

The Planning Commission of the County of Amador met on Tuesday, December 10, 2019 in the Board of Supervisors Chambers at the County Administration Center, 810 Court Street, Jackson, California. The meeting was called to order at 7:00 p.m. by Chair Byrne.

THOSE PRESENT WERE:

Planning Commissioners: Keith DesVoignes, District 1
Earl Curtis, District 3
Andy Byrne, Chair, District 4
Ray Ryan, Vice Chair, District 5

Staff: Chuck Beatty, Planning Director
Ruslan Bratan, Planner I
Krista Ruesel, Planner I
Glenn Spitzer, Deputy County Counsel
Mary Ann Manges, Recording Secretary

THOSE ABSENT WERE: Dave Wardall, District 2

NOTE: The Staff Report packet prepared for the Planning Commission is hereby incorporated into these minutes by reference as though set forth in full. Any Staff Report, recommended findings, mitigation measures, conditions or recommendations which are referred to by Commissioners in their action motions on project decisions which are contained in the Staff Reports are part of these minutes. Any written material, petitions, packets, or comments received at the hearing also become a part of these minutes. The recording tapes of this meeting are hereby incorporated into these minutes by reference and are stored in the Amador County Planning Department.

A. Pledge of Allegiance.

B. Approval of Agenda:

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner DesVoignes and unanimously carried to approve the agenda as presented.

AYES: Ryan, DesVoignes, Curtis, Byrne

NOES: None

ABSENT: Wardall

C. Minutes: November 12, 2019

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner DesVoignes, and carried to approve the November 12, 2019, minutes as presented.

AYES: Ryan, DesVoignes, Curtis, Byrne

NOES: None

ABSENT: Wardall

D. Correspondence:

Item 1 - Letters from Catherine Nelson, Earl Curtis, Jack Sales on behalf of the International Dark Sky Association, Bronwyn Hogan, and Mara Feeney on behalf of the Foothill Conservancy. A revised draft of the ordinance was shared at the meeting.

E. Public Matters not on the Agenda: None

F. Recent Board Actions: None

Public Hearing

Item 1 - Continued discussion and possible recommendation to the Board of Supervisors regarding a proposed amendment to Chapter 19.50 Design Standards and Findings, by adding Section 19.50.060, “Dark Sky Ordinance” to Amador County Code pertaining to all parcels within the unincorporated County. The amendment proposes regulation for nighttime lighting in commercial and residential districts.

Applicant: County of Amador (Zoning Ordinance Amendment ZOA-19;9-1)

Supervisory Districts: All

Location: The ordinance would apply to all applicable portions of the unincorporated area of Amador County which utilize artificial outdoor lighting sources.

Chair Byrne introduced the item.

Krista Ruesel, Planner, shared the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Byrne opened the public hearing.

Katherine Evatt, President of the Foothill Conservancy Board, stated that she was a lead negotiator with the General Plan settlement discussions which led to the County preparing the draft ordinance. She commented that she wants to make sure that the ordinance is done right and is clear and easy to follow. She shared that her comments are based on the draft that was distributed in the packet and commented that dark night skies, clean air, and wildlife are important to this community and are good for the tourism economy. She added that she is glad to see that some of the suggestions of the Conservancy were incorporated, but that they still have the following concerns:

- The “Purpose” language should be clearer to assist with informing the public about the purpose of the ordinance and why one is being created.
- Exemptions should include only state and federal government because it is the Conservancy’s understanding that County facilities will not be exempt.
- The “Airports” exemption is not clear if applies to all airports or just government airports.
- Exemption F, Public Gathering Lighting Fixtures, should explain why they are exempt
- The exemption for 40 acre parcels could still cause light trespass issues if lighting is close to the property line, and lighting on 40 acres parcels is still cumulative
- It is hard to make sense out of the nonconforming and temporary lighting section in Exemptions under H, adding that the draft allows nonconforming outdoor lighting to continue indefinitely
- Temporary residential uses need to be clarified
- Exemptions would allow lights approved under past use permits to continue indefinitely

She shared that the Conservancy is glad to see 3000K used as the standard but would like to see 2700K, and that they are also happy to see the adoption of 2200K for historic lighting but said they cannot what constitutes a historic building or a historic site because it is not defined. She said that if commercial lighting is intended to apply to big event centers that the ordinance should include zoning districts where they are located such as R1A, A, AG which are not included in the commercial lighting section. She added that if it is the intention to have the commercial lighting regulation apply make sure to include the zones where they are located. Ms. Evatt shared that in the new construction section there is a provision to have lighting plans optional and that they would like to see lighting plans required for commercial, industrial and institutional construction.

