

# MONO COUNTY PLANNING COMMISSION

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## ADJOURNED SPECIAL MEETING MINUTES

March 22, 2018  
(Adopted June 14, 2018)

**COMMISSIONERS:** Scott Bush, Chris Lizza, Mary Pipersky, Dan Roberts. **ABSENT:** Roberta Lagomarsini

**STAFF:** Gerry Le Francois, principal planner; Wendy Sugimura, interim CDD director; Michael Draper, planning analyst; Nick Criss, compliance officer; Louis Molina, environmental health; Christy Milovich, assistant county counsel; CD Ritter, commission secretary

**GUESTS:** Kevin Dortch, John Borton, Erik Burns, Steven Rubinstein, John DeCoster, Eric Edgerton, George Gomex, Marty Federspiel, Moe Commar, Abbie Thomason, Adam Thomason, Bob Strong, Grant Oepkes

1. **CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Chair Scott Bush called the adjourned meeting to order April 5 at 8:05 a.m. in the Town/County Conference Room in Mammoth Lakes with teleconferencing to board chambers at the county courthouse in Bridgeport.

### 2. GENERAL PLAN AMENDMENT 18-01 Public Hearing

A. **Commercial cannabis activities:** Revise the General Plan Land Use Element to adopt policies and regulations for commercial cannabis land uses, including cultivation, manufacturing, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation, and other uses related to cannabis and cannabis products.

Wendy Sugimura introduced the four elements of General Plan Amendment. Michael Draper distributed cannabis changes. All uses allowed within land use designations if not prohibited. Processing license is new, part of cultivation license. Fits well with AG, not Mixed Use (MU). Why? Handling of live plants, odor. MU has packaging, lower-impact uses. MU less intensive than Commercial (C), more appropriate in C. MU is transition between commercial and residential. If expand, commercial more appropriate.

Scenic Area AG not included? Sugimura stated it was missed in putting together packet, could adjourn to pull piece and include, or move on, clean up later. Try to capture all but regulations changing at State level. New S type license, shared manufacturing facility. Sugimura suggested going into older tables, bringing back documentation of consensus.

Draper indicated that in other LUDs (Land Use Designations) maximum six plants under Compassionate Use Act (CUA) within residential districts. Language added to prevent hundreds of plants in residential districts.

Draper: Ch. 4. Must specifically list cannabis. "Similar use" does not apply to cannabis activities. Home Occupation: Cannabis not considered as such. Ch. 13: PC has seen much of this, edits are cleanup language. Commercial cannabis business needs one operations permit, not for every State license. Part of County Code going to BOS in May. 13.70A Cannabis transported between licensees only. Odor mitigation plan not required for certain activities, location or setup if no need. Visual screening/fencing: Covered in State regulations. Lighting: Omitted shielded interior, just blackout coverings to preserve dark skies. Safety/security plan.

Sugimura stated hoop house technically does not meet building code structure definition. Must meet setbacks even if not subject to building permit. Public outreach indicated scenarios where behind house, owns adjacent properties. Alternative site plan possible.

Setback requirement? Sugimura stated primarily. Could move to more general section.

Draper cited for all commercial activities, not closed completely always -- could be accessible if supervised by permittee. Omitted if caught by State requirements. Require floor plan as part of site plan. Volatile solvents need closed system. Retail/delivery: Not prohibit delivery, subject to County Code chapter. Right to farm: cannabis not allowed, State definition.

DISTRICT #1  
COMMISSIONER  
Mary Pipersky

DISTRICT #2  
COMMISSIONER  
Roberta Lagomarsini

DISTRICT #3  
COMMISSIONER  
Daniel Roberts

DISTRICT #4  
COMMISSIONER  
Scott Bush

DISTRICT #5  
COMMISSIONER  
Chris I. Lizza

Bush noted incidental use accessory from main use. Only applies to AG. Support agricultural operations on ag properties. Ag can be subdivided or have other uses separate from primary use. Not discuss individual property owners.

Sugimura stated agriculture must be primary use, use permit tracks with parcel. Could do SP (Specific Plan) on whole area. Protect ag nature of AG designation. Service Commercial = transition between Commercial and Industrial. Only a couple of parcels exist. Service Commercial excludes cultivation.

Lizza mentioned eliminating testing in Service Commercial.

Roberts mentioned use of volatile solvents like propane, which is used everywhere and regulated already by State. Why limited to Industrial or Service Commercial? Sugimura cited need for more industrial lands in June Lake, Antelope Valley and Lee Vining. Volatile not fit other uses. Scenic Area AG not included.

Lizza noted two versions of Service Commercial: one eliminates testing, original packet includes all manufacturing types. Sugimura suggested Type 7 elimination.

