



SUMMARY MINUTES  
BOARD OF SUPERVISORS  
707 NEVADA STREET, SUSANVILLE  
DECEMBER 16, 2008

**9:06 A.M. CALL TO ORDER**

**PRESENT:** Supervisors Jack Hanson, Bob Pyle and Lloyd Keefer and Brian Dahle; County Counsel Craig Settlemyre, County Administrative Officer (CAO) John Ketelsen, Personnel Director/Risk Manager Ron Vossler and Deputy Clerk of the Board Susan Osgood. Supervisors Chapman and Dahle arrive at 9:09 a.m.

**PUBLIC COMMENT:** None.

**ANNOUNCEMENT OF CLOSED SESSION:** 1) Conference with Legal Counsel: Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: Friends of Lassen Forest v. County of Lassen, County of Lassen, County Board of Supervisors, and Does 1-15, Sierra Pacific Industries and Does 16-30, Lassen County Superior Court Case No. 47432. 2) Claims: Claim of Cynthia Gawthrop presented November 17, 2008. Supervisor Dahle is absent 9:12 a.m. to 9:13 a.m. and 9:16 a.m. to 9:18 a.m. Public Works Director Larry Millar is present from 9:06 a.m. to 9:15 a.m. Chief Planner Maurice Anderson is present from 9:15 a.m. to 9:30 a.m. Closed Session ends at 9:30 a.m.

**9:35 A.M. OPENING CEREMONIES:** Following the flag salute, the invocation is offered by Chairman Hanson.

**ANNOUNCEMENT OF ITEMS DISCUSSED IN CLOSED SESSION:** County Counsel Settlemyre reports the Closed Session dealt with: 1) Conference with Legal Counsel: Existing litigation pursuant to Subdivision (a) of Government Code Section 54956.9: Friends of Lassen Forest v. County of Lassen, County of Lassen, County Board of Supervisors, and Does 1-15, Sierra Pacific Industries and Does 16-30, Lassen County Superior Court Case No. 47432. **The Board voted, with four "yes" votes and one abstention, to approve a proposed Stipulated Judgment Granting a Peremptory Writ of Mandate in connection with that litigation. The settlement was worked out by the real parties to the legal proceeding. If it is satisfactory to the parties, Lassen County will approve this resolution of the litigation.** 2) Claims: Claim of Cynthia Gawthrop presented November 17, 2008 – **Claim is approved in the amount of \$4,600 by a unanimous vote.**

**AGENDA APPROVAL, ADDITIONS AND/OR DELETIONS:**

**ACTION:** Approve agenda as posted.

**MOVED BY:** Keefer

**SECONDED BY:** Dahle

**UNANIMOUS:** Yes

**PUBLIC COMMENT:** None.

**UNAGENDIZED BOARD REPORTS:**

Supervisor Chapman: Attended the Susanville Symphony December 12 at their new venue, Assembly of God Church; it was an excellent performance. States that Susanville is the smallest town with its own symphony.

Supervisor Keefer: 1) Agrees with Supervisor Chapman's comments on the symphony. 2) Presents information on Redding meeting he attended regarding the Forest Service (FS) Travel Management Plan. Is still concerned with consistency issue between national forests; feels neighboring forests should be consistent with rules. Discussion was held on what the FS

responsibility was relating to coordination with counties; the FS does not have to listen to county's concerns but can do what they want. States that in the Draft Environmental Impact Study (DEIS), there is a need to watch the looped access of roads so people can recreate easily. There would be a restriction for camping on the edge of a road; cannot camp more than one vehicle width off the side of the road; that would impact hunters and campers. Modoc has established an advisory committee of users to coordinate comments to the FS and other counties may do the same. Supervisor Keefer feels local interested parties will keep Lassen County advised. Supervisor Chapman reports on a recent Reno Gazette article regarding national forest use that stated on a national level visits to national forests declined from 204.8 million in 2004 to 178.6 million in 2007. He states preventing access to public lands deters tourism. Supervisor Keefer also questions enforcement of new rules. Further discussion is held.