Ms. Evatt shared that the Conservancy still believes there should be time limits for compliance instead of indefinite grandfathering. She stated that if it is allowed to let fixtures that we have today to continue until

they fail that current light pollution in the County is going to get worse and suggested putting a 5 year deadline on existing commercial, industrial, county, and institutional buildings. She continued that they would like to see compliance for residences when they are sold and that it could be easy to verify as part of recordation process. She shared that it also could be done as part of the negotiations over a home sale and that the seller or buyer could do it. She added that many people invest money in houses when sell them and that it would be a low cost way to bring lighting into compliance. She stated that it would also bring lights into compliance with the new building code, Title 24, and in long run save people money.

Ms. Evatt shared concern about a letter from a member of the Commission who has made a decision on an ordinance that is still in draft form before all public comments have been made. She stated that while the settlement obligates the County to consider an ordinance, the word “consider” was used because the sitting Board of Supervisors could not obligate a future Board to adopt a specific ordinance. She continued that it was well understood that the intention was to develop and adopt an ordinance, not just waste time looking at one. She asked that a decision be based on all the information in the record and suggested the Commission take another round on the draft to clarify what various sections mean.

Jack Sales, International Dark Sky Association member, shared that he concurs with what Ms. Evatt said. He commented that he would have much preferred an “outdoor lighting ordinance” versus a “Dark Sky ordinance” so that people can better understand that it is about lighting. He added that this is a quality of life issue that not only effects the night sky. He stated that the high blue content of the higher color temperature scatters more and causes more light pollution and also impacts the circadian rhythm of animals and people. He stated that he likes the idea of making homes comply with the ordinance when sold or when lighting is replaced. Mr. Sales shared that people have a right to have their property dark and for their neighbor to have light on their property. He added that light trespass is what gets so many ordinances started and that many people are involved in this issue. He shared that L.E.D. lights are part of Title 24 for outdoor lighting and that L.E.D. lights allow us to have dual lighting that is instant.

Larry Brown, Amador Astronomical Society member, shared that the proposal was originally called a Dark Sky ordinance, but he agrees with Mr. Sales that it should be called a lighting ordinance. He added that a good lighting ordinance will keep light directed downward where it is needed, assist with safety, save electricity, and not pollute the night sky.

Rux Oneto, Amador County citizen, stated that the County already has provisions for light trespass. He shared an example where the power plant at Buena Vista needed a use permit and that he had to sign an agreement to allow light trespass onto his property. He asked if the maximum height is 20 ft. or 30 ft. in section B of Public Roadway Illumination, and if 800 lumens is per bulb or per light fixture. He commented that 800 is not a lot outside when trying to light something up. He disagreed that light pollution can harm wildlife, citing an owl that stays close his shop at night. He stated that he is opposed to the ordinance and commented that we do not need nongovernmental organizations telling us how to live our life in Amador County.

Lynn Morgan, upcountry resident, is supportive of this ordinance especially with the changes that the Foothill Conservancy is suggesting for clarity. She stressed that the purpose should be clear in whatever ordinances that the County adopts. She stressed that this current version does not do that. She shared that her grandchildren love the sky when they visit from the city and commented that it is important to protect one of the reasons so many live upcountry.

