

EXCERPT

MINUTES

CALISTOGA PLANNING COMMISSION

August 14, 2013

The meeting was called to order at 5:30 pm.

A. ROLL CALL

Commissioners present: Chairman Jeff Manfredi, Vice Chairman Paul Coates, Commissioners Carol Bush, Scott Cooper and Walter Kusener. Staff present: Planning & Building Director Lynn Goldberg, Senior Planner Erik Lundquist.

2. **Zoning Code Amendment ZO 2013-3:** Consideration of a recommendation to the Calistoga City Council on a text amendment to the Calistoga Municipal Code. This amendment was initiated by the City of Calistoga and would add protection for farmers who use accepted and standard farming practices against nuisance suits, even if the farming practices harm or bother adjacent property owners or the general public. The ordinance would also require disclosure about the potential inconveniences and discomforts associated with agricultural operations.

Planning Director Goldberg reviewed the reasons for the proposed Code amendment and the types of disclosures about agricultural activities that would be required. She noted that comments on the preliminary draft ordinance had been received at a community meeting and many had been incorporated into the draft before the Commission.

In response to questions and comments from **Commissioner Kusener**, Ms. Goldberg explained that the City's proposed regulations are essentially the same as the County's right-to-farm provisions and would co-exist with them. She confirmed that purchasers of property in Calistoga already sign a document acknowledging that they are aware of the potential impacts of agricultural operations, so the only change would be to provide the City's language to the brokers and realtors.

In response to a question from **Commissioner Cooper**, Ms. Goldberg explained that the ordinance isn't intended to protect the City from being involved in lawsuits. However, a plaintiff or defendant could cite the right-to-farm provisions in the basis for their suit. She doesn't believe that this type of lawsuit has ever been filed in Calistoga. The ordinance is trying to avoid potential problems.

In response to questions from **Chairman Manfredi**, Ms. Goldberg confirmed that burn permits would still be required for agricultural burning and the ordinance wouldn't provide an exemption from any regulations. Bee-keeping is considered an agricultural operation and is allowed in certain zoning districts.

Chairman Manfredi opened the public hearing.

Dennis McNay, Foothill Boulevard asked how the ordinance would affect the establishment of new vineyard. Ms. Goldberg responded that the ordinance only applies to agricultural operations that have been in operation for three or more years.

In response to a question from **Commissioner Kusener**, Ms. Goldberg explained that City staff would be responsible for making the determination as to whether an operation was using established farming practices and would seek advice from the County Agricultural Commissioner if necessary. There isn't a need to designate the Commissioner as the official arbiter in these matters. She agreed with Commissioner Kusener that agricultural practices are constantly changing and that is why specific practices were not listed because it would never be all-encompassing. The language recognizes the practices used at a certain point in time.

Jim Barnes suggested that the ordinance could use broad language to describe the types of agricultural practices, then exclude any specific practices that would be objectionable.

Clarence Luvisi believes that many ideas that were raised at the community meeting have been incorporated into the draft ordinance. However, the ordinance needs to recognize that the City will be involved if a neighbor asks for a declaration of nuisance. The City needs to act as a facilitator between the person complaining and the person being complained about. This is how several issues that have come up elsewhere in the county have been resolved. Such facilitation will avoid problems escalating into a lawsuit. City staff or the Chamber needs to act as facilitator and facilitate communication.

Norma Tofanelli, representing the Napa County Farm Bureau is encouraged by this ordinance moving forward and by the policy statement, which recognizes that it's important to protect agricultural lands within the city limits. The Bureau encourages good communication between complainants and agricultural operators. Staff can't be expected to be knowledgeable about technical aspects. The ordinance should provide for the County Agriculture Commissioner or Farm Bureau to mediate if the declaration of a nuisance is requested of the City.

Chairman Manfredi closed the public hearing.

Commissioner Kusener observed that the City appears to be incorporating State statutes. In addition to placing notices in guest rooms and public areas, visitor accommodations owners should inform potential guests about potential impacts associated with agricultural operations prior to their making a reservation.

Vice Chairman Coates noted that the ordinance is primarily intended to provide for disclosure. Future lawsuits about agricultural operations aren't the City's responsibility. The City is doing the right thing to provide for disclosure because the agricultural operations are critical to the success of the city. He likes complaints being made to the County Agriculture Commissioner.

Commissioner Bush suggests that clear language, and not legalese, be used in disclosures.

A motion by **Commissioner Kusener** and seconded by **Commissioner Cooper** to adopt a resolution recommending to the City Council approval of an amendment to the Calistoga Municipal Code adding protection for farmers from nuisance suits and requiring disclosure about agricultural operations carried unanimously.



Chris Canning, Mayor
1232 Washington Street
Calistoga, CA 94515

June 20, 2013

Dear Mayor Canning, and Members of the Calistoga City Council and Planning Commission,

On behalf of over 630 vineyard owners and associated businesses in Napa County, we strongly urge you to support the legacy of this community by ensuring that the "Right to Farm" is upheld throughout Napa County, including in the City of Calistoga.

Napa County has prospered and remained a national treasure on account of the exceptional quality and sustainability of our product. These are highly dependent on the strength of the Agricultural Preserve and the tenets that accompany it – one of the most important being the Right to Farm. We recognize the economic pressures and opportunities that exist within and surrounding each of the jurisdictions, but we hope that collectively, Napa will keep its eye on the prize, which is to maintain our world-class reputation for growing the best winegrapes. Our agricultural landscape is the foundation of our local economy and the "scenic beauty" that visitors claim is the #1 reason they come to visit. In order for this to continue, our farmers' right to farm must be fully respected and protected.

We are unable to attend this evening's public meeting, but offer this letter in support of the ordinance.

Regards,



Jennifer Putnam
Executive Director