

February 26, 2020

STATEMENT OF PROCEEDINGS

The Minutes of the

***BOARD OF SUPERVISORS
REGULAR MEETING
PLANNING AND LAND USE MATTERS***

COUNTY OF SAN DIEGO

STATEMENT OF PROCEEDINGS
COUNTY OF SAN DIEGO BOARD OF SUPERVISORS
REGULAR MEETING
MEETING AGENDA
WEDNESDAY, FEBRUARY 26, 2020, 9:00 AM
BOARD OF SUPERVISORS NORTH CHAMBER
1600 PACIFIC HIGHWAY ROOM 310,
SAN DIEGO, CALIFORNIA

Order of Business

A. REGULAR SESSION: Meeting was called to order at 9:00 a.m.

PRESENT: Supervisors Greg Cox, Chairman; Jim Desmond, Vice-Chairman; Dianne Jacob; Kristin Gaspar; Nathan Fletcher; also, Erin Demorest, Assistant Clerk of the Board of Supervisors.

B. Closed Session Report

C. Public Communication: Opportunity for members of the public to speak to the Board on any subject matter within the Board's jurisdiction but not an item on today's agenda.

D. Approval of the Statement of Proceedings/Minutes for the meeting of February 12, 2020.

ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Desmond, the Board of Supervisors approved the Statement of Proceedings/Minutes for the meeting of February 12, 2020.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

E. Formation of Consent Calendar

F. Discussion Items

NOTICE: THE BOARD OF SUPERVISORS MAY TAKE ANY ACTION WITH RESPECT TO THE ITEMS INCLUDED ON THIS AGENDA. RECOMMENDATIONS MADE BY COUNTY STAFF DO NOT LIMIT ACTIONS THAT THE BOARD OF SUPERVISORS MAY TAKE. MEMBERS OF THE PUBLIC SHOULD NOT RELY UPON THE RECOMMENDATIONS IN THE BOARD LETTER AS DETERMINATIVE OF THE ACTION THE BOARD OF SUPERVISORS MAY TAKE ON A PARTICULAR MATTER.

Board of Supervisors' Agenda Items

Agenda #	Subject
1.	NOTICED PUBLIC HEARING: ZONING LANGUAGE UPDATE FOR FORMER FOREST CONSERVATION INITIATIVE PROPERTIES (POD-19-004 AND REZ-19-006)

2. NOTICED PUBLIC HEARING:
ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE INCENTIVE
ZONES (POD 15-008) (2/26/20 - FIRST READING; 3/11/20 - SECOND READING)
[FUNDING SOURCE: FEES PAID BY APPLICANTS; AVAILABLE PRIOR YEAR
GENERAL FUND FUND BALANCE BUDGETED IN PDS]
3. PROHIBITING THE COUNTY'S USE OF GLYPHOSATE-BASED PRODUCTS
4. CLOSED SESSION
5. PUBLIC COMMUNICATION

**1. SUBJECT: NOTICED PUBLIC HEARING:
ZONING LANGUAGE UPDATE FOR FORMER FOREST
CONSERVATION INITIATIVE PROPERTIES (POD-19-004 AND
REZ-19-006) (DISTRICTS: 2 AND 5)**

OVERVIEW

This is a request for the County of San Diego (County) Board of Supervisors (Board) to consider and adopt a Zoning Ordinance amendment to include “Former Forest Conservation Initiative Properties Overlay of Part Five: Special Area Regulations” (Overlay). If approved, the Overlay would create a special area designator that requires certain projects to conduct analyses and make findings in addition to existing regulations that would protect environmental resources and limit development in the vicinity of the Cleveland National Forest.

The Forest Conservation Initiative (FCI) was a countywide initiative approved by the voters on November 2, 1993. The FCI established a minimum lot size of 40 acres for approximately 71,800 acres of private lands within the Cleveland National Forest (National Forest) administrative boundary to maintain the rural character and ecological integrity of these lands. The majority of these lands are located in the Alpine, Central Mountain, and Palomar Mountain Community/Subregional Planning Areas.

The proposed Overlay will identify properties included in the former FCI and establish a map of the affected areas. Additionally, the Overlay requires that specific analyses are conducted and certain findings are made regarding environmental impacts before the Board can approve a General Plan Amendment (GPA) for projects that increase residential density beyond what is currently allowed in the General Plan. The analyses required by the proposed ordinance relate to the topics of water supply, fire hazards, habitat preservation, sustainability practices, and consistency with surrounding land use patterns and the Regional Housing Needs Assessment required by the State of California. The majority of the former FCI lands are not close to infrastructure such as roads and water supply (approximately 98% of the former FCI lands are not within the County Water Authority boundary).