Renee Nicholson stated that she is in support of the lighting ordinance. She asked what the purpose is of light shining up and commented that shining light up is not necessary. She shared that she in support of the Amador Astronomical Society because light pollution makes it hard to see the stars. She added that she believes the first observatory in the state is in Amador County and that a comet was first discovered at the observatory that used to be in Volcano. She commented that observatories are located where there is a dark night sky and continued that Amador County is a good location to view the night sky. Ms. Nicholson shared that she and her husband are both pilots and that they recently observed that most of

the lights at the airport are already down facing which she believes is safer and pilots do not need light shining up in their eyes when they are coming in at night. She shared points in a letter written by her husband who wrote that less extraneous lighting is a benefit to safety, that the runway environment is easier to identify with less upward facing light in the vicinity, and that the airport should not be a targeted by dark sky proponents since they already have downward facing light. Ms. Nicholson continued that approach and runway lights automatically light up, are intermittent, and do not stay on very long. She stated that this ordinance would be a benefit for generations to come.

Chair Byrne asked if anyone else desired to speak.

Mr. Oneto shared that he is confused by the different drafts. He stated is concerned about people that work the night shift that cannot come home and turn the lights on their tennis or ball courts after 11 o'clock. He believes the wording here leaves this section open to interpretation. He noted the phrase "lighting does not unreasonably disturb" and questioned who gets to decide what is unreasonable. He added that some people can be unreasonable and have light shining on their neighbors, but that we cannot legislate morality.

Chair Byrne asked if there was anyone else who desires to speak.

Ms. Morgan stated that she agrees with Mr. Oneto that the ordinance is not specific enough about who is responsible for enforcing it. She asked to know whose job it is, who does what, and when they should stop doing it.

Chair Byrne responded that like most ordinances in this County it is by complaint.

Ms. Morgan shared that this she believes this is an important one and it should be clear whose job it is.

Chair Byrne stated that by the nature of all the codes it is by complaint and that it goes to Code Enforcement from there.

Ms. Morgan shared concern about having one code enforcement officer.

Ms. Nicholson asked if the ordinance is retroactive to lighting in the County or if it is from this point forward.

Chair Byrne responded that as it stands now, the ordinance would apply to future lighting.

Commissioner DesVoignes added that there is grandfathering for existing lighting.

Chair Byrne said that if light fixtures break, do they need to be brought up to code and asked if staff could clarify.

Glenn Spitzer, Deputy County Counsel, clarified that 19.50.069 addresses the grandfathering issue so that all existing lighting is grandfathered and a legal nonconforming use. He added that if it is damaged to a certain extent it needs to be replaced with a conforming lighting fixture.

Chair Byrne added that one of the things the Conservancy is asking everything come into compliance within 5 years. He stated that it was brought up last month, but was met with opposition.

Ms. Evatt clarified that the Conservancy is suggesting that County, institutional, industrial, and commercial buildings be brought into compliance in five years, and that residences be brought into compliance when sold. She added that it is not reasonable to require homeowners to change out all their lighting right away, but it is reasonable to require upgrades at the time of transfer.

Mr. Oneto asked if that is in the draft now.

Chair Byrne replied that mandatory retrofitting is not in the draft now.

Mr. Oneto stated so it is not in there and we do not need to talk about it.

Chair Byrne replied that we are at a public meeting and we are going to talk about everything.

Vice Chair Ryan stated whether it makes it in the code or not is a different story.

Mr. Oneto commented that it gets expensive to upgrade when it comes to commercial lighting, but that if it is not in the draft then there is no reason to talk about it.

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner DesVoignes, and carried to close the public hearing.

AYES: Ryan, DesVoignes, Curtis, Byrne
NOES: None
ABSENT: Wardall

Commissioner DesVoignes shared that there are two issues where he will not support this ordinance. He elaborated that he has issues with not grandfathering and mandatory retrofitting of homes when sold. He would like to see it stay how it is now with no compliance dates for homes or commercial changing. He shared that he is standing firm on the retrofitting of the house when it is sold. He shared that home sales are constantly subject to new paperwork by the state and he believes that it is a person's right if they want to upgrade lighting or not.

Vice Chair Ryan shared that the draft starts out where it effects all parcels in the county but later in the draft it says that it excludes parcels that are 40 acres. He commented that if this is going to be invoked it should be invoked across the board. He elaborated that the night sky has changed over the years where wineries are now lit up at night. He stated that there are a lot of by-right uses when you own 40 acres and open up a winery and that this would be another by-right where they could have all the lighting that they want with no restrictions. He added that it should be required that any new construction meet the ordinance regardless of the size of the property.

