



AGRICULTURAL LAND CONSERVATION COMMITTEE

Fresno County Farm Bureau
1274 West Hedges
Fresno, CA 93728

Web Site: http://www.co.fresno.ca.us/4510/4360/pub_meet.htm

Contact: ALCC Committee Clerk
Phone: (559) 262-4022
laolivas@co.fresno.ca.us

DOCKET

08-AFC-12

DATE OCT 13 2009

RECD. NOV 09 2009

ACTION SUMMARY***

October 13, 2009

8:00 A.M.

*****Please Note: The following are draft minutes of the 10-13-09 ALCC hearing that have not yet been approved by the Committee.**

CALL TO ORDER

A meeting of the Fresno County Land Conservation Committee was called to order by Chairperson, Carol Hafner on October 13, 2009 at 8:09 A.M.

ROLL CALL

Present: Hafner, Jacobsen, Nef, Figgs
Absent: Munk, Durham, Samuelian

1. **CONSIDER AND ADOPT** Hearing Action Summary of September 2, 2009 ALCC Hearing. Contact Person: Laura Olivas, ALCC Recording Clerk (559) 262-4022, email laolivas@co.fresno.ca.us.

Speaking in Favor: None
In Opposition: None

Action: Minutes approved as submitted
Motion Maker: Nef
Second: Jacobsen
In Favor: Unanimous
Opposed: None

2. **REVIEW AND MAKE RECOMMENDATION** to the Board of Supervisors regarding partial cancellation of Williamson Act Contract No. 3219 (RLCC No. 888). Contact Person: Tawanda Mtunga (559) 262-4196, email tmtunga@co.fresno.ca.us.

Tawanda Mtunga, project Planner from the Development Services Division, presented the staff report, noting that the proposal is to remove a 468.88-acre parcel of non-prime agricultural land from Contract restriction, for development of a solar and biomass electric generating plant. The subject property is located 3 miles west of Interstate 5 and W. Jayne Avenue, approximately 6 miles east of the City of Coalinga.

Tawanda stated that in order to approve the cancellation request, the Committee must determine that the action is consistent with the purposes of the Williamson Act. A proposed cancellation can be determined to be consistent if five specified findings can be made.

Tawanda said that comments from the Department of Conservation (DOC) are not included in the staff report, and indicated that the proposal was referred to the DOC on June 8, 2009, and as of the date the staff report was prepared, no comment had been received from the DOC. Tawanda noted that staff will not place this application on the Board of Supervisors agenda until the DOC's comments are received.

Tawanda stated that staff believes that all five findings can be made, and recommends approval, subject to the conditions listed in the staff report.

Committee member Terri Figs asked how many acres of land would be used for the solar project. Elizabeth Ingram, Project Manager for the San Joaquin Solar Project (SJSP) responded that 640 acres, an entire section of land, will be utilized. She explained that the project is a 107 megawatt renewable energy power plant, with two side-by-side solar fields with mirrors that concentrate energy on a tube with heat-transfer fluids that will transfer energy to a steam turbine generator. At night, the plant will combust agricultural waste to allow the plant to operate 24 hours a day.

Chairperson, Carol Hafner asked what type of biomass would be used, and where it would come from. Ms. Ingram responded that agricultural waste, mainly from pistachio and almond crops, as well as urban green waste from the surrounding lands will be used, and that they have done studies to ensure that there will be enough available fuel in the area. Ms. Ingram also informed the Committee that there will be a new law that will be enforced beginning next summer that will prevent farmers from being able to burn waste on site. The power plant officials are working with the San Joaquin Valley Air Pollution Control District to make sure that the farmers in the area will be able to send their agricultural waste to the plant for processing, and to ensure that the plant produces the lowest emissions possible.

Ken Price, an attorney representing the applicant, stated that he has been in contact with legal counsel from the Department of Conservation (DOC), and indicated that the DOC has not expressed any concerns with the proposed cancellation.

Committee member, Ryan Jacobsen, asked how dust from neighboring agricultural operations would affect the mirrors at the plant. Ms. Ingram responded that the plant is surrounded mostly by properties that are not in agricultural production, and they have done some studies that indicate that it would not pose a concern. Mr. Price said in the event that there is not enough direct sunlight, the plant's biomass feature would make up for the deficiency in production. Chairperson Hafner said that the amount of particulate matter has been high in similar biomass projects, such as in Mendota and Firebaugh. Ms. Ingram replied that the plant is using a completely automated system that would minimize dust, and explained that the facilities mentioned by Ms. Hafner are older and not as capable of reducing particulate matter.

Speaking in Favor: None
In Opposition: None

Action: Recommend that the Board of Supervisors approve cancellation of Williamson Act Contract No. 3219 (RLCC No. 888)

Motion Maker: Figs
Second: Jacobsen
In Favor: Unanimous
Opposed: None

3. **REVIEW AND MAKE RECOMMENDATION** to the Board of Supervisors regarding partial cancellation of Williamson Act Contract No. 4269 (RLCC No. 887). Contact Person: Tawanda Mtunga (559) 262-4196, email tmtunga@co.fresno.ca.us.