Supervisor Dahle: 1) Attended Regional Council of Rural Counties (RCRC) meeting where AB 885 and an Air Board recent ruling was discussed. Discussed what actions could be taken if new regulations are passed. A lot of members would like to see RCRC take the lead and initiate legal action. States a lot of proposed regulations don't make any sense in rural areas. Estimated cost to septic and well users is about \$200/year, \$1,000 every 5 years. Further discussion is held.

Supervisor Hanson reports on AB 885 meeting at Jensen Hall; was well attended by citizens, press and representatives of Modoc, Butte, Plumas and Sierra Counties.

Supervisor Pyle: 1) Would like an update on parks in January. 2) Is trying to reach interested parties for January 20 study session on Eagle Lake water problems.

Supervisor Hanson: Attended Fair Advisory Board meeting December 9. States that they are doing an excellent job but money will be an issue. Discussed a potential Blue Grass Festival in June and the changeable message sign is still being worked on.

**RECOGNITION COMMITTEE PRESENTATION** – Chairman Hanson presents Certificates of Recognition and awards to: **Jeffrey Nelson (Public Works)** for 20 years of employment; and **Supervisor Bob Pyle** for 10 years of employment.

## **PUBLIC HEARING – COMMUNITY DEVELOPMENT DEPARTMENT - ECONOMIC DEVELOPMENT HOUSING**

The public hearing is opened at 10:04 a.m.

Chief of Economic Development Monica Cochran: Presents information on the grant application for business loans and microenterprise assistance. It is anticipated three business loans will be given resulting in six new or retained jobs. It is expected up to 16 microenterprise businesses will be provided by loans and/or technical assistance; budget for this activity will be \$135,875. General administration and activity delivery budgeted will be \$64,125. Plumas Bank and Alliance for Workforce Development have committed to collaborate in these efforts. Believes that with the current economic state, these funds will be very beneficial to the community.

Supervisor Chapman: Discusses previous programs similar to this that did not always work and requests historical information be presented for any future requests for such programs. Also wants to be advised what has been accomplished with this program when completed.

Susanville Plumas Bank Manager Maria Nye: States she is present to pledge support to the County for the Community Development Block Grant program. Sees it as an opportunity, especially in these hard times, to assist the community in growing. Sees it as an opportunity in partnership with the Small Business Lending Program that is currently in place.

The public hearing is closed at 10:12 a.m. Supervisor Chapman states he will be voting no because he has not been impressed with or pleased with past performance by previous County staff; hopes Ms. Cochran can show how this can be done in such a fashion as to restore his support in the future. Further discussion is held.

**ACTION**: Adopt Resolution No. 08-088 approving an application and contract execution for the funding from the 2008/2009 Economic Development Allocation Enterprise Fund Component for an

amount up to \$300,000 of the State Community Development Block Grant (CDBG) Program and authorizing the execution of a grant agreement and any amendment thereto.

**MOVED BY:** Pyle

**SECONDED BY:** Keefer

**UNANIMOUS:** No

**AYES:** Hanson, Pyle, Keefer, Dahle

**ABSTENTIONS:** None

**NOES:** Chapman

**ABSENTEES:** None

### **PUBLIC HEARING - APPEAL - USE PERMIT #2007-089, JERRY AND CAROL GIFFORD**

The public hearing opens at 10:15 a.m.

Chief Planner Maurice Anderson: presents information on the appeal of the Planning Commission's approval of Use Permit #2007-089, Jerry and Carol Gifford. The applicant proposes to allow a mobile home/manufactured home storage, dismantling and recycling business on a 40 acre parcel zoned A-1 (General Agricultural District) which is designated as Intensive Agriculture and is within the Scenic Corridor. The business would be located on five (5) acres of the southwestern portion of the parcel in a lower portion of the parcel to protect the view shed from Highway 395. The applicant proposes a maximum of twenty five (25) mobile home/manufactured homes for dismantling and no more than fifteen (15) mobile home/manufactured homes to be stored at a given time, with a maximum number of 40 on-site. The Planning Commission approved the application and the decision was appealed by Eric Danfelt who is unable to attend the meeting due to weather. An email from Mr. Danfelt is presented. It is stated Mr. Danfelt did not want the project to be stopped but he wants the number of units the applicant can have on the property reduced. Mr. Danfelt would like to see the total number be around 12, because he is concerned regarding aesthetics.