Commissioner DesVoignes stated that he agrees and that he never did understand the 40 acre exemption.

Vice Chair Ryan commented that he does not understand why the exemption was there and that maybe it was a special request. He stated that having watched the 40 acre parcels develop in the Shenandoah valley, night lighting has dramatically increased.

Chair Byrne commented that he cannot argue with that.

Vice Chair Ryan stated that he concurs with the grandfathering. He shared that he thinks it is important that an ordinance is not going to be onerous on people that are buying and selling properties in the County. He said he understands why it is desired to move towards controlling which light fixtures are on properties. He commented that he hopes over time people are going to see that it is less costly to use LEDs and that as lights begin to fail people will replace them with products that are compliant. He added that all new construction would be subject to the ordinance and said he assumes the 11 o'clock time frame is talking about football fields and school events and that it could be clarified.

Mr. Beatty shared that the intent of the 11 o'clock end time was to apply to school or sporting events that began earlier, but not to have it apply to event centers like wineries because their events typically end by

10 pm by code or use permit condition.

Vice Chair Ryan responded that wineries with a use permit have to end at 10pm, but by the time the parking lot clears out it may take longer to get the lights turned off. He added that with airports he wants to be clear that both commercial and private airports should be exempt. He requested to remove the vague language referring to both private and commercial airports and stated that from the Planning Commission meeting last month that he believes that Eagles Nest complies. He continued that it is not in anyone's best interest to blind pilots as they are trying to land at night and that we need to let them manage their own facilities.

Chair Byrne added that the airports are still under the FAA regulation.

Vice Chair Ryan shared that from the Commission's perspective he thinks that they can exempt that and not worry about it. He continued that over the years the Commission has continually tried to convince wineries and others asking for special permits to be considerate of neighbors. He shared an example that one of the wineries looks like a transfer station for trucks and that there is nothing that can be done about the light trespass. He stated that he is supportive of the ordinance but does not want to make it too onerous and wants everyone to be clear of what the regulations are when it comes to remodels, replacing fixtures, and what is exempt and what is not. He stressed that some clarity is needed in the language but it is moving in right direction.

Chair Byrne stated that the New Construction section says that a lighting plan may be required and asked what the trigger is for making it required.

Ms. Ruesel responded that staff would determine when it is necessary when applications for larger projects are either submitted to the Building Department or when a use permit to the Planning Department is applied for.

Vice Chair Ryan asked what the cutoff point is and asked if it would be 1,000, 20,000, or 200,000 square feet.

Chair Byrne added that the wording is ambiguous.

Mr. Spitzer commented that he understands this to mean that if the Planning Department needs a better layout of the lighting in the application that the Planning Department would request it and if that is the intent he can clarify it.

Vice Chair Ryan stated that he prefers that it be a requirement so people know up front so that their projects do not get delayed. He continued that the architect or whoever is in the design phase generates the set of drawings specific to the lighting so that any concerns that Building or Planning have can be addressed. He added that it would make sense on a commercial project which has a higher chance for light trespass because of security lighting.

Chair Byrne commented that for the most part people are going to be creating a lighting plan for the project.

Commissioner DesVoignes added that he can see commercial, but not necessarily residential.

Mr. Beatty shared that electrical and lighting plans are typically submitted to the Building Department as part of their entire plan submittal. He added that as long as those submitted are in compliance with the ordinance. He shared that the Building Department reviews it and can assure that before a permit is signed off.

Vice Chair Ryan added if it is already an expected plan does the section need to be in there.

Mr. Beatty stated that because it is new that it should be specific in the ordinance.

Vice Chair Ryan commented that it would state the specific lumens and said it should be required for commercial.

Mr. Beatty stated that it would not be necessary for residential.

Chair Byrne asked if that would be taken care of at the building inspection level for residential.

Mr. Beatty responded that it would.

Vice Chair Ryan reminded that Mr. Oneto had shared concern about the word unreasonably and recommended to just remove the word from the code section.

Chair Byrne added that it was in Exterior Lighting, 19.50.068, item number 4.

