prohibit anyone from possessing marijuana by California law, but to allow people to cultivate and use marijuana within a limitation and reduce, prevent or ameliorate the adverse environmental impacts it creates on water, wildlife, erosion and sedimentation. Also having a six foot fence, being farthest away from the neighboring parcels; these are all reasonably related to the harm that the Board is attempting to regulate through their land use authority. A plant limitation, in and of itself, as proposed in Ordinance 315-797 does not bear reasonable to the environmental impacts. The best way to make the ordinance compliant to both the needs of the citizens of Trinity County, the laws of the state of California and the authority of the Board is to allow a method for an individual or a group of individuals who are lawfully cultivating, using and possessing under California law to petition this board or Trinity County to say we understand, we have complied with your concerns, we ask for an exception. This is not an exception that would be unique to my client, but for the citizens of Trinity County. To say I am lawfully operating under the laws of California, I have done everything that the laws of the state of California require, I have addressed every specific issue raised in the Trinity County ordinance. Mr. Wilken-Simon has worked to do that. That nuisance that has been found is a presumptive nuisance not a natural nuisance. I ask the Commission to ask questions of my client and Ms. Hall after her presentation. One additional comment is the finding based in staff's reading of 1(f) of Ordinance 315-797 is not correct. Mr. Wilken-Simon lives in that single residence dwelling with another person who is a qualified patient under California law, they are growing for those two people who reside in Trinity County. I will turn it over to Dr. Holly Hall.

Dr. Holly Hall: I am a soil and water scientist, I am a watershed resources consultant and I specialize in environmental compliance of cannabis cultivation in California. I wanted to share with you the results of a site assessment I conducted at Mr. Wilken-Simon's property. The goal of my assessment was to determine whether he was meeting all environmental regulations for the state of California and if any of the nuisances in Trinity County ordinance 315-797 were occurring. I found that in terms of environmental compliance that none of the nuisances were occurring, and that the client had gone above and beyond in improving the environmental conditions of the site. He is capturing rainwater and road runoff in an unlined pond and therefore recharging groundwater. He has implemented a streamside management area, in which he removed invasive species and provides for fish and wildlife habitat. He has implemented a full permaculture land management plan on his parcel, his care of his parcel extends beyond the cultivation area. He has applied for and gotten every permit from the county in terms of building and septic. In terms of public nuisance, I have maps to provide. I have an aerial image and what it shows is that the land around the property is mostly Forest Service and very remote. I have drawn a red line on the map between the cultivation area and the nearest house, which is approximately 900 feet away. You would have to careen to really see the cultivated area from the neighboring sites, the neighbors do not have to drive by the cultivated area, so likely odors would be minimized. I think that is a good brief overview of my assessment and findings, I would be happy to answer any questions.

Jose Acosta: I'm the neighbor that is downhill and downwind from this and I can tell you that marijuana is smelt from that distance to my house. Secondly, it can be seen, these plants are heavily fertilized and they grow very high, way past the height of a 2,500 gallon propane tank. Lights are placed on it in the springtime with lights on the plants all night long. I fully endorse the staff's recommendation to deny the variance on the grounds they have stated. I would like to add information for the record that has not been listed in case this ever goes to litigation. The property owner has been cited every year that he has owned the property for violating the county's medical marijuana cultivation ordinance. As of September I believe the property has no certificate of occupancy for that house meaning that no one should be living in it and there is no legal residence. The parcel has been modified drastically for the specific purpose of growing marijuana, there has been intense grading, cutting of trees, importing of over 30 trucks and trailer loads of non-native, high-octane soils, and he has dug a huge, deep pit to store water. The parcel is accessed by driving 12 miles of Forest Service road through federal lands where Proposition 215 and S.B. 420 are null and void. Accessing these roads for the transportation of marijuana is a federal crime, whether for the purpose of supplying for 215 patients for medical marijuana. The property management plan is not specific, does not mention marijuana, does not mention odor mitigation, just slightly mentions fertilizers seeping. In these high-octane fertilizers that they use seep down through the imported soil past any capacity to capture and works its way onto

National Forest land and my property and contaminates water sources. As far as pesticides go the report does not list any type quantity or mitigation measures required to prevent or correct pesticide contamination of neighbors or the National Forest.

I have not seen any report or documentation of engineering reports or compaction tests on the earthen dam, concerned about the potential failure of dam and how that flood would affect my property. I would like to thank the Planning Commission for their hard work and I implore you to say no to the grow.

Dana Ryan: I live in Weaverville and I just popped in to see the new Planner's introduction. I support staff's recommendation too. Are you kidding, that many plants and that many feet away? Your job is to protect and serve the people here and approving that would not be serving or protecting. 99 plants would chase a human off their land, I had a neighbor that had 6 plants and I couldn't handle it. I hope you go with staff's recommendation.

