

BOARD OF SUPERVISORS
SPECIAL MEETING
MAY 29, 2007

The Lassen County Board of Supervisors convenes in Special Session at 10:02 a.m. Present: Supervisors Brian Dahle, Bob Pyle, Jim Chapman, Lloyd Keefer and Jack Hanson; County Counsel Craig Settlemire, County Administrative Officer (CAO) John Ketelsen and Deputy Clerk of the Board Susan Osgood.

Also Present: Planning Commissioners Mark Totten, Aaron Albaugh, Bob Beckett, Rick Stewart. Commissioner Toni Poulsen enters after the meeting begins. Dyer Mountain Associates Attorney Bill Abbott, Lassen County Consultant: North Fork Associates - Cathy Spence-Wells and Katherine Waugh; Lassen County Special Counsel Richard Crabtree.

AGENDA APPROVAL, ADDITIONS AND/OR DELETIONS

It is moved by Supervisor Pyle, seconded by Supervisor Hanson and carried to approve the agenda as posted.

PUBLIC COMMENT

Susanville resident Dimitrous Fylaktos presents detailed information on a complaint he has presented to the Clerk's office on behalf of Lauren Argyriadis against the County. Chairman Dahle accepts a copy of the information and states the matter will be referred to Supervisor Chapman to investigate and report back to the Board at a later date. Public comment closes at 10:25 a.m.

JOINT WORKSHOP – LASSEN COUNTY BOARD OF SUPERVISORS AND PLANNING COMMISSION

Assistant Community Development Director Joe Bertotti reports the County team that has been working on the Dyer Mountain Project includes County Administrative Officer (CAO) John Ketelsen, County Counsel Craig Settlemire, Community Development Director Conrad Montgomery, and former Community Development Director Bob Sorvaag. Mr. Bertotti introduces North Fork Associates Consultant Cathy Spence-Wells and Senior Planner Katherine Waugh who will review the project description and discuss the Environmental Impact Report (EIR) process to date. Lassen County Special Counsel Richard Crabtree will give a presentation on the Development Agreement (DA) and Mr. Bertotti will present information about the tentative parcel map and review a proposed calendar for the project.

Mr. Bertotti presents historical information regarding the Dyer Mountain project: beginning with an early vision for the project during the 1967 and 1968 development process with the County's General Plan and for the Westwood Area Plan adopted in 1968. Mr. Bertotti acknowledges many people who have worked from that period and defined the vision of the project. Mark Totten was then a Planning Director; Gaylord Briggs was instrumental as a member of Kimberly Clark's forestry staff and

is still associated by way of Roseburg Resources; Fred Nagel was instrumental in reviewing a lot of geographical and topographical engineering analysis. In the 1980's ski area consultants and forest service personnel were also involved in looking for the best potential ski mountains in Lassen County. In 1990 the Board made an application for a suitability analysis for Dyer Mountain, which was identified as the most logical site for a ski area. The feasibility study completed in 1992 understood Dyer Mountain as a project would likely have some market viability. During the 1990's Roseburg Resources were not particularly interested in having a ski resort, they were interested in growing, harvesting and sawing timber. By 1998 there was a decline in the timber industry and things had changed at Roseburg; it became important to utilize natural resources in a different way, primarily with tourism development. In 1998 Dyer Mountain Associates began the process that resulted in the Initiative being passed by the voters in 2000.

This is the first major resort planned since the enactment of the California Environmental Quality Act (CEQA) and it is important to understand that on the environmental analytical side we are attempting to conform with not only the act as it has become effective in the early 70s but in the way it has evolved and is still evolving. This is the first development agreement to be created for development of a voter approved project. This is also the first project processed by the County using the updated environmental review guidelines (amended at the request of DMA) to allow more of a peer review process with the EIR. The project has presented many challenges.

Cathy Spence-Wells presents a power point presentation on the Dyer Mountain project as it is currently proposed. The Development Concept Plan is evaluated in the draft EIR and the re-circulated draft EIR.

