

**AMADOR COUNTY PLANNING COMMISSION MINUTES
SUMMARY MINUTES OF TAPE RECORDED MEETING
March 10, 2020 – 7:00 P.M.**

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The Planning Commission of the County of Amador met on Tuesday, March 10, 2020 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 Ryan.

COMMISSIONERS PRESENT WERE:

Planning Commissioners: John Gonsalves, District 1
Dave Wardall, District 2
Earl Curtis, District 3
Andy Byrne, District 4
Ray Ryan, Chair, District 5

COMMISSIONERS ABSENT WERE: None

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

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 Commissioner Byrne, seconded by Commissioner Curtis and unanimously carried to approve the agenda as presented.

C. Minutes: February 11, 2020

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and carried to approve the February 11, 2020 minutes.

AYES: Byrne, Curtis, Ryan
NOES: None
ABSTAIN: Gonsalves, Wardall

D. Correspondence: Letters regarding Item 3 were received from Jack Sales, Michael Schiavo, Bettizane Smith, John Silva, Elena Knox, Walt Heiges, Anne Kel-Artinian, Katherine Evatt representing Foothill Conservancy, Bronwyn Hogan, Nancy Lengard, Jennifer Ruckelhaus and Ron Hood, and an unidentified Calaveras County citizen.

E. Public Matters not on the Agenda: No one addressed the Commission on non-agenda matters.

F. Recent Board Actions: None

G. Agenda Items:

Item 1 - Welcome John Gonsalves, Planning Commissioner District 1.

Chair Ryan welcomed and thanked Commissioner Gonsalves for filling the District 1 seat in place of Keith DesVoignes, who is no longer able to serve.

Commissioner Gonsalves commented that he is glad to be back on the Planning Commission and thanked Supervisor Crew for having faith in his abilities. He shared that he looks forward to serving the public and working with staff and the Commission.

Item 2 - Appointment of Agricultural Advisory Committee alternate for 2020.

Chair Ryan advised that a replacement for Vice Chair also needs to be done.

Commissioner Byrne asked Counsel if notice needs to be given in order to elect a Vice Chair.

Mr. Spitzer stated that it did.

Chair Ryan asked to add the election of a Vice Chair onto next month's agenda.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis and unanimously carried to appoint Commissioner Wardall as Agricultural Advisory Committee alternate.

Public Hearing

Item 3 - 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, "Outdoor Lighting Regulations" 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)

Supervisorial Districts: All

Location: The ordinance would apply to all of the unincorporated area of Amador County which utilize outdoor lighting as described in the draft ordinance.

Chair Ryan introduced the item.

Mr. Beatty, Planning Director, shared the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Ryan asked if anyone desired to speak.

Larry Brown, member of the Amador Astronomical Society, stated that he supports this ordinance because it saves money, preserves the dark sky, and enhances safety. He shared that for the past 33 years the Society has taught astronomy classes for local schools and for the last 25 years has held star parties for local schools and the public. He said that the dark night sky gets kids interested in science. He stated that law enforcement can see better with light shining downward versus light shining past a property because light shining straight out causes glare and constricts pupils making it hard to see. Mr. Brown read the letter submitted by John Silva, a 35-year Amador County resident and retired sergeant of the Amador County Sheriff's Office.

Jack Sales shared brochures from the International Dark-Sky Association on crime and energy, asking

that they be put in the record. He commented that the City of Oakland Police Department uses a Crime Prevention Through Environmental Design handbook which stresses that proper lighting along with natural surveillance, or eyes on the street, are best to prevent crime. He added that during and after the Association's 50th anniversary annual meeting, CPTED was discussed where it was shared that glare can prevent people from seeing and that lighting itself does not prevent crime without other surveillance. Michael Brashear, 6th grader at Sutter Creek Elementary School, stated that earlier in the year he participated in a star party at school which helped him to realize the importance of the dark sky. He shared that he would like his generation and future generations to also be able to have star parties.

Caryl Callsen, representing the Foothill Conservancy, thanked the Commission for their time and hard work on the ordinance. She added that public comments have helped produce a much better draft. She asked whether changing the ordinance to refer to all zoning districts would be better. She continued that it would help with issues of compliance, particularly commercial compliance, if compliance is required in maybe 5 or 10 years so that maybe the night sky could be brought back in places such as the Shenandoah Valley.