Lizza found cultivation setback onerous, wanted standard 50' setback. Delivery: Off-site needs clarification: customer delivery. 13.06A impossible task, needs title search, too broad. Not County function to see if operator has permission from owner. Notarized is unreasonable. Where did notarized language come from? Milovich noted if at State level, list of criminal convictions, personal data. In separate section for anyone whose interest is less than 20%.

Use State language? Milovich confirmed verbatim from State.

Lizza questioned all **persons with interest in property? Maybe another jurisdiction's** regulations. Bush concurred with Lizza.

Sugimura stated Scenic Area Ag mostly falls within federal regulations. USFS approval required or take eminent domain action. Bush thought if certified by USFS, not likely want cannabis. Check with USFS and RPACs.

Lizza wanted to add public facilities to 13.07. Corridor ill defined, especially Crowley. Kids from library to ball field unlikely, take more direct route.

Sugimura indicated it makes more sense if buffered from facilities. PC go with State law, not recommend corridor element. Modify or exclude by BOS.

Crowley Lake Drive to ball field? Sugimura indicated covered by buffer. Crowley Lake does not want commercial cannabis.

Bush interpreted as legislating what community can do. Does one letter represent entire community?

Sugimura indicated PC recommendation, not adopted by BOS.

Letter from Bridgeport Valley RPAC basis to ban in Bridgeport area? Milovich indicated BOS decision. Not advisable to recommend on one letter unless represents large majority of community. Letter was vague.

Sugimura indicated policy question, not legal. RPACs are advisory to PC and BOS. Hear from public, formulate judgment, recommend to BOS. Staff blindsided by RPAC position.

Bush indicated Long Valley has buffer zones, but Bridgeport excludes all.

Roberts recalled RPACs standardized by BOS, all members appointed.

Minutes of meetings when make determinations? How much power? Should show how arrived at decision. Sugimura stated **can't** represent Bridgeport Valley RPAC.

Proposals for generator noise? Draper cited other jurisdictions, will think more about it. Sugimura stated generator not allowed as primary energy source. If in addition, OK. Temporary backup OK, not in constant use. If power limitations present, other options besides generators exist.

If generator far away, no power poles, why not have generator? Sugimura cited requirement to extend utilities to parcel.

Nick Criss indicated generator is noise issue. Antelope Valley has generators 24/7, noise travels, constant humming. Could be nuisance problem.

**OPEN PUBLIC HEARING: John Borton**, consultant for Dortch, indicated indoor sites not insulated. Power needed for lighting, heat to keep plants warm, CO<sub>2</sub> as fertilizer for plants. Combined heat and power generation. Integrated systems built into facility, not external generator. CA encouraging their use, most efficient way. Inside building, nobody hears. Exhaust through heat exchanger. Antelope Valley has diesel pumps in fields a few hours/day. State encouraging use, environmentally efficient, powerful. Can require someone to run poles to property, substation runs from Topaz. Not have power available. Quiet solution. Integrated, indoor, muted heat-recovery system. State designates 25% for rural counties.

**John DeCoster**, June Lake, had concern for retail. Not want retail shops to black out windows like adult bookstores. Ugly retail presence smack in middle of town, storefronts along Main Street. Envisioned retail environment like T-shirts, hats, etc. Suggestion: Black out lights for any indoor growing operation.

Sugimura noted exterior of retail facility in Mono County Code approved by BOS (Board of Supervisors).

Milovich indicated Ch. 13 refers to State definitions.

**Eric Edgerton** spoke of support power and heat technologies. Medical patients grow their own medicine in Antelope Valley. Milovich indicated no square footage requirement on medical.

Edgerton cited manufacturing revisited. Propane farm in Antelope Valley. Specifications on ventilation.

**Kevin Dortch** noted wind and solar alternative energies are intermittent, so limited. If growing continuously, problematic to incorporate effectively. **CLOSE PUBLIC HEARING.**

## DISCUSSION

Roberts indicated CCPCA (California County Planning Commissioners Association) meeting will tour Sierra Pacific facility.

Sugimura wanted further research to define but tapped out on staff time.

Bush: BOS decision, but PC could recommend.

Borton warned diesel would kill plants, so not use for ag. Milovich noted that State does not ban diesel generators.

Sugimura saw hang-up on generator definition, acknowledged additional expertise in room **she's** not familiar with. Not willing to represent to PC now.

Borton stated only difference is fuel source.

DeCoster thought **technology shouldn't be legislated.**

Bush noted generator becomes white noise but maybe never goes off.

--- MLPD removed George Gomez prior to public hearing at 10 a.m. ---

Sugimura indicated Compassionate Use Act (CUA) restriction only in residential, commercial, conservation-intent LUDs. Never had regulations. Six under CUA, six personal.