Development Concept Plan Components: Phased development of +-6,780 acres; four season resort; 4,104 residential dwelling units; +607,000 square feet of commercial, retail, support and common areas; recreational: 3 golf courses (+- 300 acres), reservoir access, downhill skiing (+-600 acres) facilities with a design capacity of 9,500 people.

Project Revisions: Many revisions occurred in response to policy, market and environmental issues: Applicant has submitted a revised proposed parcel map; the wastewater treatment system has been revised; there will be no new surface water use; Deerheart Meadow will remain a permanent open space.

There has been a change in land ownership with Dyer Mountain Associates' purchase of the southern area of the side of the mountain from Roseburg. The circulated draft EIR Phase 1 component of the project specific first phase development has been eliminated from the request for consideration. The applicants will be requesting two components before the Planning Commission and the Board of Supervisors. 1) a 13 lot parcel map (lot sizes from 40 acres to -3,000 acres); and 2) the Development Agreement (DA) between the County and the

applicant. Ms. Spence-Wells states that for the Dyer Mountain EIR the DA is the legal document that will be used to insure that mitigation measures will be implemented as well as project conditions.

Parcel Map: Parcel map shown is a total of 7,007 acres and has been revised somewhat from the previous submittal.

EIR Process and Timelines: The key steps in the EIR process public workshops and hearings were held to review each document; the draft circulation was extended two weeks beyond the 45 days required based on comments received at one of the earlier workshops. The final EIR should be published in June.

Required Final EIR Contents: CEQA Guidelines requires a Final EIR to contain the Draft EIR or a revision; comments and recommendations received on the Draft EIR; a list of persons, organizations and public agencies that commented; responses to significant points raised in comments; and any other information added by the Lead Agency.

Final EIR Organization: Consists of six Volumes - Introduction, Master Responses, Agency Comments and Responses, Individual Comments and Responses, Consolidated EIR, Mitigation Monitoring and Reporting Program and Appendices.

Mitigation Monitoring Reporting Plan (MMRP): Required by CEQA in order to document compliance with all the mitigation measures outlined in the EIR. The MMRP identifies the necessary timing of implementation, the parties responsible for funding implementation and the mechanism for monitoring compliance with each of the mitigation measures in the EIR. The applicant or developer for each development phase is required to demonstrate compliance with applicable mitigation measures as they're listed in the MMRP through preparation of project compliance reports and annual mitigation reports. Both of which will be reviewed and verified by Lassen County. The DA is the tool the County is going to use to insure that mitigation requirements are met.

Attorney Rick Crabtree reports he has been working closely with the EIR consultants and with planning staff on the Dyer Mountain Project. He states he has spent the last few months reviewing all of the comments and all of the draft responses, hundreds of pages, and he states Lassen County has very good people working on the EIR. They have also been looking at negotiating a Development Agreement (DA) with Dyer Mountain Associates (DMA) and have made significant progress. Mr. Crabtree presents a power point presentation on Dyer Mountain Resort Development Agreement.

2000 Initiative: In 2000 the Initiative adopted a General Plan Amendment establishing one land use designation for the entire project area – Mountain Resort (MR) that allows varied uses: four season mountain resort, single family and multi-family residential, commercial, public facilities, lodges, clubs, hotels, inns, skiing facilities, marinas, campgrounds, restaurants and related businesses and permits a very wide variety of uses. Some policies that were adopted provide more guidance as to how the resort area is to develop. The initiative states the land uses shall be planned through a mixed-use village or town center plan. The village/town center uses could include a mixture of permanent and vacation housing, restaurants, retail shopping, offices and community facilities. Other residential neighborhoods

integrated with skiing, golf, other recreational amenities and mixed-use commercial facilities shall be incorporated into the overall plan.

Initiative Zoning: The initiative adopted a zoning ordinance change that is primarily Mountain Resort, encompasses most of the project area and is similar to those described in the General Plan Amendment. Some other zones include timber harvest protection, hydroelectric district and some other miscellaneous zones. The General Plan Amendment and zoning were both adopted by initiative and, with a few exceptions, can only be changed in the future by an initiative. This has presented a planning challenge. The MR land use designation and MR zoning district permit almost any use, without restriction. No method is provided to separate incompatible uses. The DA is being looked at as a planning tool.