Holly Hall: Point of clarification, Mr. Wilken-Simon does not use pesticides on his property and uses organic nutrients at quantities that would not cause contamination issues with the soils or environment.

Mr. Gallegos: I don't want to get into a debate or dispute. As part of this application process for a variance, allows Trinity County, there are waivers signed by Mr. Wilken-Simon to inspect his property that would allow Trinity County, CalFire, Fish and Wildlife, to enter his property to make their own assessment. There is a process that would allow Trinity County to go there and make an independent assessment and says that the environmental and community impact is too great. That is a fair and impartial assessment of whether Mr. Wilken-Simon's rights should be respected and honored, and his neighbors, all Mr. Wilken-Simon is asking for is for the Trinity County Planning Commission to do an inspection to see whether it is in fact a nuisance, not a presumptive nuisance, to see whether he is creating environmental harm, and if he is then the county should act accordingly. Trinity County should assess the site on a site visit and determine whether all impacts from Wilken-Simon's operations are addressed or not. If they do not find impacts, then they can make adjustments to a decision accordingly. That is all we are asking this Planning Commission. To blanket deny it just because it is marijuana is to say we don't care what the actual reality of the situation is.

Chair Frasier: Other members of public?

Kay Graves: I have a point of order question. One of the supervisors also lives on an adjoining property, if they do, I wonder if the Commissioner that represents them has a conflict of interest?

Counsel Long: There would not be a conflict of interest. If it was presented to the board it would be a natural conflict at that point. But it is not a conflict of interest by proxy.

Chair Frasier: Closed public comment period.

Director Tippett: Point of order, one of the things during public comment you have to be careful of is getting into a debate and rebuttal situation. Once a person wants to speak a second time they must ask the chair for permission.

Chair Frasier: At this point I would entertain a motion.

Commissioner Brown: Procedural question, can I ask additional questions of staff now?

Counsel Long: Yes, you may ask additional questions of staff before a motion is made, discussion cannot occur until after a motion is made.

Commissioner Brown: Proponent discussed disagreement with a section. Can you provide the language of 1(f).

Director Tippett: 1(f) states, the activities are to be conducted exclusively on a legal parcel of property on which a

single family residence is located. Essentially, there has to be a home.

Chair Frasier: Questions of staff? Motion?

Commissioner Stewart: Move to accept staff's recommendation to deny the variance finding on the basis of the whole record before the commission that the project will 1. Create a significant public nuisance, and 2. The applicant is not in compliance with 1(f) of the Zoning Ordinance 315-797.

Commissioner Brown: Seconded the motion.

Commissioner Matthews: Do we know the second finding is correct? We have testimony from applicant's attorney stating otherwise.

Director Tippett: My understanding is the house is not certified for occupancy. But, you can simply make it on the first finding.

Counsel Long: That is my understanding as well.

Commissioner Matthews: Point of clarification, do we actually have to make findings? Can we just say based on Zoning Ordinance 315-797, we deny this request?

Counsel Long: That is acceptable.

Commissioner Stewart: I amend the motion.

Commissioner Brown: I second the amended motion.

Chair Frasier: For clarification please restate the motion.

Commissioner Stewart: Move that we accept staff's recommendation finding on the basis of the whole record before the Commission that the applicant is not in compliance with Zoning Ordinance 315-797.

Chair Frasier: Now we can discuss.

Commissioner Matthews: Personally, I think there are situations where it would be acceptable to grow more than 8 plants, but I think our hands are tied with what the Board has done. The prior Planning Commission wanted to adopt a different set of rules for aggregate grows. But the Board did not approve it, so we are constrained by what we have.

Commissioner Stewart: I agree. In other circumstances I wouldn't necessarily make this motion.

Commissioner Brown: In this particular case I feel that the odor alone, from my experience, that there is no way that is not going to be a nuisance to the neighbor.

Commissioner Matthews: Have testimony from the neighbor that it is a nuisance.

Chair Frasier: I live in similar circumstances with an aggregate, unpermitted grow nearby. When I take my kids to the school bus, it smells like it in the bus with them. I can understand that it is a nuisance, and I do not see the basis for how can we grant a variance.

Commissioner Matthews: If it gets appealed to the Board they can do with it what they want.

Chair Frasier: Motion and second, all in favor.

Unanimous, motion carries 4-0.

Director Tippett: The applicant has 10 days to appeal to Board of Supervisors.

10. MATTERS FROM THE COMMISSION

None.