Applicant Jerry Gifford: States he and his wife have planted trees on the project site that will eventually cover the whole project scene from Highway 395. Speaks on how lowering the total number of mobile or manufactured homes allowed could affect their business for temporarily storing trailers from Oregon. Trailers are parked where they can barely be seen from the highway; it is a very clean area. Further discussion is held.

The public hearing is closed at 10:32 a.m.

Supervisor Pyle feels this project would be a service to the community. Supervisor Hanson would like to see less than 40 total vehicles allowed. Mr. Gifford states he is agreeable to 15 for storage and 15 for dismantling. Supervisor Chapman is concerned about the use expanding to more than the requested 5 acres; questions why Planning Commissioner Totten voted no on this matter and is also concerned about abatement if the business should fail. Supervisor Dahle states the applicant and appellant are both willing to compromise and he makes the motion, stating the Planning Department should monitor what is being done there. County Counsel Craig Settlemire states a modification should be made on the application under #8 stating there would be a total of 30 mobile or manufactured homes on the property. Chief Planner Anderson states that as this is a minor change to the conditions, staff agrees with the modification of the project.

Supervisor Chapman states he will vote in favor of the Giffords but wants the record to state he has concerns with abatement issues if Mr. Gifford decides to abandon his endeavor.

**ACTION:** Deny the appeal of the Planning Commission's approval of Use Permit #2007-089, Jerry and Carol Gifford, thereby approving the use permit, based on the applicant's willingness to modify his application and County staff's concurrence, to have a maximum of 30 mobile home/manufactured homes on-site for dismantling or storage at a given time.

**MOVED BY:** Dahle

**SECONDED BY:** Keefer

**UNANIMOUS:** Yes

### **PUBLIC HEARING - APPEAL - PARCEL MAP #2007-031, CORY AND DENISE BOSCHEE**

The public hearing is opened 10:45 a.m.

Chief Planner Maurice Anderson: Presents information on the appeal of the Planning Commission's disapproval of Parcel Map application #2007-031, Cory and Denise Boschee, which is an

application to divide a 44.92 acre parcel into four parcels averaging in size about 5 1/2 acres with a 21.30 acre remainder parcel. The project site is located approximately 400 feet southeast of the intersection of Roberts Drive and Oak Woods Drive, in the Oak Woods Estates Subdivision, approximately five miles north of Pittville. A.P.N.: 001-570-37. The appeal was filed by the applicants.

The application was denied by the Planning Commission October 1, 2008. Findings for disapproval were: 1) The project site is on the edge of open space, and provides critical habitat for the Day Deer Herd; 2) greater than 50% of the Oak Woods Estates Homeowners Association opposes the project; and 3) the proposed project is outside the clustering area developed as part of the Oak Woods Estate Subdivision. Chief Planner Anderson states there is a great deal of information contained in the agenda packet as well as several pieces of correspondence in opposition to the project. Notes that in the staff report there is a letter from the Department of Fish and Game (DFG) stating their desire that the project have an Environmental Impact Report (EIR). Reports staff has talked to DFG often and staff's position, together with the Environmental Review Officer (ERO), is that the DFG seemed to miss the area plan EIR that went along with the Pittville Area Plan Development. Effects on the deer herd were mitigated through adopting the NH Habitat Combining Zone, a zone that requires that you cluster development and leave most of any parcel in open space. There is evidence in the EIR that the Area Manager at that time supported the NH designation as adequate mitigation to address the deer herd. Discussion is held

Attorney Joseph Baggett, representing Cory and Denise Boschee: Presents a technical question on mitigation for paving a road for access. Gives detailed information and states the applicants will be asking the Board to approve the plan as submitted but will also be asking it be recommended staff look at paving the road and that it will hopefully be considered to be not necessary. Chief Planner Anderson states staff analyzes projects as submitted. If the applicants wish to propose something different then they should present it through the Technical Advisory Committee and Planning Commission for that analysis.