Tawanda Mtunga, project Planner from the Development Services Division, presented the staff report, noting that the applicant proposes to remove three parcels, totaling 42.88 acres of non-prime agricultural land from Contract restriction in order to allow Table Mountain Rancheria ("the Tribe") to exercise self-governance and control on use of land on properties owned by the Tribal Government. The subject property is located on the north side of Millerton Road, between

Table Mountain and Auberry Roads, approximately 1.8 miles east of the Millerton New Town Specific Plan.

Tawanda stated that the sizes of the three parcels are 20.72 acres, 13.68 acres and 8.48 acres, and do not meet the minimum 40-acre parcel size for non-prime land. The proposed cancellation will result in removal of substandard parcels from Williamson Act Contract and would eliminate the tax benefit on parcels that do not meet the minimum parcel size.

Tawanda stated that staff believes that all five findings can be made, and recommends approval, subject to the conditions listed in the staff report.

Mohammad Khorsand, Senior Planner with the Development Services Division, stated that the applicant has indicated that the reason for the proposed cancellation is to allow the Tribe to have control over the use of land, but staff would like to note that the subject properties are within the Jurisdiction of Fresno County, and the use of those parcels are subject to the County General Plan and the Zoning Ordinance. Mr. Khorsand added that certain uses are allowed by-right and certain uses are subject to a discretionary permit. Mr. Khorsand said that assuming the parcels have been created legally, each are entitled to one single family residence.

Ms. Hafner asked for more information on what self-governance on the land entails. Dan Casas, Legal Counsel for Table Mountain Rancheria, replied that the properties are mostly hill sites, and do not have potential for many uses. Mr. Casas said that they are working with the Sierra Foothill Conservancy and a couple of archaeologists from Fresno State University who are excavating on the land, in search of Native American artifacts that will be turned over to the Federal Government for preservation. He said that Table Mountain has no plans to develop the land, and wants to cancel the Contract because they don't want to pay taxes on the land, as they anticipate that they will be turning it over to the government.

Speaking in Favor: None
In Opposition: None

Action: Recommend that the Board of Supervisors approve cancellation of Williamson Act Contract No. 4269 (RLCC No. 887)

Motion Maker: Nef
Second: Jacobsen
In Favor: Unanimous
Opposed: None

4. REVIEW AND MAKE RECOMMENDATION to the Board of Supervisors regarding partial cancellation of Williamson Act Contract No. 6836 (RLCC No. 885). Contact Person: Tawanda Mtunga (559) 262-4196, email tmtunga@co.fresno.ca.us.

Tawanda Mtunga, project Planner from the Development Services Division, presented the staff report, noting that the applicant proposes to remove a 4.05-acre portion of a 50.06-acre parcel of prime agricultural land from Contract restriction in order to allow the adjustment of property lines between two adjoining parcels. The subject property is located north of Mountain View Avenue, between S. Cedar and S. Chestnut Avenues, approximately 4.2 miles east of the unincorporated community of Caruthers.

Tawanda stated that the Department of Conservation letter is included in the staff report and indicated that although the DOC is not opposed to the request, it could not conclusively make all the findings. Additionally, the DOC cited concerns with the public interest finding and removal of adjacent lands from agricultural use finding.

Tawanda stated that staff believes that all five findings can be made, and recommends approval, subject to the conditions listed in the staff report.

John Minney, Engineer from Minney Surveying representing the applicant, stated that he was the original engineer who obtained permits for the landfill many years ago. He said, the property that will receive the land currently contains a 75-foot high pile of trash covered with dirt.

The owner of the property leased the operation to BFI, who then took the landfill to closure. One of the State mandated closure conditions required BFI to install a device to control the methane gas coming from the landfill. BFI installed a methane burner, which is not allowed to be on top of a landfill due to fire hazard. BFI got a permit to install the burner, and apparently, when permits were pulled, no one checked to see if the burner was on the property that contained the landfill. Mr. Minney said that they are now attempting to include the methane burner with the parcel that contains the closed landfill.

Speaking in Favor: None
In Opposition: None

Action: Recommend that the Board of Supervisors approve cancellation of Williamson Act Contract No. 4269 (RLCC No. 887)

Motion Maker: Nef
Second: Jacobsen
In Favor: Unanimous
Opposed: None

5. **REVIEW AND DISCUSS:** Mr. Khorsand stated that on September 22, 2009, staff went before the Board of Supervisors for direction regarding the existing Williamson Act contracts and informed the Board of the activities that is going on to convince the Governor to reinstate subvention funding. The Board's response was that they were not going to take action to non-renew contracts, and wanted to wait to see if subvention funding would be reinstated in the next year. The Board directed staff to hold all contracts accepted in 2008, and not to accept any new contracts. The Board Chairperson sent a letter to the Governor's office, encouraging the Governor to reinstate subvention funding for protection of farmland in Fresno County.

6. **PUBLIC PRESENTATIONS AND COMMITTEE COMMENTS:**

There were no public presentations made at this time.

7. **NEXT ALCC HEARING:** November 4, 2009. - cancelled

8. **ADJOURN:** Meeting adjourned at 9:01 a.m.

Motion: Jacobsen
Second: Samuelian
In Favor: Unanimous
Opposed: None

*=late attendance

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