***MOTION:*** Move adjourned meeting to discuss GPA to 2 p.m. (*Roberts/Pipersky. Ayes: 4. Absent: Lagomarsini.*)

--- PC reconvened at 2:00 pm ---

Sugimura presented proposed language changes: 1) Compassionate Use Act: maximum of six mature and 12 immature cannabis plants; 2) Instead of notarized, document from owner saying applicant has right to occupy property and may use for commercial cannabis activity; and 3) "**Fixed noise source**" in Mono County Code, but "generator" in State law and regulation. Constant low-level hum still may not qualify.

Milovich indicated topic ripe for debate and controversy; e.g., Benton generator.

Public utility required to meet needs of consumer? Milovich noted SCE is trying to supply energy to Tribe, but she did not know if charging fee.

Delivery v. transport? Transport = distribute. Delivery = transfer/sale from licensee to consumer.

Bush thought **300'** setbacks condemn useful land. Maybe **50'** default, up to **300' in certain circumstances?** Sugimura indicated setbacks address odor, security and visuals. Also, the consultant, Inyo, and **State all set 300'**. Some discretion to approve alternative site plan.

**B. Short-term rentals:** Revise the General Plan Land Use Element to update policies and regulations pertaining to short-term rentals in certain residential land use designations, including countywide policies, June Lake Area Plan policies, revisions to certain residential land use designations to permit short-term rentals subject to a use permit and a Short-Term Rental Activity Permit that shall be set forth in Mono County Code Chapter 5.65; Chapter 2 – Definitions; Chapter 25 – Short-Term Rentals; and Chapter 26 – Transient Rental Standards & Enforcement

Wendy Sugimura cited 411-page document of public input. Clarify permitting process: Distinction between STR in residential vs. nonresidential. More restrictions, higher accountability in residential. STR needs use permit + STR permit. Transient rental needs vacation rental permit.

BOS requested resolution of Type II situation, currently on moratorium till next year. Runs with land. June Lake spoke for itself, not countywide. Options for PC to consider: 1) Leave as is in Ch 25, lift moratorium; 2) change to true land use re-designation: SFR-STR, needs to meet minimum district size of five acres, neighborhood could say compatible with non-owner-occupied; 3) Non-owner-occupied to run with owner.

Lizza wanted to standardize Type II specific to owner, prevent commercialization of STRs.

Sugimura suggested response time of hour or backup plan.

Option to have only Type I and III? Yes, and rename. Bush, Roberts, Pipersky concurred on Type III. Sugimura suggested eliminating existing Type II, let III become II. Provide BOS with actual language.

Bush observed room not full of June Lake people, maybe getting comfortable with STR.

Water/sewer? Some properties on antiquated systems. Unusual situations exist in Mono. No required testing of individual water supply on residential property. Action 1.L.3.d. Federal regulations governed by lease.

- C. Housing policies:** Revise the General Plan Land Use Element to include housing policies that address a “fair share” of affordable/workforce housing by future development projects with the potential for significant housing impacts.

Wendy Sugimura noted last August finished housing needs assessment, proposed extending suspension of housing mitigation ordinance. BOS saw need for **workforce housing**. If can't re-enact now, review housing policies to make sure new development provides share of workforce housing. Make changes to land use element where have jurisdictional control. June Lake Area Plan required housing study to determine impacts. How BOS define development with significant impacts? Look at historic pattern of old standards. Fee study by early July, adopt ordinance by end of August.

**D. Circulation Element/Regional Transportation Plan (RTP):** Revise the Circulation Element to reflect technical amendments to the Regional Transportation Plan incorporating projects from the proposed 2018 Regional Transportation Improvement Program and Road Capital Improvement Program. In accordance with the California Environmental Quality Act, commercial cannabis policies are exempt under Business & Professions Code §26055(h), and the Planning Commission will make a recommendation regarding approval of an addendum to the existing General Plan EIR for short-term rental policies and regulations, housing policies, and technical amendments to the Regional Transportation Plan in the Circulation Element.

Every two years LTC adopts RTP, funded through State. Usually update project list so RTIP (Regional Transportation Improvement Program) is consistent with RTP. More maintenance projects under SB 1. Petition to repeal SB 1. Repeal truly would hurt transportation in Mono.

**MOTION:** Adopt revised R18-01 with cannabis and STR changes, accept CEQA exemption for commercial cannabis and addenda to existing STR with 1.L.3.d Uses on federal **land governed, however required...** recommend elimination of Type II, change III to II countywide, adopt housing policies and Circulation Element.  
(Lizza/Pipersky. Ayes: 4. Absent: Lagomarsini.)

5. **WORKSHOPS:** No items

6. **REPORTS**

A. **DIRECTOR:** None

B. **COMMISSIONERS:** None

7. **INFORMATIONAL: CANNABIS POWER GENERATION REGULATIONS**

8. **ADJOURN** at 3:20 p.m. to next meeting May 17, 2018.

Ian Fettes of June Lake thanked PC and staff for all effort on STRs.

*Prepared by CD Ritter, PC secretary*