1) Grainger Hunt (Resident of James Drive, Oak Woods Estates): Was the previous owner of the 45 acres in question and was under the impression when he sold the property that it could not be divided. Has been a wildlife biologist for almost 40 years and gives detailed information about the various trees and wildlife in the Day Bench area and how further development will affect that. Reports when Oak Woods Estates was created the County worked with F&G to minimize the impact on wildlife. A central condition of approval was the clustering of houses and the protection of open spaces. Feels the County reversed itself two or three years later and that it was an oversight. States Oak Woods is a model example of how a planned community can fit into the landscape.

2) Daniel Osborne (Resident Roberts Road and President of the Home Owners Association): Directs attention to a 1980 letter in the agenda packet (pages 79-81) by Pete Luthy of L & R Planning and Engineering regarding the original Oak Woods Estates subdivision. Agrees with Mr. Hunt's statement on clustering. Feels that no further development was directly addressed in 1982 by the Planning Commission and F&G. States the establishment of a Home Owners Association with Covenants, Conditions and Restrictions (CC&Rs) was required and everyone who purchases a lot in Oak Woods Estates has to sign off on them. The current Home Owners Association members do not want more subdivision. Reports that at the Planning Commission meeting Commissioner Totten was looking at a map to see if there was something to indicate that there would be no further development. He understands the Board of Supervisors cannot enforce the Home Owners Association rules but is asking for guidance on how the association and Board can work together to make their agreement what it was meant to be.

3) Maynard Hughes (Resident of James Drive): Concerns are regarding water issues. Feels they did not get to make all the points they wanted to at the Planning Commission meeting. Presents an information handout regarding water in the area of the proposed site. Of 38 existing lots,

residences exist on only 25 of the lots. States the potential financial impact of the Board's decision could be far reaching and very expensive. The Oak Woods CC&Rs prohibit changing any of the lot lines without a vote of the majority of members. States examples of three current residents that have had recent problems with their wells; notes the Governor of California has declared a state wide drought. Asks the Board uphold the Planning Commission's decision; consider reinstating the zoning on the three large parcels.

4) Thomas Begley (Resident of Haymon Lane): Owns property next to proposed site. Reads a statement in opposition to the development. Had also been told at time of purchase that the three large parcels could not be subdivided. He questions drainage on the proposed site and water/well issues. (Supervisor Chapman is absent 11:30 a.m. – 11:57 a.m.) He is also concerned about his corrals being too close to the proposed building site. Reports he does not plan to divide his property but if this proposal is approved, that would offer his benefactors the opportunity to develop his property into eight 5 acre parcels.

5) Travis Corder (Resident of Oak Woods Drive): Is a fourth generation resident with property bordering subject property; makes several points. 1) Compares the difference between the Pittville Area Plan versus Oak Woods Plan to the difference between what Lassen County feels is appropriate for its residents versus what the State of California making decisions for Lassen County that they might feel is appropriate. (CAO Ketelsen is absent 11:44 – 11:45 a.m.) States the Pittville Area Plan is not Day Road and that needs to be taken into consideration. The Oak Woods Plan was designed specifically for the circumstances and the issues that go along with that particular area. 2) It has been the understanding of all of the residents when moving into that area that the remaining lots would be undividable. 3) Impacts on resources: States his well did go dry this year and now water quality is an issue. Encourages the Board to possible impacts into consideration. States the Board has an obligation to protect people that already live in the area to make sure their resources are not overused before allowing other people to come in. 4) States that in order to overturn the Planning Commission finding, he assumes the Board will need to see some very significant new information because your research committee has already gone out, listened to the facts and make a very solid 4 to 1 decision. 5) States the Supervisors are the representatives of the people and the people of Oak Woods have spoken, 73% of the people are opposed to this project. In response to a question, states he was given information the remaining land could not be divided when purchasing the property. It was his understanding they were operating under the Oak Woods Subdivision Act and didn't realize the Pittville Plan over rode the authority of Oak Woods.