11. MATTERS FROM STAFF

a) Housing Element

Director Tippett: Included handout concerning the current status of the housing element. We are ready for the housing element road show. Doing the housing element and then the Regional Transportation Plan. Plan to discuss both and hold back-to-back public workshops together on the same evenings.

Read dates/times of workshops.

This is an attempt to hit all the districts and populations centers so public can provide input. Will take it around community and bring comments back to the Planning Commission. The housing element is available online and if the public has additional questions they can go to the planning department.

Chair Frasier: Do you want us to attend meetings?

Director Tippett: You are invited to come, we would love to see you. It helps, but is not mandatory. A lot of times the supervisor or commissioner will show up for their district to hear what their constituents have to say.

Commissioner Matthews: Last time we updated the housing element we were way behind the curve, a few years ago, and there was no road show.

Director Tippett: Correct. I wasn't here during that time. One of the things we committed to was getting out there and getting comments. Not very many substantial changes, but many of the changes we have are in state law.

Another item is the Marijuana meeting in the chamber here October 27th at 6:00 pm. Will be there with the Board of Supervisors. We have a speaker coming down to speak from RCRC who is an expert on the legislation, and helped champion for rural counties. We also have an invitation to Karen Keen of the California State Association of Counties. Both are good speakers and can give you the lay of the law as passed by the governor.

Commissioner Matthews: Joint session and mandatory?

Director Tippett: Yes. Your presence is definitely requested. There will be dialogue and a chance to have questions and answers.

Commissioner Stewart: Two of the Supervisors are going to be presenting the aggregate grow ordinance to the board and then the Planning Commission, do we know when that will be?

Director Tippett: No. Once the board brings it forward it will be brought to you fairly expeditiously. The

board did take action to have the 5 Counties Salmonoid do a presentation on surface water and groundwater and talk about current county policy, what is the approach moving forward, and then report back to the board. We are hoping to have it next month at our regular meeting.

I also have an update on fire clean-up procedure. We had 54 properties with fire damage. Of that there were 7 homes destroyed. The rest were mostly RV's and two mobile homes were burnt. The fire did burn very hot in that area. The board had taken action to authorize anyone that is building a structure on those affected properties that we waive the fees for them to get an RV so they can get some temporary housing to live in. If they have a set of building plans, septic, we'll grant them an RV permit while they rebuild their house. At the next meeting we have the 5C presentation possibly, and the Ammon item in Salyer for an event center. We also potentially have the Dollar General coming up at the same time. I would like direction as to where to hold the meeting. I have thought that maybe the Dollar General can be held as a special meeting in Hayfork so it doesn't conflict with the other items. Looking for direction from the Commission.

Commissioner Matthews: That is certainly what we discussed at the last meeting. Having Dollar General heard at the same venue. I would support a special meeting if that is where we need to have it.

Commissioner Stewart: I also support that. It would not make Hayfork happy if we did not do that.

Chair Frasier: You mentioned November 19. I think that it would be better to have it as soon as possible.

Commissioner Matthews: Discussed dates he is gone.

Commissioner Brown: Are there other items that could be contentious?

Counsel Long: Point of order, 10 day notice for this project.

Director Tippet: We can ask the applicant and can look at another day. I can entertain another day.

Commission discussed dates.

Commissioner Matthews: We really need full commission at Dollar General. Very likely to be a 3-2 vote. We have competing motions. No point in having it without a full Commission unless someone has changed their position.

Commissioner Stewart: The public comment will be steered appropriately which may help the Commissioners.

Director Tippet: Will come back with a selection of dates in November. Can hold it at the regular meeting, but will have other items from downriver on it.

Commissioner Stewart: We need to know when the applicant is available.

Chair Frasier: Can we have a meeting without the applicant?

Director Tippet: Usually it is a courtesy extended to applicant. The applicant can also ask to pause the application.

Commission and staff discussed potential dates to hear the Dollar General item.

Chair Frasier: We will send it to the board one way or another if we can't decide twice.

Director Tippett: That is a good question, if the Planning Commission does a tie vote again and they can't get a majority the motion dies and the item automatically get referred to board?

Counsel Long: That is considered a denial and can be appealed to the board.

Commissioner Matthews: Does this have to happen twice? This occurred at the last meeting, we had competing motions that died 2-2, so no action was taken, was that a denial?

Counsel Long: If you have a motion to approve and it does not pass by vote, it is a denial.

Chair Frasier: We continued the meeting.

Director Tippett: I will call the chair back regarding a date.

Commissioner Stewart: So if it's a tie again next time it's an automatic denial and the item can be appealed to the Board.

Counsel Long: Yes.

12. ADJOURN

The hearing was adjourned by the Chair at 8:22 pm.