Vice Chair Ryan commented that light should not trespass, period.

Mr. Spitzer stated he could strike the word unreasonably.

Commissioner Curtis asked why put off the checking of these items until inspection time with residential. He explained that if there is something wrong they would need to take the light fixture off the wall and return it.

Mr. Beatty said it is a lot easier to comply at the residential level and for that to be included with the building plans.

Commissioner Curtis said that is what he means and that they do not have to have a lighting plan it just needs to be on their plans.

Mr. Beatty stated that the exterior fixtures would need to be dark sky compliant. He added that a commercial project has so many more exterior lights in parking lots and security lighting so they submit a separate set of plans just for the lighting.

Chair Byrne said it would be included on the check list when pulling your permit that the lights would need to be dark sky compliant.

Mr. Beatty stated that there is a lot less detail with typical residential plans.

Commissioner Curtis shared that someone said that it would be done at the inspection level and commented that it seems kind of late at that point.

Mr. Beatty responded not at the inspection level, but at the plan check.

Chair Byrne reminded that we covered the 40 acres exemption and commented that Ms. Evatt had said that Public Gathering Lighting was confusing. He shared that he agrees that there are some sections that are a little confusing.

Vice Chair Ryan added that maybe identifying sporting events and things like that and also maybe high school events.

Chair Byrne stated that he agrees.

Vice Chair Ryan continued that we are going to have night time events that are nonsporting so maybe public events of some sort. He added that they are not permanent and that they are just like Friday night football.

Mr. Spitzer asked if there are two locations in the draft for that and said that we have the Recreational subsection.

Mr. Beatty commented that the time limit was in Recreational Facilities.

Ms. Evatt stated that the Conservancy found confusion in the redline version that came out tonight in Section 19.50.065 Exemptions, Subsection F, Public Gathering Lighting Fixtures, and that it would benefit from being removed or clarified and added that it is not defined.

Mr. Spitzer stated that it is in both versions.

Vice Chair Ryan said that it is defined in 19.50.068 F.

Commissioner Curtis said that those are permanent and this one is talking about temporary.

Ms. Evatt commented that it is not clear that they are the same thing or what they are.

Vice Chair Ryan added that they are both kind of temporary.

Mr. Beatty elaborated that the one that Ms. Evatt referred to in section F is to address the items that are not the typical football games, but others that are temporary in nature that are issued a use permit for one time or short term events.

Chair Byrne comment that maybe we need to be more specific about that.

Mr. Beatty added that they should be put in the same place in the ordinance.

Chair Byrne said that it would make sense and asked if it is as flushed out as we are capable of doing.

Vice Chair Ryan asked if anybody else has any comments.

Commissioner Curtis asked if the Commission is going to review it again.

Chair Byrne questioned whether to do that.

Vice Chair Ryan said no and at this point the changes that have been made can be presented because the Board makes the final decision and we just make the recommendation.

Mr. Spitzer said that it can go to the Board.

Vice Chair Ryan asked if everyone was good with everything.

Chair Byrne asked if anyone else had anything. There was no further discussion.

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner DesVoignes, and carried to recommend to the Board of Supervisors to adopt the Dark Sky/outdoor lighting ordinance with the recommended findings as in the staff report and with recommended changes discussed at this meeting.

AYES: Ryan, DesVoignes, Byrne

NOES: Curtis

ABSENT: Wardall

Mr. Beatty stated that the Planning Commission has recommended approval of the proposed Dark Sky ordinance with changes as noted this evening that will be in a future draft presented to the Board of Supervisors at a later date.

Mr. Beatty added that we will try to have a revision online as soon as possible.

Vice Chair Ryan asked if we are looking at some time in January or February.

Mr. Beatty replied that the earliest that it can be presented to the Board is the second January meeting.

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner DesVoignes, and carried to adjourn the meeting. The next meeting will be January 14, 2020.

AYES: Ryan, DesVoignes, Byrne, Curtis

NOES: None

ABSENT: Wardall

Andy Byrne, Chair
Amador County Planning Commission

Mary Ann Manges, Recording Secretary
Amador County Planning Department

Chuck Beatty, Planning Director
Amador County Planning Department