6) Brenda Brubaker (Resident of Roberts Drive): Is opposed to the proposed subdivision. Speaks on the aesthetic impact of the subdivision and refers to a letter from Lela Wimers, (original listing real estate broker for the Oak Woods Estate Subdivision from 1982 to about 2006) also in opposition to the proposed subdivision. Reads from the Pittville Area Plan's Environmental Impact Report (EIR) dated 1982 under Action Plan, Goal and Policies regarding emphasizing scenic views and the option of clustering to maintain maximum space; asks the Board to consider this information when making their decision. Also refers to Land Use Planning in the Pittville Area Plan EIR. Submits

an amended copy of the September 6, 2008 petition signed by Oak Woods Home Owners Association. This includes the original petition with signatures and email attachments, totaling 73% of the home owners. Ms. Brubaker feels the lack of notation on the final map was an oversight in Lassen County's records and that a vote in favor of Mr. Boschee's request would be tantamount to opening Pandora's Box. She urges the Board to have the Community Development Department find the time and resources to review, identify and mark parcel maps of all of the large lots and open spaces on Day Road and in the Pittville area that should not be further subdivided because they are associated with cluster development agreements or any other special considerations.

7) California Department of Fish and Game Biologist Brian Ehler: States the parcel in question was originally rezoned to A-2-B-30 as a condition of the approval for the Oak Woods Subdivision to mitigate the impacts of the project on the Day Bench deer herd. The Pittville Area Plan rezoned this parcel to A-2-NH-5 in error and should have left the parcel as A-2-B-30 in accordance with the approval of the original project. States the Department supports maintaining the approval condition

of the original project of Oak Woods Estates to mitigate its impact on the Day Bench deer herd. States the current A-2-NH-5 zone, in their opinion, is not adequate mitigation for both the original project and also the currently proposed project. Supervisor Dahle questions Mr. Ehler about the error. Mr. Ehler does not dispute the new owner's rights but states but it is the Department's opinion that for some reason it was rezoned in spite of the condition of the original project. (Supervisor Keefer is absent 11:59 a.m. – 12:02 p.m.)

8) Sonny Wilson (Resident of Roberts Court; Vice President of Oak Wood Home Owners Association): Assumes every member on the Board received and has read the package submitted to the County dated 9/17/2008. Refers to paperwork that includes Attachments A-F that covers many of topics discussed already. Reads from cover letter that specifically re-emphasizes and reinforces what he believed to be a mistake made by Lassen County. Presents historical information on the incorporation of Oak Woods Estates and Pittville Plan rezone. Asks whether that rezone was an oversight and the Oak Woods campus was incorrectly included in that project. Feels the project requires additional review as that was not the original intent for Oak Woods. States the Pittville Plan

9) Attorney Baggett: Presents a video tape of the subject property and surrounding area. States the Boschees want to have their side of the road look just like the other side of the road that has houses on it. There would be four houses along the road and one at the back of the property. States his clients want to be good neighbors but they want reasonable rights to their property. It has been zoned 5 acres for 21 years and if some mistake was made in the zoning, Lassen County and the home owners have had a long time to straighten that out. When the Boschees bought the 44 acre parcel they were told by the realtor they should be able to divide the property. They received a preliminary title report and there was no non development easement on the property. The Home Owners Association wants the value of the Boschee's lot for their purposes although they do not own the parcel and have not paid any prior owner for that right. When the Boschees bought the property the Home Owner Association CC&Rs did not have anything in them about not splitting that lot. After the lot was bought and after Mr. Boschee attended one of the Oak Woods board meetings, the CC&Rs were changed. Feels the Planning Commission voted no to the project, after the Planning Department had approved it with mitigation, because of public pressure. The Boschees want to do some reasonable development that fits in with the law. The property was on the market two times in the last five years and the Home Owners could have purchased it for their private benefit. States the Pittville Area Plan is what governs land in that area today. One of the things in a clustering concept states that 80% of a lot should be kept undeveloped and natural habitat. (Supervisor Pyle is absent 12:18 p.m. – 12:19 p.m.) About 8 acres out of the 44 (about 18%) would be building sites; the area in the middle would be open. The Boschees have been diligent and spent a lot of money to make this work. States the Planning Commission addressed the water issue as an insignificant impact.