Today’s request is to: 1) Find the ordinance is exempt from the California Environmental Quality Act because this ordinance does not have the potential for causing a significant impact on the environment, as it is in addition to existing regulations that would limit development of the area around the Cleveland National Forest, and because it involves regulations for the protection and maintenance of forest resources and the environment; and, 2) Find the ordinance consistent with the General Plan and adopt the ordinance for the Overlay.

**RECOMMENDATION(S)
PLANNING COMMISSION**

On January 10, 2020, the County of San Diego’s Planning Commission (Planning Commission) considered updated Zoning language for Former Forest Conservation Initiative properties and the associated California Environmental Quality Act (CEQA) Notice of Exemption. The Planning Commission made the following recommendations to the Board of Supervisors:

1. Find that the proposed Overlay complies with the California Environmental Quality Act (CEQA) and State and County CEQA Guidelines because the amendment is categorically exempt from CEQA per Sections 15307, 15308, and 15061(b)(3) of the CEQA Guidelines (Attachment A, on file with the Clerk of the Board)

2. Adopt the attached Form of Ordinance: AN ORDINANCE AMENDING THE COUNTY OF SAN DIEGO ZONING ORDINANCE RELATED TO SPECIAL AREA DESIGNATORS TO CREATE THE FORMER FOREST CONSERVATION INITIATIVE PROPERTIES OVERLAY (POD 19-004 AND REZ-19-006) (Attachment B - Clean Copy and Attachment C - Informational Copy, on file with the Clerk of the Board)

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services concurs with the Planning Commission's Recommendations to the Board of Supervisors, with modification to correct a reference to Village and Rural Village boundaries "as identified in the 2011 General Plan" to the boundaries "as of February 26, 2019". This modification does not require referral to the Planning Commission for recommendation because it corrects the ordinance language to be consistent with the terms of the Settlement Agreement and the maps of the Village and Rural Village boundaries presented to the Planning Commission during its hearing.

FISCAL IMPACT

N/A

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Fletcher, the Board of Supervisors closed the Hearing and took action as recommended, adopting Ordinance No. 10661 (N.S.), entitled: AN ORDINANCE AMENDING THE COUNTY OF SAN DIEGO ZONING ORDINANCE RELATED TO SPECIAL AREA DESIGNATORS TO CREATE THE FORMER FOREST CONSERVATION INITIATIVE PROPERTIES OVERLAY (POD-19-004 AND REZ-19-006).

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

2. **SUBJECT: NOTICED PUBLIC HEARING:
ADOPT ORDINANCE ESTABLISHING URBAN AGRICULTURE
INCENTIVE ZONES (POD 15-008) (2/26/20 - FIRST READING; 3/11/20 -
SECOND READING) (DISTRICTS: ALL)**

OVERVIEW

In 2013, Assembly Bill 551 (AB 551) authorized a statewide tax reduction incentive program for local governments to encourage use of properties for urban agriculture through the establishment of Urban Agriculture Incentive Zones (UAIZ). On November 14, 2018 (03) the Board of Supervisors (Board) directed the Chief Administrative Officer to establish a UAIZ program, prepare a detailed assessment of blighted properties, analyze the appropriate fee structure, and complete any necessary analysis required by the California Environmental Quality Act (CEQA). Establishing a UAIZ program aligns with *Board Policy I-133 - Support and Encouragement of Farming in San Diego County*, because increasing urban farming opportunities supports local businesses and increases community access to healthy foods. In exchange for a tax reduction, eligible landowners can enter into a UAIZ contract with the County of San Diego (County) to

fully dedicate their parcel to agricultural use for a minimum of five years. Parcels must be between 0.1 and 3.0 acres, be vacant or contain only non-residential structures, and be located within unincorporated Census-designated urbanized areas of 250,000 people or more.

Today's request is to establish a UAIZ program through adoption of an ordinance, establishment of an application fee, and consideration of application fee waivers. The recommended actions require two steps. On February 26, 2020, it is requested that the Board find that the action is exempt from CEQA and introduce both the UAIZ ordinance and ordinance amending the Planning & Development Fee Schedule into to the County Code of Administrative Ordinances (first reading). To encourage program participation, the Board may choose to waive *Board Policy B-29 - Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery* and adopt a fee waiver resolution to waive the application fee. Due to previous statewide participation rates, staff anticipates less than 50 applications over the life of the State program. If the Board takes the actions recommended for February 26, 2020, then on March 11, 2020, it is requested that the Board consider and adopt the two ordinances (second reading). If application fee waivers are approved by the Board, the UAIZ program fee waivers may result in costs of up to \$63,200, depending on program participation, and would be funded by available prior year General Fund fund balance budgeted in the Department of Planning & Development Services.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed Urban Agriculture Incentive Zones (UAIZ) Ordinance complies with the California Environmental Quality Act (CEQA) and County of San Diego CEQA Guidelines because the ordinance is exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines (Attachment A, on file with the Clerk of the Board).
2. Introduce and waive further reading for the attached Form of Ordinance entitled: AN ORDINANCE ENACTING SECTION 88.20 OF ARTICLE IV-A ASSESSOR/RECORDER/COUNTY CLERK OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO THE URBAN AGRICULTURE INCENTIVE ZONES ORDINANCE (Attachment B, on file with the Clerk of the Board).
3. Introduce and waive further reading for the attached Form of Ordinance entitled: AN ORDINANCE AMENDING SECTION 362.1 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES FEE SCHEDULE (Attachment C, on file with the Clerk of the Board).

