



AGRICULTURAL TECHNICAL ADVISORY COMMITTEE MINUTES OF JULY 28, 2022

The San Joaquin County Agriculture Technical Advisory Committee met in regular session on July 28, 2022, at 10:30 a.m., by phone conference on Microsoft TEAMS from the Community Development Department, 1810 East Hazelton Avenue, Stockton, California.

I. The meeting was called to order by John Beckman, Chair.

II. Roll Call:

(present)

Commissioners

John Beckman, Chair

Joe Petersen, Co-Vice-Chair

Stanton Lange, Co-Vice-Chair

Tom Doucette

Matt Arnaiz

Nick Bokides

Joe Nicolini

San Joaquin County Staff

Jennifer Jolley, Interim Director

Corinne King, Principal Planner

Brian Millar, Contract Planner

Zoey Merrill, County Counsel

Allen Asio, Office Assistant Specialist

(absent)

III. Discussion Items:

1. Minutes from May 26, 2022.

MOTION:

It was moved, seconded (Joe Petersen / Nick Bokides), and passed with a vote of 6-0 to:

1. Approve and accept the minutes.

VOTE:

AYES: John Beckman, Joe Petersen, Stanton Lange, Tom Doucette, Matt Arnaiz, Nick Bokides

NOES:

ABSENT: Joe Nicolini

2. Discuss the AgTAC's amendments to the Agricultural Mitigation ordinance

Joe Petersen asked what changes were made to the amendment.

Zoey Merrill stated that staff took lead and made the change on "in perpetuity."

Corinne King confirmed that it is the same version that went to the Board of Supervisors in 2021 but with the addition of "in perpetuity."

Joe Petersen pointed out the change on page nine was the addition of the words "in perpetuity" but that the words were not underlined.

Joe Nicolini joined the meeting at 10:44 a.m.

Zoey Merrill stated that if the words appear in the current development title, this version does not need to be underlined.

Joe Petersen asked if there were any feedback from the Delta Protection Commission or the Delta Stewardship Council.

Corinne King replied that the proposal has not been sent out yet. The plan is to take both the AgTAC's proposal and staff's proposal to the Planning Commission and then to the Board of Supervisors.

MOTION:

It was moved, seconded (Joe Petersen / Stanton Lange), and passed with a vote of 7-0 to:

1. Take the AgTAC's proposed text amendment to the Planning Commission and the Board of Supervisors

VOTE:

AYES: John Beckman, Joe Petersen, Stanton Lange, Tom Doucette, Matt Arnaiz, Nick Bokides, Joe Nicolini

NOES:

ABSENT:

3. Discuss CDD's amendments to the Agricultural Mitigation ordinance

Corinne King stated that this is an amendment based on discussions that staff had with the Board of Supervisors.

Brian Millar stated that this amendment would provide a focused approach to agricultural mitigation through a Qualifying Entity. It provides options whether through a mitigation bank for smaller types of projects, a fee, or an easement. There has been discussion with groups like the California Farmland Trust and San Joaquin Council of Governments.

John Beckman asked why there would be an in-lieu fee on land larger than 20 acres but not on land less than 20 acres.

Brian Millar stated that the general thought was that smaller types of projects, with the idea of making the application process easier for the Qualifying Entity, if the agricultural lands for mitigation are less than 20 acres, an agricultural conservation easement or mitigation bank could be appropriate. There would be an option of either an easement or an in-lieu fee for larger land buildings but not mitigation banks.

John Beckman asked if finding an easement on a small parcel is more difficult than finding an easement on a large parcel.

Brian Millar answered that it is not necessarily the size of the parcel that would be where the mitigation would occur. There could be a property that would be less than 20 acres in size that requires mitigation as a matter of how those fees are paid. It could be that someone ultimately provides monies that go towards the purchase of an easement, on a much larger site than 20 acres. It focuses on the qualifying property that is in need of mitigation.

Matt Arnaiz asked if it would make more sense to have all three options available to any size property. The whole idea is to make agricultural mitigation easy to accomplish.

Jennifer Jolley answered that that's a valid point. There is no harm in allowing in-lieu fees on smaller sized parcels. It would be harder on people if there were a required easement on a smaller parcel.

John Beckman stated that instead of just allowing the fee to be paid on land larger than 20 acres but not under 20 acres, it would be more appropriate to be able pay the fee going the other way.

Joe Petersen asked Brian Millar if he has reviewed the easement that the AgTAC has work on for the last 16 years.

Jennifer Jolley answered that Brian has worked together with staff. He was given the history.