Other Initiative Provisions: The initiative requires the County comply with CEQA prior to the County's approval of subdivision maps or other implementation of the measure. CEQA work is being done on the overall vision of the project. Other provisions for the initiative indicate that the zoning might be changed if done at the request of the landowner of the affected property. Also, the zoning may be amended by the Board if after 7 years construction has not been initiated with respect to ski facilities.

Development Agreement (DA): The DA was created by the legislature in response to developers saying they need more certainty in the process, that they can't build large, multi-faceted projects unless it is known at the beginning of the process that they would have guaranteed entitlement. They could need assurances up front in order to secure financing. The DA is an optional process and must be by mutual consent. If approved by the Board, the DA would give the developer assurances they have approvals to move forward with the various phases of the project. The County gets agreement from the developer to help implement things the County needs to see – adequate public infrastructure, public improvements, orderly development, and planned uses that are compatible. Normal nexus requirements and rules do not apply with a DA, which gives more flexibility in working with the developer and in negotiating conditions in the DA.

Draft DA Provisions: In working with DMA some new terms were invented in conjunction with the EIR such as Development Manuals/Project Compliance Reports and Annual Mitigation Reports (reports submitted annually or with an application for new subdivision map). These documents help insure that all mitigation measures are implemented as the process goes forward. The DA is a tool to help insure that all mitigation measures happen. These new planning tools help insure that the project is well planned and that the County is protected in the future.

The twelve point "Dyer Mountain Development Agreement Key Points" dated May 23, 2007 is presented which represents the basic deal terms advanced in discussions between staff and applicant.

Further discussion is held.

Jim McCarthy of Gold Run Realty states that he voted for this initiative seven years

ago and had a vision that with the public support, our local government and staff would not have to worry about being constantly second-guessed; it was a kind of mandate to get something done. He states he came today with an expectation of hearing a solution to the log jam that has stopped DM from ever happening; has heard a lot of history of what has happened but it appears that there's nobody here that's able to function in that manner. This may be something that's beyond the ability of Lassen County to get done. It has been 7 years and no one even believes in it any more. He states the Supervisors and Planning Commission can not know every little thing that's going to happen in this project and if they're going to wait until they're confident enough that they're going to outguess everything that could happen, it's never going to happen.

Steve Pezzullo states he agrees with Mr. McCarthy. He says the agenda states "provide direction to staff" and he urges the Board to provide direction to staff to implement the vote on the Dyer Mountain item that he voted on seven years ago; and he would expect the Board to provide to this staff to get it done before the seven years expires. They're looking for direction – give them direction. He has heard no direction today.

Standish resident Richard Parker states he also voted for the initiative and expected our leaders to get it done. He states that no one can anticipate everything that is going to happen in a project of this size but you can plan so hard it will never get done. He states as a potential buyer he is not worried about being protected from the Fire Department but this should have been done seven years ago – we should be talking about how we're going to get it done, not all the things it's not going to do.

Plumas County resident Aaron Seandle asks the Board what conversations has anyone had with the people from Plumas County on the certain implications of the DM project, specifically traffic mitigation and traffic concerns on State Hwy. 147. He also asks about the water quality issues affecting Lake Almanor, and impacts on the Seneca Health Care District. He states he is a volunteer of several committees in the area and is interested in the impacts of this project on Plumas County.

Supervisor Chapman responds that a workshop was held last summer on the project and Plumas County Supervisor Dennison and others were specifically asked to participate in a meeting on the project, but the proposed meeting never happened. Supervisor Chapman feels Plumas County should be involved and would hope the Plumas County Board would ratify whatever decision is made by this Board.

Supervisor Pyle replies that former Supervisor Dennison and his successor Sherrie Thrall have met with him on the Almanor Regional Transportation Assessment (ARTA – a planning document for the Almanor Basin area). He states they have spent many long hours putting together a plan which includes DM. Lassen County was included in the Almanor Region Transportation Assessment because it includes Westwood and Dyer Mountain, State Hwy. 147. That report is currently being finalized by the Caltrans staff and will be made to the Plumas County Board of

Supervisors in the near future and the Lassen County Board of Supervisors probably in August. Every public hearing is open for anyone to attend. Supervisor Pyle speaks in defense of staff; states they were not responsible for many of the delays. The developers have not been moving ahead because of issues that not everyone is aware of but needed to be taken care of.