Rebecca Brown shared that this ordinance is not just about us and that we can have a big impact on wildlife. She shared a story about her and her mother spending time in Florida where the top half of lights by the beach were painted black so that they would only point downward. This effort helped save the lives of turtles that were in crisis as well as other wildlife. She stressed that it is time to take our stewardship forward.

Mark Bennett, Pine Grove, shared his remarks from the last meeting when he commented on how housing costs soared bit by bit over time due to incremental regulations. He stated that he opposes this ordinance and anything else that unnecessarily raises the cost of housing and the further enlargement of government. He commented that the Dark Sky Association should mount an educational campaign rather than promote regulation, and that lighting choice should be up to the individual. He voiced that a solution should be found when there is a problem instead of new laws, more government, more taxes, or more resources taken away from something more vital. He shared that he understands that we are under the threat of lawsuit from the Foothill Conservancy and suggested that they be labeled a vexatious litigant and have to post a bond before any more lawsuits from them can proceed.

Sherry Curtis, Buckhorn resident, shared that she believes that the ordinance is overzealous and is trying to address a problem in the Shenandoah Valley when there is not so much of a problem in the area where she lives. She stated that this reminds her of the short term rental ordinance where one place is really causing all the problems. She commented that a noise ordinance solved that problem without regulating all the short term rentals. She sees the commercial areas having the extreme lighting problem and voiced that there are a lot of other issues in Amador County that are going to cost a lot of money. She asked how enforcement is going to be done and who is going to pay for it. She suggested that when it becomes a real problem that maybe then the residential areas can be addressed. She shared that there is no place locally that sells dark sky lights and that seniors possibly cannot afford them. She commented that there a lot of areas in Amador County in which to see the stars and that stars do not need to be seen from your own property.

Gary Reinoehl, upcountry resident, shared that he grew up where it was dark and quiet in a rural area and was able to see the stars and the Milky Way. He later moved here from the city because it was dark and quiet with great wildlife and could see the Milky Way. He stated that his neighbors do not live here, but come up from the city to photograph galaxies. He added that looking in the dark skies is in our history and commented that George Madeira recorded the first siting in the United States of the Great Comet of 1861 in Volcano. He shared that Mr. Madeira went on to do a lot of public speaking and one of the people that he influenced built the Lick Observatory. He stated that he does not want to interfere with his or his neighbor's opportunity to see the dark sky and shared that he recently replaced some lightbulbs with cameo cabinet lights that direct the light and none of the light goes upward. He was able to keep the same fixtures which was a simple solution, not very expensive, and does not light up the neighborhood.

He shared that lights can negatively affect migratory fowl because lights upset their navigation and added that birds eat insects which is beneficial to our crops and trees with bark beetles. He stated that there is a lot of discussion on social media about the ordinance and shared that another resident in Amador Pines has been recording the amount of light in our area and has noticed a difference.

Lonnie Robinson, member of the Sacramento Valley Astronomical Society, stated that appreciates the comments by Mr. Reinoehl. He commented that he wants to support the ordinance where simple things can be controlled that would not be controlled otherwise. He stated that bad light prevents us from seeing the sky and light pollution is getting to remote sites and increasingly getting worse. He shared that LED lights reduce power consumption and commented that the savings stop coming when we are lighting up the sky. He stated that he believes that he does not think safety is affected much and shared that crime prevention can be assisted with a timer, motion sensors, or more lights. He stated that the elements in the human body are the same that are in the cosmos. He shared that Boulder, Colorado, passed a good ordinance and that Amador County could be an example of what can be done for the dark sky.

Davis Hoos, Volcano resident, stated that he cannot find anything in ordinance that he does not like since all current lighting is grandfathered in so people do not have to spend a lot of money, and lighting is replaced with new lighting that does not disturb neighbors or the night sky.

Chair Ryan asked if anyone else desired to speak. No one wanted to speak.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Wardall, and unanimously carried to close the public hearing.