Joe Petersen stated that this goes against all the work that the AgTAC has done. An easement was drafted designed to protect agriculture, not burden agriculture. It would also improve the developer's ability to get easements so that it would not be costly. It would be easier to attain and purchase easements. Staff's proposal goes against that. It also includes monitoring. Everything that has been changed makes it burdensome for agriculture.

Jennifer Jolley stated that both versions of the ordinance will be taken forward. The policy makers will be given the opportunity to make a decision. There will be discussions at the Planning Commission and at the Board of Supervisors about the version being that that is being proposed by the AgTAC and how it would work. Then there is an alternative version that staff believes would work as well and meet same intent. After 16 years, if there is not something finalized by this point, it may never get finalized. That is the concern of staff. There are many projects coming up that are going to need to mitigate for the loss of agricultural land.

John Beckman asked for the total acres of the projects coming up.

Jennifer Jolley answered a few hundred.

John Beckman pointed out that the Board of Supervisors gave staff direction to be more proactive, more than the AgTAC has been. Staff is bringing forward two proposals and the AgTAC needs to attend the Planning Commission meeting and then the Board of Supervisors meeting.

Joe Petersen referred the memo from May 2021. He stated that it does not say to go back and rewrite the ordinance.

Zoey Merrill clarified that the Community Development Department plays two roles and gets direction in more than one way. The department is staff to the AgTAC by taking input and taking the AgTAC's proposal forward. Staff is also a department to move forward Board policy. They are getting direction specifically on how to treat the amendments, but they are also attempting to meet Board policy while getting direction directly from the Board of Supervisors in terms of how County resources are used.

Joe Petersen stated that it goes back to the purpose and intent of the ordinance. Staff should have heard, seen, and understood what is good and not good for agriculture.

Zoey Merrill stated that the policy that was put forth by the Board of Supervisors in the existing AgTAC ordinance had a requirement for a mitigation strategy and that actions be done consistent and pursuant to that mitigation strategy. That was the mechanism in the existing ordinance upon which all decisions were to be made. The ordinance was not followed and therefore the policy was not put into place or accomplished. The easement, regardless of how much strategy that is believed it put forward, did not accomplish the adoption of a mitigation strategy. The Board of Supervisors saw the AgTAC's version and directed staff to look at the big picture and attempt to solve that problem. The version that the AgTAC put forward changes the language on the requirement for mitigation strategy. The Board of Supervisors saw that version and continued to say they need to see more.

Stanton Lange said that staff's proposal throws away everything the AgTAC has done over the last 16 years.

Joe Nicolini stated that it seems like there are two proposals that look like they are competing.

Matt Arnaiz said that both proposals provide for agricultural mitigation. If someone is going to take 20 acres out of production, they have to mitigate the 20 acres. If a farmer is burdened by putting their land into an easement, they do not have to put the land into an easement. More flexibility is what is going to make this work.

Joe Nicolini stated that it feels like this process is being hurried.

Joe Petersen replied to Matt Arnaiz that he wanted to avoid a fee. Staff's version does not guarantee a one-to-one mitigation ratio. The most important thing is the cost. Joe told Matt that if he did a subdivision, he would have to continually pay costs.

Matt Arnaiz agreed that there would be ongoing costs.

John Beckman confirmed that the subdivisions already have ongoing costs.

Joe Petersen stated that the AgTAC is trying to protect agricultural land in perpetuity, but this puts costs on the protection of agricultural land. It is illogical since it puts more of a burden on the farmer. Joe referenced the text amendment and asked what is agricultural quality and why the Qualifying Entity is determining this. Joe said that it reads as if it is going to eliminate the AgTAC. Joe referred

to the availability of funds as it will become dependent on state and federal funds. The Qualifying Entity costs is part of the in-lieu fee. The monitoring enforcing is not the burden of the Qualifying Entity but the burden of the farmer. Joe asked if the County or the landowner will pay the fees for mitigation bank credit when purchased through the Qualifying Entity.

Brian Millar answered that the landowner will pay the fees.

Joe Petersen referred to the use of fees and that it will be a burden and a cost to agriculture. Joe questioned who are the Qualifying Entity. Joe stated that some of them have nothing to do with agriculture. The AgTAC had agreed that stacking habitat easements and agricultural easements was not good for agriculture. The Qualifying Entity would have to do an annual report and the farmer would have to pay for that.

Stanton Lange stated that the idea was to make things simple and easy for agriculture. This amendment makes it very limiting and costly.

IV. Public Comment Period

None.

V. Adjournment

The meeting adjourned at 11:25 a.m.

VI. Next meeting: August 25, 2022

John Beckman, Chair

Jennifer Jolley, Secretary