Provide direction on the waiver of fees for up to 50 UAIZ applications at an unrecovered cost of up to \$63,200. If the Board directs application fee waivers, the Board shall adopt the following:

4. Waive Board Policy B-29 - Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery for application fees for the UAIZ program until existing funds are depleted or the UAIZ program sunsets at the State level, whichever is soonest.
5. Adopt a resolution entitled: A Resolution of the Board of Supervisors of the County of San Diego authorizing the department of Planning & Development Services to waive UAIZ application fees on a temporary basis (Attachment D, on file with the Clerk of the Board).

If on February 26, 2020, the Board takes recommended action related to the introduction of the UAIZ and Fee Schedule Amendment Ordinances, then on March 11, 2020:

1. Consider and adopt the UAIZ Ordinance (second reading): AN ORDINANCE ENACTING SECTION 88.20 OF ARTICLE IV-A ASSESSOR/RECORDER/COUNTY CLERK OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO THE URBAN AGRICULTURE INCENTIVE ZONES ORDINANCE
2. Consider and adopt the attached Form of Ordinance entitled (second reading): AN ORDINANCE AMENDING SECTION 362.1 OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES FEE SCHEDULE

FISCAL IMPACT

Funds for this request are included in the Fiscal Year (FY) 2019-20 Operational Plan in the Department of Planning & Development Services (PDS). If approved this request will result in costs and revenues of up to \$63,200 for application processing and contract execution. The funding source is fees paid by applicants. There will be no change in net General Fund cost and no additional staff years.

If approved, the Urban Agriculture Incentive Zones (UAIZ) program may result in a potential loss of property tax revenue to the County of San Diego (County) and affecting taxing entities, depending on program participation. Staff conducted an analysis of potential property tax loss, which indicates 4,165 parcels in the unincorporated area may be eligible to participate. If every eligible parcel participated, the estimated tax loss would be approximately \$5.8 million annually to all taxing agencies. The UAIZ program proposes a \$250,000 cap on property tax loss annually. A total of 180 potentially eligible parcels receiving an average annual tax reduction of \$1,391 could participate in the UAIZ program before reaching the \$250,000 cap. A \$250,000 program cap equates to \$41,280 in annual tax revenue loss for the County and \$208,720 annual loss for other taxing agencies.

To encourage participation, staff has included as an option, a recommendation for the waiver of permit application fees. If the Board of Supervisors (Board) directs the waiver of permit application fees, funds for this request are included in the FY 2019-20 Operational Plan in PDS. If approved, the application fee waiver program may result in costs of up to \$63,200 to the County of San Diego beginning as early as Fiscal Year 2019-20. These funds will offset application fees for up to 50 properties that opt to participate in the UAIZ program. A waiver of Board Policy B-29 is required for unrecovered costs of \$63,200 as a result of the proposed application fee waivers. The funding source is available prior year General Fund fund balance budgeted in PDS. These funds will remain available for UAIZ application fee waivers until depleted or until the UAIZ program sunsets at the State level, whichever occurs first. There will be no additional staff years. Should program participation exceed the anticipated level, staff will return to the Board to request additional funding.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Desmond, the Board of Supervisors closed the Hearing and took action as recommended adopting the following:

1. Found that the proposed Urban Agriculture Incentive Zones (UAIZ) Ordinance complies with the California Environmental Quality Act (CEQA) and County of San Diego CEQA Guidelines because the ordinance is exempt from CEQA per Section 15061(b)(3) of the CEQA Guidelines.
2. Waived Board Policy B-29 - Fees, Grants, Revenue Contracts - Department Responsibility for Cost Recovery for application fees for the UAIZ program until existing funds are depleted or the UAIZ program sunsets at the State level, whichever is soonest.
3. Adopted Resolution No. 20-018, entitled: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN DIEGO AUTHORIZING THE DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES TO WAIVE UAIZ APPLICATION FEES ON A TEMPORARY BASIS; and, introduced Ordinances for further Board consideration and adoption on March 11, 2020.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