Chair Ryan opened discussion among the Commissioners.

Commissioner Byrne asked staff about the enumerating of the zoning districts.

Mr. Beatty responded that a better way would be for the ordinance to refer to all residential and all commercial zones, that way there is a separation between the two, and if other zones are created in the future the lighting ordinance will not have to be amended.

Commissioner Byrne asked if agricultural uses are treated as residential or commercial in the draft.

Mr. Beatty said the intent was to cover commercial uses in agricultural zones such as tasting rooms with event centers. He added that they would be covered either way with if the recommended change.

Commissioner Wardall shared concern for the safety of helicopter pilots that are able to fly and fight fire at night and voiced that he would like to see language added to the Exemptions section so that the Amador County Planning Commission can require an obstruction light on an air navigation hazard if they determine that public safety is better served.

Mr. Beatty clarified that the FAA requires permanent lighting on structures 200 feet or taller.

Commissioner Wardall stated that he understands that, but that air tanker drop altitudes are around 200 feet. He informed that helicopters have no restriction, and stated that it is one thing if you are over a metropolitan area but we are in a wildland fire area and fly up to 30 minutes after sunset. He stated that he has a concern for safety and if it is not imbedded in the ordinance where the Planning Commission can make a determination to add an obstruction light to a project, then we are shortchanging ourselves.

Mr. Beatty responded that it is the pleasure of the Commission.

Commissioner Byrne stated that he believes that currently the Planning Commission or Board of Supervisors can add exceptions and conditions to permits that are approved above the staff level.

Mr. Spitzer said that it is perfectly acceptable for the Planning Commission to add exceptions.

Commissioner Byrne asked if it is necessary, since he assumes that recommendations would be coming from CAL FIRE since they generally weigh in on projects.

Mr. Beatty said that CAL FIRE is copied on all application referrals for discretionary permits that go to the Planning Commission and/or the Board. He stated that in his memory, they have not commented on a cell tower application.

Commissioner Byrne said that he assumes that if it is important, they would comment.

Mr. Beatty stated that they have not commented on lighting issues in general, but they have commented on things related to wildland fire.

Commissioner Byrne said that he has seen that.

Chair Ryan stated that currently, on a project by project basis, it is the Commission's decision to put a light on a tower, then they can make that part of the condition.

Mr. Beatty commented that the Commission can do that, and noted that in the past, the Commission has conditioned use permits for tasting rooms or event facilities to dark sky compliant lighting.

Commissioner Byrne said that they can do that already on a case by case basis.

Commissioner Curtis stated that Mr. Wardall has asked that question before on cell towers and added that it does not seem unreasonable to require hazard lighting on anything that is over 50 feet tall.

Commissioner Byrne said that the FAA only requires it at 200 feet.

Commissioner Curtis said that he understands that, but that the FAA does not fly helicopters in wildlands.

Commissioner Wardall said that 50-foot cell phone towers typically are not a hazard and that he still would like to see an amendment to the ordinance or believes the Commission would be remiss.

Commissioner Gonsalves added that this Commission has a pilot on board right now and we may not always have a pilot and we are talking about life and safety for those who are trying to protect our homes and our lives during wildfires. He stated that he finds no fundamental reason not to include that.

Commissioner Wardall commented that it is a real situation and that with CAL FIRE you have staff downtown in a cubicle with no real concept of aerial firefighting out in the wildland. He said if there is an air attack base in that region, that it will get a comment back.

Commissioner Curtis shared that most people know his opinion about the ordinance. He shared that he likes downward facing lights, but he does not believe that 5 pages are needed to tell people to not have lights that shine up or on your neighbor. He asked why the rights of the Astronomical Society take away the rights of the individual landowner to light up their property any way they want as long as they do not infringe upon their neighbor.