10) Applicant Cory Boschee: Shows the Board on a map where the proposed houses would be with regard to present homes. Points out proposed building sites and open area. States that all drainage easements are already there so drainage should not be a problem.

11) Sonny Wilson: Refutes the comment regarding changes to the CC&Rs. The last revision to CC&Rs was September 23, 2004 and was recorded by Lassen County at a fee of \$52. The CC&Rs specifically state expansion or contraction of a project or the addition, annexation or withdrawal of property to or from the project, boundaries of any lot, etc. cannot be accomplished without the majority approval of the Oak Woods Home Owners.

12) Brenda Brubaker (continued): Mr. Baggett inferred or stated Mr. Boschee came to Oak Woods about the proposed subdivision. States she has copies of annual meeting of June 2, 2007 and witnesses that show the Boschees did not approach or say anything about future subdivision of that lot. States she has copies of official minutes. An informal vote of Oak Woods members was taken on that date about future subdivision and it was a resounding no vote. States there are no minutes that reflect the proposal was brought to the Home Owners Association.

13) Applicant Denise Boschee: States her husband did attend the meeting as stated but feels it is no one's business what they intended to do with the property they bought. They do intend to develop the property and intend to fight for it.

14) Travis Corder (continued): States that while a lot of opinions were stated, he feels the Board will make their decision on facts. Reminds the Board that the representatives job is to represent the majority that elected the Board.

Chairman Hanson acknowledges that additional correspondence from Mr. Norman Grimsby was received.

The public hearing is closed at 12:31 p.m.

Chief Planner Anderson responds to some information presented. States he did not find anything inaccurate regarding timelines but presents a graphic to show the Board and audience for clarification. The Board requests he make copies for distribution.

Recess 12:32 – 12:37 p.m.

Mr. Anderson distributes timeline information.

Supervisor Dahle: Takes to heart what was said about being elected and the Board does have to uphold the law. States that in this case the zoning is 5 acre minimums. States the Boschees bought the property with the right to be able to subdivide that land if they mitigate the impacts and it appears they have been able to meet those mitigations.

Supervisor Pyle: Agrees the Board does work for the people and are elected by the people to uphold the majority, but the Board can't support the majority if it's against the law or against zoning land use. Area plans take awhile to be put together with public hearings and he does not feel something would be put in place by mistake. States he believes the Oak Woods Estates was meant to be in the Pittville Area Plan and it was meant for development.

Supervisor Keefer: States this is obviously a sensitive and emotional issue. After listening to the comments on water and wildlife, he wonders why the development was approved in that area to begin with. Takes into consideration the possible impacts on the ridge but believes there is an issue of property rights and feels the Board needs to uphold that right.

Supervisor Chapman: Appreciates points made by Board members and information from staff and public. Presents information on debates from the 1970's and 1980's regarding land issues at Day Bench, Susan Hills, Gold Run and the Richmond corridor. Brings back some older documents from his office. Does not believe an error was made by the County regarding five acres; the area was zoned R-5-NH with "malice and forethought"; Oak Woods Estates and Forest Acres were already approved. Cluster development was new at that time. If a mistake was made it was that Lassen County expected what was done to be in perpetuity; they were too trusting. Something like that today would be recorded on the map; it was not done then. Believes it was clear in 1983 that a condition of the development was to keep larger areas; will not be supporting overturning the Planning Commission decision; feels they made the correct decision.

CAO Ketelsen: States the ways this matter could have been previously handled. There is no commitment on the record that the property cannot be developed. There may have been an intent but it was not legally carried out. States that no prior board can bind a future board.

County Counsel Settemire: Supervisor Chapman's comments on the original subdivision gives some historical perspective. The Pittville Area Plan is a subsequent intervening event that occurred that took the larger parcel and gave it the right to be rezoned to 5 acres. It would be a discretionary act by the Board; the Board can say yes or no.

**ACTION:** Approve the appeal, thereby approving the tentative parcel map and adopt Resolution No. 08-089 approving the tentative map for Corey and Denise Boschee, and adopting the Mitigated