Steve Robinson of Mountain Meadows Conservancy states there is a concern regarding fire protection; states there are areas where you cannot get a truck down right now. He suggests reading the Pacific Gas & Electric (PG&E) comments on the revised Draft EIR and questions a requirement of a fence with guards.

Bill Abbott, Attorney for DMA thanks everyone for taking time out of their busy schedules to come and give staff some feedback. Staff has worked very diligently with the material we've been able to provide. He states that Supervisor Pyle's comment that this process is also driven by the developer and how quickly the developer would work is appropriate. He further states that a number of issues have been addressed in the DA that were not originally recognized and he appreciates the feedback.

Peggy Fulder from Westwood asks what are the ramifications of the phrase that the initiative may be amended by the Board of Supervisors if no facility has been developed in seven years; and how significant is this kind of deadline. Supervisor Pyle asks Mr. Crabtree if there needs to be buildings or if there has to be an agreement prior to the seven year deadline. Mr. Crabtree responds that the provision says that at the end of 7 years the board would have the discretion to change things if it wanted to if ski facilities had not yet been constructed, or begun to be constructed. At the end of 7 years if nothing has happened under the terms of the initiative then the Board would have the ability to modify the zoning and general plan land use amendments adopted by the initiative, if that is what the Board chooses to do. The Board would be under no requirement to do that but would have that as an option if this contingency is not met. Supervisor Chapman states that the Board would have the ability to amend the ordinance (zoning) and put back into place either the zoning that pre-existed or some other zoning. It would take a Board action to do that.

Supervisor Keefer states that he wants to keep moving forward; thinks the plan is a good one and there are a lot of issues that have to be resolved; bring the issue to closure. He commends staff on the work done.

CAO Ketelsen states that sometimes projects that do not involve ski resorts and sensitive environmental areas take far longer to develop than 7 years; this has gone fairly quickly. He commends staff and Mr. Crabtree on the presentation and the Board on their questions. He asks if there are any significant changes to the DA that may affect the EIR. He asks if the Commissioner and Supervisors are happy with the EIR on the project presented by the developers. The Commissioners and

Supervisors should be satisfied that they do not want to change things.

Discussion is held on what time frame can be worked out and what needs to be done first. It is moved by Supervisor Chapman that staff be directed to present to the Board of Supervisors, no later than June 15, a draft Development Agreement signed by the proponents so it can be considered by the Board prior to taking action within two weeks on the Final EIR. Supervisor Pyle seconds the motion.

Supervisor Pyle asks Supervisor Chapman if he wants to change the dates from June. Supervisor Chapman states he wants the motion to state June and he wants the public to know that the Board is ready to consider and act on this matter. Chairman Dahle and Supervisor Chapman clarify Supervisor Chapman's motion: It is to have the Development Agreement signed by the developer by June 15. The motion to receive and discuss the draft Development Agreement is carried unanimously on a roll call vote.

Mr. Bertotti explains that the earlier reference to the June date for the final EIR was for the completion of the physical publication. Mr. Bertotti reviews time frames for the Planning Commission, the Board of Supervisors and public hearings. The Board could review the draft DA at its June 19 meeting, and if acceptable would release it then. After a Public Hearing of the Planning Commission, their recommendation would be presented to the Board of Supervisors on the parcel map, the recommendation on the DA and the certification of the EIR. Discussion is held regarding the Planning Commission schedule and the Planning Commission states they will hold a special meeting July 11 at 1:00 p.m.; their next regular meeting would be August 1.

There being no further business, the meeting is adjourned at 12:30 p.m.

CHAIRMAN OF THE BOARD OF
SUPERVISORS

ATTEST:

JULIE BUSTAMANTE, CLERK OF THE BOARD