Chair Ryan commented that he understands where Commissioner Curtis stands, but that some people are bad neighbors. He explained that his comments from the last meeting go way beyond the Shenandoah Valley itself and that Plymouth has three times more lighting than what it had when he moved there 23 years ago. He shared that the glow is not just from wineries, but from people that have moved up and built homes. He voiced that the Planning Commission has done everything they can to make the ordinance viable without financially impacting residents, and wishes that the ordinance could be

one piece of paper, but that there are exceptions and other things to be taken into consideration. He added that if we are going to protect what we have, the only way we can do that is to fix it. He shared that over the years, every time they have had an opportunity to advocate dark skies with development they have pushed that and have asked for an ordinance of some sort to put some teeth in it for new development so that the developers know what the requirements are. He reminded that the Commissioners are not the decision makers and that they are going to make a recommendation to the Board and then the Board can either throw the ordinance out, or amend it. Chair Ryan commented that he wants to be very clear that he is trying to protect existing homeowners and prevent any kind of ordinance where people have to pull money out of their pocket now, or in the next 5 or 10 years.

Chair Ryan asked if any additional changes need to be made to the draft.

Mr. Beatty stated that he would like to revisit the issue about zoning that Ms. Callsen brought up earlier to make sure staff is clear. He asked whether the Commission wants the individual zoning district names removed and instead refer to all residential and all commercial zones.

Commissioner Byrne said that he thinks that might be clearer because there may be some new zones added later, as long as it legally stands.

Chair Ryan asked if you can be that ambiguous legally.

Commissioner Curtis stated that if you take out all the different zones, you could have a residential use in an agricultural zone and it would not apply.

Commissioner Byrne explained that it would be any residential or commercial uses and that it would not matter what the zoning is, just those uses.

Mr. Spitzer stated that one way to address it is to remove it and not substitute.

Chair Byrne said that that sounds good, just a clean strike.

Commissioner Curtis asked if in sections B and C we would remove the individual zones.

Commissioner Byrne confirmed.

Chair Ryan stated that we also want to address Commissioner Wardall's comments regarding the authority of the Planning Commission to be able to make the determination on whether or not a light is required or any other sort of safety measures are needed.

Mr. Spitzer confirmed.

Commissioner Curtis stated that there was a comment about being grandfathered forever.

Chair Ryan said that there is a date to be filled in when adopted.

Commissioner Curtis said the date that it will take effect.

Chair Ryan said yes, and that anything up until then will be grandfathered in.

Commissioner Curtis said if we are going to do all this in 10 years maybe people should change their residential lighting.

Chair Ryan commented that we can come back and revisit this.

Commissioner Byrne added that it would be the Board's decision at the time and stated that we can never take away the future Board's ability to change their ordinances and that it is built into the system.

Chair Ryan stated that there is no sunset on this and three years down the road the Board can come back and direct the Planning Commission to open up meetings again.

Commissioner Byrne added or they can go the other direction and eliminate it completely.

Chair Ryan asked if Commissioner Curtis has any suggestions on that.

Commissioner Curtis said that he just had made a note to discuss it.

Commissioner Gonsalves shared that he does not believe that a sunset needs to be in place and that he wants to address some comments made this evening about the expense. He shared that he and his wife recently changed their outdoor lighting because they wanted to save energy. He commented that it was not an astronomical cost to replace lighting to face downward, have motion sensors, and that he still has protection from unwanted visitors.

Commissioner Wardall asked for assurance that his suggestions are in the ordinance and that staff will come up with acceptable language for section "1".

Commissioner Byrne said that we can create that language right now and then there is no question as to what we are deciding to do.

Mr. Spitzer said that he believes that we have a pretty specific starting point with what was given.

Chair Ryan asked that the legal language be written to present to the Board and that he believes that what was discussed is understood.

Commissioner Byrne shared that he wants to make sure that it does not come back to the Planning Commission to look at language again.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Wardall, and carried to recommend approval to the Board of Supervisors to approve the ordinance with the changes that were discussed.

AYES: Byrne, Wardall, Ryan, Byrne

NOES: Curtis

ABSENT: None

Mr. Beatty stated that the Planning Commission has recommended approval of the draft Outdoor Lighting ordinance to the Board of Supervisors and a public hearing will be heard at a later date.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Curtis, and carried to adjourn the meeting. The next meeting will be April 14, 2020.

Ray Ryan, Chair
Amador County Planning Commission

Mary Ann Manges, Recording Secretary
Amador County Planning Department

Chuck Beatty, Planning Director
Amador County Planning Department