3. SUBJECT: PROHIBITING THE COUNTY'S USE OF GLYPHOSATE-BASED PRODUCTS (DISTRICTS: ALL)

OVERVIEW

In January, County staff provided a memo (Attachment A) to the Board of Supervisors describing current pesticide use protocol on County owned and leased property. Since 1993, the County has been governed by Board Policy F-45 (Pesticide Use Reduction), which articulates the Integrated Pest Management (IPM) Program. The IPM Program allows for chemical pesticide use after non-chemical options have been exhausted. One of the chemical pesticides allowed under the IPM Program includes glyphosate, the active chemical in Bayer's Roundup herbicide.

Glyphosate is a registered carcinogen according to the State of California's Office of Environmental Health Hazard Assessment. Its potential impacts on public health and cancer risks such as non-Hodgkin's lymphoma have been under increased scrutiny. Because of its public health impact, cities, counties, states and countries are moving to ban or reduce the use of this toxin. Million-dollar settlements have recently been awarded to plaintiffs who developed cancer after exposure to Roundup.

Revisions to the IPM Program are warranted to protect County staff, visitors and residents from the risk of glyphosate exposure and other unintended public health impacts from pesticides. Today's action directs the Chief Administrative Officer to amend the County's IPM Program to prohibit the use of glyphosate-based products and to prioritize the use of organic alternatives on all County owned and maintained property, and return to the Board in 120 days with the revised policy for adoption.

RECOMMENDATION(S)

SUPERVISOR DIANNE JACOB AND SUPERVISOR NATHAN FLETCHER

1. Find in accordance with Sections 15061(b)(3) and 15378(b)(5) that today's actions are exempt from the California Environmental Quality Act.

2. Direct the Chief Administrative Officer to amend the County of San Diego's Integrated Pest Management Program through revisions to Board Policy F-45, to prohibit the use of glyphosate-based products and to prioritize the use of organic alternatives on all County owned and maintained property, and return to the Board in 120 days with the revised policy for adoption.

FISCAL IMPACT

Not assessed at this time.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Jacob, seconded by Supervisor Fletcher, the Board of Supervisors took action as recommended adopting the following:

1. Found in accordance with Sections 15061(b)(3) and 15378(b)(5) that today's actions are exempt from the California Environmental Quality Act.
2. Directed the Chief Administrative Officer to amend the County of San Diego's Integrated Pest Management Program through revisions to Board Policy F-45, to prohibit the use of glyphosate-based products and to prioritize the use of organic alternatives on all County owned, maintained and leased property, and return to the Board in 120 days with the revised policy for adoption.

AYES: Cox, Jacob, Gaspar, Fletcher, Desmond

4. SUBJECT: CLOSED SESSION (DISTRICTS: ALL)

OVERVIEW

On February 25, 2020 (25), the Board of Supervisors continued the item to February 26, 2020.

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Jane Doe v. Richard Fischer, et al.; San Diego County Superior Court

No. 37-2018-00043222-CU-CR-CTL

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph 2 of subdivision (d) of Government Code section 54956.9: (Number of Potential Cases - 1)

ACTION:

County Counsel reported that for Closed Session on February 26, 2020, the Board of Supervisors took the following action:

Item A: Jane Doe v. Richard Fischer, et al., by a vote of 5-0, authorized settlement of this action for \$350,000.

Item B: Claim of Justin Mojica, by a vote of 4-0 (Supervisor Nathan Fletcher being absent), ratified settlement of this action for \$32,691.71.

5. SUBJECT: PUBLIC COMMUNICATION (DISTRICTS: ALL)

OVERVIEW

Howard Smith spoke to the Board regarding a nonprofit registry.

Martha Welch spoke to the Board regarding San Diego County jobs.

Diane Woelke spoke to the Board regarding pesticides.

ACTION:

Heard, Referred to the Chief Administrative Officer.

There being no further business, the Board adjourned at 11:09 a.m. in memory of Allan Royster, Reverend George Walker Smith, and Edna Kouns.

ANDREW POTTER
Clerk of the Board of Supervisors
County of San Diego, State of California

Consent: Santiago

Discussion: Zurita

NOTE: This Statement of Proceedings sets forth all actions taken by the County of San Diego Board of Supervisors on the matters stated, but not necessarily the chronological sequence in which the matters were taken up.

Approved by the Board of Supervisors, on Wednesday March 11, 2020.



GREG COX
Chairman

Attest:



ANDREW POTTER
Clerk of the Board

02/26/2020